

**MINUTES OF THE
HOUSE JUDICIARY STANDING COMMITTEE MEETING
Room W010 - State Capitol Complex
February 3, 2006**

MEMBERS PRESENT: Rep. James A. Ferrin, Chair
Rep. Erik K. Hutchings, Vice Chair
Rep. Douglas C. Aagard
Rep. Ben C. Ferry
Rep. Glenn A. Donnelson
Rep. Lorie D. Fowlke
Rep. Ann W. Hardy
Rep. Neal B. Hendrickson
Rep. David L. Hogue
Rep. Susan Lawrence
Rep. Rosalind J. McGee
Rep. Ross Romero
Rep. Scott L. Wyatt

STAFF PRESENT: Jerry D. Howe, Policy Analyst
Sylvia Newton, Committee Secretary

NOTE: A list of visitors and a copy of handouts are filed with the committee minutes.

Representative Ferrin called the meeting to order at 7:34 a.m.


MOTION: Rep. Hogue moved to approve the minutes of the January 30, 2006 meeting with Rep. Donnelson, Rep. Ferry, and Rep. Fowlke absent for the vote.

H.B. 90 Criminal Penalty Amendments (*Rep. D. Litvack*)

Rep. Litvack introduced H.B. 90 and explained it to the committee. He was assisted by Mark Shurtleff, Attorney General.

MOTION: Rep. Romero moved to amend the bill as follows:

1. *Page 1, Lines 14 through 15:*

14 {  ~~repeals the current criminal provision that enhances penalties for certain crimes that~~
15 ~~are committed to threaten or intimidate;~~ }

2. *Page 2, Lines 32 through 33:*

- 32 { ~~REPEALS:~~
33 ~~76-3-203.3, as last amended by Chapter 274, Laws of Utah 2004~~ }
3. *Page 2, Lines 53 through 55:*
53 { ~~Section 2. Repealer:~~
54 ~~This bill repeals:~~
55 ~~Section 76-3-203.3, Penalty for hate crimes -- Civil rights violation.~~
-}

The motion to amend the bill passed unanimously with Rep. Ferry absent for the vote.

Spoke in favor of the bill: Tom Patterson, Director, Utah Sentencing Commission
Dr. Forrest Crawford, Weber State University
Jack Roddy, Coalition of Religious Communities
David Spatafore, Utah Chiefs of Police Association

Spoke in opposition to the bill: Jonas Rodriguez, America Forever
Abraham Rodriguez, America Forever
John Bowers, Eagle Forum
Sandra Rodriguez, America Forever

MOTION: Rep. Hutchings moved to further amend the bill as follows:

1. *Page 2, Lines 46 through 50:*
46 (i) the selection is likely to:
47 (A) cause emotional or other harm to the victim {~~or~~} and other members of
the group; or
48 (B) incite community unrest; or
49 (ii) the group is or has been the target of animus, discrimination, legal disabilities, or
50 hate-based crimes; and

The motion to amend the bill passed with Rep. McGee and Rep. Romero voting in opposition to the motion.

MOTION: Rep. Wyatt moved to pass the bill as amended out favorably. The motion passed with Rep. Donnelson, Rep. Ferry, and Rep. Fowlke voting in opposition to the motion.

H.B. 124 Parent-time Amendments (Rep. B. Dee)

MOTION: Rep. Fowlke moved to delete in title and body H.B. 124 and replace it with 1st Sub. H.B. 124.

SUBSTITUTE

MOTION: Rep. Hendrickson moved to proceed to the next item on the agenda. The motion passed unanimously with Rep. Ferry, Rep. Wyatt, and Rep. Hutchings absent for the vote.

H.B. 307 Utah's Small Business Equal Access to Justice Act Amendments (Rep. R. Romero)

Rep. Romero introduced H.B. 307 and explained it to the committee.

MOTION: Rep. Fowlke moved to pass the bill out favorably.

SUBSTITUTE

MOTION: Rep. Hogue moved to proceed to the next item on the agenda. The motion failed with Rep. Aagard, Rep. Hogue, and Rep. Ferrin voting in favor of the motion. Rep. Ferry and Rep. Wyatt were absent for the vote.

The motion to pass the bill out favorably passed with Rep. Aagard and Rep. Hogue voting in opposition to the motion.

H.B. 290 Protective Order Amendments (Rep. L. Fowlke)

MOTION: Rep. Fowlke moved to amend H.B. 290 as follows:

1. Page 5, Line 139 through Page 6, Line 155:

139 30-6-4.3. Hearings on ex parte orders.

140 (1) (a) When a court issues an ex parte protective order the court shall set a date for a
141 hearing on the petition within 20 days after the ex parte order is issued.

142 (b) If at that hearing the court does not issue a protective order, the ex parte
protective

143 order shall expire, unless it is otherwise extended by the court. { ~~Extensions beyond
the 20-day~~

144 ~~period may not be granted unless:~~

145 ~~—(i) the respondent has had the opportunity to present a defense at the hearing;~~

or

- 146 ~~—(ii) the respondent requests that the ex parte order be extended.~~
147 ~~—(c) Under no circumstances may an ex parte order be extended beyond 180 days~~
~~from~~
148 ~~the date of initial issuance.}~~ (c) At the hearing, an extension may not be granted
unless the respondent has had the opportunity to present a defense.
(d) If the petitioner requests an extension for the admission of additional evidence
from a Guardian Ad Litem, police reports, medical reports, or other relevant
evidence, the court may extend the ex parte protective order, so long as it complies
with Subsection (1)(c).
(e) An ex parte protective order may be extended upon the stipulation of both parties.
(f) Under no circumstances may an ex parte protective order be extended beyond 120
days from the date of service upon the respondent.
- 149 ~~(e)~~ ~~{(d)}~~ (g) If at ~~{that}~~ the hearing the court issues a protective
order, the ex parte protective
150 order remains in effect until service of process of the protective order is completed.
151 ~~(d)~~ ~~{(e)}~~ (h) A protective order issued after notice and a hearing is
effective until further
152 order of the court.
153 ~~(e)~~ ~~{(f)}~~ (i) If the hearing on the petition is heard by a commissioner,
either the petitioner
154 or respondent may file an objection within ten days of the entry of the recommended order
and
155 the assigned judge shall hold a hearing within 20 days of the filing of the objection.

The motion to amend the bill passed unanimously with Rep. Donnelson, Rep. Ferry, Rep. Romero, and Rep. Hutchings absent for the vote.

Rep. Fowlke introduced H.B. 290 and explained it to the committee.

MOTION: Rep. Hogue moved to pass the amended bill out favorably.

SUBSTITUTE

MOTION: Rep. Fowlke moved to amend the bill by inserting "and after service of the ex parte protection order," after "At the hearing," on line 148.

The substitute motion to amend the bill passed unanimously with Rep. Rep. Donnelson, Rep. Ferry, Rep. Romero, and Rep. Hutchings absent for the vote.

Spoke to the bill: Stewart Ralphs, Director, Legal Aid Society

Spoke in favor of the bill: Kurt Myers, citizen

MOTION: Rep. Hogue moved to pass the amended bill out favorably. The motion passed unanimously with Rep. Donnelson, Rep. Ferry, Rep. Romero, and Rep. Hutchings absent for the vote.

H.B. 281 Privacy of Records Related to Minors (*Rep. E. Hutchings*)

H.B. 281 was not considered in this meeting.

MOTION: Rep. Hogue moved to adjourn the meeting. The motion passed unanimously with Rep. Donnelson, Rep. Ferry, Rep. Romero, and Rep. Hutchings absent for the vote.

Rep. Ferrin adjourned the meeting at 10.01 a.m.

Rep. James A. Ferrin, Chair