

**LEGISLATIVE INTERIM COMMITTEES
SEPTEMBER 2008**

| LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE | |
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| Bill Title/Subject Matter: | Protected Information Sharing Among Justice Agencies |
| Legislator(s) –Sponsor: | |
| Interested Parties: | Mr. Ty McCartney Jennifer Hemenway, CCJJ Phil Bates, DPS |
| Code Reference: | Amends UCA §53-10-105 and Enacts §11-4A-1 and 17-50-321 |
| <p>Description: Discussion on a piece of prior legislation (2002) drafted by Mr. McCartney on Law Enforcement Database Integration. Of the 135 police agencies in Utah, the records management systems are not all connected and critical information is not being shared. Mr. McCartney, Ms. Hemenway, and Mr. Bates provided information on the Enterprise Service Bus and its capabilities for law enforcement agencies as well as other state and local entities to share information. The technology allows participants to view a multitude of shared information in their own agency-familiar format. The participants informed the legislature of the intent to issue an RFP to identify the approximate cost of funding this infrastructure.</p> | |
| Bill Title/Subject Matter: | Child and Vulnerable Adult Endangerment Provisions |
| Legislator(s) –Sponsor: | Rep. Michael T. Morley |
| Interested Parties: | J.C. Skinner, Assistant District Attorney Stan Rasmussen, Sutherland Institute |
| Code Reference: | Amends UCA §76-3-203.5 and Repeals and Reenacts §76-5-112.5 |
| <p>Description: Provides that a person who knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia is:</p> <ul style="list-style-type: none"> Guilty of a third degree felony; Guilty of a second degree felony, if as a result of the conduct described above, a child or vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury; or Guilty of a first degree felony, if as a result of the conduct described above, a child or vulnerable adult dies. <p>Provides an affirmative defense to the crime described if the controlled substance is obtained by lawful prescription and is used or possessed in accordance with the prescription instructions. Provides that the penalties described in this bill are separate form, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.</p> <p>One main point of this legislation is the definition of <i>exposure</i>. “Exposed to means that the child or vulnerable adult is able to: (i) access or view a controlled substance, chemical substance, or drug paraphernalia; or (ii) smell an odor produced during, or as a result of, the manufacture or production of a controlled substance. Passed as a Committee Bill.</p> | |

JUDICIARY INTERIM COMMITTEE

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| Bill Title/Subject Matter: | | Juvenile Sex Offender Treatment |
| Legislator(s) – Sponsor: | | |
| Interested Parties: | Robert Yeates, CCJJ Ray Wahl, Juvenile Court Administrator Dan Maldonado, Director of JJS Delynn Lamb, LCSW, The Utah Network on Juveniles Offending Sexually Rob Butters, University of Utah College of Social Work | |
| Code Reference: | | |
| <p>Description:</p> <p><u>Robert Yeates:</u> Several people will join the discussion on the efficacy of juvenile sex offender treatment as requested by Representative Hutchings. Under Utah law if a juvenile has a sex offense, they are placed in secure care and may stay there until age 21. The hard core sexual offender needs to be identified and treated however most juvenile offenders can be rehabilitated and will live productive lives and not re-offend. We can make a difference with juvenile sex offenders.</p> <p><u>Ray Wahl:</u> Mr. Wahl discussed the process of referral trends in the juvenile court system. Sex offenses make up 2% of the total number of juvenile delinquency referrals. In 2007 almost 900 referrals were for sex offenses with the majority for lewdness, sex abuse and sodomy. There is a trend of younger kids being referred to juvenile court for sex offenses and a majority of sex offender referrals are for felonies (30% are for first degree felonies). It is important to note that there is a very low recidivism rate for juveniles re-offending on sex offenses.</p> <p>From 2007 data, of the kids being referred for sex offenses: there was only 18 percent recidivism compared to a 30 percent general recidivism rate for other offenses. Recidivism is defined as a referral to juvenile court within one year for any offense. Generally, the younger the kid the lower the rate of recidivism. Also, recidivism is lower for kids on probation. Of the two percent of all kids referred for a sex offense, only two percent of those re-offend in a sexual offense category.</p> <p><u>Dan Maldonado:</u> Mr. Maldonado offered information on the state custody population of juvenile sex offenders. There were 1,082 sex offenders in lock up on August 12, 2008 and of those in custody on that day 212 were in long-term lock up; 796 in community placement (residential treatment option – staff secured); and 74 in observation and assessment (diagnostic unit) for reasons of determining if they need to remain in long term custody or a recommendation to return home on probation. The custody population comprises a small proportion of the population for sex offenses; for example juveniles admitted to long-term lock up who have had any prior sex offense are 29 percent and people who are in on a felony sex offense are one-quarter of the population. This demonstrates that the juvenile court does a good job in parsing populations relative to risk.</p> <p>JJS has commissioned two long-term studies: The Epperson study from the University of Iowa, looked at 602 youth who committed sex offenses with a longitudinal study five years into the adult system. Types of offenses the juveniles committed: sexual abuse, lewdness, sodomy, rapes, assaults, sex with minors. At the one-year mark about one-third had follow up offenses, but only 6 percent of the population had a felony or misdemeanor sex offense.</p> | | |

JJS is also doing a study on juveniles one year after release from treatment that re-offend. About one third had some type of technical criminal felony, or misdemeanor violation. Approximately ten percent of the population ended up after a year with another event for either a felony or misdemeanor sex offense. Of those only four percent are felonies. We think the balance of incapacitation and treatment is a wise public policy strategy.

Delynn Lamb: Mr. Lamb's background includes running community placement treatment programs. There are significant differences in adult and juvenile offenders and why they offend. One of the dramatic differences between adult and juvenile offenders is that adolescents are still in the process of developing. The developing adolescents generally are not able to put facts together and draw conclusions. The neuron-scientific studies of the brain show how it develops and the cerebral cortex is still developing in adolescents that allows them executive functioning and rational thinking. Kids in the process of developing their brains may not understand risky or morally wrong actions or their ability to act on perception. Adolescents are less likely to recognize inherent risk and consider long term consequences of their choices. While they are criminally responsible, they need to be held responsible in the context of being juveniles. We should view adolescents as adolescents and not confuse them as adults.

Adult sex offenders offend because of deviant attraction; but youth offend for different reasons that often times are non-sexual. Adult sex offenders typically have established patterns of deviant sexual arousal and habituated sexual abusive behavior. Juveniles don't have these established patterns like adults. Juvenile sexual misconduct is often more related to nonsexual development, skill deficit, and need attainment failures. Youth are less clear about their sexual interests and identities and are in fact forming those identities. Youth have less solidified sexuality than adults do and are more changeable than adults.

Because of these differences, juveniles are able to be fully rehabilitated. There are effective treatment programs for youth that are vastly different than those for adults. We recognize that adult sex offenders cannot be fully rehabilitated. For juveniles the treatment is geared to returning them to a more normative path of development and developing good patterns for a healthy and productive life. Unlike adults, most youth do not and will not continue to sexually offend. Treatment reduces the risk to re-offend. Ninety percent of youth can be treated safely and successfully within the community, many living in their own homes. Juveniles who engage in sexually abusive behavior need to be considered and seen distinctly different than adults. It is vital to realize the juvenile system is different and that kids can be rehabilitated. Statistics say we can safely do this and most of them will not re-offend.

Rob Butters: Mr. Butters provided discussion on how to help juvenile sex offenders. The juvenile sex offender profile is: average age is 14; they generally have had one victim; the victim is family – extended family – or a neighbor; there are high incidences of family violence; the juvenile witnessed domestic violence or has been a victim of abuse themselves; and we almost always see that the kids have under-developed social skills. Rarely do these kids turn into adult offenders. Most youth when they offend are more likely to go on to commit a property crime or general criminal offenses rather than sex offenses. The terminology has changed among researchers and professionals in that we no longer use the term juvenile sex offenders. We use terms such as *youth who engage in sexual misconduct* or *youth with sexual behavior problems*.

Utah is doing a good job in treating juvenile sex offenders. We have a very good graduated system based on risk assessments. We have a myriad of treatment options from psycho educational classes through long-term incarceration with JJS. Most treatment is done in the community and is focused on family. The main focus is self regulation, engaging in positive activities such as school work, relationships, hobbies, and improved parental supervision. Again, there are differences between the juvenile offender and the adult offender. We do not see the deviant behavior in juveniles.

The best way to protect the public against sex abuse: arm the community with research-based understanding of risk; educate parents; teach kids never to keep secrets and their privates are private; and teach the child refusal skills so they are not easy targets for adult offenders. Focus resources on sex offenders who have been evaluated as risky to re-offend.

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| Bill Title/Subject Matter: | Harboring a Runaway |
| Legislator(s) –Sponsor: | Rep. Lorie D. Fowlke |
| Interested Parties: | Zach Bach, Volunteers of America Tom Vaughn, Rick Smith, CASA, Guardian Ad Litem Office |
| Code Reference: | Amends UCA §62A-4a-501 and §78A-6-1001 |
| <p>Description: Provides that a person who harbors a minor who is a runaway must provide notice to the parent or legal guardian of the minor, the DCFS, or under certain circumstances, a peace officer or a detention center, within eight hours from the later of the time that the person begins providing the shelter or the time that the person becomes aware that the minor is a runaway.</p> <p>Provides an affirmative defense to the crime of harboring a runaway if the person fails to provide the required notice due to circumstances beyond the control of the person. Provides that an individual or a temporary homeless youth shelter may continue to provide shelter to a runaway after providing the notice required by this bill if the parent or legal guardian of the minor consents to the continued provision of shelter or if the person notified fails to retrieve the runaway.</p> <p>Clarifies that this bill does not prohibit an individual, a temporary homeless shelter, or a government agency from providing shelter to an abandoned minor. Clarifies that this bill does not release a person from the obligation to report abuse or neglect of a child.</p> <p>The average age of a runaway is 14. Current law says that runaways cannot be housed after 7:00 PM even if they are in a shelter. Bill makes it clear that a youth service home can provide some shelter for runaways after the proper notification. Bill does not change anything with parental rights; nor does it change reporting of abused or neglected children. Passed as a Committee Bill.</p> | |
| Bill Title/Subject Matter: | Materials Harmful to Minors Amendment |
| Legislator(s) –Sponsor: | Rep. Sheryl L. Allen |
| Interested Parties: | Mr. John Harmer, Lighted Candle Society Mr. Will Carlson, ACLU of Utah |
| Code Reference: | Amends UCA §76-10-1204 and §76-10-1206 |
| <p>Description: Provides penalties for minors that distribute pornographic material or deal in material harmful to a minor (persons 16 or 17 years of age are guilty of class A misdemeanor;</p> | |

persons younger than 16 years of age are guilty of a class B misdemeanor). Provides that a person 18 years of age or older who solicits a person younger than 18 to distribute pornographic material or deal in material harmful to a minor is guilty of a third degree felony and is subject to specified penalties. Provides that if a person younger than 18 years of age has previously committed the offense of dealing in material harmful to minors, the person is guilty of a third degree felony for each subsequent offense.

The legislation was drafted to lower the penalty to address issues surrounding minors sending pornographic pictures via cell phones. Penalties remain the same for adults sending pornographic pictures. **Passed as a Committee Bill.**

Mr. John Harmer: The Lighted Candle Society is a nonprofit organization out of Washington, D.C., created nine years ago with Edwin Meese III with its basic mission being anti-pornography.

The organization has been studying the effects of pornography on teen brains and does not support the legislation. Minors have a right to be protected from other minors. Does not want the penalties lowered. Decreasing the penalty may result in predators convincing teens to send pornographic pictures because the penalty is only a misdemeanor.

Mr. Will Carlson: There is a fourth option and that would be to decriminalize the action as to the behavior of children under the age of eighteen. Doing this does not mean there are no consequences as the parents and schools would need to address the issue.