

**LEGISLATIVE INTERIM COMMITTEES
AUGUST 2008**

| LAW ENFORCEMENT AND CRIMINAL JUSTICE INTERIM COMMITTEE | |
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| Bill Title/Subject Matter: | Jail as a Condition of Probation |
| Legislator(s) –Sponsor: | |
| Interested Parties: | Scott Carver, Director of Utah Sentencing Commission Moises Prospero, Ph.D., University of Utah Criminal Justice Center |
| Code Reference: | |
| <p>Description: Serving time in jail as a condition of felony probation (“JCFP”) has been increasingly used as a sentencing option. The Utah Criminal Justice Center was asked to do a study to answer the questions: <i>Is this an effective tool for reducing recidivism, and is it being administered equally across the state?</i> Dr. Prospero reported to the Committee that the study concluded: (1) JCFP is used similarly across counties in Felony 2 offenses, but not on Felony 3 offenses, even though risk of offenders is similar across counties; (2) some counties are sentencing more (or less) days in jail for similar offenses than other counties; (3) JCFP does not appear to influence recidivism; and (4) JCFP may still be a good practice for other uses, such as public safety, accountability, etc.</p> <p>While the study looked at felony probationers who received some time in jail, the Committee suggested the study be expanded to include: --probationers who did not receive any jail time; --a break down between the violent offenders, sex offenders and the property crime offenders; a break down by county; --the duration of time while in jail; and --any programs the offender received while in jail. Dr. Prospero indicated the study is only one small piece of the big picture and is presented only for information at this time as other variables will be examined and studied in the future.</p> | |
| Bill Title/Subject Matter: | Sex Offender Contact with Children |
| Legislator(s) –Sponsor: | Rep. Richard A. Greenwood |
| Interested Parties: | |
| Code Reference: | Amends UCA §77-27-21.5; Enacts §77-27-21.8 |
| <p>Description: This bill will require a registered sex offender, whose offense was against a child younger than 14, to obtain written permission from the child's parent or guardian to allow a child younger than 14 to accompany the offender. Concern if a parent gives a sex offender permission to pick up a child younger than 14, could the parent be charged with child endangerment for putting the child at risk? Passed as a Committee Bill.</p> | |
| Bill Title/Subject Matter: | County Sheriff Qualifications |
| Legislator(s) –Sponsor: | Rep. Richard A. Greenwood |
| Interested Parties: | |
| Code Reference: | Amends UCA §17-22-1.5 |
| <p>Description: This bill will require that a person elected to the office of county sheriff, after the 2008 general election, be qualified by taking a course approved by the Peace Officer Standards and Training Council (POST) and be certified as a correctional facility manager or correctional officer before taking office. The county sheriff would also need to remain certified during the term of office. The legislation as passed in the 2008 Session requires an elected sheriff to go through POST as correctional officer (4-8 weeks). The intent was that the person would be required to take an administrative functions course (40 hours of in-service training) dealing with jail management issues. Passed as a Committee Bill.</p> | |

JUDICIARY INTERIM COMMITTEE

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| Bill Title/Subject Matter: | Youth Services/Juvenile Receiving Day Center for Tooele County |
| Legislator(s) –Sponsor: | Rep. Rhonda Menlove |
| Interested Parties: | Tooele County Commission Tooele County School District Tooele Police Department |
| Code Reference: | |
| <p>Description: Tooele County is the most populous county in the state of Utah without a Youth Services/Juvenile Receiving Center (YS/JRC). In 2005, 130 individual youth were transported from Tooele to a Salt Lake County Juvenile Receiving Center. Most of the youth (101) were transported by their parents and 29 were transported by law enforcement. Parent transport is inherently dangerous and often leaves other children at home unsupervised. When law enforcement transports, it ties up two officers for at least a three-hour period thereby leaving some agencies with limited man power. Additionally, Tooele juvenile court judges have no “intermediate sanctions” to apply to truant, runaway, and/or status offender youth and are left with home confinement (that does not work). Community-based early intervention through a YS/JRC center has the potential to stem the flow of youth into more restrictive, higher cost placements. A request by Rep. Menlove for \$370,000 for staff at a YS/JRC was made to the Committee. A building has been donated for the cause and only personnel charges need to be covered.</p> <p>The Committee indicated that there will be no new money this legislative year to cover any new projects, but suggested Rep. Menlove make a presentation to the Appropriations Committee.</p> | |

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| Bill Title/Subject Matter: | Materials Harmful to Minors Amendment |
| Legislator(s) –Sponsor: | Rep. Sheryl L. Allen |
| Interested Parties: | |
| 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; 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 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.</p> <p>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.</p> | |

WORKFORCE SERVICES AND COMMUNITY AND ECONOMIC DEVELOPMENT INTERIM COMMITTEE

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| Bill Title/Subject Matter: | Identity Theft Update: State Employee Drug Testing |
| Legislator(s) –Sponsor: | |
| Interested Parties: | Jeff Herring, Executive Director, Department of Human Resource Mgmt Kirk Torgensen, Chief Deputy, Utah Attorney General’s Office |
| Code Reference: | |
| <p>Description: On average it takes over 600 hours for an individual to clear up issues when their identity has been stolen. The state of Utah must keep personal information safe. Jeff Herring is working with various agencies on developing an administrative rule allowing random drug testing on state employees with access to highly sensitive materials. The state must comply with the Fourth Amendment of the US Constitution (the right to protection from unreasonable searches and seizures)</p> | |

and there must be a compelling state interest when doing random drug testing. Everyone from the executive director down to the data entry person who has access to the highly sensitive materials will be subject to the random drug testing.

IMMIGRATION INTERIM COMMITTEE
Ecker Hill International Middle School, Park City, Utah
**** The first seven minutes of the meeting were not recorded.****

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| Bill Title/Subject Matter: | Federal Immigration Enforcement |
| Legislator(s) – Sponsor: | |
| Interested Parties: | Eugene Davis, Retired Officer, INS Kent Lundgren, President, National Association of Former Border Patrol Officers (NAFBPO) |
| Code Reference: | |
| <p>Description: We have to control our borders. The Federal government is not stepping up to take care of the problem. The NAFBPO was formed to: (1) educate the leaders about border problems; (2) protect the public safety – illegal aliens are heavy into gangs; (3) the national security issue; and (4) immigration laws are to protect the American worker from foreign competition in one’s own hometown. Wages and working conditions in the US are depressed because of the sheer numbers of illegal aliens willing to work for low wages. The fallacy that illegal aliens will only do the work Americans will not do is incorrect; moreover, it is illegal aliens will only do the work Americans will not do for that low wage. There are 15 million Americans out of work and that is an excellent pool of labor to draw from.</p> <p>The NAFBPO is not against immigration, just illegal immigration. The borders need to be secured, but they cannot be secured until the things that draw illegal aliens to our country are dealt with – like low wages. NAFBPO also opposes driver licenses, driver privilege cards, hunting licenses, library cards, and fishing licenses for illegal aliens. The business people paying the low wages are the ones benefiting from allowing illegal aliens into the state. Canada has a guest worker permit program that works very well and that may be one answer.</p> <p>Legislator: In Utah, we now have 47,000 driver privilege cards, but it is estimated that we have 120,000 illegal adult immigrants. What are the others doing without a driver privilege card? What will happen if we take away a driver privilege card? We issue them on an ITIN number by proving you cannot get a SSN. Does this pose a national security threat? There is no underlying document saying who these people are. Another issue is Workers Comp does not have reporting requirements for agriculture and maybe we need to look at this as well.</p> <p>There is a 287G program that allows state officers to be partners with ICE. The law enforcement agencies participating will see benefits by having their officers trained. How many detention removal people do we need? How many H2 Visas are issued? Whatever the need, it is incumbent on the government to have a better process to secure a VISA.</p> | |

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| Bill Title/Subject Matter: | Oklahoma Immigration Law |
| Legislator(s) – Sponsor: | |
| Interested Parties: | Randy Terrill, Legislator, State of Oklahoma |
| Code Reference: | |
| <p>Description: Rep. Terrill sponsored the Immigration law in Oklahoma from which Utah’s SB 81 was fashioned. There has been significant savings to the taxpayers of Oklahoma through its legislation. There will be a lot of different folks (ethnic, immigration lawyer cartel, religious organization, and other business people – construction, agriculture, service industry, etc.) that will try to intimidate the legislature. Utah should keep thinking about moving the ball forward.</p> | |

1. Despite what Utah have done with SB 81, illegal immigration remains a very serious problem in the US. There are thousands of illegal aliens crossing the borders daily. In a post-911 era, it is a national security problem. We do not know what they are doing or who they are. Illegal immigration contributes to crime, gangs, drugs, narco trafficking, etc. More than 40% of drug trafficking through Oklahoma was directly attributable to the illegal alien problem.

2. Illegal immigration is as much a state issue as it is a federal issue. The failure of the federal government to enforce our nation's borders has turned every state into a border state. It functionally imposes a tax on every citizen, particularly in health care, education, welfare and corrections. Rep. Terrill encouraged the committee to invite Jack Morton from the Federation for American Immigration Reform to do a cost benefit analysis for the state. It is estimated the number of illegal aliens in Oklahoma is around 250,000. Oklahoma's study showed the direct cost of illegal immigration is something in excess of \$200 million a year. The indirect cost is far greater – perhaps two to three times that amount (talking about costs that extend from the children of illegal immigration -- the anchor baby phenomenon -- who receive other benefits. The highest being education which was estimated at \$160 million per year. That does not count the costs of private individuals having an illegal alien smash into your car causing an increase in everyone's insurance rates. Indirect costs do not count the costs of private business; the biggest being unreimbursed health care -- illegal aliens showing up at emergency rooms for non-emergency health care. States are paying for the costs. As the Chairman of Revenue and Tax in Oklahoma, Rep. Terrill wanted to find out how much illegal aliens pay into treasury. Based on the numbers, they pay a little more \$11 million in income tax, and \$9 million in extrapolated sales tax. There are some constitutional provisions that prevent illegal aliens from possessing property so they are not paying property tax. So in contrast, illegal aliens pay in a little more than \$21 million a year, but it costs Oklahoma directly \$200 million a year. Illegal aliens are a net drain on the state of Oklahoma.

3. The public strongly supports cracking down on illegal immigration. Oklahoma's bill passed by bipartisan veto-proof margins in both the House and the Senate. After the bill took effect on November 1, there was a huge outcry among the business community. The public (89%) said they support all or some of the bill. Hang tough, the public is on your side.

4. Instead of talking about problems with the new legislation, let the focus go to how to monitor the implementation of the bill so it does not work any undue hardships. Concentrate on how to add to and strengthen the bill. The 287G program is working tremendously well in Oklahoma. Since becoming 287G certified, one county alone has turned over to ICE 1100 illegal aliens. It is not enough to allow law enforcement to become 287G certified, legislators need to incentivize state and local law enforcement agencies to participate in the program. There are some ancillary costs not covered in the program, but you could seed the fund with such things as asset forfeiture.

Another point is taxpayer transparency of education. Taxpayers have a right to know how much it is costing to educate children of illegal aliens. Require local school districts to report in the aggregate how many children of illegal immigrants are in the system. The number should be reported to the State Board of Education and require them to make a finding on whether that amount of money is having an adverse impact on educating Utah's own citizen children and whether the money could be used for teacher pay raises, new building, or other computer enhancements in the classroom.

Additional employer provisions. Arizona has some beefed up employer licensing provisions and habitual offender provisions. If you get caught multiple times you lose your business license. The issue can be dealt with regarding employers on the tax side of the equation. Eliminate the tax deductibility if you do not have a SSN.

State regulation of wire transfers. Enormous remittances are being made back to these countries of origin. I guarantee you are having the same problems as Oklahoma. Look at greater state regulation on wire transfers, especially of money that is moved out of the country.

One last thing on workers compensation. I believe all employees (including illegal aliens) should be able to recover against an employer. Otherwise you create a greater incentive for the employer to hire illegal workers. If they are injured on the job the employer should pay for it.

5. What the debate is not about. First it is not about being for or against immigration or immigrants. If someone is willing to play by the rules, we should welcome them and commend their decision to become an American citizen. This has nothing to do with race. These bills are nationality neutral. The only thing that matters is whether you are here legally or illegally. This is not about being a republican or a democrat. This is about more basic principled ideas and values.

Other issues: Oklahoma's bill is being challenged in court, but over three-fourths of the bill remains in effect. The three private employment provisions have been stayed pending a ruling.

The economy is doing well. Oklahoma's unemployment rate is running several percentage points below the national average. Citizens are being hired and put to work. Base wage rates are beginning to go up and the bill is having a great impact.

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| Bill Title/Subject Matter: | In-State Tuition Eligibility |
| Legislator(s) – Sponsor: | |
| Interested Parties: | Lee ling Tjoa, Student, University of Utah Rebecca Cowden, Adjunct Instructor of Anthropology, UofU |
| Code Reference: | |
| Description: | <p>Rebecca Cowden: Why would we privilege some people over legal immigrants that are paying taxes, being legal, and paying out-of-state tuition? We are all paying higher tuition and some of the tuition is being used for illegal immigrants. No one is against immigration legally, but the US needs to be in charge of who comes to the US. Maybe the legislature should consider giving in-state tuition for those students here on a VISA who have paid taxes, and followed the rules.</p> <p>Lee Ling Tjoa: There are three ways for her to stay in US: 1. a fake green card; 2. be illegal, and 3. get married. She will be finished with graduate school soon and will need to leave the country even though she has followed the rules and paid taxes.</p> |
| Bill Title/Subject Matter: | Perspectives on Immigration |
| Legislator(s) – Sponsor: | Rep. Christopher Herrod |
| Interested Parties: | |
| Code Reference | |
| Description: | <p>Illegal immigration is not a victimless crime. It is morally wrong to discriminate against people around the world without justification.</p> <p>[THE RECORDING IS BREAKING UP AND THE CONTEXT OF REP. HERROD'S TESTIMONY IS NOT CLEAR]</p> |
| Bill Title/Subject Matter: | Illegal Immigration – Impacts |
| Legislator(s) – Sponsor: | |
| Interested Parties: | Eli Cawley, Utah Minuteman Project |

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| | | Michael Sanchez Marv Davis Alex Segura |
| | Code Reference: | |
| <p>Description: Eli Cawley: We are here to see that the enactment of SB81 does not follow the mistakes of California. Citizens nationwide want enforcement of immigration laws.</p> <p>Michael Sanchez: The human cost of illegal immigration is global. Human trafficking is a multi-billion dollar business. Not all illegal aliens are members of organized crime. Organized crime is the controlling network by which illegal aliens are the commodity. Slavery in Asia alone in the last ten years has produced 30 million slaves. Owning a slave has never been cheaper than today. A healthy young African male can be bought on the Ivory Coast for \$35. In London two 13-year old West African girls can be bought for \$1200 each. Adjusted for inflation, this means buying a human being costs a fraction of what it did in the US in 1850. Recently a Chinese slave was found working in a Midvale market. Every year more and more human beings are being trafficked in Utah not only for forced labor, but also for the sexual trade. Think of SB 81 as an anti-organized crime bill. The bill addresses a need to coordinate local and state law enforcement along with federal agents to combat worldwide organized crime.</p> <p>Alex Segura: Identification documents and in-state tuition issues. There seems to be a fetish regarding illegal aliens obtaining state documents. The documents are used to integrate the illegal alien into the labor market and our community. Once in possession of the documents an illegal alien can take part in businesses and government activities. They are also a form of de facto self amnesty. The only document the state should accept is a VISA. The IRS issues an ITIN document. Those individuals with ITIN are not filing taxes, but using the document to open bank accounts, utilize government services, and obtain driver licenses. Utah's driver privilege card along with an ITIN allows one to get other things. An illegal alien could not function in Utah without a driver privilege card. A legislative study is needed to understand the document fraud a driver privilege card is perpetrating. We need to repeal the driver privilege card. In-state tuition perpetrates identify theft and is in violation of federal law. The current structure of Utah's in-state tuition law discriminates against US citizens and international students.</p> <p>Marv Davis: There is a backlash against Americans of Hispanic dissent. Spanish is being elevated to the level of English in our school.</p> <p>[THE RECORDING IS BREAKING UP AND THE BALANCE OF TESTIMONY IS NOT CLEAR.]</p> | | |
| Bill Title/Subject Matter: | | Identity Theft |
| Legislator(s) –Sponsor: | | |
| Interested Parties: | | Ronald Mortensen |
| Code Reference: | | |
| <p>Description: Illegal alien identity theft. Three misconceptions: (1) illegal aliens are undocumented - illegal aliens might lack legal documents, but they have lots of other documents; (2) the vast majority of illegal aliens are law abiding; and (3) illegal immigration is a victimless crime.</p> <p>1. According to a Texas law firm, approximately 12 million illegal immigrants are living in the USA and about 75% are living with false SSNs. The ITIN is not used to get work it is just a number for people to pay income taxes. To fill out an I-9 you need a SSN and a second form of identification. In order to obtain a job one must have documents and illegal immigrants cannot get a SSN, so they go to</p> | | |

the local document dealer and buy one.

2. The vast majority of illegal aliens are not law abiding. Illegal aliens commit multiple document fraud felonies in order to get a job. Of the top ten states for identity theft seven of the states are also in the top ten for illegal immigration. Illegal immigrants do commit crime and 75 percent use fraudulent documents meaning 75 percent are committing felonies.

3. Illegal immigration is a not a victimless crime. Utah's Attorney General has uncovered an alarming new crime spree involving illegal aliens and the identity stolen of victims under the age of 12. The investigation found 1800 Utah children on public assistance had their SSNs being used by someone else in 2005. They found that 37 adults were using one child's SSN. In another case 26 adults were using one child's number. Also 1,626 companies were paying salaries to the SSNs of Utah children on public assistance under the age of 12.

In 2002, the Social Security Administration reported in the New York Times that 132,000 Utahans had their SSNs compromised. According to a private company Identity Theft 911, up to 1,000,000 children in Arizona have been victims of identity theft. Over 90 percent of identity theft cases prosecuted by the Utah Attorney General's Office involved illegal aliens. The cost of identity theft runs into the millions of dollars. Children are vulnerable even if parents do everything right. Children have been denied CHIP coverage due to their SSNs being used by someone else.

Solutions: Employment verification is the first. Applicant SSNs and date of birth need to be verified by employers. If employers would run SSNs and DOBs through the E-verify, it would stop 100 percent of child identity theft. Department of Homeland Security is adding a photograph to their database as well. E-verify is a free government program and applies to new hires. Another program, Image, allows an employer to verify the status of current employees.

Another solution is outreach to the illegal immigration community. Have the Office of Ethnic Affairs provide the illegal immigration community with information on document fraud. Involve religious communities, law enforcement, and the business community. Finally, abolish Utah's driving privilege card and make it harder to obtain documents.

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| Bill Title/Subject Matter: | Utah Immigration Fact Book |
| Legislator(s) –Sponsor: | |
| Interested Parties: | Stan Rasmussen, Public Affairs Manager, Sutherland Institute Derek Monson, Policy Analyst, Sutherland Institute |
| Code Reference: | |
| Description: Stan Rasmussen: The Sutherland Institute is conducting research on illegal immigration and the following are points from its position paper. Intelligent illegal immigration policy is essential. It is a public policy issue. The regulation and the flow of immigration is the responsibility of the federal government. The Sutherland Institute looks to Congress to create and effectively enforce a coherent immigration security policy. Violation of immigration laws is a public transgression. The Institute supports swift prosecution and deportation of illegal immigrants engaged in criminal activities. The Institute believes there are four sentiments to govern the state and local policy matters on illegal immigration. 1. We should welcome all people of good will to our state. 2. We should not serve as proxy law enforcement officials for the federal government regarding our neighbors in violation of federal immigration laws. | |

3. We should seek economic transparency and personal accountability of all Utah residents.
4. We should encourage our neighbors in violation of federal immigration laws to become thoroughly assimilated, literate, and productive members of our community.

The Sutherland Institute emphasizes that illegal immigrants are real people with real families. Their humanity must be respected. People are not the problem, people are always the solution. Immigration policy should focus on fixing broken systems and failed policies. The Institute continues to conduct research to understand the issue better.

Derek Monson reviews and summarizes the report provided to the committee. Once the illegal immigrants are here they are assimilating into society and obeying state laws. First, 80 percent of non-citizen Hispanics entered the country after 1990. On average the adult non-citizen Hispanic also works one and a half hours more than the adult citizen. The way this contributes to society is by adding to the state's characteristically strong work ethic and by so doing is a benefit to the state. Illegal immigrants can do work in the areas of the economy that are essential to the economic health of the state.

One area where adult non-citizen Hispanics lag behind adult citizens is the family income. The medium family income of a non-citizen Hispanic family is \$36,600 which is approximately \$26,700 less than adult citizen family. Also it is obvious the formal education of the non-citizen Hispanics is less than the adult citizen, which could explain the income. For example, adult non-citizen Hispanics earns bachelor degrees at a rate that is approximately one-third of that of adult citizens.

The final topic concerns assimilation. Based on estimates of the illegal immigrant population, 0.3 percent of the illegal immigration population ends up at the state penitentiary. The figures suggest that contrary to popular perception, once illegal immigrants are settled in Utah, they typically obey state laws. Also it suggests that illegal immigrants are not violent. We would agree with Rep. Herrod, that language is a great unifier. Illegal immigrants in Utah are better able to assimilate than in other states. It may be that we have the cream of the crop, or we feel that the values of the illegal immigrants, such as family values and a strong work ethic fit in with Utah's citizens.

As a state we can attempt to remove legal obstacles to better help non-citizens assimilate better into society or we can add to those obstacles.