

Draft Only
Approval Pending
**SUMMARY of
PROCEEDINGS**



JOINT JUDICIARY COMMITTEE

COMMITTEE MEETING INFORMATION

September 22 and 23, 2016
8:00 am
Lincoln Community Center, Conestoga Room
Torrington, Wyoming

COMMITTEE MEMBERS PRESENT

Senator Leland Christensen, Co-Chairman
Representative David Miller Co-Chairman
Senator Floyd Esquibel
Senator Larry Hicks
Senator Michael Von Flatern
Representative Mark Baker
Representative Ken Esquibel
Representative Marti Halverson
Representative Kendell Kroeker
Representative Samuel Krone
Representative Charles Pelkey
Representative Bill Pownall
Representative Nathan Winters

COMMITTEE MEMBERS NOT PRESENT

Senator Dave Kinsky (Excused for Joint Revenue Committee)

LEGISLATIVE SERVICE OFFICE STAFF

Tamara Rivale, Staff Attorney
Jennifer Lockwood, Associate Research Analyst

OTHER LEGISLATORS PRESENT

Senator Curt Meier
Representative Cheri Steinmetz

OTHERS PRESENT AT MEETING

Please refer to [Appendix 1](#) to review the Subcommittee Sign-in Sheet for a list of other individuals who attended the meeting.

The Committee Meeting Summary of Proceedings (meeting minutes) is prepared by the Legislative Service Office (LSO) and is the official record of the proceedings of a legislative committee meeting. This document does not represent a transcript of the meeting; it is a digest of the meeting and provides a record of official actions taken by the Committee. All meeting materials and handouts provided to the Committee by the Legislative Service Office, public officials, lobbyists, and the public are on file at the Legislative Service Office and are part of the official record of the meeting. An index of these materials is provided at the end of this document and these materials are on file at the Legislative Service Office. For more information or to review meeting materials, please contact the Legislative Service Office at (307) 777-7881 or by e-mail at lso@wyoleg.gov. The Summary of Proceedings for each legislative committee meeting can be found on the Wyoming Legislature's website at www.wyoleg.gov.

EXECUTIVE SUMMARY

The Committee met for two days in Torrington, Wyoming at the Lincoln Community Center. The Committee considered draft legislation regarding child abuse or neglect in military families, small claims court appearance fees, post-conviction relief, criminal justice reform, jail placement coordination, drug overdose reporting immunity and access to opiate overdose emergency treatment. The Committee also heard testimony on overdose fatality reporting, sex offender registration funding and edible marijuana analysis and prosecution. The Committee voted to convene a subcommittee to consider possession of marijuana products. In addition, the Committee received updates on the Wyoming Judicial Branch, the Task Force on State Penal Facilities and the Task Force on Digital Information Privacy.

CALL TO ORDER (SEPTEMBER 22, 2016)

Co-Chairman Miller called the meeting to order at 8:15 a.m. The following sections summarize the Committee proceedings by topic. Please refer to [Appendix 2](#) to review the Committee meeting agenda.

APPROVAL OF MINUTES

Minutes from the April 27 and 28, 2016 Committee meeting were approved.

CHILD ABUSE OR NEGLECT IN MILITARY FAMILIES

Major General Luke Reiner, Adjutant General, Wyoming Military Department and Dr. Marty Nelson, Department of Family Services appeared before the Committee. General Reiner provided an agency update from the Wyoming Military Department. ([Appendix 3](#)). General Reiner reviewed 17LSO-0099 W0.4—Child abuse or neglect in military families with the Committee and offered a handout prepared by the Department of Family Services in consultation with the Military Department, which contained proposed changes to the bill draft. ([Appendices 4 and 5](#)).

Gary Hartman, Wyoming Governor's Office, addressed the Committee on the topic of military student identification.

Senator Hicks moved to direct LSO Staff to revise 17LSO-0099 W0.4 as requested by the Wyoming Military Department and the Department of Family Services for review at the next meeting. The Committee passed the motion by voice vote.

WYOMING JUDICIAL BRANCH UPDATE

Honorable Robert Skar, 5th Judicial District Court Judge and president of the District Court Conference, addressed the Committee. Judge Skar stated that district judges are actively evaluating how they can address reductions in expenses within their budgets and he discussed a recent case study on judicial workload.

Honorable Brian Christensen, 7th Judicial District Circuit Court Judge and president of the Circuit Court Conference, addressed the Committee. Judge Christensen indicated the Circuit Court Conference has been working on courtroom efficiency and standardization of forms across the state. Judge Christensen stated that circuit court judges are preparing for the retirement of several current judges. Judge Christensen further stated the rule changes that allow for circuit court judges to fill in for judges in other counties is being evaluated for amendments and that standardization in the availability of courtroom technology would also be of assistance. In addition, Judge Christensen indicated judicial pay raises may need to be addressed in the future.

Judge Skar and Judge Christensen also answered Committee questions regarding the Wyoming Drug Court program, the Driving Under the Influence (DUI) Court program, budgetary issues, electronic filing, public defenders, the 24-7 Sobriety Project and other topics.

Honorable Randall Arp, 8th Judicial Circuit Court Judge, addressed the Committee and provided information about the incorporation of technology into the courtroom in Goshen County.

Lily Sharpe, State Court Administrator, introduced Kathi Rickard, Clerk of District Court, 8th Judicial District, Goshen County. Ms. Sharpe also provided a statement from Wyoming Supreme Court Chief Justice James Burke, thanking the Committee for receiving an update from the Wyoming Judicial Branch. Ms. Sharpe further provided information regarding funding within the Judicial Branch. Ms. Sharpe also discussed staffing, courtroom technology, electronic filing, courtroom security and indigent legal services within the Judicial Branch. She stated the Judicial Branch may ask that courtroom technology become a Committee topic for the next interim. Ms. Sharpe also informed the committee that the judicial learning center in the Supreme Court will have a grand opening on January 9, 2017.

Judge Christensen provided an overview of 17LSO-0007 C1.1–Small claims appearance fee. ([Appendix 6](#)). Representative Pelkey moved to review the bill draft again at the next meeting. The motion passed by voice vote.

POST-CONVICTION RELIEF

Tamara Rivale, LSO Staff Attorney, provided an overview of the topic of post-conviction relief and discussed the bill drafts and supplemental information provided by LSO. ([Appendices 7, 8, 9, 10, 11 and 12](#)). Ms. Rivale reviewed with the Committee in detail: 17LSO-0005 W0.4–Post-conviction actual innocence, 17LSO-0006 W0.4–Compensation for persons exonerated based on DNA evidence, 17LSO-0120 W0.4–Post-conviction actual innocence-2 and 17LSO-0121 W0.4–Compensation for persons exonerated based on DNA evidence-2.

Ms. Sharpe addressed the Committee and provided information regarding the 2014 legislation concerning post-conviction relief.

Michelle Feldman, Rocky Mountain Innocence Project and Aaron Lyttle, Wyoming attorney, addressed the Committee and provided a summary of proposed statutory changes and other materials provided to the Committee by the Rocky Mountain Innocence Project. ([Appendix 13](#)).

Jeremiah Sandburg, Laramie County District Attorney, addressed the Committee and recommended several suggestions for further revision in the draft legislation, including amendments to clarify evidentiary standards in post-conviction hearings and the office responsible for representation of the State in post-conviction hearings. Mr. Sandburg also suggested the legislation include provisions to provide flexibility for responding to motions to include good cause extensions.

Representative Pelkey moved to direct LSO Staff to revise 17LSO-0120 W0.4 and 17LSO-0121 W0.4 for review at the next Committee meeting. The motion specified 17LSO-0120 should include only provisions for post-conviction relief and 17LSO-0121 should include only provisions on compensation. Senator Hicks requested LSO Staff draft the bills to provide consistency in current statutes and the bill drafts regarding the terms “factual innocence” and “actual innocence.” The Committee further authorized

LSO Staff to consult with the interested parties in revising the draft legislation. The motion passed by voice vote.

Representative Baker requested LSO Staff provide additional research before the next meeting concerning a requirement in the draft legislation that would condition eligibility for compensation on an exonerated individual waiving his or her right to pursue civil litigation.

EDIBLE MARIJUANA ANALYSIS AND PROSECUTION

John Knepper, Wyoming Attorney General's Office, addressed the Committee and on the topic of edible marijuana products infused with delta-9-tetrahydrocannabinol (THC). Mr. Knepper stated that it is important for there to be a felony offence for edible marijuana possession at some level.

John Jolley, Dr. Ella Kubicz and Sarah Barrett, State Crime Laboratory, addressed the Committee. Mr. Jolley stated that there are no criminal forensic laboratories that currently analyze the concentration of THC in edible marijuana products. Mr. Jolley explained this information is based on a survey he requested be performed by the American Society of Crime Laboratory Directors. Ms. Kubicz stated the Colorado Department of Health faces problems quantitating THC in recreational edible marijuana products. Ms. Kubicz provided information about THC analysis in laboratories in Colorado and noted the uncertainty level of analysis is plus or minus twenty percent. Ms. Kubicz also answered questions concerning forensic analysis of edible marijuana products. Ms. Kubicz suggested the Committee could consider the amount of serving as a form of measurement instead of concentration of THC. In addition, the State Crime Laboratory representatives provided information about advancements in technology and instrumentations that would be necessary to analyze THC concentration.

Byron Oedekoven, Wyoming Association of Sheriffs and Chiefs of Police, addressed the Committee and stated that that he did not have any additional information other than what was presented at the last meeting to report.

Dr. Sarah Buss, Wyoming Public Health Laboratory and Ivan Venegas, Chemical Testing Program Manager, Wyoming Public Health Laboratory, addressed the Committee. Dr. Buss answered questions for the Committee regarding toxicology, levels of impairment and human thresholds for consumption of THC.

Jeremiah Sandburg addressed the Committee and provided information about Wyoming court rulings that specify the form of marijuana is a necessary element of the felony level offense of possession. Mr. Sandburg informed the Committee that marijuana infused products, such as lotions and soups, are being found in the State and that products infused with controlled substances are not limited to THC. Mr. Sandburg provided information about concerns the Wyoming County Attorney's Association has with controlled substances statutes in response to the type of substances that are being found in Wyoming. Mr. Sandburg stated any controlled substance in drinkable form over three-tenths of a gram is currently considered a felony.

Mr. Sandburg, speaking on behalf of himself, stated the Committee could consider creating a high misdemeanor for marijuana infused product possession. Mr. Sandburg also indicated a look back period relating to prior charges may an area of policy the Committee could consider as it addresses this topic.

Public Comment

Frank Latta, Wyoming NORML, addressed the Committee. Mr. Latta stated NORML recognizes that edible marijuana products can be a problem, but he urged the Committee against creating a felony level offense for possession of edible products.

Senator Christensen moved to direct LSO Staff to prepare a draft bill modeled on 2016 House Bill 37, with felony possession of marijuana products set at one pound. The motion was passed by a voice vote. After further discussion, Senator Hicks moved to create a subcommittee for a short meeting to further review this matter. The motion passed the Committee by voice vote. Co-Chairman Christensen was appointed to chair the subcommittee and Senator Hicks, Representative Krone, Representative Pownall, Representative Pelkey and Representative Winters were appointed as members.

COMMITTEE RECESS

The Committee recessed at 3:30 p.m.

CALL TO ORDER (SEPTEMBER 23, 2016)

Co-Chairman Christensen called the meeting to order at 8:15 a.m.

CRIMINAL JUSTICE REFORM

Bob Lampert and Steve Lindley, Department of Corrections and Daniel Fetsco, Wyoming Board of Parole, addressed the committee. Mr. Lambert provided an update regarding the open bed space currently available within the State as well as the anticipation of future bed space needs. Mr. Lampert indicated the growth pattern of incarceration is continuing to rise and the cost of construction will also increase in order to house inmates in the future. Mr. Lambert provided information regarding potential options to avoid these future costs and indicated that the Department of Corrections is working with the Wyoming Board of Parole to consider potential options.

Mr. Lambert, Mr. Lindley and Mr. Fetsco reviewed 17LSO-0153 W0.3 – Criminal justice reform, with the Committee and provided an overview of the bill. ([Appendix 14](#)). Mr. Lindley provided a document regarding the financial impacts of the proposed legislation for the Committee's review. ([Appendix 15](#)). The Committee discussed the \$2.8 million dollar appropriation included in Section 3 of 17LSO-0153 W0.3 and inquired about other options to address the funding component.

Judge Skar indicated to the Committee that he does not believe Wyoming judges would object to the proposed legislation and he stated the period of incarceration for a first and second violation of the terms and conditions of probation of 90 days and 120 days could be a useful option.

Mr. Sandburg addressed the Committee and provided suggested changes in language and potential amendments.

Public Comment

Jennifer Miner, Casper Police Department, addressed the Committee and provided a handout concerning restorative justice. ([Appendix 16](#)). Ms. Miner discussed aspects of restorative justice and provided an overview to the Committee.

Mr. Oedekoven addressed the Committee and stated that the Wyoming Association of Sheriffs and Chiefs of Police support the draft legislation. Mr. Oedekoven further noted that budgetary cuts could create a reduction in treatment options.

Senator Von Flatern moved to direct LSO Staff to revise 17LSO-0153 W0.3 to address issues raised by the Mr. Sandburg for consideration at the next meeting. The motion passed by voice vote. Co-Chairman Christensen requested the Department of Corrections provide information on the fiscal impact of the proposed legislation in graph form and he requested the Board of Parole provide calculations concerning parole violation credit for days served that may result in less days of incarceration.

JAIL PLACEMENT COORDINATION

Ms. Rivale provided an overview of the 17LSO-0004 W0.4—Jail placement coordination, to the Committee. ([Appendix 17](#)). Ms. Rivale explained bill draft would authorize counties to contract with other states or governmental entities within other states to house prisoners in county jails.

Director Lampert addressed the Committee and provided a brief historical overview of events that led to the original bill draft request.

Byron Oedekoven addressed the Committee and stated that the Wyoming Association of Sheriffs and Chiefs of Police spoke in favor of the bill at the last meeting. Mr. Oedekoven further stated that language specifically authorizing Wyoming counties to contract with other Wyoming counties to house inmates could be helpful, but that counties already do so.

Public Comment

Cindy Kenyon, Goshen County Clerk, addressed the Committee and stated that it would be helpful to have the option to accept prisoners from out-of-state facilities and indicated Scottsbluff, Nebraska officials have been in contact with Goshen County about potential options.

Mr. Knepper addressed the Committee and stated the Attorney General's Office issued an informal opinion to a county attorney on the topic of contracting for housing out-of-state prisoners in 2015, which was provided to the Committee at the April 27 and 28, 2016 meeting. Mr. Knepper explained the opinion came to the conclusion that although no Wyoming statute specifically forbids this kind of contract, Wyoming counties are not authorized to contract with counties from other states. Mr. Knepper also indicated the State has been contacted by Nebraska regarding inmate bed space as well.

Judge Arp stated that there are a wide variety of types of inmates and there need to be available facilities to accommodate each type when necessary.

Representative Krone moved the Committee consider 17LSO-0004 W0.4 at the next Committee meeting. The motion passed by a voice vote.

SEX OFFENDER REGISTRATION FUNDING

Mr. Knepper addressed the Committee and provided an overview regarding the number of sex offenders in Wyoming, the sex offender registry website and federal grant funding. John Knepper reviewed in detail the proposed language requested by the Attorney General's Office. Mr. Knepper explained that the fee specified in the request would not cover the entirety of the sex offender registration program costs, but that the fee would help fund implementation costs. ([Appendix 18](#)).

Byron Oedekoven testified before the Committee the Wyoming Association of Sheriffs and Chiefs of Police support the proposed statutory changes. Mr. Oedekoven stated that the federal Sex Offender Registration and Notification Act (SORNA) requires Wyoming to have a sex offender registry and the grant that was utilized for the website system has been very successful.

Public Comment

Mr. Lampert stated that he is neutral on the proposed statutory changes and voiced concern that many of the individuals that would be affected by the fee changes have very limited financial resources.

Judge Arp testified before the Committee that the procedures for review of affidavits of indigency and the procedures to store the forms may need to be further evaluated.

Representative Pelkey moved to have LSO Staff prepare a bill draft modeled on the statutory changes requested by the Attorney General's Office in [Appendix 18](#) for review at the next meeting. The motion passed by a voice vote. The Committee directed LSO staff to work with the Attorney General's Office and the Judicial Branch on the issues noted during the meeting concerning determinations of indigency.

OVERDOSE REPORTING IMMUNITY AND OVERDOSE EMERGENCY TREATMENT ACCESS

17LSO-0003 W0.7 – Opiate overdose emergency treatment ([Appendix 19](#))

Ms. Rivale addressed the Committee and explained she worked with the Wyoming Rx Abuse Stakeholders (RAS), per the Committee's authorization, to include RAS's proposed methods of expanding access to opiate antagonist medication in the Committee's requested bill draft, 17LSO-0003 W0.7. Ms. Rivale reviewed the bill draft and answered Committee questions.

Aimee Lewis, University of Wyoming, School of Pharmacy and RAS member, addressed the Committee and indicated RAS supports the bill draft.

Stephanie Pyle, Public Health Division, Department of Health, addressed the Committee and expressed concerns regarding reporting requirements to the Department of Health.

Mr. Knepper addressed the Committee and noted opiate related drug overdoses are an area of increasing concern within the law enforcement community.

Public Comment

Paul Zamora, Carbon County Coroner, stated that 17LSO-0003 W0.7 is important for the community. Mr. Zamora indicated that additional training could help to ensure that opiate antagonist medications are administered safely, but a law needs to be in place in order to expand access.

Dr. Arthur Merrell, psychiatrist, testified before the Committee in support of 17LSO-0003 W0.7. Dr. Merrell also provided information on the opiate antagonist Narcan and provided a sample of the medication in nasal spray form for the Committee members to examine.

Mary Walker, Wyoming State Board of Pharmacy testified 17LSO-0003 W0.7 would not require pharmacists to carry or prescribe opiate antagonist medication, but would allow them to do so. Ms. Walker spoke in support of the bill draft and provided examples of how pharmacists could assist the public by providing education on opiate related reactions and overdoses. In response to Committee

questions concerning how to identify persons at risk of experiencing a drug related overdose, Ms. Walker indicated rules promulgated pursuant to the legislation would likely address this issue.

Kevin Bohnenblust, Wyoming State Board of Medicine, addressed the Committee and stated that the Board of Medicine supports expanded access to opiate antagonist medication for individuals and law enforcement. Mr. Bohnenblust stated that in the past, there have been some localized efforts to expand access to the antagonist medication but that the Board of Medicine would prefer to see legislation enacted.

Ms. Pyle responded to Committee questions and indicated federal grants from the Substance Abuse and Mental Health Services Administration (SAMHSA) have been applied for that could help defer costs for opiate antagonist medication.

Mr. Oedekoven stated that he and the Wyoming Association of Sheriffs and Chiefs of Police are in support of 17LSO-0003 W0.7. He noted accidental exposure to an opioid is a concern of law enforcement and that individuals at risk of accidental exposure would benefit from accessibility of the antagonist medication.

Representative Pownall moved the Committee consider 17LSO-0003 W0.7 at the next meeting, with authority to LSO Staff to make technical revisions. The motion passed by voice vote.

17LSO-0002 W0.4–Drug overdose reporting immunity (Appendix 20)

Ms. Rivale provided the Committee an overview of 17LSO-0002 W0.4, Drug overdose reporting immunity. Ms. Rivale explained the bill draft would provide immunity from prosecution for possession or use of a controlled substance to persons who seek medical assistance for a drug overdose. Ms. Rivale also discussed a staff comment, which noted related offenses that are not included in the bill draft. In addition, she responded to Committee questions concerning use of evidence obtained while responding to a drug overdose to prosecute other offenses. After Committee discussion on the immunity specified in the bill draft, Representative Pelkey moved the bill draft be considered again at the next meeting. The motion passed by voice vote.

OVERDOSE FATALITY REPORTING

Mr. Zamora provided an overview regarding fatality overdoses. Mr. Zamora explained that consistency in the manner that death certificates are completed by coroners and doctors is a current goal of the Coroner's Association and he explained what the coroners are doing to address the issue.

Guy Beaudoin, Vital Statistics Services, Department of health addressed the Committee and stated the issue of death certificate consistency concerns the standardization of information listed on the death certificates. Mr. Beaudoin noted there is not a travel budget presently for additional training that could be beneficial for coroners.

UPDATE ON THE TASK FORCE ON STATE PENAL FACILITIES

Co-Chairman Miller provided an update regarding the work of the Task Force on State Penal Facilities.

UPDATE ON THE TASK FORCE ON DIGITAL INFORMATION PRIVACY

Senator Chris Rothfuss and Representative Mary Throne testified before the Committee via telephone that the Task Force on Digital Information Privacy has been working on the following three bill drafts that would be appropriate for consideration by the Committee: (1) a bill draft that creates the crime of

computer extortion, (2) a bill draft that protects the genetic information collected or obtained about an individual and (3) a bill draft that limits the inspection of recordings by police body cameras for purposes of the Wyoming Public Records Act.

Senator Rothfuss provided an overview of two of the bill draft, 17LSO-0053 W0.6–Genetic information privacy ([Appendix 21](#)) and 17LSO-0056 W0.5–Computer extortion ([Appendix 22](#)), to the Committee. The Committee directed LSO Staff to add the three bill drafts from the Task Force on Digital Information Privacy to the next Committee meeting agenda.

PUBLIC COMMENT

Written public testimony offered by Wyoming resident Christopher Buckham prior to the meeting was considered by the Committee and is included in [Appendix 23](#) as part of the Committee record. No other general public comments were offered.

MEETING ADJOURNMENT

There being no further business, Co-Chairman Christensen adjourned the meeting at 3:52 pm.

Respectfully submitted,

Representative Miller, Co-Chairman

Committee Meeting Materials Index

Appendix	Agenda Item	Appendix Description	Appendix Provider
1	Committee Sign-In Sheet	Lists meeting attendees	Legislative Service Office
2	Committee Meeting Agenda	Provides an outline of the topics the Committee planned to address at meeting	Legislative Service Office
3	Child Abuse or Neglect in Military Families	Provides an update from the Military Department and information regarding 17LSO-0099	Wyoming Military Department
4	Child Abuse or Neglect in Military Families	17LSO-0099 W0.4 – Child abuse or neglect in military families	Legislative Service Office
5	Child Abuse or neglect in military families	Proposed changes to 17LSO-0099	Department of Family Services in consultation with the Wyoming Military Department
6	Wyoming Judicial Branch Update	17LSO-0007 C1.1 – Small claims appearance fee	Legislative Service Office
7	Post-Conviction Relief	17LSO-0005 W0.4 – Post-conviction actual innocence	Legislative Service Office
8	Post-Conviction Relief	Legislative digest of 2014 Senate File 28	Legislative Service Office
9	Post-Conviction Relief	17LSO-0120 W0.4 – Post-conviction actual innocence – 2	Legislative Service Office
10	Post-Conviction Relief	Legislative digest of 2016 Senate File 30	Legislative Service Office
11	Post-Conviction Relief	17LSO-0006 W0.4 – Compensation for persons exonerated based on DNA evidence	Legislative Service Office
12	Post-Conviction Relief	17LSO-0121 W0.4 – Compensation for persons exonerated based on DNA evidence – 2	Legislative Service Office
13	Post-Conviction Relief	Contains proposed legislation, recommended revisions to draft legislation on post-conviction relief, fact sheets and	Rocky Mountain Innocence Project

		information on other states' laws	
14	Criminal Justice Reform	17LSO-0153 W0.3– Criminal justice reform	Legislative Service Office
15	Criminal Justice Reform	Contains information regarding the financial impacts of the Criminal Justice Reform Act	Department of Corrections
16	Criminal Justice Reform	Packet of information regarding restorative justice	Jen Miner, Casper Police Department
17	Jail Placement Coordination	17LSO-0004 W0.4 – Jail placement coordination.	Legislative Service Office
18	Sex Offender Registration Funding	Proposed statutory changes for sex offender registration fees	Wyoming Attorney General's Office
19	Overdose Reporting Immunity and Overdose Emergency Treatment Access	17LSO-0003 W0.7 – Opiate overdose emergency treatment	Legislative Service Office
20	Overdose Reporting Immunity and Overdose Emergency Treatment Access	17LSO-0002 W0.4 – Drug overdose reporting immunity	Legislative Service Office
21	Digital Information Privacy Task Force update	17LSO-0053 W0.6 – Genetic information privacy	Legislative Service Office
22	Digital Information Privacy Task Force update	17LSO-0056 W0.5– Computer extortion	Legislative Service Office
23	General Public Comment	Letter and report entitled, “Good Time: How to save \$50 million”	Cristopher Buckham