

EXHIBIT B

MINUTES

SENATE INTERIM COMMITTEE ON JUDICIARY

June 21, 2017

The Senate Interim Committee on Judiciary met at 10:00 a.m., on Wednesday, June 21, 2017, in Room B, Multi-Agency Complex Building (MAC), Little Rock, Arkansas.

Committee members present: Senators Jeremy Hutchinson, Chair; Linda Collins-Smith, Vice-Chair; Will Bond, Trent Garner, and Terry Rice.

Other legislators present: Senator Alan Clark; Representatives Trevor Drown, Fred Allen, and Vivian Flowers.

Senator Hutchinson called the meeting to order.

Consideration to Approve Minutes (Exhibits B.1, B.2)

Senator Garner made a motion to approve the October 10, 2016, and October 31, 2016, meeting minutes. The motion was seconded by Senator Collins-Smith, and without objection, the motion carried.

Consideration of Motion to Authorize Chair to Approve Special Expenses Incurred by the Committee (Exhibit C.1)

Senator Garner made a motion to authorize the Chair to approve special expenses incurred by the Senate Judiciary Committee. The motion was seconded by Senator Bond, and without objection, the motion carried.

Consideration of Interim Study Proposals for Adoption and Study:

Interim Study Proposal 2017-042: “An Act Concerning Public Buildings; to Create the Arkansas Physical Privacy and Safety Act; to Declare an Emergency; and for other Purposes.” Senator Linda Collins-Smith, Sponsor, provided an explanation of ISP 2017-042. Senator Collins-Smith made a motion to adopt ISP 2017-042. Senator Rice seconded the motion, Senator Bond voted against the motion. Senator Hutchinson ruled the motion carried. **(Exhibit D.1)**

Interim Study Proposal 2017-061: “An Act to Amend the Law Concerning Child Custody; and for other Purposes.” In the absence of Senator Chesterfield, Sponsor of ISP 2017-061, Senator Hutchinson made a motion to adopt ISP 2017-061. Senator Garner seconded the motion, and without objection, the motion carried. **(Exhibit D.2)**

Interim Study Proposal 2017-064: “An Act to Amend the definition of “Neglect” and the Law Concerning Closures of Child Maltreatment Investigations; to Make Certain Acts of a Parent, Guardian, Custodian, or Foster Parent noncriminal, and for other Purposes.” Senator Clark, Sponsor, provided an explanation of ISP 2017-064. It was noted the House Judiciary Committee will be invited to attend a future meeting when this issue is discussed. Senator Collins-Smith made a motion to adopt ISP 2017-064. Senator Rice seconded the motion, and without objection, the motion carried. **(Exhibit D.3)**

Interim Study Proposal 2017-065 “ An Act Concerning Drug Testing under the Child Maltreatment Act; Concerning Child Maltreatment Investigation Reports; to Amend the Definition of “Neglect”; to Amend the Law Concerning Investigative Determinations; and for other Purposes.” Senator Clark, Sponsor, provided an explanation of ISP 2017-065. Referencing page 3 of [Exhibit D.4], Senator Clark stated there are a lot issues or problems with the verbiage “true finding and unsubstantiated”, as the true finding indicates a party is guilty without going to court and the unsubstantiated finding does not prove that an individual is innocent. Senator Clark would like to see some of those unsubstantiated cases be reported as “not true” when there are multiple reports. Senator Rice made a motion to adopt ISP 2017-065. Senator Collins Smith seconded the motion, and without objection, the motion carried. Senator Hutchinson noted that ISP 2017-064 and ISP 2017-065 will not be discussed on the same meeting date.

(Exhibit D.4)

Ms. Amshula Jayaram, State Policy Advocate, Innocence Project and Ms. Tricia Bushnell, Executive Director, Midwest Innocence Project, were recognized and presented Power Point presentations titled, “Innocence Project-Changes in Forensic Science,” and “Midwest Innocence Project-Innocence in Practice” (**Handout 7 and Handout 8**). Ms. Jayaram gave a brief overview of the Innocence Project (IP). The IP’s primary mission is to exonerate individuals that have been wrongly convicted through DNA evidence. This year the IP hit the mark of helping to exonerate 350 inmates. Notably, in 2015, the Federal Bureau of Investigation (FBI) conducted a massive audit of cases involving the use of microscopic hair analysis or “hair matching”. Three thousand cases were identified involving such evidence. Of those that have been reviewed, the FBI found:

- 26 out of 28 FBI examiners/analysts either provided testimony containing errors or submitted lab reports with errors;
- In 96% of cases where examiners testified at trial on hair evidence which was used to link a defendant to a crime, there were serious errors in their testimony; and
- In at least 35 of those 268 cases, defendants received the death penalty. Of those defendants, 9 have been executed and 5 died on death row of other causes.

Ms. Jayaram noted that only two states (California and Texas) have passed statutory reform legislation to address the aforementioned issues, which creates a mechanism for individuals to apply for relief based on new scientific evidence. Moreover, the absence of a pathway through the courts is important for the Arkansas legislature to step in and create that pathway to ensure that the right people are incarcerated. In response to a question by Senator Bond regarding model legislation that Arkansas legislators can review to fix some of the gaps and forward on to prosecutors and other interested parties, Ms. Jayaram noted the aforementioned Texas legislation is a model Arkansas can review to determine areas that are appropriate for Arkansas.

Ms. Bushnell gave a brief overview of the Midwest Innocence Project (MIP). She stated MIP represents innocent individuals that have been wrongfully convicted of crimes in a five-state region that include: Missouri, Kansas, Iowa, Nebraska, and Arkansas. She explained how the law applies to criminal cases and the complicated process of getting innocent individuals into court to request relief. According to Ms. Bushnell, MIP has a waitlist of approximately 600 cases, on that list, 135 Arkansans have submitted their cases to be investigated. Ms. Bushnell concluded by discussing some of the procedural barriers associated with the appeals process.

Interim Study Proposal 2017-077: “Requesting that the Senate Committee on Judiciary Study Available Post-conviction Relief on the Grounds of Evidence only Available through New Scientific Methods, Forensics, or Technology.” After a brief discussion, Senator Bond made a motion to adopt ISP 2017-077. Senator Garner seconded the motion, and without objection, the motion carried. (**Exhibit D.5**)

With no further business, the meeting adjourned at 11:28 a.m.