

Report on Utah's 2016 Legislative Session

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Adoptive and Foster Parent (HB 234, Romero). Failed in Committee.

This bill was an administrative update to the language of the Utah Code to reflect current marriage law since the Supreme Court's *Obergefell* decision in June 2015. It called for the words "husband" and "wife" to be replaced by the word "spouse." UDVC advised the bill's sponsor extensively and sent legal analysis to the members of the committee. It was defeated narrowly in a 5-5 vote. The sponsor plans to bring the bill again next year.

Bigamy (HB 281, Noel) Passed the House 3/2. Held in the Senate 3/11.

In an effort to avoid the substantial legal costs associated with the litigation of Kody Brown (of "Sister Wives" fame) the Utah Attorney General requested this legislation redefining bigamy as purporting to marry "and" cohabit with another person while married to someone else or with someone else who is married. The statute currently defines bigamy as cohabiting "or" purporting to marry. In his decision on this case in December 2013, Judge Whaddoups of the U.S. district court of Utah struck down the cohabitation prong of the statute as unconstitutional, since many people cohabit without practicing bigamy. This bill sought to revise the definition of bigamy in order to get around that ruling and avoid having to defend the statute at the Supreme Court.

UDVC supported the bill as revised in committee making bigamy a class A misdemeanor. Bigamy has historically been a felony, and an earlier draft of the bill kept it a third degree felony, punishable by up to five years in prison so the reduced penalty was an improvement. Two amendments were introduced on the floor of the House. UDVC followed the plural community in supporting Tanner's amendment, but with reservations. Tanner's amendment distinguished between religious cohabitation, done with the consent of all parties, and standard bigamy meant to deceive the state and a legal spouse, reducing the former to an infraction and keeping the latter a third degree felony. Tanner's amendment lost. Representative Stratton's amendment, which made no distinction between religious cohabitation and standard bigamy, classifying them both as third degree felonies, won approval and was attached to the bill in the House. UDVC opposed this bill with Stratton's amendment attached. I gave a speech in the Capitol rotunda opposing the bill.

Body-worn Cameras (HB 300, McCay) Passed the House 3/1. Passed the Senate 3/11.

This bill was the result of more than a year of negotiations between a media group, the ACLU, and law enforcement agencies. With the increase in police shootings nationwide, there has been a growing interest in body-worn cameras for law enforcement officers. Some organizations, like the Media group that pushed for this legislation, believe that body-worn cameras improve police behavior by keeping them accountable, and that a presumption that footage be public is good for

building trust between law enforcement and the community. Law enforcement agencies also like body cameras because it gives them proof that they followed protocol and deters frivolous complaints or even lawsuits against them. Transparency and accountability to the public were the driving issues in this legislation.

UDVC was concerned about victims of sensitive crimes like domestic violence and sexual assault. We were concerned that if cameras were running continuously, victim's privacy and dignity might be affected. We also worried about the consequences it could have for a victim's safety, especially if a perpetrator might use the footage as a tool of intimidation. UDVC gave public comment with regards to our concerns about how it might impede the Lethality Assessment Protocol, especially a victim's ability to talk freely with an officer during that evaluation and when safety planning.

We wondered if there could be an exception made for these victims such that cameras could be deactivated at these crime scenes. I spoke to the ACLU and also with Chief Ross about these concerns, and advised on language changes to the bill. When it became clear that the bill would require continuous recording, we suggested a privacy exception for footage of domestic violence victims. The final bill was not as protective of victims as we had hoped it would be, but it does provide some protections to DV/SA victims so UDVC supported this bill in its final version.

Child Support for Rape Offenders (HB 426, Spendlove) Sponsor pulled the bill.

This bill would have had the effect of creating an ongoing financial relationship between a victim of sexual assault and the perpetrator. UDVC spoke to the sponsor and he agreed to pull the bill before it was heard in committee. The sponsor is interested in helping the advocacy community and could be an ally in the future.

Code of Criminal Procedure (HB 444, Coleman). Passed the House 3/7. Held in Senate

This bill would have required prosecutors to prove that property destruction was done with the *intent* to harass, intimidate, or cause fear of bodily injury in order to attach a domestic violence tag to it. Proving intent beyond a reasonable doubt in these kinds of cases is almost impossible, and would have removed the presumption that destruction of marital property warrants a domestic violence penalty enhancement. The sponsor had worked with CCJJ on the bill and so was under the impression that the advocacy community was in support, and she testified to that effect in committee.

House Representatives were confused by the fact that the victim advocacy community seemed split on this bill and voted for it as a result. In the final days of the session UDVC met with the House sponsor, Kim Coleman, and Senate sponsor, Deidre Henderson, to explain our concerns. Kendra Wyckoff and Jen Campbell made time to come the Hill to educate and inspire the sponsors about their work as director providers. In less than an hour, the sponsors decided to pull the bill. UDVC has begun to build relationships with these legislators.

Cohabitant Abuse Procedure (SB 206, Hillyard). Sent to the Governor for signature.

This bill makes treatment for domestic violence optional instead of mandatory. UDVC did a lot of press to defeat this bill, but the Utah Sentencing Commission convinced legislators that because DV offender treatment is unregulated, it should be made optional. The data used by the Sentencing Commission was based on studies assessing a treatment protocol that is not used in Utah. UDVC believes that treatment should be improved not eliminated. UDVC sent talking points to the House leadership and we summoned Representatives off the floor to discuss the bill.

On March 16th Liz Albertson, Jen Campbell, Chief Butler, Jenn Oxborrow and I went to meet with the Governor's General Counsel and his Director of Policy about our concerns with regards to this bill, and to ask for Governor Herbert's veto. We were able to educate the Governor's staff about the work that UDVC does, and the importance of evaluation for domestic violence offenders. On Friday, March 18th we made comments on the Salt Lake Tribune's show "Trib Talk," during the Governor's interview. He indicated on the live show that he couldn't think of any good reason to eliminate mandatory treatment for offenders, and said that he planned to veto a handful of bills.

Falsification of Protective Orders (SB 90, Jackson). Passed senate. Failed House committee.

The original version of this bill called for a \$5,000 penalty for falsifying information when filing for a protective order, and would have functioned to deter victims from seeking them.

UDVC spoke against this bill at two different committee meetings during the session, and both times we succeeded in defeating it.

But every time we thought we'd killed the bill, a determined sponsor would revise and reintroduce it. The fourth version passed the Senate Committee, and then the full Senate despite the fact that the Family Law sector of the Utah Bar joined UDVC in strong opposition.

The bill was assigned a random hearing in the House Revenue and Taxation Committee late one night, and UDVC had members of our team there to testify. After public comment, Representative Brian King asked some hard questions (based on UDVC's talking points), and as a result, the sponsor was unable to convince his colleagues that the bill should get a hearing on the floor of the House.

Human Trafficking (HB 105, Romero) Sent to Governor for signature.

This bill provides that mistakenly believing a victim to be 18 years of age or older at the time of the alleged offense is not a defense to the crime of human trafficking of a child. UDVC strongly supported this bill.

Reproductive Health Amendment (HB 246, King). Failed in House committee

This bill would have called for comprehensive sex education in public schools. The public comment was vigorous during the committee hearing. UDVC followed this bill as legislation that would be good for women and girls.

Strangulation (HB 317, Snow). Passed the House. Died in the Senate.

UDVC strongly supported this bill the way it was first drafted. In its original form, the bill defined strangulation broadly and had provisions that were specific to children. Along the way, major modifications were made to the bill including the removal of all language related to child welfare/strangulation. The penalty was reduced for most actions considered strangulation. Even the name of the bill was changed to “Offenses Against the Person.” We were disappointed with many of these changes, but because the modified bill is still better than the current law, UDVC supported it.

Suicide Prevention and Gun Data (HB 440, King) Sent to the Governor for signature.

This bill requires the state suicide prevention coordinator to conduct a study on violent incidents that involve a gun; authorizes the state suicide prevention coordinator to contract with a state agency, private entity, or research institution to assist in the study. UDVC strongly supported this bill.

Victim Rights Amendments (HB 399, Christensen). Sponsor pulled the bill.

This bill proposed changes to the Victims’ Bill of Rights that would have harmed victims of domestic violence and sexual assault and hindered victim advocates from helping them. \$18 million of federal funds were on the line. UDVC and the entire victim advocacy community strongly opposed this bill and more than 60 advocates appeared at the committee hearing to demonstrate against it. Sim Gill, Jim Winder, and other public figures were also present to make public comment in opposition. Representative Brian King asked Representative Christensen if he had counseled with the victim advocacy community before bringing this bill and suggested he owed us an apology. As a result of this direct advocacy, Christensen pulled the bill before ever presenting it.