

Date: 1-21-21

Senate Judiciary, Law Enforcement, and Criminal Justice Committee

Bill: SB 51 Group Gang Enhancement Amendments

Sponsor: Sen. Thatcher

Floor Sponsor: Rep. Pitcher

UASD Position: Track

This Bill: This bill modifies the sentencing enhancements and applicable offenses for certain crimes committed in concert with multiple people or on behalf of criminal street gangs.

Discussion: Sen. Thatcher explained that the gang enhancement was intended to deal with street gangs, but that the restrictions were later loosened significantly. He shared that the gang enhancement was applied to vandalism during last summer's protests, which enhanced those charges to first-degree felonies. Sen. Thatcher said this bill was the result of bringing together a group of experts to bring the gang enhancement back in line with the original intent. The bill limits the enhancement so it only applies to violent or personal offenses and increases the number of people to whom it can be applied. Sen. Escamilla asked whether the offenses listed beginning in line 143 were new to the code. Sen. Thatcher said it's just a relisting of the code. Marina Lowe spoke on behalf of the ACLU of Utah in support of the bill. Attorney Brandon Miles spoke to line 135, saying that his office used the Pattern of Unlawful Activity to target a gang in the Weber area. He said it wasn't worthwhile to target them when they could be out in a year, but it was worthwhile when they could receive 5 years to life. He asked that that section be moved to 6A so those crimes could be enhanced to first-degree felonies. Pam Vickrey spoke with Utah Juvenile Defender Attorneys in support of the bill, particularly as it pertains to juveniles. A citizen said it doesn't make sense to upgrade a class A misdemeanor to a third degree felony, adding that the event last summer where this was applied was a riot. Sen. Thatcher explained that this bill places additional requirements before you are allowed to enhance — it does not create more tools; it restricts tools. Attorney Monica Diaz explained that this does change it from a charging enhancement to a sentencing enhancement. Will Carlson from the Salt Lake County District Attorney's Office said the law was not misapplied when used to enhance charges from protests last summer. Jeff Buhman from the Statewide Association of Prosecutors spoke, saying the Pattern of Unlawful Activity is similar to a statute used by the federal government to go after gangs. He said he wanted to keep that included as an offense enhanceable. He referenced lines 112, 119, and 136 where the lines say the court *may* sentence the person to the enhanced penalty. Mr. Buhman said lines 153-154 were unnecessary because previous lines already clearly give the

judge discretion on whether to use the enhancement. He said statewide prosecutors agree that this must be carefully applied, but tools to go after gangs successfully are essential. Ms. Diaz said those lines could be amended if necessary. Finally, Steve Burton said that this legislation came out of an extensive working group process and the defense committee was forced to make many concessions. He said if the Senate committee makes changes in one direction, the defense committee would like additional changes to push it back the other way, urging passage of the bill as is. Sen. Thatcher said the process of creating this bill brought all the stakeholders to the table and many of them wanted to go farther, but they settled on the current language to make sure the prosecutors were on board. He said he was willing to have conversations, but that he was uncomfortable making any changes without buy-in and input from the others who worked on the bill.

Yeas: 7

Nays: 0

N/V: 0

Outcome: Passed unanimously with a favorable recommendation.