

Senate Judiciary, Law Enforcement, and Criminal Justice Committee

February 25th, 2025

Bill: 1st substitute SJR 4 – Joint Resolution Amending Court Rules on Attorney

Confidentiality

Sponsor: Senator Brady Brammer

Floor Sponsor:

UASD Position: Oppose

This Joint Resolution amends court rules on attorney confidentiality.

Discussion: Senator Brammer stated that this Resolution includes provisions related to attorney-client privilege regarding a legislative audit. He noted that if an entity subject to an audit by the Legislative Auditor General discloses privileged information or materials prepared in anticipation of litigation or trial to the Legislative Auditor General or an arbitrator, such disclosure does not render the information discoverable or waive the entity's right to claim it as privileged and prepared for litigation or trial. The sponsor outlined the key aspects of the 1st substitute, which was adopted by the Committee. The substitute introduces language concerning the withdrawal of guilty pleas. He clarified that the Resolution preserves the current approach regarding changes suggested by the Supreme Court's Rippey decision on guilty pleas, asserting that two-thirds of all states align with his position. He also noted that this Resolution presents a more cost-effective alternative to SJR 10, which was also discussed during the Committee hearing.

Senator Musselman asked Senator Brammer and Senator Pitcher about post-conviction cases and the frequency of motions to withdraw guilty pleas. Senator Pitcher responded that she had relevant statistics to share, whereas Senator Brammer did not have specific data. She stated that, on average, 40 post-conviction complaints related to guilty pleas are filed each year.

Various associations representing defense attorneys, prosecutors, and the Attorney General's Office provided testimony both in support and opposition of the provisions included in the 1st substitute regarding guilty pleas. During the nearly hour-long discussion, the attorney-client provision in the Legislation was scarcely mentioned, except by Frank Pignanelli, representing the Utah Bar Association. He expressed support for the audit provisions within the Resolution but indicated a desire to collaborate with the sponsor on refining lines 533-536.

Senator McKell expressed a preference for advancing both SJR 10 and SJR 4 so that opposing groups could work together toward a resolution. Senator Weiler echoed Senator McKell's remarks. No further discussion ensued.

Yeas: 7

Nays: 1

N/V: 1

Outcome: 1st substitute SJR 4 passed out of the Committee with a favorable recommendation.

UAFSD