

Cache County Sheriff speaks in support of riot legislation that would tighten jail detention, stiffen penalties

Herald Journal (Logan)

November 18, 2020

https://www.hjnews.com/news/crime_courts/cache-county-sheriff-speaks-in-support-of-riot-legislation-that-would-tighten-jail-detention-stiffen/article_c977ed78-4d96-5d38-b65cf7b20447d142.html

On Tuesday, Cache County Sheriff and Utah Sheriffs Association President Chad Jensen spoke in support of a bill that would hold a person arrested on suspicion of rioting in jail until they appeared before a magistrate.

After a summer of civil rights demonstrations nationwide, however, advocates are questioning how relevant the legislation will be in Utah and whether the bill leaves too much up to law enforcement when it comes to distinguishing rioters from protesters.

Jensen said the bill would not infringe on peaceful protesters but rather “those who are actually causing property damage and violence and arson.”

“It takes them out of commission so those that want to peacefully protest can still do so, but we can get the troublemakers out of the situation and not incur more violence or property damage,” Jensen told the Law Enforcement and Criminal Justice Interim Committee.

Proposed by committee chair and former Utah Highway Patrol Lieutenant Rep. Lee B. Perry, R-Perry, the bill is concerned with a revolving-door effect that’s reportedly created when rioters are arrested and then immediately released.

It would hold a person in jail for some period of time “so that they can’t just run right through,” Perry said, “and get right back down to the riot.”

The bill would maintain rioting as a class-B misdemeanor but would allow for a third-degree felony rioting charge if someone other than the defendant is injured, significant property damage or arson occurs, or if the accused was in possession of a dangerous weapon. “Dangerous weapon” is defined by state law as “any item capable of causing death or serious bodily injury; or a facsimile or representation of the item” provided the use of the item “leads the victim to reasonably believe the item is likely to cause death or serious bodily injury.” The bill would also require the court to order restitution upon a rioting conviction.

Rep. Angela Romero, D-Salt Lake City, asked Jensen about the number of people actually rioting in Utah and if it was “really a problem.”

“I hear Portland referenced a lot,” Romero said, “and Utah is definitely not Portland, and neither is Salt Lake.”

Though unsure of the frequency of rioting incidents in the State of Utah, Jensen said it wasn't unusual for a bill to pass by observing events and legislation in other states.

"It's kind of just a catch-all or a failsafe if we do have the rioting," Jensen said. "This is a bill we hopefully would never have to use, but in the event that we do have another riot ... this bill would be effective in handling that."

Sen. Kathleen Riebe, D-Cottonwood Heights, criminal defense attorney Mark Moffat and Marina Lowe of the American Civil Liberties Union of Utah expressed concerns about the language of the bill — specifically how riots are defined. Moffat and Lowe argued the bill's use of the term "tumultuous conduct" was vague and problematic. Moffat stated those arrested could be held, at least in Salt Lake County, for up to "72 working hours" before seeing a judge.

"If they have jobs, if they have other obligations, they're going to miss those obligations," Moffat said.

Moffat also commented on using the events in Portland as grounds for policy in Utah.

"The events that occurred in Portland have become a talking point for policy changes in our state," Moffat said. "We are not Portland. And the events that occurred in Portland — the repeated protests that turned violent day after day after day — that has not happened in our state. And so I question the need for this particular statute."

The committee voted in favor of Perry's bill moving forward — seven to two in the House, and three to one in the Senate.