

‘Enough’s enough’: Utah lawmakers move to toughen penalties on ‘rioters’

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SALT LAKE CITY — Ken Dudley told a panel of Utah lawmakers on Wednesday that when he was shot twice while driving his car during a protest against police brutality in Provo last year, it was “one of the most terrifying things that’s happened to me.”

Days after Dudley got home from the hospital — with wounds from a bullet that went through his elbow and hit his other arm, bullet fragments that hit his eye and shrapnel in his abdomen — he said he was horrified to learn the man accused of shooting him was released from jail after having paid \$42,000 for bail. ([A judge later raised that bail amount to \\$100,000](#)).

“My right hand’s not working at all and I’m in a sling, and I’m wondering, ‘How am I going to defend my family, protect my family if they come back after me?’” Dudley told the Senate Judiciary, Law Enforcement and Criminal Justice Committee. “Maybe not a rational thought at the time, but terrifying.” Video clips shown in court show Dudley driving a white SUV slowly, halfway on the sidewalk, as a group of protesters gathered around his vehicle. Shortly after, the SUV sped up and took off. In court, [prosecutors said Dudley only sped up after the first shot struck him](#) and as he was trying to escape. A defense attorney argued the man who shot Dudley was trying to protect fellow protesters from a “four-ton SUV” and that prosecutors “charged the wrong person.” Dudley was never charged with any crime.

Dudley was one of dozens of people who went to Capitol Hill on Wednesday to express strong support for a bill they hoped would clamp down on “rioters” and send a message that the people of Utah would not tolerate destruction or violence.

Sen. David Hinkins’ [SB138](#) seeks to toughen penalties on rioters while drawing a clearer distinction for when a protest crosses the line into a violent or destructive riot. It cleared its first legislative obstacle on Wednesday when the Senate committee voted 5-2 to endorse it.

The bill now goes to the full Senate for consideration.

“Enough’s enough,” Hinkins, R-Orangeville said, noting Utahns are “getting fed up with it” after watching protests escalate to property destruction and violence in places like [Salt Lake City on May 30](#) or and Cottonwood Heights in August.

“We saw what happened in Washington, D.C.,” Hinkins said, pointing to the violent and deadly storming of the U.S. Capitol by supporters of then-President Donald Trump. He said while some protesters are “peaceful,” others are “opportunists” who his bill will target.

“It’s sickening to see that happen, and to see it here in Utah is even more sickening,” Hinkins said. Passage of Hinkins’ bill would mean accused rioters lose their right to bail if charged with an offense during a riot “in which substantial property damage or bodily injury is sustained,” according to the bill. It would also change the jail time minimum from 90 days to 180 consecutive days for a first or second offense, and 180 to 270 consecutive days for each subsequent offense.

The bill would also indemnify a driver who “unintentionally causes injury or death” to a protester while the driver is “fleeing from a riot under a reasonable belief that fleeing is necessary to protect” the driver or passengers from “serious injury or death.”

Many of the bill's supporters at Wednesday's hearing were members of the pro-gun group United Citizens Alarm (formerly Utah Citizens Alarm before it was removed from Facebook), and several expressed defiance that they'd ever allow Utah to "become Portland" when it comes to violent "riots." "This is not a race issue," Casey Robertson, United Citizens Alarm founder, told lawmakers, calling Hinkins' bill an "excellent deterrent" to violent rioters. "This is a violence issue. And I urge you not to be afraid to do what is right in passing this bill out of fear of being called a racist."

Robertson said he and his group wants "our politicians and cities to be held accountable" and to allow "brave" police officers to do their jobs. He said in other U.S. cities, "weak politicians have allowed rioting to continue night after night, month after month."

Lawmakers, including Sen. Daniel Thatcher, R-West Valley City, successfully pushed through some changes to the bill, such as removing a provision that would waive governmental immunity if a government employee "fails to protect private property or individuals during a riot or violent assembly." The American Civil Liberties Union of Utah urged lawmakers to oppose the bill. Marina Lowe, legislative and policy counsel with the group, expressed "grave concerns" ranging from "overly broad and vague" definitions in the bill, to an "incredibly problematic" provision that would specify intentionally blocking traffic as a felony.

As for "immunity" for a driver that hurts or kills a protester, Lowe said, "this is a Charlottesville situation," referring to when an avowed white supremacist deliberately drove his car into a crowd of anti-racism protesters during a rally in Virginia in 2017, killing one woman and injuring dozens.

Steve Burton, a defense attorney and director of the Utah Association of Criminal Defense Lawyers, also spoke against the bill, saying by removing the right of a protester charged with rioting to bail violates the right to be presumed innocent until proven guilty.

"Unfortunately what this bill does is it increases penalties and requires that ... their presumed to be held without bail before their being proven guilty," Burton said, also arguing that studies show increasing penalties has been proven to be an ineffective deterrent.

Burton also listed problems with the bill's definition of assault, bodily injury and other provisions.

"So I know the intent of this bill is to try to show patriotism ... and try to increase people's rights, but it's doing the opposite," Burton said.

After the Senate committee voted to endorse Hinkins' bill, Lex Scott, founder of Black Lives Matter Utah, told the Deseret News that state lawmakers are moving in the wrong direction.

"It's clear that you did not get the message that was sent very loud and clear by the entire world this summer, that we want police reform," Scott said. "Instead of legislators on the hill pushing for police reform, they are pushing for more restrictions on protesters."

Measures her group has backed in an effort to heighten police accountability have stalled this year, including bills to strengthen civilian oversight of police departments and ensure the release of police body camera footage within 10 days.

Scott said the offense of rioting is already ambiguous in Utah code, and Hinkins' measure could unfairly implicate some of the thousands who remain peaceful at a protest just because a handful of outliers were violent.

"If legislators want to see an end to the unrest around the nation, they need to pass real reforms," Scott said. "They are not deterring us from protesting. They are not silencing our voices."

Contributing: Annie Knox