

Leaders of armed groups advocate for Utah bill increasing punishment for rioters

The original proposal would've cut rioters off from government jobs, assistance for five years after conviction,

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Members of right-wing armed groups turned out Wednesday in support of a bill to crack down on civil unrest by cutting off government assistance to some convicted rioters and making it a felony to block traffic during a violent assembly.

Group members told Utah lawmakers about how they've strapped on bulletproof vests, grabbed their guns and headed out to recent demonstrations, in hopes that their presence would deter violent outbreaks. And they argued that SB138, a bill sponsored by Sen. David Hinkins, would serve the same purpose — by sending a message that Utah will not tolerate lawlessness in its cities.

"This bill will save lives," said Brett Stewart, a member of United Citizens Alarm. "We don't want to become another Portland and Seattle, and it's coming at us. There's people that come here, and they're testing our waters."

Committee members during the hearing noted that last year's demonstrations against police violence and for racial justice were generally peaceful, with only a small number of protesters damaging property.

And prosecutors, defense attorneys and civil rights advocates identified a host of problems in Hinkins' legislation, calling it overly punitive and saying it could infringe on First Amendment rights. The measure also drew pushback from Democrats on the Senate Judiciary, Law Enforcement, and Criminal Justice Committee, though the bill still cleared the panel by a 5-2 vote and will now advance to the Senate floor.

Before passing the bill, the committee did strike several of its provisions, including a ban on providing state unemployment assistance and other Department of Workforce Services benefits to anyone convicted of felony rioting within the last five years. The bill would still lock out these individuals from state jobs for that length of time.

"We already know that a felony conviction is the equivalent of a scarlet letter," William Carlson, chief criminal justice policy adviser for the Salt Lake County District Attorney's Office, told lawmakers. "And to say, even five years after the conviction, no matter what you do, you cannot get any government employment or assistance is really fundamentally saying we want you to continue to be an increased risk to public safety."

The panel also removed language that would've made it a third-degree felony to intentionally obstruct traffic during a riot and a section that would've created legal liability for police officers who fail to protect individuals or property during a violent assembly.

As amended, the bill still carves out legal protections for drivers who accidentally run over and kill or injure someone while trying to escape from a riot. The legislation would grant these motorists civil and criminal immunity if they were taking "due care" at the time and sincerely believed they were fleeing the riot to avoid death or serious harm.

Harassing a bystander to a riot would be a misdemeanor punishable by up to 364 days in jail, under the bill's provisions. The legislation also addresses penalties for those who cause injury by throwing or propelling an object, stating people could face third-degree felony charges for two or more violations.

And people charged with felony rioting or participating in a riot that caused injury or serious property damage would not have the right to bail if there's "substantial evidence" of guilt and the court believes the person might fail to appear for later hearings, under the legislation.

Carlson testified against those changes, telling lawmakers that the bill as written would actually weaken the penalties for using an object to injure someone. While someone would currently be charged with an aggravated assault for such an attack, a first offense would be counted as a misdemeanor under Hinkins' bill, he noted.

And the provision allowing jails to hold someone without bail for misdemeanor rioting is "substantially beyond our current bail restrictions," he said.

But a member of United Citizens Alarm, Ken Dudley, testified about being shot by a protester during a Provo demonstration last year. Police arrested a man accused of firing at Dudley, but to his dismay, the person was released after posting bail.

"My right hand is not working at all. I'm in a sling, and I'm wondering, how am I going to defend my family ... if they come back after me?" he said. "Maybe not a rational thought at the time, but terrifying."

Hinkins, an Orangeville Republican, acknowledged that he's had a distant view of the racial justice protests that filled Salt Lake City streets last year. But he told his colleagues that he believes trouble is ahead if the state doesn't do anything to crack down on violent unrest.

"I just think that we got people taking the law into their own hands if we can't do something," he said. "And I just see a wreck coming down the road."

His legislation has incorporated elements of a proposal drafted last year by Rep. Jon Hawkins, who also suggested creating legal protections for drivers who injure or kill rioters and wanted to increase penalties for obstructing traffic during a violent gathering. Hawkins, R-Pleasant Grove, reportedly expressed willingness to abandon the proposal during a meeting Lex Scott, leader of Black Lives Matter Utah, who told The Tribune that such a measure would further endanger demonstrators.

"As someone who has been protesting for seven years peacefully, it's hurtful. This bill is hurtful. People already try to run us over," she recalled telling Hawkins. "Giving them a bill that says, 'Hey, if you run us over, we're going to protect you in court,' it emboldens people."

Marina Lowe, legislative and policy counsel with the American Civil Liberties Union of Utah, said the provision on striking demonstrators with cars reminded her of the 2017 Charlottesville car attack, when a driver plowed into a group of anti-racist protesters and killed one of them.

"It would provide blanket immunity for people who killed or injured others," she testified Wednesday about Hinkins' bill. "I think that's very, very problematic."

But those who spoke in support of the measure insisted that the bill wouldn't have a chilling effect on lawful protest and is simply meant to discourage criminal behavior.

"You want to protest spicy tacos? Go ahead," one of the bill's supporters said. "Just don't burn down the taco stand."

Two Democratic lawmakers who sit on the legislative committee opposed the bill, and even a couple of Republicans who voted for it said they still had a few concerns that they hoped Hinkins would address before the proposal comes to a final vote in the Senate.