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**Policy Critique of H.B. 274 Supplement
2026 General Session of the
67th Legislature**

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Office of
UTAH FOR RATIONAL SEX OFFENSE LAWS

Digest of Policy Critique of H.B. 274 Supplement 2026 General Session of the 67th Legislature

OVERVIEW

The 69-0 vote reflects political survival, not policy merit. No legislator could vote “no” without being portrayed as defending Judge Torgerson's discretionary sentencing based on case evidence. This created unanimity through political coercion, not consensus through evidence.

KEY ISSUES

1. WHAT THE BILL CLAIMS VS. WHAT IT DOES

- ReaAdds 9 prosecution/law enforcement seats while maintaining only 1 victim representative (9:1 ratio)
- Victim Services Commission explicitly states: “Prosecutors are not victim proxies”
- In 2023, Legislature removed a member with lived victim experience from the Sentencing Commission

Claims to Fix Sentencing Guidelines

- Reality: Judge Torgerson had full discretion to sentence above guidelines—he chose not to
- Changing an advisory commission's composition doesn't change judicial discretion
- Creates no judicial accountability mechanisms, no review process for problematic sentences

Claims Defense Attorneys Dominated the Commission

- Reality: Speaker Schultz admits he never examined commission records to verify this claim
- Commission data shows defense attorneys lose 93% of votes on contested issues
- Commission already revised CSAM guidelines in 2023 with aggravating factors

2. WHAT'S MISSING

No Judicial Accountability

Bill adds factors judges must “consider” but creates no consequences when ignored, no review process for outlier sentences, and no oversight mechanisms.

No Prosecutorial Oversight

Prosecutor already had tools to seek prison sentence in Torgerson case—and didn't use them. Bill ignores prosecutorial discretion while 95% of cases are resolved through plea negotiations controlled by prosecutors.

No Fiscal Analysis

Current fiscal note: “None”—despite:

- Prisons at 90% capacity (August 2025), projected 96.5% by June 2026
- H.B. 20 requesting \$130 million for prison expansion
- Conservative projection: \$11.2M in Year 1, \$56M by Year 5, \$112M by Year 10
- Sex offender population already grew from 29.2% (2008) to 40% (2025)—2,600 inmates

No Evidence Required

Section 2(3) mandates guideline revisions by November 2026 without requiring data showing current guidelines failed, cost-benefit analysis, or consideration of recidivism research.

3. WHAT ACTUAL REFORM WOULD LOOK LIKE

If we genuinely wanted to prevent future Torgerson cases:

- Add actual victim representatives (3-5 seats), not prosecutors as proxies
- Create judicial accountability through appellate review of outlier sentences
- Examine prosecutorial charging and plea decisions in the Torgerson case
- Mandate reporting on sentencing outcomes to identify patterns
- Fund victim services and rehabilitation programs proven to reduce recidivism

4. THE PRECEDENT THIS SETS

Future high-profile cases will generate: rushed legislation without evidence, scapegoating of defense perspectives, political conditions making opposition impossible, sweeping changes without fiscal analysis, and consolidation of prosecutorial power.

5. THE SENATE'S OPPORTUNITY

- Demand evidence Speaker Schultz admits he doesn't have
- Consult Victim Services Commission (who oppose the bill's framing)
- Add meaningful victim representation, not prosecutor proxies
- Create actual judicial and prosecutorial accountability mechanisms
- Require fiscal analysis and coordination with H.B. 20 prison expansion
- Consider alternatives to incarceration that improve public safety

BOTTOM LINE

Judge Torgerson imposed a discretionary, individualized sentence based on established mitigating factors in one case that later became the focus of media attention and public reaction. But H.B. 274 won't prevent future failures—it restructures a commission based on unverified claims, in a way victim advocates oppose, at a cost we refuse to acknowledge, to solve a problem we haven't diagnosed.



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TO MEMBERS OF UTAH STATE SENATE,

Transmitted herewith is our **Policy Critique of H.B. 274 Supplement** (Publication #2026-19). A digest is found on the pages located in the front of this document. The objectives and scope of the critique are explained in the Introduction.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in this document in order to facilitate the implementation of the recommendations.

Sincerely

Utah for Rational Sex Offense Laws

UTRSOL/lm

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Introduction

The 69-0 House vote on H.B. 274 Substitute #1 on Friday, February 6, was not a reflection of policy merit but rather a testament to the political toxicity of opposing any legislation framed as “tough on crime.” This supplement demonstrates that unanimous support resulted from political coercion disguised as consensus, where no legislator wanted to be portrayed as defending Judge Torgerson’s sentencing decision.

The vote occurred through strategic timing within a broader assault on judicial independence—H.B. 274 is one of seven bills attempting to “weaken” the judiciary during the legislative session. The debate created a false binary of “victims vs. defendants” when the real failure was prosecutorial and judicial decision making, not that of the Sentencing Commission. Most critically, the disregard for any evidence showing the bill’s premise as factually wrong is emblematic of a process driven by narrative and political expediency rather than deliberation, accuracy, or institutional integrity.

This critique identifies fundamental flaws in the Substitute that was passed in the House: the bill adds nine prosecution/law enforcement seats while maintaining only one victim representative, despite claiming to center victims. Prosecutors are not stand-ins for victims, and treating prosecutorial or law enforcement perspectives as equivalent to victim voices is an especially weak and misleading substitute. It creates no judicial accountability mechanisms to address problematic sentences like Torgerson’s, where meaningful oversight or the corrective function of retention elections could otherwise serve as a check on outlier decisions. It ignores the documented prosecutorial failures in the case, despite prosecutors having already been given the necessary tools by both the Sentencing Commission and existing legislation to address the conduct at issue. And the sponsor admits having no evidence for his central claims.

We recommend that the Utah Senate demand evidence, add meaningful victim representation, create actual accountability mechanisms, and address fiscal realities before proceeding.

H.B. 274 sets a precedent that guarantees future crisis-driven legislation. It is “politically irresistible bad policy” that prioritizes appearance over effectiveness, substituting emotional reaction for evidence-based reform while failing to prevent future failures like the Torgerson case.

A Pattern of Judicial Retaliation

H.B. 274 Is Not Standalone Legislation

H.B. 274 is one of seven bills that collectively threatens judicial independence and the separation of powers. These bills share common features: rapid advancement with minimal public input, massive spending on changes the judiciary doesn't want, and timing immediately following adverse court rulings in redistricting, abortion, and other cases where courts checked legislative overreach. For H.B. 274, it was Grand County's Judge Torgerson's case that brought widespread public backlash to his sentencing decision on a child sex abuse material case in May of 2025.

When viewed in context, this legislation is the criminal justice component of a broader campaign whose purpose becomes clear: removing defense perspectives from sentencing policy is part of consolidating prosecutorial and law enforcement power across the entire justice system. This pattern reflects a reactive legislative strategy that responds to political discomfort with court outcomes by constraining judicial and defense roles rather than addressing the underlying causes of public concern through evidence-based reform.

The Unanimous Vote and Policy Merit

The Political Impossibility of Opposition

No legislator could vote “no” without facing devastating political consequences: being portrayed as defending Judge Torgerson's sentence, appearing indifferent to child sexual abuse victims, or facing attack ads featuring House Majority Leader Casey Snider's quote: “On the other side of every one of those images is a child and a victim... It's disgusting, and the fact that there is no justice to those children, that's what bothers me.” This created a unanimity of political survival, not policy agreement.

The intense public pressure and media framing transformed what should have been a deliberative policy decision into a high-stakes political test, where any dissent risked career damage, reputational harm, and intense partisan scrutiny. As a result, the 69-0 vote reflected not careful consideration of evidence or thoughtful debate, but a survival-driven unanimity in which legislators were compelled to align with the politically expedient narrative, regardless of whether the bill actually addressed

systemic flaws or promoted meaningful justice. This environment stifled debate, discouraged critical questions, and ensured that policy outcomes were dictated more by optics and fear of backlash than by data, analysis, or institutional responsibility.

What We Know Legislators Didn't Know

The 69-0 vote occurred regardless of the reality that the Sentencing Commission had already addressed sentence structures in 2023 targeting child exploitation cases. Actual sentencing outcomes had shown 50% of aggravated CSAM cases go directly to prison despite probation-recommending guidelines, proving the use of judicial discretion. Legislators voted on a narrative, not on data. When the data contradicts the narrative, unanimity indicates information failure, not policy validation. In this context, the vote reflects not a reasoned consensus but a legislative process captured by emotion, media pressure, and the imperative of political survival, leaving structural flaws unexamined and systemic accountability unaddressed.

Speaker Schultz's Own Admissions

Speaker Schultz openly admitted that he had not reviewed the Sentencing Commission's records to verify the extent of defense attorney influence on its decisions. He acknowledged that neither law enforcement nor victim advocacy groups had requested the bill—it was only after the public reaction to the Torgerson case that he approached them. His understanding of the problem was based largely on observing defense attorneys argue in legislative hearings on unrelated bills, rather than examining actual Commission deliberations or data.

Moreover, he framed his objective simply as “fixing it,” without identifying what was truly broken in the sentencing system or whether the proposed changes would achieve any meaningful correction. Despite this lack of evidence for his central premise, the bill still passed the House 69-0, underscoring that unanimous support reflected political momentum and public pressure rather than informed policy judgment. This underscores how the Torgerson case has provoked such a visceral backlash within the House of Representatives that any opportunity for rigorous analysis or consideration of reasonable, evidence-based reform has been entirely sidelined.

What the Substitute Bill Doesn't Address

A. No Victim Representation Added

The substitute maintains the fundamental deception. The original composition criticized by Speaker Schultz included three defense attorneys and one victim representative, a 3:1 ratio of defense to victim voices. Under Substitute #1, the composition now includes only one defense attorney (a partial restoration), three criminal prosecutors, three juvenile prosecutors, three sheriff representatives, and a single victim representative—a 9:1 ratio of prosecution and law enforcement to victim voices.

The Victim Services Commission has made clear that “prosecutors are not victim proxies; conflating the voices of prosecutors and law enforcement with the perspectives of actual victims is a poor proxy. If you want to include victims’ voices, you need to have victims’ voices, not proxies for victims’ voices.” By inflating the role of prosecutors and law enforcement while keeping actual victim representation minimal, the bill presents a veneer of victim-centered reform while doing nothing to substantively include victims in decision-making.

In practice, the bill is largely performative. It repeatedly invokes the language of “victim-centered” policy, creating the impression of prioritizing victims’ needs, while in reality it centers the perspectives and authority of prosecutors. This allows legislators to claim they are “doing something for victims” without addressing the structural imbalances in the Commission or creating meaningful avenues for victim input, oversight, or influence. In effect, the bill trades genuine reform for symbolic gestures that reinforce prosecutorial power under the guise of protecting victims.

No Judicial Accountability Mechanisms

The substitute adds sentencing factors judges must “consider” (Section 3(2) (b)) but creates no consequences when judges ignore these factors, provides no review process for problematic sentences, establishes no mechanism for judicial oversight or training, and does nothing to address why Judge Torgerson chose the lower end of an advisory guideline range.

Speaker Schultz himself acknowledged: “Of course, the judge has the ability to go whatever route that they would want to. They don't have to follow the recommendations.” If the problem is judicial discretion being exercised poorly, changing an advisory commission's composition doesn't solve it.

The substitute's addition of language requiring courts to “prioritize” certain factors in violent felony and sexual offense cases (Section 3(2)(c)) doesn't expand judicial discretion - it constrains it. As commission members noted in the January 29 meeting, this language could be used to challenge sentencing decisions, creating a standard against which judges can be evaluated. This is judicial micromanagement, not accountability.

No Prosecutorial Oversight

The problem exposed by the Torgerson case was not created by the defense bar. It resulted from prosecutorial decision-making in a case where the prosecutor already had the tools necessary to seek and obtain a prison sentence. Those tools were provided both by the Sentencing Commission and by existing legislation, yet they were not used. Framing the failure as one of defense influence or sentencing policy misdiagnosis shifts responsibility away from where it actually lies.

The substitute fails to grapple with the most consequential decision point in the criminal justice system: prosecutorial discretion. More than 95% of criminal cases are resolved through plea negotiations, a process in which prosecutors—not defense attorneys—control charging decisions, enhancements, and the ultimate sentencing posture presented to the court.

Despite this reality, the substitute responds to a single controversial outcome by adding six more prosecutors to the Sentencing Commission while declining to scrutinize the prosecutorial choices made in the very case used to justify the bill. By expanding prosecutorial influence without examining how that influence is exercised, the bill entrenches the imbalance of power that already defines the system and avoids the uncomfortable but necessary inquiry into whether prosecutorial decision-making, rather than sentencing policy or defense participation, was the true source of failure.

No Fiscal Analysis Despite Capacity Crisis

The substitute's fiscal note still lists "None" for appropriations, despite the current prison crisis showing prisons at 90% capacity as of August 2025 and projected to reach 96.5% by June 2026 (operational breaking point). H.B. 20 is requesting \$130 million for expansion (passed Senate 24-3). The state spent \$1 billion on a new state prison just years ago. Voters rejected a \$507 million county prison bond in November 2024. By ignoring these realities, the substitute treats incarceration as cost-free while masking clear fiscal, capacity, and voter-imposed limits on prison expansion.

The substitute's inevitable cost increases stem from Section 2(3), which mandates guideline revisions by November 2026 for felony assault, homicide, kidnapping, trafficking (against adults 18+); all sexual offenses (Title 76, Chapters 5, Part 4; 5b; 5c; 5d); all domestic violence offenses; and Section 76-7-102 (abortion-related offenses).

A conservative cost projection shows the current cost per inmate is \$55,947 per year (\$153.28/day). Sex offenders currently comprise 40% of the prison population (2,600 inmates). If revised guidelines add 1 year per case for just 200 offenders annually, costs would be \$11.2 million in Year 1, \$56 million cumulative by Year 5, and \$112 million cumulative by Year 10. This assumes only 200 cases affected and only 1 additional year per case. The actual impact will be much larger.

The sex offender population grew from 29.2% (2008) to 34.4% (2018) to 40% (2025)—already 2,600 inmates. The substitute guarantees this percentage will continue rising, requiring more prison construction beyond H.B. 20's \$130 million, more operational funding (staff, programs, medical), and less money for rehabilitation, mental health, and substance abuse treatment. Courts need resources, but they need them on the bottom end, judicial assistants, law clerks, district court judges. Instead, the Legislature is funding \$2.3 million for a “constitutional court” the judiciary doesn't want, two additional Supreme Court justices the judiciary didn't request, and a fraction of what district courts actually need. H.B. 274 continues this pattern: massive spending on changes stakeholders don't want while ignoring actual system needs.

No Evidence Requirement for Guideline Revisions

The substitute's Section 2(3) mandates the commission “review and revise” guidelines for specific offenses by November 2026, but it doesn't require data showing current guidelines have failed, doesn't require analysis of whether guideline changes will improve outcomes, doesn't require cost-benefit analysis, doesn't require comparison with other states' approaches, and doesn't require consideration of recidivism research. The substitute assumes the that guidelines need to be harsher without requiring evidence.

Instead, it directs predetermined policy outcomes while bypassing the analytical safeguards that normally accompany responsible sentencing reform. This approach converts the Sentencing Commission from a data-driven body into an instrument for ratifying legislative assumptions. In doing so, it risks entrenching ineffective or counterproductive policies that increase punishment without improving public safety or accountability.

This is the opposite of evidence-based policy. The commission is directed to reach a predetermined outcome—harsher sentences for the listed categories—regardless of what data shows about effectiveness, cost, or unintended consequences. The Sentencing commission had already done careful, evidence-based work on CSAM sentencing in 2023. The substitute throws away that methodology in favor of mandated harshness.

From Prediction to Policy

How the Substitute Confirms the Critique

From the original Policy Critique (Publication 2026-06):

“With voting membership shifting toward prosecutorial and law enforcement representatives and no defense representation, the Commission's policy recommendations would predictably move toward longer prison sentences, extended supervision periods, harsher responses to technical violations, reduced reliance on alternatives to incarceration, minimization of collateral consequences, and weakened constitutional safeguards.”

What the Substitute Actually Does

Section 2(2) establishes mandatory considerations with (a) “protection of society” as the primary consideration and (b) rehabilitation, prevention, deterrence, punishment, and victim impact as secondary considerations. This is exactly the “philosophical shift away from evidence-based sentencing reform toward a more punitive approach” the critique warned about.

Research shows that “protection of society” as primary consideration, divorced from rehabilitation and prevention, leads to longer sentences that don't improve public safety, higher recidivism rates due to poor reintegration, more expensive mass incarceration, and fewer resources for treatment and programming. The critique predicted this shift. The substitute implements it.

Section 3(2)(c) addresses violent felony and sexual offense prioritization: “In determining the appropriate sentence for an individual convicted of a violent felony... or a sexual offense... the sentencing court shall prioritize the factors described in Subsections (2)(b)(i), (2)(b)(iii)(A), (2)(b)(iii)(B), (2)(b)(iii)(C), and (2)(b)(viii) over any interest of the defendant.” In translation,

this means that in these cases, courts must prioritize nature/gravity of harm, seriousness of offense, adequate deterrence, protection of public, and victim desires. The phrase “over any interest of the defendant” means rehabilitation needs, individual circumstances, mental health, addiction, and proportionality are subordinated by statute.

This is exactly the “micromanaging judicial decision-making” flagged by the Attorney General's office in the January 29 Sentencing Commission meeting. It doesn't expand judicial discretion—it constrains it by creating a legally enforceable hierarchy of considerations.

The One Partial Reversal Restoring One Defense Attorney

The substitute restored one criminal defense attorney position (Section 1(3)(f)) while keeping the indigent and juvenile defense attorneys removed. This appears responsive but is actually a net reduction in defense input from 3 positions to 1, maintained prosecution dominance with 6 prosecution/law enforcement versus 1 defense, political inoculation allowing sponsors to claim they “listened” and “compromised,” and preservation of the fundamental imbalance.

Steve Burton of the Utah Defense Attorney Association told KSL: “We don't think the current version of the bill meets that balance very well.” The Utah Association of Criminal Defense Lawyers stated: “While we disagree with the bill as currently drafted, it has prompted a constructive dialogue. We want that dialogue to keep going to make sure it lands in the right place.” These statements indicate the defense bar knows the substitute is still deeply flawed but is trying to maintain working relationships rather than wage total war. This is professional restraint, not validation of the policy.

The limited restoration does not meaningfully alter how decisions will be made or whose perspectives will dominate outcomes. With prosecutorial and law enforcement voices holding a supermajority, a single defense representative lacks the structural capacity to influence policy, raise sustained objections, or counterbalance enforcement-driven priorities. As a result, the substitute preserves the same power dynamics that prompted the original critique, while offering just enough symbolic concession to blunt criticism without addressing the underlying governance failure. In effect, the substitute substitutes optics for balance, ensuring the outcome remains unchanged while the process is portrayed as responsive.

Challenging the “Soft on Crime” Framing

The Emotional Manipulation

House Majority Leader Casey Snider stated in the KSL article: “On the other side of every one of those images is a child and a victim and somebody who was put in some of the most horrible positions imaginable. It's disgusting, and the fact that there is no justice to those children, that's what bothers me.”

Child sexual abuse material cases do involve victimization. No one disputes this. And while Judge Torgerson's sentence was problematic to some, he recognized mitigating factors that supported individualized, risk-proportionate sentencing rather than a presumptive prison sentence.

But this framing creates a false choice: Support H.B. 274 equals caring about victims, while opposing H.B. 274 equals not caring about victims. This is a logical fallacy. Opposing H.B. 274 because it won't actually prevent future Torgerson cases is not the same as being indifferent to victims. It's the opposite—it's refusing to accept symbolic gestures that provide political cover while failing to solve the problem.

What Caring About Victims Would Actually Look Like

If the House of Representatives genuinely wanted to prevent cases like Torgerson's, it would add actual victim representatives to the commission (not 6 prosecutors, but more voices from victim services organizations). It would require victim impact statements by mandating that prosecutors present victim testimony in serious cases, or explain why it's unavailable. It would fund victim services by increasing resources for victim advocacy, counseling, and participation in proceedings. It would examine prosecutorial practices to determine whether plea bargaining in the Torgerson case constrained the sentence. It would create judicial accountability by establishing review mechanisms for sentences that deviate dramatically from guidelines without justification. And it would require data collection by mandating reporting on sentencing outcomes by offense type to identify patterns of inappropriate leniency.

H.B. 274 does none of these things. Instead of creating meaningful victim-centered input, it restructures the advisory commission in a way that victim advocates themselves say fails to represent their interests or ensure their voices are heard. This is not an isolated oversight: it reflects a broader

pattern, as evidenced by the same Legislature’s 2023 decision to remove a member with lived victim experience from the 23-member Sentencing Commission—a move that sparked formal opposition from the Victim Services Commission. Taken together, these actions suggest a legislative approach that prioritizes symbolic gestures and prosecutorial influence over authentic victim engagement and evidence-based reform, leaving structural inequities in place while claiming to address them.

“We're Just Doing What Victims Want” Claim

Speaker Schultz stated: “It’s quite honestly sad that we give victims one spot on this commission and three defense attorney spots.” But the substitute gives victims one spot. Still. While adding six spots for prosecutors and law enforcement. This is a clear demonstration that, despite rhetoric about listening to victims, the bill prioritizes prosecutorial influence over meaningful victim representation.

The Victim Services Commission explicitly rejected this framing: Sandi Johnson, previous chair of the VSC stated, “Conflating voices from the prosecutors and law enforcement as being victim voices is really a poor proxy. In my experience, particularly in sexual abuse and domestic violence cases, the wishes of victims were frequently in conflict with what prosecutors thought was necessary for public safety.”

Sandi, a former prosecutor of 23 years who is now a victim rights advocate, noted: “The most complaints she receives about victim rights violations come from prosecutors on the case—not from defense attorneys or the Sentencing Commission.” If prosecutors were adequate victim proxies, victim services organizations wouldn’t exist. The fact that they do—and that they’re opposing this framing—should have told the House of Representatives something. Ignoring this insight reinforces the pattern of symbolic reform over substantive accountability and leaves victims’ perspectives marginalized in a system that claims to prioritize them.

The “Defense Attorneys Only Care About Criminals” Framing

Speaker Schultz told reporters: “The ultimate goal isn’t to take the defense attorneys’ voice away. They’re just the ones that advocate for zero days (of incarceration) on such a heinous crime.” This fundamentally misunderstands the role of defense attorneys on policy bodies. Defense attorneys on the Sentencing Commission aren’t defending

individual clients. They're contributing institutional knowledge about what actually reduces recidivism (not what theoretically should), which interventions work versus which delay reoffending, unintended consequences of policies (wrongful convictions, disproportionate impacts, implementation failures), constitutional constraints (what will survive legal challenge), and resource allocation (what's cost-effective versus expensive but ineffective).

The Utah State Bar's position was clear: "The commission's credibility depends on a balanced, nonpartisan mix of perspectives, particularly between defense attorneys and prosecutors." This isn't about being "soft on crime." It's about building sentencing policy on complete evidence rather than partial evidence.

A historical example illustrates this point: Mandatory minimums, three-strikes laws, and 1990s mass incarceration policies were designed without defense attorney input. They failed to improve public safety, cost hundreds of billions, created massive racial disparities, required expensive court-ordered prison reforms, and are now being reversed by the same legislators who passed them.

Defense attorney participation prevents repeating those failures. Removing them because "they advocate for lighter sentences" is like removing oncologists from cancer treatment guidelines because "they advocate for less aggressive treatment."

The Courage to Vote "No"

Outrage is not a policy analysis.

H.B. 274 rests on a factual premise: that defense attorneys dominated the Sentencing Commission and produced guidelines that led to the Torgerson sentence. The sponsor admits he hasn't examined commission records to verify this claim. Commission data shows defense attorneys lose 93% of votes on contested issues. The commission already revised CSAM guidelines in 2023 to add aggravating factors for the worst cases.

The bill's stated goal is centering victims. Yet it adds six prosecutors and sheriffs while leaving victim representation at one seat. The Victim Services Commission calls this 'performative' and states that prosecutors are 'poor proxies' for victims. This imbalance makes clear that the bill prioritizes expanding law enforcement influence under the guise of victim advocacy, rather than genuinely amplifying victim voices.

We are told this will prevent future Torgerson cases. But Judge Torgerson had full discretion to sentence above the guidelines. He chose not to. This bill doesn't change judicial discretion—it changes an advisory commission's composition. If judges won't use the discretion they have, changing guidelines won't fix that.

We are told we must vote yes or be seen as soft on crime. We reject that binary. Voting no on ineffective legislation is not indifference to victims. It's refusing to accept political theater as a substitute for genuine reform. If we want to prevent future Torgerson cases, we should add victim representatives, not prosecutors; create judicial accountability for outlier sentences; examine the prosecutor's charging and plea decisions in that case; fund victim services and ensure their participation in sentencing; and require data showing which sentencing approaches actually improve public safety.

This bill does none of that. It restructures a commission based on unverified claims, in a way victim advocates oppose, at a cost we refuse to acknowledge, to solve a problem we haven't diagnosed. It substitutes optics for action, political expedience for analysis, and rhetoric for reform—failing both victims and the integrity of the justice system it purports to improve. Without addressing the real causes of failure—prosecutorial discretion, judicial accountability, and meaningful victim participation—it guarantees that the system will repeat the same mistakes under a veneer of reform.

Why No Opposition Was Given

The political reality is stark: That legislator would be primary-challenged with ads featuring Snider's quote about child victims. Local sheriffs would withdraw endorsements. Prosecutors would publicly criticize them. Newspapers would run editorials questioning their commitment to public safety. Opponents would reduce their entire career to “voted against Torgerson bill.”

This is why the vote was 69-0. Not because the policy is sound, but because opposition is career suicide. But a 69-0 vote under those conditions proves nothing except that political survival sometimes requires voting for bad policy. It demonstrates how high-profile cases can distort the legislative process, turning careful policy evaluation into a hostage of public outrage and media narratives. When fear of political reprisal overrides evidence and analysis, the resulting legislation reflects emotion and optics rather than effective reform.

The Broader Context Judicial Independence

H.B. 274 Cannot Be Understood in Isolation

The Utah State Bar has identified seven bills this year that it opposes because they collectively threaten judicial independence. H.B. 274 is a key example, as it removes defense attorneys from the Sentencing Commission and shifts decision-making power heavily toward prosecutors and law enforcement. These bills share a common pattern: they advance rapidly with minimal notice or meaningful input from stakeholders, often leaving judges, defense attorneys, and victim advocates with little opportunity to provide feedback.

Many appear to be direct responses to court rulings that checked legislative overreach, effectively using high-profile cases to justify structural changes that concentrate power in the executive and legislative branches at the expense of the judiciary. In addition, these measures frequently allocate millions of dollars toward reforms the judiciary itself has not requested, while simultaneously denying funding for resources the courts have identified as necessary, further undermining the independence and functionality of judicial institutions. Taken together, this pattern signals a legislative strategy that prioritizes political objectives and control over careful, evidence-based reform and the long-term health of Utah's justice system.

H.B. 274's Role in This System

H.B. 274 is the criminal justice piece of a coordinated effort to remove checks on legislative/executive power (constitutional court, bypass nominating commissions), make judges easier to remove (67% retention, special elections), control case assignment, eliminate defense perspectives from policy, and expand prosecution/law enforcement control. This isn't about "fixing" sentencing guidelines. It's about consolidating power.

The Utah State Bar has observed that this legislative session has been marked by increased aggressiveness and significantly less advance notice on bills affecting the courts. They note that legislators "are more determined this year to make changes" to judicial structures and processes. Senate Majority Leader Kirk Cullimore echoed the scale of the effort, stating, "In the aggregate, it is a lot." Indeed, it is—and H.B. 274 is a central piece of

that aggregate assault, exemplifying how targeted, high-profile cases are being used to justify broad systemic changes that prioritize political and prosecutorial control over judicial independence and evidence-based policy. By embedding these changes in law under the guise of reform, H.B. 274 not only reshapes sentencing policy but also sets a precedent for future legislative encroachments on judicial authority.

Politically Driven Reaction

The H.B. 274 process unfolded as follows: May 2025 saw the Torgerson sentence spark outrage. Summer 2025 brought Speaker Schultz developing the theory that defense attorneys are the problem. Fall 2025 had Schultz approaching law enforcement and prosecutors, who agreed with him. January 21, 2026 saw the bill filed (first day of session). January 28, 2026 brought the committee hearing (7 days later). January 29-30, 2026 saw commissions meet and reveal data contradicting the bill's premise. February 6, 2026 brought the substitute passing the House 69-0 (16 days after filing).

Total timeline: Less than 3 weeks from introduction to House passage. This is reaction, not reform. It's legislating by anecdote, voting by political survival, and policy by emotional manipulation. Such a compressed timeline leaves no room for thorough analysis, stakeholder input, or evaluation of unintended consequences. It prioritizes speed and optics over evidence, ensuring that decisions are driven by public outrage rather than data or reasoned deliberation.

The Evidence-Based Alternatives

If the diagnosis had been done properly, actual solutions might include several categories of reform. For judicial discretion issues, the state could create appellate review of sentences that deviate significantly from guidelines without justification, require written findings when sentencing outside guideline ranges, implement judicial training on trauma-informed sentencing and victim impact, conduct performance reviews examining sentencing patterns, and include retention election information with sentencing data.

For prosecutorial practice issues, solutions could implement disclosure requirements for plea agreements in serious cases, require victim consultation before accepting plea deals, create an appeals process when victims oppose plea agreements, and develop prosecutor performance metrics including sentencing outcomes.

For guideline issues, reforms could create narrower ranges for most serious offenses (reduce discretion), establish mandatory aggravators for specific conduct (e.g., victims under 5, exploitation continuing over 2 years), implement presumptive prison for aggravated cases and presumptive probation for base-level cases, and conduct regular evidence-based review of guideline effectiveness.

For victim participation, the state could guarantee victim impact testimony in felony cases, ensure victim advocates are present during plea negotiations, expand victim notification of proceedings, fund victim services in every jurisdiction, and add more victim representatives on the Sentencing Commission.

For fiscal sustainability, reforms could conduct cost-benefit analysis of sentencing changes, invest in diversion and treatment as prison alternatives, implement evidence-based rehabilitation programs proven to reduce recidivism, and provide reentry services to reduce recidivism.

None of these require removing defense attorneys from the commission. All of them would be more effective than H.B. 274 at preventing future Torgerson cases.

Institutional Knowledge

By removing defense attorney perspectives (net loss of 2 positions), the commission loses empirical knowledge of what reduces recidivism—defense attorneys see the same clients repeatedly and know which interventions work. It loses early warning of unintended consequences through identifying policies that sound good but fail in implementation. It loses constitutional guardrails including understanding of what will survive legal challenge. It loses ground truth about defendants' lives including trauma, mental illness, addiction, and economic factors that drive crime. And it loses stress-testing of proposals by identifying implementation problems before they become disasters.

This erosion of institutional knowledge weakens the Commission's ability to craft thoughtful, effective sentencing policy. Without defense attorney input, the body becomes less capable of anticipating real-world outcomes, protecting constitutional rights, or tailoring interventions to reduce recidivism. Over time, this loss of perspective diminishes the Commission's credibility, undermines public trust, and ensures that decisions favor procedural appearances and prosecutorial priorities over evidence-based justice.

Evidence-Based Policymaking

The 93% voting data revealed that defense attorneys were already losing virtually all contested votes within the Sentencing Commission. They weren't dominating—they were being consistently outvoted. Removing them doesn't fix a dominance problem that didn't exist. It eliminates a dissenting voice that was already in the minority.

Effective policymaking requires diverse perspectives (now reduced), dissenting voices that force the majority to defend positions (now eliminated), empirical grounding (now weakened), and constitutional awareness (now diminished). The substitute creates an echo chamber where 9 prosecution/law enforcement representatives and 5 other members can reach consensus without encountering meaningful opposition. That's how you get bad policy that everyone agrees on but doesn't work.

The Precedent for Future Crises

The 69-0 vote establishes a dangerous pattern. When there's a highly publicized case generating public outrage, the Legislature will identify a scapegoat (defense attorneys), develop a theory without examining evidence, rush legislation based on that theory, create political conditions where opposition is impossible, pass sweeping changes without stakeholder input or fiscal analysis, and declare victory and move on.

This precedent guarantees that future high-profile cases will generate similar rushed legislation, each crisis will be used to further consolidate prosecutorial power, evidence-based policy will continue to lose to emotional reaction, the criminal justice system will become increasingly imbalanced, and costs will spiral as incarceration increases without improving safety.

The 69-0 vote wasn't a success. It was a systems failure that will repeat. It signals to legislators that political survival is more important than careful analysis, incentivizing reactionary policymaking over thoughtful reform. Each future case will be viewed less as an opportunity to understand systemic issues and more as a trigger for politically expedient action. Unless this pattern is addressed, the cycle of crisis-driven, punitive legislation will continue, eroding both public trust and the effectiveness of Utah's justice system.

Conclusion

What Unanimous Support Actually Reveals

The 69-0 Vote as a Warning Sign

In a healthy legislative process, comprehensive criminal justice reform would generate vigorous debate about competing values, examination of evidence and alternatives, concerns about fiscal impacts, questions about effectiveness, and at least some dissenting votes. The fact that H.B. 274 generated none of this should be alarming, not reassuring.

Unanimous votes on complex policy typically mean the issue is politically toxic (opposition is too dangerous), information is incomplete (legislators either don't have the data they need or disregard what data disproves their position), the process was too fast (no time for careful analysis), political pressure overrode policy judgment (survival trumped substance), and the framing was manipulative (false binaries eliminated middle ground). HB274 exhibits all five warning signs.

What This Reveals About Utah's Criminal Justice Politics

The pattern is clear: A high-profile case generates outrage (Torgerson). Media amplifies emotional narrative (“no justice for children”). Legislators feel pressure to respond visibly and quickly. The solution focuses on appearing tough rather than being effective. Defense perspectives are scapegoated as the problem. Prosecution/law enforcement interests are centered as the solution. Opposition is framed as indifference to victims. Fiscal costs are ignored or minimized. Evidence is subordinated to political imperatives. Unanimous passage is celebrated as consensus rather than questioned as groupthink.

This cycle produces reactive rather than thoughtful policy, symbolic gestures rather than genuine reform, increasing incarceration without increasing safety, fiscal crises requiring emergency prison spending, erosion of checks and balances, and public cynicism about whether government solves problems or performs solutions. It reveals a system where political optics consistently outweigh substance, rewarding legislators for quick action rather than effective policymaking.

The Real Choice

The framing was: Support H.B. 274 or be soft on crime. The actual choice was: Support ineffective legislation that feels good politically, or demand effective legislation that actually prevents future Torgerson cases. Choosing the politically safe option came at the cost of meaningful reform, leaving systemic problems unaddressed.

The 69-0 vote reveals that Utah legislators chose political safety over policy effectiveness, emotional satisfaction over evidence-based reform, and short-term approval over long-term solutions. That is not an example of strength; it reflects caution framed as “tough on crime.” It demonstrates how fear of public backlash can drive lawmaking, even when it undermines justice and fails the very people the legislation claims to protect.

A Path Forward

It's not too late for the Senate to demand the evidence Speaker Schultz admits he doesn't have by requesting commission records showing defense attorney influence on specific guidelines, requiring data on sentencing outcomes by offense category, and comparing Utah's approaches with other states. The Senate should examine the Torgerson case properly by determining what plea agreement was offered, what sentencing recommendation the prosecutor made, whether aggravating factors were presented, and whether victim impact testimony occurred.

The Senate must consult stakeholders the House ignored, including the Victim Services Commission (who oppose the bill's framing), Sentencing Commission members (who presented contradictory data), the defense bar (who offered to collaborate), and fiscal analysts (who can project actual costs). The Senate should add meaningful victim representation by increasing victim seats on commission to 3-5, ensuring diversity of victim perspectives (not just prosecution-aligned), and funding victim services rather than just adding prosecutors.

The Senate needs to create actual accountability mechanisms through judicial review of outlier sentences, prosecutorial performance metrics, sentencing outcome reporting requirements, and evaluation sunset provisions. Finally, the Senate must address the fiscal reality by acknowledging downstream incarceration costs, requiring cost-benefit analysis, coordinating with H.B. 20 prison expansion planning, and considering alternatives to incarceration that improve public safety.

Final Verdict

The 69-0 vote on H.B. 274 Substitute #1 was not a validation of sound policy. It was a demonstration that political pressure can override evidence, emotional framing can eliminate rational debate, unanimous support can mask fundamental flaws, speed can substitute for substance, and appearing to care can replace actually solving problems.

Judge Torgerson's discretionary sentence reflected individualized consideration of mitigating factors in a case that subsequently attracted media scrutiny and public outcry. Victims deserve justice yes, public safety matters yes, both must be pursued within the bounds of the rule of law. H.B. 274 doesn't deliver justice, doesn't improve safety, and doesn't prevent future failures.

It restructures a commission based on unverified claims, in a way victim advocates oppose, at a cost the House of Representatives refuses to acknowledge, to solve a problem it hasn't diagnosed, while ignoring actual solutions that might work. The 69-0 vote doesn't make it good policy. It makes it politically irresistible bad policy.

And that should trouble anyone who believes evidence should matter more than emotion, and effectiveness should matter more than appearance.

