

SENATE COMMITTEE ON  
JUDICIARY

June 1, 1993           Hearing Room B  
1:00 p.m.   Tapes 177-178

MEMBERS PRESENT:   Sen. Dick Springer, Chair  
                  Sen. Jeannette Hamby  
                  Sen. Karsten Rasmussen  
                  Sen. Gordon Smith  
                  Sen. Catherine Webber

MEMBERS EXCUSED:   Sen. Shoemaker

STAFF PRESENT:       Bill Taylor, Committee Counsel  
                  Karen Quigley, Committee Counsel  
                  Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Public Hearing & Work Session on HB 2385, HB 2737, HB  
312 5,  
                  HB 2976, HB 2231, SB 617, SB 884  
                  Work Session on SB 228

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These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in  
quotation marks report a speaker's exact words. For complete  
contents of the proceedings, please refer to the tapes.

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TAPE 177, SIDE A

003   CHAIR SPRINGER: Opens the hearing at 1:18 pm.

SB 884: Authorizes elector to request county clerk to keep  
residence  
          address of elector exempt from disclosure as public record.

WITNESSES:

VICKI ERVIN, OREGON ASSOCIATION OF COUNTY CLERKS  
VIETTA HELMLE, MID-VALLEY WOMEN'S CRISIS SERVICE

014 VICKI ERVIN: Submits and reviews written testimony in support of  
the  
          bill (EXHIBIT A).

036 SEN. RASMUSSEN: If individual provides post office box address, do  
you  
          still require street address?

ERVIN: Yes, street address or information indicating residence is

required.

041 SEN. RASMUSSEN: Still require information be entered into records?

ERVIN: Not necessarily on a computer, but it must be on original document which is a public document.

046 SEN. RASMUSSEN: Notes walking lists which include only mailing addresses, not street addresses. What is the difference?

ERVIN: Possible to obtain mailing address lists only.

058 SEN. RASMUSSEN: Why are people required to vote absentee under the bill?

ERVIN: Only method to deal with problem of not printing name in poll book. It was a way to set aside address issue.

066 SEN. HAMBY: Could individual provide proof of residency but list a post office box as their address for purposes of the poll book and candidate lists, etc?

ERVIN: That would be a variation to the bill. Could be changed so residence address is provided and they are not required to vote absentee.

080 SEN. HAMBY: So if the individual was concerned with safety could they register at post office box and still records could be kept open because they would only indicate post office box.

ERVIN: Yes. Records would be open except for residence address.

094 VIETTA HELMLE: Submits and reviews written testimony in support of the bill (EXHIBIT B).

104 SEN. HAMBY: Notes post office box address for the shelter?

HELMLE: Yes. Shelter has an office address but the shelter itself is not accessible to the public.

107 SEN. HAMBY: Do the women in the shelter vote?

HELMLE: Yes. Probably the same ratios as the rest of the community.

110 SEN. HAMBY: So they show their residency address as the crisis center?

HELMLE: Nobody has requested that. They are in the shelter for very

limited time.

124 SEN. HAMBY: Notes possible lack of resources for her clients,  
would they afford post office box?

HELMLE: Might be difficult for some.

132 CHAIR SPRINGER: \$34 for post office box in Portland.

136 MOTION: SEN. WEBBER: moves SB 884 be sent to the floor with a DO  
PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. SHOEMAKER  
is excused.

141 CHAIR SPRINGER: The motion CARRIES.

SEN. WEBBER will lead discussion on the floor.

SB 617: Allows mass transit districts to offer and pay rewards  
for information leading to arrest and conviction of persons committing  
acts of violence or vandalism upon or against district property.

145 CHAIR SPRINGER: Calls witnesses on the bill.

147 KAREN QUIGLEY, COMMITTEE COUNSEL: Notes Sen. Dwyer's testimony.

152 CHAIR SPRINGER: Holds bill for further consideration later in  
the hearing.

SB 228: Establishes procedures to stay execution of sentence for  
person appealing judgment of conviction.

WITNESSES:

DANNY SANTOS, BOARD OF PAROLE AND POST PRISON SUPERVISION

MIKE REYNOLDS, DEPARTMENT OF JUSTICE

SALLY AVERA, STATE PUBLIC DEFENDER

157 BILL TAYLOR, COMMITTEE COUNSEL: Reviews bill and SB 228-2 and  
-1 amendments (EXHIBIT E & E-1).

167 MIKE REYNOLDS: Reviews amendments to SB 228-1 amendments (EXHIBIT  
L).

193 TAYLOR: These replace -1 amendments?

REYNOLDS: Yes.

195 CHAIR SPRINGER: Clarifies current amendments before the committee.

203 SALLY AVERA: Testifies in support of the bill. Supports revised -  
1 amendments.

212 SEN. RASMUSSEN: What are we eliminating? What is acceptable?  
What about the bill?

217 AVERA: The amendments are acceptable and we support the bill.  
>Reviews  
-1 amendments with additional revisions.

264 SEN. RASMUSSEN: Questions why are we limiting appeals in  
discretionary matters when it seems that is the area where abuse can enter into the  
process. Defers to other members.

272 AVERA: In experience with the Board, the abuses are very few.

286 SEN. WEBBER: All of these are discretionary issues, there are no  
other issues?

AVERA: Predominantly, but not all.

296 SEN. WEBBER: Appeals on postponing release dates due to  
serious misconduct, none have been overturned?

AVERA: Less than 20 per biennium. Less than 2 per biennium are granted  
opinion.

>Most misconduct extensions rarely reach the court within the time  
period for the extension.

307 SEN. WEBBER: So there is a timing issue?

AVERA: Yes.

309 SEN. WEBBER: Sustains minimum term under ORS 144.110, what is  
that provision?

AVERA: That is the statute allowing the court in a pre-guidelines to  
provide that at least half the sentence be served as a minimum term.

317 SEN. WEBBER: And the relationship to the history risk order or  
the crime severity rating?

AVERA: Our understanding is that the board does consider the  
defendant's history risk or crime severity rating in determining  
whether to override a minimum term.  
>Wanted discretion to challenge that score.

326 DANNY SANTOS: Reviews ORS 144.110.

>Submits and reviews written testimony in support of the bill (EXHIBIT D).

340 CHAIR SPRINGER: Proponents of -2?

REYNOLDS: Proposed by the Department of Justice.  
>Response to Bagby v. OSP which interprets ORS 421.195.  
>Reviews intensive management unit operations relating to inmate transfer.  
>Transfer to IMU is a judicially reviewable action.

474 SEN. HAMBY: Maximum security is apart from IMU?

480 REYNOLDS: Disciplinary segregation is secure confinement.

489 SEN. HAMBY: For a maximum of 100 days.

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032 REYNOLDS: That is an example. It varies depending on the case.

Assault could result in 120 days.

>At the end of disciplinary segregation the inmate would be reclassified and transferred to intensive management unit.

040 SEN. HAMBY: What kind of violation would result in a 7 day segregation?

REYNOLDS: Perhaps for speaking disrespectfully to officer.

045 TAYLOR: Both the amendments pertain to judicial review, correct?

REYNOLDS: Yes.

046 CHAIR SPRINGER: Understands Reynolds position but notes that inmates

probably have a hard time believing that assignment to IMU is a non-disciplinary act.

>What is the pleasure of the committee?

055 SEN. HAMBY: If inmate spends 120 days in disciplinary segregation and

then moved to IMU and showed good behavior, how many days would actually be spent in the IMU?

REYNOLDS: It varies but a typical inmate transferred to IMU goes in at Level 2 of four levels. Exemplary behavior and the inmate could be out in 90 days.

067 CHAIR SPRINGER: What is the average occupancy at IMU?

REYNOLDS: Four units with maximum occupancy of 180-190. Currently they

house 105-110.

071 MOTION: SEN. HAMBY: moves to ADOPT compromise amendments submitted by

M. Wells.

VOTE: Hearing no objection, the amendments are ADOPTED.

075 MOTION: CHAIR SPRINGER: moves to ADOPT SB 228-2 amendments, dated

4/21/93.

081 SEN. RASMUSSEN: For counsel, does the bill stand with the compromise

amendments and not the -2's?

TAYLOR: Believes it would, but witnesses could have more information.

>Amendments are independent of each other?

085 REYNOLDS: Yes.

086 VOTE: In a roll call vote SEN. HAMBY, SEN. SMITH & CHAIR SPRINGER vote

AYE. SEN. RASMUSSEN votes NAY. SEN. SHOEMAKER and SEN. WEBBER are

excused.

089 CHAIR SPRINGER: The motion fails.

090 MOTION: CHAIR SPRINGER: moves to ADOPT revised relating clause

stating, "Relating to judicial review".

VOTE: Hearing no objection, the amendments are ADOPTED.

094 MOTION: SEN. HAMBY: moves SB 228, AS AMENDED, be sent to the floor with

a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. SHOEMAKER

and SEN. WEBBER are excused.

098 CHAIR SPRINGER: The motion CARRIES.

SEN. HAMBY will lead discussion on the floor.

HB 2385: Repeals requirement that records in filiation proceedings be sealed.

WITNESSES:

MIKE WELLS, OREGON STATE BAR

107 TAYLOR: Reviews bill. No amendments.

111 MIKE WELLS: Submits and reviews written testimony in support of the

bill (EXHIBIT F).

136 CHAIR SPRINGER: No other witnesses?

>Does this need referral to Ways and Means?

>Notes Bill Linden, State Court Administrator indicates no.

143 MOTION: CHAIR SPRINGER: moves HB 2385 be sent to the floor with a  
DO

PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. SHOEMAKER

and SEN. WEBBER are excused.

147 CHAIR SPRINGER: The motion CARRIES.

SEN. SMITH will lead discussion on the floor.

HB 2737: Provides for forfeiture and destruction of deadly weapons used  
during

commission of crime.

WITNESSES:

BOB KEYSER, OREGON COUNCIL OF POLICE ASSOCIATIONS

JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION

MARK HARDER, OREGON SPORTSMAN'S DEFENSE FUND

FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION

151 TAYLOR: Reviews bill and HB 2737-1 amendments (EXHIBIT G).

166 BOB KEYSER: Testifies in support of the bill.

>Opposed to the amendments from counsel.

213 SEN. HAMBY: You are concerned about subsection 3 in counsels  
draft

which would provide antique weapons to local historical societies  
rather

than selling them?

KEYSER: Yes, but not just antiques. Provides alternative example of

the type of weapons that could be sold.

227 TAYLOR: Sen. Shoemaker was concerned that lines 20-22 don't give  
the

option to destroy weapon.

>Suggests "or shall destroy the weapons."

>Checked with Historical Society who do keep a list of valid  
historical

societies in the state.

246 SEN. RASMUSSEN: Expresses concern about police putting  
confiscated

weapons back on the street. Not particularly concerned about antique

weapons.

258 JOHN NICHOLS: Testifies in support of the bill.

>Expresses reservations about the -1 amendments.

287 MARK HARDER: Testifies with concerns about the bill. Supported  
until

the most recent amendments.

303 FRED AVERA: Testifies in support of the bill generally.  
>Comments on Shoemaker's concerns. Statute has been interpreted to  
destroy weapons and that is the practice.

344 NICHOLS: Notes an individual has to be licensed dealer to  
purchase  
these guns and there is no record of criminals purchasing weapons from  
dealers.

350 SEN. HAMBY: Is that in statute?

NICHOLS: Loose interpretation of federal law.  
>No problem including it in the statute.

366 CHAIR SPRINGER: Holds bill for further consideration and  
consideration  
by the full committee.  
>Notes that further clarification of issues would be helpful.

390 SEN. RASMUSSEN: Responds to last suggestion by Nichols  
concerning  
restriction of sales to certain defined parties.

405 SEN. HAMBY: Suggests counsel review definitions of collectors  
weapons.

NICHOLS: Bureau of Alcohol, Tobacco and Firearms (ATF) does issue a  
collectors license.

HB 3125: Creates Task Force on Family Law to develop non-adversarial system  
to  
help families undergoing divorce access services.

435 CHAIR SPRINGER: Notes that witnesses were excused from hearing  
because  
it was previously scheduled for work session.

443 TAYLOR: Reviews the bill and HB 3125-A7 amendments (EXHIBIT H).  
>Reviews bill history with the Chair.

CHAIR SPRINGER: Notes amendments were discussed and generally agreed  
to.  
>Subsequent referral to any other committee?

451 TAYLOR: No. Notes letter from Sen. Kennemer asking if there are  
any  
Oregon residents requirements for members of the task force and the  
answer is no.

463 MOTION: SEN. HAMBY: moves to ADOPT HB 3125-A7 amendments,  
dated  
5/26/93.

VOTE: Hearing no objection, the amendments are ADOPTED.



647 MOTION: moves HB 3125, AS AMENDED, be sent to the floor with a DO  
PASS

recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. SHOEMAKER  
and SEN. WEBBER are excused.

474 CHAIR SPRINGER: The motion CARRIES.

SEN. HAMBY will lead discussion on the floor.

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HB 2976: Provides that judgment resulting from unpaid child support is  
valid

for 20 years from date child support judgment is entered.

WITNESSES:

JOHN ELLIS, DEPARTMENT OF JUSTICE

MIKE WELLS, OREGON STATE BAR

DAVID NEBEL, OREGON LEGAL SERVICES

ELIZABETH HARCHENKO, DEPARTMENT OF JUSTICE

BILL LINDEN, STATE COURT ADMINISTRATOR

032 TAYLOR: Notes HB 2976-A4 amendments submitted to the committee  
(EXHIBIT  
C).

034 JOHN ELLIS: Submits and reviews written testimony including  
new  
amendments in support of the bill (EXHIBIT I, J & K).

146 CHAIR SPRINGER: Notes financial institutions might have an interest  
in  
this bill. Have you spoken to them?

151 ELLIS: Spoken to Frank Brawner, Oregon Bankers Association.  
>Reviews understanding about concerns.

161 TAYLOR: Are there provisions similar to the personal liability  
for  
additional three years idea in other law?

164 ELIZABETH HARCHENKO: Analogy is found in the tax statutes.  
Income  
taxes are personal obligation of the tax-payer.  
>That obligation never ceases.

172 TAYLOR: Personal liability attaches from day support obligation  
is  
entered for how many years?

ELLIS: Most recent version is 30 years.

175 TAYLOR: So, 33 years.

ELLIS: No, only 30 years. Eliminated three year language in most  
recent amendments and inserted provisions for 30 year personal

obligation to be comprehensive.

192 CHAIR SPRINGER: Inquires about effect on judicial branch to  
Bill  
Linden, State Court Administrator.

194 SEN. HAMBY: How far back can state go, or does it start with  
the  
passage of this bill?

ELLIS: Could go back 30 years in the case of the personal obligation,  
if an obligation were still owing today.

200 SEN. HAMBY: So, if individual had met their 10 year obligation,  
their  
obligation is extended to 30 years with the passage of this bill?

ELLIS: Yes. Provides example.

214 CHAIR SPRINGER: Excuses himself for meeting with Senate President  
and  
turns over hearing to Sen. Rasmussen.

222 CHAIR SPRINGER: Did House consider this approach?

227 BILL LINDEN: Testifies in support of the bill generally.

238 ELLIS: Comments about action on the House side.  
>House adopted 20 year provision. Increase to 30 suggested because  
some  
parties thought it would be better. Not firmly committed to 30 years  
if  
the committee prefers 20.  
>Intent is to avoid tracking multiple support payments which need  
renewal to avoid confusion and error.  
>Notes renewal can be ex parte which is general practice.

285 SEN. RASMUSSEN: Amendments attempt to make the two systems  
track

concurrently?  
ELLIS: Correct.

290 SEN. RASMUSSEN: Requests Ellis confer with financial institutions  
on  
this issue.

ELLIS: Agrees to do so.

304 SEN. SMITH: What you want isn't accomplished with 20 year provision?

SEN. RASMUSSEN: Correct.

309 SEN. SMITH: That will send it to conference and the  
financial  
institutions are more likely to object.

SEN. RASMUSSEN: Possibly but that is what we are going to find out.

319 MIKE WELLS: Testifies in support of the bill, generally.

328 DAVID NEBEL: Testifies in support of the bill generally. Supports the  
Ellis amendments, over original bill and current law.  
>Notes HB 2976-A4 amendments as a possible alternative.

395 SEN. RASMUSSEN: Inquires if Frank Brawner, Oregon Bankers Association,  
has any comments; he indicates no.  
>Holds bill for further consideration.

HB 2231: Adds term "parole" to that of "probation officer" for purposes of  
setting out duties and powers of parole officers.

WITNESSES:

BOB KEYSER, FEDERATION OF OREGON PAROLE & PROBATION OFFICERS

414 TAYLOR: Reviews bill. Discussion centered on removing last section of  
the bill, page 2, lines 7-10 concerning collection of reprobation fees.  
>Provision is on page 2, subsection 3.

444 BOB KEYSER: Objects to the removal of language described by counsel.  
>Concerned about money that will be collected, need to be bonded and  
additional costs to agencies.

475 SEN. RASMUSSEN: Opposed to removal of the last three lines of the bill?

KEYSER: Correct.

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034 SEN. RASMUSSEN: Holds bill for further consideration.  
>Adjourns hearing at 3:00 pm.

Submitted by:

Reviewed by:

Kirk Bailey  
Assistant

Bill Taylor  
Administrator

EXHIBIT LOG:

- A - Testimony on SB 884, Vicki Ervin, 1 page
- B - Testimony on SB 884, Vietta Helmle, 1 page
- C - Amendments to HB 2976, Staff, 1 page
- D - Testimony on SB 228, Danny Santos, 1 page
- E - Amendments to SB 228, Staff, 2 pages
- E-1 - Amendments to SB 228, Staff, 1 page
- F - Testimony on HB 2385, Mike Wells, 11 pages
- G - Amendments to HB 2737, Staff, 1 page
- H - Amendments to HB 3125, Staff, 1 page
- I - Amendments to HB 2976, John Ellis, 1 page

- J - Amendments to HB 2976, John Ellis, 4 pages
- K - Testimony on HB 2976, John Ellis, 10 pages
- L - Amendments to SB 228, Mike Reynolds, 2 pages