

HOUSE JUDICIARY COMMITTEE

SUBCOMMITTEE ON CIVIL LAW

February 14, 2005 Hearing Room 357

9:30 AM Tapes 15 - 16

MEMBERS PRESENT: Rep. Bob Ackerman, Chair

Rep. Linda Flores

Rep. Bill Garrard

Rep. Kelley Wirth

STAFF PRESENT: Sam Sears, Counsel

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD & WITNESSES:

HB 2403, Public Hearing

Bill Rogers, Deputy Chief of Staff for Rep. John Lim

Troy Costales, Oregon Department of Transportation (ODOT)

HB 2423, Public Hearing

Bill Rogers, Deputy Chief of Staff for Rep. John Lim

Georgena Carrow, Department of Human Services (DHS)

Kathleen Smail, DHS

Bruce Bishop, Oregon Association of Hospitals and Health

Systems

HB 2222, Public Hearing

Jason Barber, Department of Justice (DOJ)

Michael Grant, DOJ

HB 2306, Public Hearing

Jim Markee, Oregon Collectors Association

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 15, A

004	Chair Ackerman	Calls the meeting to order at 9:33 a.m. and opens the public hearing on HB 2403.
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HB 2403 – PUBLIC HEARING

015	Sam Sears	Counsel. Explains that HB 2403, sponsored by Rep. Lim, requires the Department of Transportation to conduct a study on photo radar. Advises that there is a subsequent referral to Ways and Means.
021	Bill Rogers	Deputy Chief of Staff for Rep. John Lim. Advises that Rep. Lim wants to know how photo radar is helping with speed. Rep. Lim believes that a study is needed to see if the law is working.
035	Troy Costales	Manager, Transportation Safety Division, ODOT. Provides history of the photo radar law, stating that reporting requirements were removed in the late 1990s. Explains that the majority of the money collected in fines goes to the state's general fund. Submits written testimony (EXHIBIT A) .
073	Rep. Garrard	Asks who pays for photo radar.
078	Costales	Replies that the city pays for installation.
079	Rep. Flores	Asks if any other national concerns have been reviewed.
083	Costales	Responds that various reports have been reviewed and photo radar is treated differently from jurisdiction to jurisdiction.

100	Rep. Flores	Indicates that there is controversy in determining the driver or citing the presumptive driver.
105	Costales	Advises that there was an Oregon Supreme Court case on this issue.
114	Rep. Macpherson	Asks how the cost of operating photo radar compares with the cost of a uniformed officer operating a radar gun.
118	Costales	Answers that photo radar is less expensive and less risky to officers. Explains there are limits in statute on how long radar can be in place, and signs must be placed indicating that photo radar is in use.
134	Rep. Garrard	Seeks clarification that money from fines goes into the city's general fund.
137	Costales	Responds that some money stays with the local agency, but the majority goes to the state's general fund.
142	Rep. Garrard	Asks what percentage goes to the state.
148	Costales	Replies, in general, between 30 and 40 percent. Offers to bring back more information.
160	Chair Ackerman	Closes the public hearing on HB 2403 and opens a public hearing on HB 2423, which prohibits the Department of Human Services from issuing or renewing a license for a hospital unless the hospital has conducted criminal records checks.

HB 2423 – PUBLIC HEARING

169	Bill Rogers	Deputy Chief of Staff for Rep. John Lim. Explains that Rep. Lim introduced HB 2423 to make sure there is due diligence that people who should not be licensed do not work in hospitals. Indicates that the majority do criminal records checks, but Rep. Lim wants to be sure all have them done. Rep. Lim wants to establish the best and most cost-effective way to accomplish.
184	Rep. Macpherson	Seeks clarification that criminal checks are to be done for all employees in a hospital or clinic, whether or not there is direct contact with a patient.

190	Rogers	Responds, that is correct.
191	Rep. Macpherson	Asks if those positions with no patient contact pose a safety threat.
202	Rogers	Answers, yes, that anyone working in a hospital has access to patients.
206	Rep. Wirth	Asks for the precedent to establish prohibition of anyone who has committed a sex crime from working in a hospital.
212	Rogers	Replies that question would best be answered by Rep. Lim.
214	Rep. Wirth	Seeks clarification that HB 2423 would prohibit anyone ever convicted of a sex crime, including a minor convicted under Measure 11, from working in an Oregon-licensed facility.
123	Rogers	Defers that question to Rep. Lim, who has offered to work on amendments to HB 2423, if needed.
230	Chair Ackerman	Questions if a person convicted of a crime as a minor would be included, and who would be included in the “contractor” category. Expresses concern that the definition of “hospital” in ORS 442.015 may include some categories of facility not intended.
259	Rogers	Shares that Rep. Lim is willing to collaborate on clarification.
269	Georgena Carrow	Manager, Criminal Records Unit, DHS. Testifies and submits testimony as neutral on HB 2423 (EXHIBIT B). Explains current background check procedures. Questions if “contractors” include staff who do not provide patient service.
313	Carrow	Continues testimony by expressing concern about additional workload and cost impacts. Offers to work on clarifying language.
346	Kathleen Smail	Manager, Health Care Licensure and Certification. Testifies and submits testimony as neutral on HB 2423 (EXHIBIT C). Explains the significant fiscal impact on hospitals.

TAPE 16, A

004	Smail	Continues testimony by indicating that small communities will be severely impacted. Offers assistance with further work on HB 2423.
016	Bruce Bishop	Oregon Association of Hospitals and Health Systems. Submits testimony and testifies in opposition to HB 2423 (EXHIBIT D). Explains that criminal record checks are already being performed on new employees, contracted providers and volunteers. Expresses significant concern with proposed language that amends the general licensing statute.
047	Bishop	Continues testimony by suggesting a transition period in place of a January 1, 2006, effective date. Points out concerns with specific sections in HB 2423 and urges no action.
083	Rep. Wirth	Asks if this bill negatively impacts the discretionary decision making of a hospital board.
088	Bishop	Replies that it appears HB 2423 would impose a complete ban on any employment or contracting with those convicted of sex crimes.
093	Chair Ackerman	Announces there will be no work session and requests collaboration on clarifying language. Raises a question about subsequent referral.
099	Chair Ackerman	Closes the public hearing on HB 2423 and opens a public hearing on HB 2222.

HB 2222 – PUBLIC HEARING

103	Sam Sears	Counsel. Explains that HB 2222 provides DOJ with a lien on certain judgments or settlements received by a person who was given assistance by DOJ and its Crime Victims' Assistance Section.
120	Jason Barber	Assistant Director, Crime Victims' Assistance Section, DOJ. Testifies and submits testimony in support of HB 2222 (EXHIBIT E). Explains the current process for collecting subrogated funds and how HB 2222 will assist DOJ in recovering these funds.
140	Chair Ackerman	Asks about proposed amendments to HB 2222.
142	Barber	

Indicates that amendments are drafted to be turned in to Legislative Counsel.

- 148 Michael Grant Assistant Attorney General, DOJ. Testifies and submits testimony in support of HB 2222 (**EXHIBIT F**). Points out that HB 2222 does not impose any new monetary obligations upon crime victims. Advises that monies recovered go back into the criminal injuries compensation account.
- 168 Grant Refers to proposed amendments included in the written testimony (**Exhibit F**).
- 185 Chair Ackerman Closes the public hearing on HB 2222 and opens a public hearing on HB 2306, which makes unmarried parents of a child liable for expenses and education of the child.

HB 2306 – PUBLIC HEARING

- 191 Jim Markee Oregon Collectors Association. Testifies and submits testimony in support of HB 2306 (**EXHIBIT G**). Explains the provisions in current ORS 108.140, the family expense statute. Explains that HB 2306 makes unmarried parents equally responsible.
- 225 Markee Explains that HB 2306 makes unmarried parents who live together responsible equally as if they were married.
- 243 Rep. Garrard Asks if liability is based on an individual's ability to pay.
- 250 Markee Responds that both are responsible for the debt. HB 2306 will apply the same standard to both parents as in ORS 108.140.
- 265 Rep. Garrard Seeks clarification that liability of the family expense statute allows a creditor to sue either parent or both for the debt, and that HB 2306 provides equality that both are responsible for the debt and ability to pay is not a consideration.
- 276 Markee Replies, that is correct.
- 278 Rep. Macpherson Refers to language in statute that talks about parents being sued jointly or separately. Asks if "severally" is used the same as "separately."

288	Markee	Responds that the terms are used interchangeably.
300	Rep. Wirth	Asks if there is a period of time the parents have to live together.
304	Markee	Answers that the family expense statute has information on separated husbands and wives and has used the same language in HB 2306 for unmarried parents.
343	Rep. Wirth	Inquires what sharing a domicile has to do with extending liability to parents who are not married.
362	Markee	Responds by explaining the standards for married people living together and those who are separated. Explains that HB 2306 applies the same standards to unmarried parents.
397	Rep. Wirth	Asks if HB 2306 applies to parents who never lived together.
405	Markee	Replies, he doesn't believe so.
408	Sam Sears	Counsel. Believes HB 2306 would apply to parents who never lived together.
412	Markee	Agrees with counsel, but only with respect to support, maintenance and education.
418	Rep. Flores	Seeks clarification that HB 2306 does apply to people who have a child and never lived together.
427	Markee	Replies, for support, maintenance and education only and not for general expenses of the child.

TAPE 15, B

001	Markee	Refers to ORS 109.112, which states that when a minor child becomes a parent, they are no longer a minor.
022	Rep. Wirth	Asks if liability is then extended to the grandparents.

025	Markee	Answers, no. Explains further that the family expense statute does not cover grandparents.
028	Rep. Wirth	Inquires if the parents are still liable for the minor parent, would not any expenses incurred by the minor parent be their responsibility.
035	Markee	Responds that liability would extend to debts incurred by the minor parent.
039	Rep. Wirth	Asks about debts incurred on behalf of the minor's child.
041	Markee	Responds, believe the grandparents would be liable.
043	Chair Ackerman	Closes the public hearing on HB 2306.
046	Rep. Wirth	Comments that it appears that liability is being extended to grandparents.
058	Chair Ackerman	Suggests referring HB 2306 to the full committee with a do pass recommendation and requests Mr. Markee to provide additional information for discussion before the full committee.
062	Rep. Garrard	Expresses concerns and would vote nay on a motion to refer to the full committee.
067	Rep. Macpherson	Points out that a key question is the obligation of the grandparents and requests clarification.
075	Rep. Wirth	Comments that the responsibility for expenses incurred by the minor parent need to be clarified.
083	Sears	Offers to look at case law. Questions if HB 2306 is intended to also cover married parents.
094	Rep. Flores	Asks if the intention of HB 2306 is to extend liability to grandparents.
097	Markee	Replies that it was not intended to extend to grandparents. Indicates that needs to be clear.
115	Chair Ackerman	

Suggests holding the work session on HB 2306 after additional information is provided.

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| 119 | Rep. Flores | Asks that Mr. Sears' research be considered as well. |
| 121 | Rep. Wirth | Asks Mr. Sears why the statute makes a minor parent no longer a minor. |
| 125 | Sears | Responds that he believes that language was created so that when a minor has a child, they can sign contracts. |
| 131 | Rep. Wirth | Comments that expenses incurred by a minor parent would be different than those incurred by another minor. |
| 137 | Chair Ackerman | Advises that the work session will be held at a later date. |
| 141 | Chair Ackerman | Adjourns the meeting at 10:40 a.m. |

EXHIBIT SUMMARY

- A. **HB 2403, written testimony, Troy Costales, 1 p**
- B. **HB 2423, written testimony, Georgena Carrow, 2 pp**
- C. **HB 2423, written testimony, Kathleen Smail, 2 pp**
- D. **HB 2423, written testimony, Bruce Bishop, 4 pp**
- E. **HB 2222, written testimony, Jason Barber, 2 pp**
- F. **HB 2222, written testimony, Michael Grant, 6 pp**
- G. **HB 2306, written testimony, Jim Markee, 2 pp**