

HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

April 26, 2005 Hearing Room 357

8:30 A.M. Tapes 47 - 49

MEMBERS PRESENT: Rep. Jeff Barker, Chair

Rep. Greg Macpherson

Rep. Andy Olson

Rep. Kim Thatcher

GUEST MEMBER: Rep. Wayne Krieger

STAFF PRESENT: Heidi Moawad, Counsel

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2977 – Public Hearing and Work Session

HB 2568 – Public Hearing and Work Session

HB 2156 – Public Hearing and Work Session

HB 2968 – Public Hearing and Work Session

HB 2966 – Public Hearing and Work Session

HB 2976 – Public Hearing and Work Session

HB 3011 – Public Hearing

HB 2322 – Work Session

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
TAPE 47, A		
003	Chair Barker	Calls the meeting to order at 8:34 a.m. Opens a public hearing on HB 2977.

HB 2977 – PUBLIC HEARING

007	Heidi Moawad	Counsel. Provides background for HB 2977, which establishes Law Enforcement Medal of Honor.
025	Kevin Campbell	Oregon Association Chiefs of Police (OACP). Submits testimony (EXHIBIT A) and offers details about HB 2977.
045	Lane Roberts	Chief, Redmond Police Department. Testifies in support of HB 2977.
062	Ken Johnson	Chief, Fairview Police Department/OACP. Submits written testimony (EXHIBIT B) and testifies in support of HB 2977.
096	Daniel Swift	President, Oregon State Police Officers Association (OSPOA). Testifies in support of HB 2977.
110	Chair Barker	Closes public hearing and opens a work session on HB 2977.

HB 2977 – WORK SESSION

112	Rep. Thatcher	MOTION: Moves HB 2977 to the full committee with a DO PASS recommendation.
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VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

- 116 Chair Barker **The motion CARRIES.**
REP. BARKER will lead discussion in the full committee.
- 120 Chair Barker Closes work session on HB 2977. Opens a public hearing on HB 2568.

HB 2568 – PUBLIC HEARING

- 122 Heidi Moawad Counsel. Provides background on HB 2568, which requires circuit court in Gresham to transfer proceedings to court facility in Portland if accused is in custody of county sheriff or Department of Corrections if circuit court issues arrest warrant for accused in pending criminal action.
- 138 Dale Koch Presiding Judge, Multnomah County. Testifies in support of HB 2568.
- 170 Chair Barker Closes public hearing and opens a work session on HB 2568.

HB 2568 – WORK SESSION

- 177 Rep. Macpherson **MOTION: Moves HB 2568 to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

- 182 Chair Barker **The motion CARRIES.**
REP. MACPHERSON will lead discussion in the full committee.
- 185 Chair Barker Closes work session on HB 2568. Opens a public hearing on HB 2156.

HB 2156 – PUBLIC HEARING

- 190 Heidi Moawad Counsel. Provides background on HB 2156, which ratifies National Crime Prevention and Privacy Compact.

206	Patricia Whitfield	Oregon State Police. Submits written testimony (EXHIBIT C) and testifies in support of HB 2156.
294	Rep. Thatcher	Questions whether this is available only through government agencies, or also through subcontractors of agencies.
299	Whitfield	Responds that the Legislature determines who is an authorized agency.
315	Rep. Thatcher	Inquires if there is a cost associated with getting the information. Asks for an estimate.
320	Whitfield	Responds that there is a fee for OSP and FBI background checks: OSP's fee to agencies for the Oregon check is \$28; for the FBI check the fee is \$24, and \$18 for volunteers.
340	Chair Barker	Asks who acquires the fingerprints.
345	Whitfield	Describes how fingerprints are retrieved.
354	Rep. Macpherson	Reviews the testimony for clarification.
363	Whitfield	Responds that this exchange is for non-law enforcement background checks.

TAPE 48, A

002	Rep. Macpherson	Inquires about the inter-state dimension needing ratification.
014	Whitfield	Responds that Oregon law currently provides law for disseminating records.
044	Rep. Macpherson	Restates explanation of compact.
049	Whitfield	Responds that HB 2156 allows Oregon to have input in the compact.
056	Rep. Olson	Clarifies purpose of the bill.
058	Chair Barker	Inquires what happens to fingerprints.

061 Whitfield Relates that many are maintained at OSP, others are returned to FBI and destroyed.

068 Chair Barker Questions whose prints are retained.

070 Whitfield Relates the types of positions that have fingerprints retained.

075 Chair Barker Closes public hearing and opens a work session on HB 2156.

HB 2156 – WORK SESSION

078 Rep. Thatcher MOTION: Moves HB 2156 to the full committee with a DO PASS recommendation.

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

082 Chair Barker The motion CARRIES.

REP. THATCHER will lead discussion in the full committee.

083 Chair Barker Closes work session on HB 2156. Closes a public hearing on HB 2968.

HB 2968 – PUBLIC HEARING

086 Heidi Moawad Counsel. Provides background information on HB 2968, which modifies crimes of theft in all degrees by increasing value of property that must be taken.

093 Kelly Skye Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 2968. Explains how HB 2968 will save money.

130 Karl Stecker Oregon District Attorneys Association (ODAA). Testifies that ODAA has no position on HB 2968, and concurs with the -1 amendments (**EXHIBIT D**).

135 Chair Barker Closes public hearing and opens a work session on HB 2968.

HB 2968 – WORK SESSION

137 Rep. Olson **MOTION: Moves to ADOPT HB 2968-1 amendments dated 4/11/05.**

VOTE: 4-0-0

138 Chair Barker **Hearing no objection, declares the motion CARRIED.**

139 Rep. Olson **MOTION: Moves HB 2968 to the full committee with a DO PASS AS AMENDED recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

142 Chair Barker **The motion CARRIES.**

REP. OLSON will lead discussion in the full committee.

143 Chair Barker Closes work session on HB 2968. Opens a public hearing on HB 2966.

HB 2966 – PUBLIC HEARING

145 Heidi Moawad Counsel. Provides background on HB 2966, which broadens class of persons eligible to receive benefits from Public Safety Memorial Fund to include domestic partners. Introduces -1 amendments (**EXHIBIT E**).

155 Brian DeLashmutt Oregon Councils of Police Associations. Testifies in support of HB 2966.

191 Rep. Thatcher Questions who would qualify for health coverage.

201 DeLashmutt Responds that health insurance applies only to minor children. Clarifies that the component in questions is life insurance.

208 Rep. Macpherson Inquires how the insurance payments are funded.

- 210 DeLashmutt Responds that there is a combination of funding.
- 218 Rep. Macpherson Seeks clarification about the -1 amendments.
- 232 DeLashmutt Describes intent to extend benefits to the people who derived their livelihood or care from a domestic partner.
- 248 Chair Barker Closes public hearing and opens a work session on HB 2966.

HB 2966 – WORK SESSION

- 252 Rep. Olson **MOTION: Moves to ADOPT HB 2966-1 amendments dated 3/30/05.**

VOTE: 4-0-0

- 253 Chair Barker **Hearing no objection, declares the motion CARRIED.**

- 254 Rep. Olson **MOTION: Moves HB 2966 to the full committee with a DO PASS AS AMENDED recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

- 259 Chair Barker **The motion CARRIES.**

REP. BARKER will lead discussion on the floor.

- 262 Chair Barker Closes work session on HB 2966. Opens a public hearing on HB 2976, which modifies crime of criminal nonsupport.

HB 2976 – PUBLIC HEARING

- 278 Shani Fuller Oregon Child Support Program (OCSP). Submits written testimony **(EXHIBIT F)** and testifies in support of HB 2976. States that OCSP has no opposition to Oregon Criminal Defense Lawyers Association (OCDLA) suggested amendments.

- 219 Carl Stecker Oregon District Attorneys Association (ODAA). Submits written testimony (**EXHIBIT G**) and testifies in support of HB 2976. States support of suggested changes by OCDLA.
- 377 Rep. Thatcher Questions if lawful excuse is defined. Inquires if independent contractors would still have a lawful excuse to fail to pay child support.
- 382 Stecker Responds that lawful excuse is defined by case law. States that he does not believe one who is self-employed has a lawful excuse. Provides an example of the *Bigelow* decision.

TAPE 47, B

- 016 Conietta Schwesinger ODAA. Testifies in support of HB 2976.
- 021 Kelly Skye OCDLA. Testifies in opposition to HB 2976. Explains proposed amendment.
- 079 Chair Barker Questions if people hide behind the Health Insurance Portability and Accountability Act (HIPAA). Suggests HB 2976 may be beneficial in preventing such cases.
- 085 Skye States that any prosecutor can get medical records with a subpoena.
- 091 Rep. Olson Inquires how certain cases applies.
- 096 Skye Explains how certain cases apply to the issue.
- 117 Rep. Olson Believes if one has not made a payment within a two year period the person is in violation of the statute.
- 120 Skye States that ability to pay must be shown to convict someone who has not made their payments.
- 129 Chair Barker Closes public hearing and opens a work session on HB 2976. Explains his intent for moving the bill.

HB 2976 – WORK SESSION

- 142 Rep. Macpherson States that he will support the bill upon adoption of amendments.
- 145 Rep. Olson Expresses support for burden of proof amendment.
- 147 **Rep. Macpherson** **MOTION: Moves HB 2976 to the full committee with a DO PASS UPON ADOPTION OF AMENDMENTS recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 153 **Chair Barker** **The motion CARRIES.**
- REP. MACPHERSON will lead discussion in the full committee.**
- 154 Chair Barker Closes work session on HB 2976. Opens a public hearing on HB 3011, which creates authority for fatality review teams to review records related to domestic violence fatalities for purpose of preventing future fatalities.

HB 3011 – PUBLIC HEARING

- 160 Judi Mehren Legislative Aide, Rep. Steve March. Submits written testimony **(EXHIBIT H)** and -1 amendments **(EXHIBIT I)** and testifies in support of HB 3011.
- 185 Sybil Hebb Oregon Law Center (OLC). Submits written testimony **(EXHIBIT J)** and testifies in support of HB 3011.
- 269 Dale Koch Presiding Judge, Multnomah County. Explains background in domestic violence issues. Testifies in support of HB 3011.
- 357 Rep. Thatcher Expresses strong support for HB 3011 to prevent domestic violence.

TAPE 49, A

- 001 LeAnn Mederios Department of Human Services (DHS). Submits written testimony **(EXHIBIT K)** and testifies in support of HB 3011.
- 026 Connie Gallagher

Victims Assistance, Department of Justice (DOJ). Submits written testimony (**EXHIBIT L**) and testifies in support of HB 3011.

- 045 Terrie Quinteros Program Director, Crime Survivors for Community Safety. Submits written testimony (**EXHIBIT M**) and testifies in support of HB 3011.
- 062 Chair Barker Closes public hearing on HB 3011. Opens work session on HB 2322.

HB 2322 – WORK SESSION

- 065 Heidi Moawad Counsel. Provides review of testimony for HB 2322. Introduces -1 amendments (**EXHIBIT N**).
- 097 Rep. Macpherson Restates that HB 2322 sets an age condition, and extends to assault that does not involve a weapon. Inquires as to the fiscal impact of adding a Measure 11 crime.
- 110 Moawad Recalls that there will be no fiscal impact for the first two biennium.
- 119 Rep. Olson Inquires how the five year age spread was chosen.
- 123 Moawad Describes the intent of the spread to exclude school yard fights.
- 131 Rep. Olson Addresses the issue of large 16-year-old bullies who could seriously injure a 13-year-old.
- 137 Moawad Describes the intent to provide safety to 12 and under children who cannot defend themselves.
- 149 Rep. Olson **MOTION: Moves to ADOPT HB 2322-1 amendments dated 4/8/05.**
- VOTE: 4-0-0**
- 150 Chair Barker **Hearing no objection, declares the motion CARRIED.**
- 151 Rep. Olson **MOTION: Moves HB 2322 to the full committee with a DO PASS AS AMENDED recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

- 155 Chair Barker The motion CARRIES.**
REP. OLSON will lead discussion in the full committee.
- 158 Chair Barker Closes work session on HB 2322. Adjourns the meeting at 10:05 a.m.**

EXHIBIT SUMMARY

- A. HB 2977, written testimony, Kevin Campbell, 3 pp**
- B. HB 2977, written testimony, Ken Johnson, 1 p**
- C. HB 2156, written testimony, Patricia Whitfield, 3 pp**
- D. HB 2968, -1 amendments, staff, 1 p**
- E. HB 2966, -1 amendments, staff, 3 pp**
- F. HB 2976, written testimony, Shani Fuller, 3 pp**
- G. HB 2976, written testimony, Carl Stecker, 2 pp**
- H. HB 3011, written testimony, Judi Mehren, 1 p**
 - I. HB 3011, -1 amendments, Judi Mehren, 1 p**
 - J. HB 3011, written testimony, Sybil Hebb, 2 pp**
 - K. HB 3011, written testimony, LeAnn Mederios, 2 pp**
 - L. HB 3011, written testimony, Connie Gallagher, 1 p**
 - M. HB 3011, written testimony, Terrie Quinteros, 1 p**
 - N. HB 2322, -1 amendments, staff, 1 p**