

HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

May 03, 2005 Hearing Room 357

8:30 A.M. Tapes 53 - 54

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 2022 – Public Hearing

HB 3037 – Public Hearing and Work Session

HB 2136 – Work Session

HB 2833 – Work Session

HB 3471 – Public Hearing and 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 53, A		
002	Chair Barker	Calls the meeting to order at 8:42 a.m. Opens a public hearing on HB 2022.

HB 2022 – PUBLIC HEARING

008	Heidi Moawad	Counsel. Provides background on HB 2022, which creates crime of hindering assistance animal in second degree.
021	Patricia Kepler	Guide Dog Users of Oregon. Testifies in support of HB 2022.
044	Chair Barker	Questions whether Washington County Dog Control offered help.
046	Kepler	Responds that Dog Control could not take action.
054	Melinda Carlson	Guide Dogs for the Blind. Testifies in support of HB 2022.
083	Rep. Macpherson	Inquires about the amount of animal to animal attacks, compared with human to animal attacks.
089	Carlson	States that she deals primarily with dog to dog attacks.
096	Rep. Macpherson	Restates his question for clarification.
100	Carlson	Responds that typically the animal is attacking.
109	Kelly Skye	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2022, due to the low standard of proof of criminal negligence, and broad definition of “interfere.”
167	Skye	Mentions Senate Bill sponsored by Sen. Deckert that may also address this issue.
172	Moawad	Asks for the relating clause of Sen. Deckert’s bill.

- 175 Skye States that she is unsure of the relating clause.
- 189 Chair Barker Closes the public hearing on HB 2022. Announces that HB 3011 will be held over to Tuesday, May 10, 2005. Opens a public hearing on HB 3037.

HB 3037 – PUBLIC HEARING

- 198 Heidi Moawad Counsel. Provides background on HB 3037, which expands crime of aggravated murder to include murder of witness in juvenile proceeding, if murder was related to performance of victim's official duties as witness.
- 223 Steve Doell Crime Victims United (CVU). Testifies in support of HB 3037.
- 264 Janyce Iturra CVU. Submits written testimony (**EXHIBIT A**) and testifies in support of HB 3037.
- 338 Iturra Continues relating her personal experience.
- 353 Mark McDonnell Oregon District Attorneys Association (ODAA). Testifies in support of HB 3037.

TAPE 54, A

- 006 Kelly Skye Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 3037.
- 024 Chair Barker Questions whether limiting the sentence to true life would address OCDLA's concerns.
- 026 Skye Responds that it would address much of their concern.
- 028 Kathleen Pugh Oregonians for Alternatives to the Death Penalty (OADP). Submits written testimony (**EXHIBIT B**) and testifies in opposition to HB 3037. Comments in opposition to the death penalty.
- 058 Chair Barker Questions whether limiting the sentence to true life would address OADP's concerns.

061 Pugh Responds that OADP's opposition is only against the death penalty.

065 Chair Barker Inquires if OADP believes the victim's life is also valuable, not only the life of the offender.

067 Pugh States that the victim's life is very valuable.

070 Robert Castagna Oregon Catholic Conference. Submits written testimony (**EXHIBIT C**) and testifies in opposition to HB 3037.

132 Skye Relates the American Civil Liberties Union's opposition to the death penalty.

140 Chair Barker Closes the public hearing and opens a work session on HB 3037.

HB 3037 – WORK SESSION

143 Rep. Thatcher **MOTION: Moves HB 3037 to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

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

148 Chair Barker **The motion CARRIES.**
REP. BARKER will lead discussion in the full committee.

154 Chair Barker Closes work session on HB 3037. Opens a work session on HB 2136.

HB 2136 – WORK SESSION

158 Heidi Moawad Counsel. Provides background on HB 2136, which revises provisions relating to Oregon militia, and introduces the -1 amendments (**EXHIBIT D**).

166 Rep. Olson **MOTION: Moves to ADOPT HB 2136-1 amendments dated 5/2/05.**

VOTE: 4-0-0

- 168 Chair Barker Hearing no objection, declares the motion **CARRIED**.
- 169 Rep. Olson **MOTION: Moves HB 2136 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.**
- 175 Chair Barker **The motion CARRIES.**
- REP. OLSON will lead discussion in the full committee.**
- 176 Chair Barker Closes work session on HB 2136. Opens a work session on HB 2833.

HB 2833 – WORK SESSION

- 180 Heidi Moawad Counsel. Provides background on HB 2833, which continues and modifies authority of Juvenile Crime Prevention Advisory Committee to allow use of crime prevention funds for younger children. Introduces the -1 amendments (**EXHIBIT E**) and -2 amendments (**EXHIBIT F**).
- 199 Chair Barker Explains why the amendments are being adopted.
- 202 Rep. Thatcher **MOTION: Moves to ADOPT HB 2833-1 amendments dated 3/30/05.**
- VOTE: 4-0-0**
- 203 Chair Barker **Hearing no objection, declares the motion CARRIED.**
- 204 Rep. Thatcher **MOTION: Moves to ADOPT HB 2833-2 amendments dated 4/4/05.**
- VOTE: 4-0-0**
- 205 Chair Barker **Hearing no objection, declares the motion CARRIED.**

206 Rep. Thatcher **MOTION: Moves HB 2833 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.

212 Chair Barker **The motion CARRIES.**
REP. THATCHER will lead discussion in the full committee.

215 Chair Barker Closes work session on HB 2833. Opens a public hearing on HB 3471.

HB 3471 – PUBLIC HEARING

218 Rep. Gene Whisnant House District 53. Testifies in support of HB 3471, which imposes minimum fine for certain persons convicted of felony if court determines that conduct on which conviction is based occurred while person was engaged in performance of person's duties as official or employee, or that person was able to engage in conduct because of person's job or position.

291 Chair Barker Comments on a case he heard from the Portland area.

305 Rep. Whisnant Reiterates the need for public employees who abuse their power to lose their right to publicly funded benefits.

308 Rep. Thatcher States that she had a similar experience with an employee in her personal business. Inquires where the funds from the lost benefits would go.

316 Rep. Whisnant Responds that the funds will be directed by the judge to the appropriate place.

331 Rep. Macpherson Inquires whether fining the recipient avoids the spendthrift law.

347 Steve DeLaney Deputy Director, Public Employee Retirement Services. Relates that Legislative Counsel indicated that this is acceptable language.

356 Rep. Whisnant

States that the spendthrift law was an issue of concern, and confirms that Legislative Counsel found no conflict.

- 359 Rep. Macpherson Addresses the issue regarding the collection process according to federal law.
- 379 DeLaney Comments on assurance of tax qualification of the fund.
- 400 Rep. Macpherson Questions whether there is a provision in current statute that would nullify HB 3471 if it had that impact on tax qualification.
- 412 DeLaney Responds affirmatively.
- 418 Rep. Whisnant Expresses appreciation for PERS board.
- 424 Chair Barker Closes public hearing and opens a work session on HB 3471.

HB 3471 – WORK SESSION

TAPE 53, B

- 008 Rep. Macpherson MOTION: Moves HB 3471 to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

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

- 011 Chair Barker The motion CARRIES.**
- REP. MACPHERSON will lead discussion in the full committee.**
- 013 Chair Barker Closes work session on HB 3471. Adjourns the meeting at 9:40 a.m.

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EXHIBIT SUMMARY

- A. HB 3037, written testimony, Janyce Iturra, 3 pp**

- B. HB 3037, written testimony, Kathleen Pugh, 1 p**
- C. HB 3037, written testimony, Robert Castagna, 19 pp**
- D. HB 2136, -1 amendments, staff, 2 pp**
- E. HB 2833, -1 amendments, staff, 6 pp**
- F. HB 2833, -2 amendments, staff, 1 p**