

HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

May 05, 2005 Hearing Room 357

8:30 A.M. Tapes 55 - 57

Corrected 10/12/05

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 2828 – Public Hearing and Work Session

HB 3452 – Public Hearing and Work Session

HB 3420 – Public Hearing

HB 3419 –Work Session

HB 2316 – Public Hearing

HB 3469 – Public Hearing and Work Session

HB 2803 – 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 55, A

003 Chair Barker Calls the meeting to order at 8:40 a.m. Opens a public hearing on HB 2828, which requires person to sign acknowledgement and agreement regarding driving while under the influence of intoxicants (DUII) as part of application for driver license or permit.

HB 2828 – PUBLIC HEARING

008 Steve Doell Crime Victims United (CVU). Provides background on HB 2828. Testifies in support of the bill.

038 Dan Swift Oregon State Police Officers Association. Testifies in support of HB 2828.

081 Doell Clarifies the issue of non-aggravated murder.

097 Jayne Ferlitsch Citizen, CVU. Submits written testimony (**EXHIBIT A**) and testifies in support of HB 2828.

160 J. Ferlitsch Continues to relate her personal story.

230 Sylvia Howell Citizen, CVU. Submits written testimony (**EXHIBIT B**) and testifies in support of HB 2828.

287 Howell Continues to relate her personal experience losing a family member in a drunk driving accident.

TAPE 56, A

003 Howell Continues to relate her personal experience.

- 021 Anne Pratt CVU. Submits and reads written testimony of Connie Gallagher **(EXHIBIT C)**. Submits testimony on behalf of Lloyd Clodfelter with Mothers Against Drunk Driving in support of HB 2828 **(EXHIBIT D)**.
- 093 Bruce Pratt CVU. Submits written testimony **(EXHIBIT E)** and testifies in support of HB 2828. Reads testimony on behalf of Buffalo Zobel from West Linn in support of HB 2828 **(EXHIBIT F)**.
- 173 Kirsten Snowden Multnomah County District Attorney. Testifies in support of HB 2828.
- 260 Snowden Continues relating the dangers of repeat DUII offenders.
- 302 Chair Barker Relates that Ms. Snowden prosecuted the last DUII conviction he testified during his career.
- 327 Chair Barker Closes public hearing on HB 2828. Opens a work session on HB 2828.

HB 2828 – WORK SESSION

- 331 Rep. Olson **MOTION: Moves to ADOPT HB 2828-2 amendments dated 5/3/05 (EXHIBIT R).**

VOTE: 3-0-1

EXCUSED: 1 - Thatcher

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

- 339 Rep. Olson **MOTION: Moves HB 2828 to the full committee with a DO PASS AS AMENDED recommendation.**

- 343 Rep. Macpherson States that he will support the bill today, but is concerned about the fiscal analysis. Suggests the possibility of a new category other than murder.

VOTE: 3-0-1

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

EXCUSED: 1 - Thatcher

370 Chair Barker The motion **CARRIES**.
REP. OLSON will lead discussion in the full committee.

372 Chair Barker Closes work session on HB 2828. Opens a public hearing on HB 3452, which increases penalty for assault in third degree if defendant commits assault by means of motor vehicle and was driving while under the influence of intoxicants.

HB 3452 – PUBLIC HEARING

395 Anne Pratt Crime Victims United (CVU). Submits written testimony (**EXHIBIT G**) and testimony of Lloyd Clodfelter from Mothers Against Drunk Driving (**EXHIBIT H**) in support of HB 3452. Submits testimony on behalf of Marie Armstrong (**EXHIBIT I**) in support of HB 3452.

TAPE 55, B

037 Sara Edwards Cottage Grove, CVU. Submits written testimony (**EXHIBIT J**) and testifies in support of HB 3452.

078 Bonnie Edwards Cottage Grove, CVU. Submits written testimony (**EXHIBIT K**) and testifies in support of HB 3452.

154 B. Edwards Continues relating her personal experience.

242 Pete Shepherd Deputy Attorney General, Department of Justice. Testifies in support of HB 3452.

291 Kirsten Snowden Multnomah County District Attorney. Testifies in support of HB 3452.

384 Snowden Continues testimony about the dangers of drunk drivers.

TAPE 56, B

011 Rep. Krieger Relates the first DUII case that he saw as a police recruit.

022 Chair Barker Closes public hearing on HB 3452. Opens a work session on HB 3452.

HB 3452 – WORK SESSION

026 Rep. Macpherson **MOTION: Moves HB 3452 to the full committee with a DO PASS recommendation.**

VOTE: 3-0-1

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

EXCUSED: 1 - Olson

029 Chair Barker **The motion CARRIES.**

REP. MACPHERSON will lead discussion in the full committee.

032 Chair Barker Closes work session on HB 3452. Opens a public hearing on HB 3420.

HB 3420 – PUBLIC HEARING

038 Rep. Derek Kitts House District 30. Defers to Counsel to introduce amendments.

043 Chair Barker Closes public hearing on HB 3420. Opens a work session on HB 3419.

HB 3419 – WORK SESSION

052 Heidi Moawad Counsel. Provides background on HB 3419, which provides that sex offender on probation, parole or post-prison supervision may not reside in dwelling where another sex offender resides.

055 Rep. Derek Kitts House District 30. Introduces the -1 amendments to HB 3419 **(EXHIBIT L).**

069 Pat Schreiner Oregon Association of Community Corrections Directors/Sex Offender Supervision Network. Relates the workgroup discussion on HB 3419.

- 099 Rep. Kitts Explains why the ideas discussed with Rep. Macpherson were not able to be realized. Describes the complexities of the issue.
- 116 Chair Barker Inquires about the parameters in the amendments.
- 124 Rep. Kitts Explains parameters put in place in the amendments.
- 126 Schreiner Relates that data are being gathered about sex offender cohabitation.
- 157 **Rep. Thatcher** **MOTION: Moves to ADOPT HB 3419-1 amendments dated 5/4/05.**
- VOTE: 4-0-0**
- 159 **Chair Barker** **Hearing no objection, declares the motion CARRIED.**
- 160 **Rep. Thatcher** **MOTION: Moves HB 3419 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.**
- 166 **Chair Barker** **The motion CARRIES.**
- REP. THATCHER will lead discussion in the full committee.**
- 168 Chair Barker Closes work session on HB 3419. Opens a public hearing on HB 3420, which modifies statute of limitations for sex crimes against persons under 18 years of age.

HB 3420 – PUBLIC HEARING

- 171 Rep. Derek Kitts House District 30. Defers to counsel for background on the bill.
- 178 Heidi Moawad Counsel. Provides background on HB 3420, which modifies statute of limitations for sex crimes against persons under 18 years of age.
- 194 Rep. Kitts Suggests that the opponents of the bill voice their opposition, and believes a work group may be necessary.

225	John Hummel	Oregon Criminal Defense Lawyers Association (OCDLA). Submits written testimony (EXHIBIT M) and testifies in opposition to HB 3420.
251	Rep. Macpherson	Inquires about the crime of failing to report a sex crime against a minor.
263	Hummel	States that it is a new class of crime to require a citizen of the community to report knowledge of child abuse.
277	Moawad	Mentions similar Senate Judiciary committee bill.
282	Hummel	Relates that he does not know the status of that bill.
286	Sybil Hebb	Oregon Law Center. Expresses appreciation to Rep. Kitts. Expresses concerns about Section 2, regarding failing to report.
337	Chair Barker	Closes public hearing on HB 3420. Opens a public hearing on HB 2316.

HB 2316 – PUBLIC HEARING

346	Heidi Moawad	Counsel. Provides background on HB 2316, which expands definition of “sex crime” for certain purposes by including public or private indecency regardless of whether person has prior conviction for another sex crime. Introduces the -1 amendments (EXHIBIT N).
393	Marcia Thompson	Victim’s Advocate, Lincoln County District Attorney’s Office. Testifies in support of HB 2316. Addresses the benefits of Section 2 of the -1 amendment, relating to community notification.

TAPE 57, A

016	Michael Washington	Chair, Board of Parole and Post-Prison Supervision, Department of Corrections. Testifies in support of HB 2316 with the -1 amendments.
058	Pat Schreiner	Oregon Association of Community Corrections Directors/Sex Offender Supervision Network. Testifies in support of HB 2316,

particularly Section 1 of the -1 amendments. Expresses concerns about Section 2 of the amendments.

- 125 Rep. Olson Describes involvement with sex offender notification. Expresses concerns for consistency in notification protocol.
- 146 Schreiner States that he will be chairing a discussion about that issue. Comments on the sense of discontent about how notification is being done.
- 163 Thompson Agrees with comments by Rep. Olson about the issues with consistency.
- 181 Schreiner Reiterates that issues dealing with access to notification will be discussed at his meeting.
- 189 Moawad Asks what day the meeting will be.
- 191 Schreiner Relates that the meeting is on May 11-12, 2005.

The following materials submitted for the record without public testimony:

- John Hummel Written testimony in opposition to HB 2316 (**EXHIBIT S**).
- 196 Chair Barker Closes public hearing on HB 2316. Opens a public hearing on HB 3469.

HB 3469 – PUBLIC HEARING

- 204 Heidi Moawad Counsel. Provides background on HB 2469, which creates crime of unlawfully being in location where children regularly congregate.
- 223 Mark McDonnell Oregon District Attorneys Association (ODAA). Submits written testimony (**EXHIBIT O**) and testifies in support of HB 2469. Addresses issues of the opponents of the bill. Offers suggestions for amendments to counsel.
- 267 John Hummel Oregon Criminal Defense Lawyers Association (OCDLA). Submits written testimony (**EXHIBIT P**).

272 Chair Barker Closes public hearing and opens a work session on HB 3469.

HB 3469 – WORK SESSION

376 Rep. Macpherson **MOTION: Moves HB 3469 to the full committee with a DO PASS PENDING AMENDMENTS recommendation.**

VOTE: 4-0-0

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

386 Chair Barker **The motion CARRIES.**

REP. MACPHERSON will lead discussion on the floor.

388 Chair Barker Closes work session on HB 2469. Opens a work session on HB 2803.

HB 2803 – WORK SESSION

389 Heidi Moawad Counsel. Reviews testimony on HB 2803, and introduces the -1 amendments (**EXHIBIT Q**).

300 Rep. Olson **MOTION: Moves to ADOPT HB 2803-1 amendments dated 4/29/05.**

VOTE: 4-0-0

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

303 Rep. Olson **MOTION: Moves HB 2803 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.

306 Chair Barker **The motion CARRIES.**

308 Chair Barker Closes work session on HB 2803. Adjourns the meeting at 10:50 a.m.

EXHIBIT SUMMARY

- A. HB 2828, written testimony, Jayne Ferlitsch, 3 pp
- B. HB 2828, written testimony, Sylvia Howell, 3 pp
- C. HB 2828, written testimony of Connie Gallagher, Anne Pratt, 3 pp
- D. HB 2828, written testimony of Lloyd Clodfelter, Anne Pratt, 1 p
- E. HB 2828, written testimony, Bruce Pratt, 1 p
- F. HB 2828, written testimony of Buffalo Zobel, Bruce Pratt, 2 pp
- G. HB 3452, written testimony, Anne Pratt, 2 pp
- H. HB 3452, written testimony of Lloyd Clodfelter, Anne Pratt, 1 p
- I. HB 3452, written testimony of Marie Armstrong, Anne Pratt, 1 p
- J. HB 3452, written testimony, Sara Edwards, 1 p
- K. HB 3452, written testimony, Bonnie Edwards, 3 pp
- L. HB 3419, -1 amendments, Rep. Derek Kitts, 2 pp
- M. HB 3420, written testimony, John Hummel, 1 p
- N. HB 2316, -1 amendments, staff, 4 pp
- O. HB 3469, written testimony, Mark McDonnell, 1 p
- P. HB 3469, written testimony, John Hummel, 1 p
- Q. HB 2803, -1 amendments, staff, 1 p
- R. HB 2828, -2 amendments, staff, 6 pp

The following materials submitted for the record without public testimony:

- S. HB 2316, written testimony, John Hummel, 1 p