

HOUSE COMMITTEE ON JUDICIARY

January 21, 2003 Hearing Room 357

1:00 p.m. Tapes 9 - 10

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, Vice-Chair
 Rep. Jeff Barker
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

MEMBER EXCUSED: Rep. Bob Jenson

STAFF PRESENT: Bill Taylor, Counsel
 Craig Prins, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: HB 2069 Public Hearing
 HB 2071 Public Hearing
 HB 2072 Public Hearing and Work Session
 HB 2074 Public Hearing
 HB 2095 Public Hearing
 HB 2112 Public Hearing

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 9, A		
006	Chair Williams	Calls the meeting to order at 1:06 p.m. Opens a public hearing on HB 2069.
<u>HB 2069 PUBLIC HEARING</u>		
023	Craig Prins	Committee Counsel. Introduces HB 2069 which modifies provisions relating to motions in arrest of judgment and for new trials in criminal cases.
031	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Submits testimony and testifies in support of HB 2069 (EXHIBIT A).
085	Rep. Prozanski	Asks if they are attempting to address any change to the 20-day time limit for the hearing.
085	Russell	Says, no. Adds that they are simply making the time frames the same as they are for a civil motion for a trial.
113	Chair Williams	Questions why there are no witnesses from the other parties that would be impacted by this change.
121	Russell	Answers that she doesn't know why.
141	Prins	Comments that he spoke with Kevin Neely, Department of Justice, and found out about the bill late. Says that he didn't think they were worried about it and he doesn't know the District Attorneys

149 Chair Williams Association's position on the bill.
Says that it would be nice to have feedback from the courts since the judges will be operatively restricted by the change. Closes the public hearing on HB 2069 and opens a public hearing on HB 2071.

HB 2071 PUBLIC HEARING

175 Craig Prins Committee Counsel. Introduces HB 2071 which requires state to notify certain defendants of presumptive life sentence for conviction of third felony sex offense.

188 Susan Russell OCDLA. Submits testimony and testifies in support of HB 2071 **(EXHIBIT B)**.

253 Chair Williams Discusses bill.

282 Jonathan Fussner Attorney, Oregon Department of Justice. Testifies in opposition to HB 2071.

330 Rep. Macpherson Asks if other jurisdictions that have three-strike statutes have had any kind of notice requirement

335 Fussner Says he does not know, and that he has not researched the issue.

340 Russell Agrees.

346 Rep. Ackerman Asks for the status of current Oregon case law regarding the pleading in an indictment of an aggravating circumstance for a sentence.

355 Fussner Answers to the best of his knowledge there is no independent body of Oregon case law that has dealt with that issue.

377 Russell Says she agrees with Fussner.

390 Prins Notes that this is only a sentencing manner.

400 Rep. Prozanski Comments that he understands that the defense attorneys do not have the ability to tap into computer records.

394 Prins Adds that, from his experience as a prosecutor, they normally get a copy of the criminal history.

450 Chair Williams Believes that it would make sense to provide some sort of notice to the defendant if the district attorney was going to seek a life sentence.

TAPE 10, A

021 Fussner Says that he is not aware that there has been a problem with judges affording criminal defendants a sufficient amount of time to prepare for trial, to consider plea offers, or to prepare for sentencing.

036 Prins Questions page 1, lines 19-20, because it doesn't say anything about what the state is intending to seek.

043 Russell Explains that the concern from the defense perspective is that there have been a number of cases where, had the state reviewed the matter, they would have been aware that the individual qualified for the life provision.

060 Prins Asks if a defense attorney would go over a written plea petition that was certified before they would enter a plea and asks if she would inform them of the maximum sentences possible.

070 Russell Discusses the "Denny Smith" provision.

086 Rep. Prozanski Asks if the defense, asked by letter, whether the state was going to seek this kind of sanction. Asks if he thinks that would be a good way of giving notice.

099 Russell Says she would keep the burden on the defense and that that would be reversing the burden in this type of proceeding.

113 Chair Williams Closes the public hearing on HB 2071 and opens a public hearing on HB 2072 and HB 2074.

HB 2072 & HB 2074 PUBLIC HEARING

150 Barnes Ellis Chair, Public Defense Services Commission. Submits testimony and testifies in support of HB 2072 which accelerates transfer of responsibility for indigent defense services from State Court Administrator to Public Defense Services Commission (**EXHIBIT C**).

229 Chair Williams Discusses bill.

222 Chair Williams Closes the public hearing on HB 2072 and opens a work session on HB 2072.

HB 2072 WORK SESSION

252 Rep. Shetterly **MOTION: Moves HB 2072 to the floor with a DO PASS recommendation and BE REFERRED to the committee on**

and Means.

VOTE: 8-0-1

EXCUSED: 1 - Jenson

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

255 Chair Williams Closes the work session on HB 2072.

HB 2074 PUBLIC HEARING—Re-opened

256 Peter Ozanne Executive Director, Office of Public Defense Services. Submits testimony and testifies in support of HB 2074 which requires Public Defense Services Commission to submit report to Legislative Assembly biennially (**EXHIBIT D**).

318 Rep. Krummel Asks why they can't have one member of the Commission be a public defender.

329 Ozanne Defers to Ann Christian

330 Ann Christian Director, Indigent Defense Services. States that there was a commission that studied that idea and says that the chair of the Commission believes it is best not to have an appearance of a type of conflict of interest.

353 Ellis Comments that he supports the separation of the Public Defense Services Commission and the new Office of Public Defense Services.

363 Chair Williams Closes the public hearing on HB 2074 and opens a work session on HB 2074. Decides to hold off on bill due to the referral to Ways and Means. Closes the work session on HB 2074.

TAPE 9, B

013 Chair Williams Informs the committee that he has to leave and that Vice-Chair Ackerman will take over the gavel.

020 Vice-Chair Ackerman Opens a public hearing on HB 2095.

HB 2095 PUBLIC HEARING

035 Ronelle Shankle Department of Justice. Submits testimony and testifies in support of HB 2095 which requires court or enforcing agency issuing child support order to direct obligor or obligee to provide health care coverage to child under health benefit plan under certain circumstances (**EXHIBIT E**).

116 Rep. Barker Asks what if obligor or obligee doesn't have health care through

his employer, how can he/she provide health care coverage to child.

120 Shankle Says that she forgot an important piece of education related to health insurance and adds that first they need to find out if health care is available through an employer or union and if it is reasonable in cost and accessible to the child.

132 Rep. Barker Asks if one doesn't take health insurance would they be required to take it.

141 Shankle States that if health insurance is available to a person then they would be obligated to take it.

144 Bill Taylor Committee Counsel. Inquires about current law in regards to bill.

155 Rep. Macpherson Questions current federal law as it relates to this bill.

169 Shankle Explains that the Qualified Medical Child Support Order still exists.

200 Rep. Krummel Asks if a person ordered to provide coverage has to provide coverage even if they aren't provided coverage.

207 Shankle States that there are three options.

219 Rep. Krummel Asks what if the employer does not offer health insurance.

223 Shankle Says that they would not have an enforcement remedy available.

228 Rep. Krummel Asks if it was not part of the child support order, will the court make them pay.

240 Shankle Says, no and explains.

260 Rep. Krummel Asks if it is an order that has been written by the administrative arm and ratified by the court.

267 Shankle Explains that the administrative process is meant to be an expedited process.

281 Rep. Krummel Asks if they can enforce a parent to provide health care to their child.

303 Counsel Taylor Asks Ronelle Shankle to explain her agency's responsibilities.

291 Shankle Explains who they work with.

329 Vice-Chair Ackerman Inquires how this process fits into the traditional divorce setting.

349 Shankle Answers that it is common that divorce decrees often contain language that instruct child support programs to begin enforcement. Says that all orders entered in Oregon are subject to child support guidelines.

397 Vice-Chair Ackerman Asks why existing law is inadequate.

399 Shankle Says that the federal government is striving to have a uniform law in this area.

408 Karen Berkowitz Legal Aid Services. Submits testimony and testifies in support of HB 2095 (**EXHIBIT F**).

TAPE 10, B

006 Berkowitz Continues her testimony in support of HB 2095.

079 Rep. Krummel Asks a question about her written testimony, page 3, section 8. Wonders what the 50% represents.

085 Berkowitz States that's 50% of a person's net income.

090 Rep. Krummel Asks if an obligor could pay up to 65% under the federal Consumer Credit Protection Act.

094 Berkowitz Answers, yes, but the 65% depends on other matters too.

105	Rep. Barker	Asks about number 7 of her written testimony and about the obligee having the right to pick the plan.
114	Berkowitz	Answers that it is the child support agency that picks the plan and the custodial parent.
131	Rep. Macpherson	Inquires about Section 10 and civil penalties and wonders if this complies with federal law.
145	Shankle	Explains that they are in discussion with the Bureau of Labor and Industries regarding that section.
184	John Powell	Regence/Blue Cross Blue Shield of Oregon. Says that they have just begun to analyze the bill and are working with the Attorney General's Office..
191	Vice-Chair Ackerman	Closes the public hearing on HB 2095 and opens a public hearing on HB 2112.

HB 2112 PUBLIC HEARING

208	Ronelle Shankle	Department of Justice. Submits testimony and testifies in support of HB 2112 which requires state agencies, boards and commissions that issue certain licenses, certifications, permits or registrations to record applicant's Social Security number on application for, or form for renewal of, driver license or certain permits (EXHIBIT G).
311	Rep. Prozanski	Asks if this bill requires Department of Motor Vehicles (DMV) to provide this information on all renewal and new license applications.
317	Shankle	Answers, yes.
319	Rep. Prozanski	Asks if there are reasons why the federal agencies are now mandating social security numbers for identification purposes.
338	Shankle	Believes that he is referring to the Privacy Act. Explains that this is not a directive to override that act. Discusses amendments added to this bill (EXHIBIT H).
370	Rep. Prozanski	Questions if a person refuses to supply their social security, would they be denied a license.
373	Shankle	States that that is not the position of the Child Support Program.
408	Rep. Krummel	Discusses identity theft and asks what steps the department is going to take to keep social security numbers confidential.
435	Shankle	Answers that their records are held very confidential.
488	Vice-Chair Ackerman	Closes the public hearing on HB 2112 and adjourns the meeting at 2:57 p.m.

EXHIBIT SUMMARY

- A – HB 2069, written testimony, submitted by Susan Russell, 1/21/03, 1 pg.**
- B – HB 2071, written testimony, submitted by Susan Russell, 1/21/03, 1 pg.**
- C – HB 2072, written testimony, submitted by Barnes H. Ellis, 1/21/03, 3 pgs.**
- D – HB 2074, written testimony, submitted by Peter Ozanne, 1/21/03, 3 pgs.**
- E – HB 2096, written testimony, submitted by Ronelle Shankle, 1/21/03, 5 pgs.**
- F – HB 2095, written testimony, submitted by Karen Berkowitz, 1/21/03, 4 pgs.**
- G – HB 2112, written testimony, submitted by Ronelle Shankle, 1/21/03, 9 pgs.**
- H - HB 2112, DMV proposed amendments, submitted by Ronelle Shankle, 2 pgs.**

