

HOUSE COMMITTEE ON JUDICIARY

March 14, 2003 Hearing Room 357
1:00 pm Tapes 84 - 85

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

MEMBER EXCUSED: Rep. Krummel

STAFF PRESENT: Craig Prins, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2118 Public Hearing**
 HB 2119 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape 84, A		
011	Chair Williams	Opens meeting at 1:10 pm. Opens public hearing on HB 2118.
<u>HB 2118 PUBLIC HEARING</u>		
021	Craig Prins	Committee Counsel. Explains HB 2118 that expands circumstances under which order authorizing use of pen register or trap and trace device may be entered.
040	Matthew McCauley	Criminal Justice Division, Department of Justice (DOJ). Submits testimony in support of HB 2118 which adds racketeering to the list of crimes that can use trap trace and pen register (EXHIBIT A). Describes uses of these tools to identify terrorists and other criminals. Describes Racketeer Influenced and Corrupt Organization Act (RICO) crimes.
159	McCauley	Discusses white-collar crime: embezzling, forgery, and theft. States millions of dollars are stolen by these crimes and restitution is rare. Describes child porn rings and other new organized crime groups. Suggests compromise with those opposed to HB 2118.
191	Erik Wasmann	Department of Justice (DOJ). Agrees with Mr. McCauley's testimony in support of HB 2118.
200	Rep. Prozanski	Asks about RICO.
210	McCauley	Replies at its broadest it could include any RICO predicate act.
222	Wasmann	Explains how RICO would be affected by this bill. Explains that the state would have to meet a standard to show existence of already committed predicate acts and the existence of current enterprise.
240	Rep. Anderson	Asks if there are objections on the basis of intrusion of privacy,

and if there are sunsets on this.

250 Wasmann Answers he is not aware of sunsets. States that organized crime is growing and many of its forms are new to the justice system.

260 Chair Williams Focuses on current law regarding trap and trace. Relates concerns about the RICO statutes.

300 Wasmann Responds DOJ has not analyzed that issue. States that racketeering by its nature calls for the ability to gather information on those within the enterprise. Says the focus has not been on the predicate crimes.

329 McCauley Repeats there is middle ground from which to choose specific predicate acts to include in this bill. Limitations can be such as predicate acts that are felonies, that are sex-related, that are terrorism, etc.

372 David Fidanque American Civil Liberties Union (ACLU) of Oregon. Testifies in opposition to HB 2118. Discusses search and seizure of private information. Refers to the limited crimes listed in ORS 165.663 for the purpose of protecting the privacy of innocent individuals. Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2118.

464 Kelly Skye

TAPE 85, A

061 Skye Explains the RICO statute is extremely broad and any activity as minimal as criminal trespass could be subject to pen register or trap and trace.

068 Chair Williams Asks if they oppose any expansion of trap and trace.

076 Skye Answers that narrowing of the RICO statute would be sought.

087 Chair Williams Closes public hearing on HB 2118. Asks the committee to further study this bill. Opens public hearing on HB 2119.

HB 2119 PUBLIC HEARING

110 Craig Prins Committee Counsel. Explains HB 2119 that adds identity theft to definition of racketeering activity for purposes of Oregon Racketeer Influenced and Corrupt Organization Act (RICO). Financial Fraud/Consumer Protection, Department of Justice (DOJ). Testifies in support of HB 2119 (**EXHIBIT B**).

150 Cheryl Pellegrini Describes identity theft.

234 Karen Fifer Victim of identity theft. Explains how her personal information was stolen with her purse. Describes the ease and extent with which the thief was able to use her identity and how her credit report was severely damaged. Describes how her identity came to be used by several different criminals that extended into another state.

430 Pellegrini Describes a second level of debts that is passed from the original merchant to a collection company, which can later sell its portfolio of uncollected accounts to a third company. The crime of identity theft can be lost in the process.

TAPE 84, B

049 Pellegrini Answers that subsequent criminals using stolen identity could be pursued.

075 Kelly Skye Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2119. Explains the concern is with the underlying identity theft statute and says it is too broad and could be used by prosecutors for purposes other than intended. Gives examples of possibilities resulting from the broad language.

131 Skye Wants all identity theft bills considered together. States the

		OCDLA does not oppose putting identity theft in the racketeering statute. However, they do oppose any expansion of the identity theft statute.
148	Chair Williams	Reiterates the opposition.
168	Skye	Discusses the racketeering statute and the need to know the plethora of identity theft bills circulating in the legislature now. Refers to HB 3481 which creates a task force on identity theft.
299	Chair Williams	Comments on the seriousness of organized efforts of identity theft.
330	Rep. Macpherson	Agrees with the chair. Comments on the trafficking of identity theft as pernicious criminality.
348	Chair Williams	Closes public hearing and opens work session on HB 2119.
		<u>HB 2119 WORK SESSION</u>
350	Rep. Macpherson	MOTION: Moves HB 2119 to the floor with a DO PASS recommendation.
		VOTE: 5-0-4
		EXCUSED: 4 - Barker, Krummel, Prozanski, Shetterly
354	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. MACPHERSON will lead discussion on the floor.
355	Staff	Submits written testimony by Oregon State Public Interest Research Group (OSPIRG) in support of HB 2119 (EXHIBIT C).
356	Chair Williams	Closes the work session on HB 2119 and adjourns the meeting at 2:25 p.m.

EXHIBIT SUMMARY

- A – HB 2118, written testimony, Matthew McCauley, 2 pp**
- B – HB 2119, written testimony, Cheryl Pellegrini, 7 pp**
- C – HB 2119, written testimony of Steve Dixon, OSPIRG submitted by staff, 2 pp**