

HOUSE COMMITTEE ON JUDICIARY

March 19, 2003 Hearing Room 357

1:00 PM Tapes 92 - 94

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

STAFF PRESENT: Bill Taylor, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2508 Public Hearing**
 HB 2756 Public Hearing
 HB 2206 Work Session
 HB 2207 Work Session
 HB 2047 Work Session
 HB 2091 Work Session
 HB 2110 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 92, A		
005	Chair Williams	Opens meeting at 1:10 pm. Opens public hearing on HB 2508.
<u>HB 2508 PUBLIC HEARING</u>		
030	Sybil Hebb	Family Law Attorney, Oregon Law Center. Explains HB 2508 that permits petitioner to request hearing after issuance of ex parte restraining order. Submits testimony and testifies in support of HB 2508 and describes the -1, -2, and -3 amendments (EXHIBITS A, B, C, D) . Explains the difficulty in determining whether Oregon law meets the federal criteria for gun laws. HB 2508-2 would allow more restraining orders to meet the federal criteria.
100	Hebb	Continues explaining ex parte restraining orders and the amendments to HB 2508.
159	Rep. Prozanski	Supports reducing violence in domestic situations. Asks about allowing temporary order to require respondent to appear or lose right to bear firearms.
176	Hebb	Explains the automatic hearing issue and the fact that both respondent and petitioner have rights to a hearing.
228	Rep. Prozanski	Replies that when temporary restraining orders are issued, the respondent is notified of certain things they have to do to preserve their rights. If they do not do this, they have had their opportunity for due process. Suggests if the respondent does not

		appear, they could lose their rights to possess firearms during the procedures, therefore, not putting the petitioner in the position of requesting the relief.
230	Hebb	Replies the petitioner would have to appear at the hearing putting petitioner in jeopardy.
254	Rep. Jenson	Requests that the bill be gender neutral. Refers to paragraph 2, on the 6-month limitation.
274	Hebb	Explains situations such as jail-time.
304	Rep. Jenson	Asks the purpose of the 6-month time period.
325	Hebb	Responds it is to provide a window for the court to determine if there is a threat to the petitioner's safety.
349	Rep. Jenson	Says he is uncomfortable with the 6-month period of time
364	Vice Chair Ackerman	Asks about the -2 amendments. Asks about "actual notice."
373	Hebb	Answers that the courts have upheld notice by mail, or any other form of notice which is actual notice.
397	Vice Chair Ackerman	Replies that his concern is with Oregon's interpretation of actual notice. Actual notice could mean personal service and anything short of that would not be sufficient.
410	Hebb	Answers the intent is to provide notice by hearing.
415	Rep. Shetterly	Says actual notice is broader than personal service.
TAPE 93, A		
016	Roy Sutton	Citizen. Testifies in opposition to HB 2508. Explains his personal experience with restraining orders. States that due to the restraining orders being reinstated, he has been unable to retrieve his guns and other personal belongings from his home after his divorce. Asks why this works against his rights as a gun owner.
212	Kevin Starrett	Oregon Firearms Federation. Testifies in opposition to HB 2508. Explains that HB 2508 is a gun control bill. The bill negates the federal and state constitutional rights to bear arms.
245	Rod Harder	National Rifle Association. Testifies in opposition to HB 2508. Says this is an anti-gun bill. Says this bill allows a vindictive petitioner who files a restraining order to deny the rights of a respondent access to firearms. Emphasizes that due process is not followed; states that restraining orders are based on accusations.
329	Rep. Barker	Asks Mr. Sutton if he ever retrieved his guns.
335	Sutton	Responds to what happened.
381	Staff	Submits written testimony from Judge McKnight (EXHIBIT E).
382	Chair Williams	Closes public hearing on HB 2508. Opens public hearing on HB 2756.

HB 2756 PUBLIC HEARING

385	Bill Taylor	Committee Counsel. Explains HB 2756 that modifies provisions relating to relief from requirement to report as sex offender based on juvenile adjudication.
424	Kathy Berger	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 2756. Explains that HB 2756 modifies SB 370 that had some problems in implementation.

TAPE 92, B

033	Berger	Continues explaining the intent of HB 2756. Discusses burden of proof is upon the offender.
105	Peter Deuel	Oregon District Attorneys Association. Explains the work group that produced HB 2756 over a period of years. Further explains provisions of HB 2756.

143 Dan Malin Oregon State Police, Sex Offenders Registration Unit. Submits testimony and testifies in support of HB 2756 (**EXHIBIT F**).
 175 Taylor Agrees with explanations by Ms. Berger and Mr. Deuel. Refers to the fiscal impact of this bill. Explains the amending of the fiscal portion of the bill.
 186 Berger Responds in agreement. Says the work group could amend the bill to reduce the fiscal.
 200 Chair Williams Submits letter from Karen Brazeau, Oregon Youth Authority, in support of HB 2756 (**EXHIBIT G**).
 210 Chair Williams Asks the work group to meet with the Judiciary staff and Legislative Counsel to amend the bill so that it is fiscally acceptable.
 216 Chair Williams Closes public hearing on HB 2756. Opens work session on HB 2206.

HB 2206 WORK SESSION

224 Bill Taylor Committee Counsel. Explains HB 2206 which creates a crime of abuse of memorial to dead in first degree. Also explains the -1 amendments (**EXHIBIT H**).
 258 Michael Carrier Director, Oregon Parks and Recreation Department. Testifies in support of HB 2206. Describes the memorials described in this bill as separate from modern cemeteries. Discusses restitution at the discretion of the court.
 274 Kevin Mannix Former Oregon Legislative Representative. Supports bill with one suggestion to change “shall” to “may” for restitution.
 301 Rep. Prozanski Refers to the bill on restitution and explains a Class A misdemeanor would have a fine of \$5,000 and/or one-year imprisonment. Discusses actual replacement cost of vandalized monuments.
 333 Mannix Responds that the original bill called for a Class C Felony with a fine up to \$100,000 and 5-years in prison. Explains that crime inflation in this state is a problem and explains that guidelines can impair sentencing.
 400 Rep. Williams **MOTION: Moves to SUSPEND the rules for the purpose of amending the -1 amendments.**
VOTE: 8-0-1
EXCUSED: 1 – Krummel
 415 Chair Williams **Hearing no objection, declares the rules ARE SUSPENDED.**
 416 Rep. Williams **MOTION: Moves to AMEND the -1 amendments on "line 4, page 2, deleting the word "shall" and inserting the word "may."**
 445 Chair Williams Asks if there is any objection.
 446 Rep. Prozanski Objects. Suggests that they use the language “shall consider” as a means to be before the court for consideration. Disagrees with using “may.”
 467 Mannix Agrees with Rep. Prozanski’s point. Says that requires the court to look at the issue as opposed to empowering the court to do it, which the court already has the power to do.
 485 Chair Williams **WITHDRAWS HIS MOTION.**
 489 Chair Williams **MOTION: Moves to AMEND HB 2206-1 conceptually by substituting on page 2, line 4 "shall consider ordering” for “shall order.”**
VOTE: 8-0-1
EXCUSED: 1 - Rep. Krummel
 499 Chair Williams **Hearing no objection, declares the motion CARRIED.**

500	Rep. Williams	MOTION: Moves to ADOPT HB 2206-1 as conceptually amended.
		VOTE: 8-0-1
501	Chair Williams	EXCUSED: 1 – Krummel
502	Chair Williams	Hearing no objection, declares the motion CARRIED.
		MOTION: Moves HB 2206 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0-1
		EXCUSED: 1 – Krummel
503	Rep. Prozanski	States he has concerns about this bill.
504	Chair Williams	Hearing no objection, declares the motion CARRIED.
		REP. BARKER will lead discussion on the floor.
TAPE 93,B		
032	Chair Williams	Closes work session on HB 2206. Opens work session on HB 2207.
<u>HB 2207 WORK SESSION</u>		
033	Bill Taylor	Committee Counsel. Explains HB 2207 which authorizes State Parks and Recreation Department to request Department of State Police to provide criminal offender information about subject individuals. Says there are no amendments.
040	Chair Williams	Asks what the concerns are about this bill.
045	Rep. Prozanski	Brings up the question of whether HB 2207 was being set up to protect vulnerable Oregonians rather than just anyone using the parks.
060	Mike Carrier	Director, Parks and Recreation. Replies he knows of no specific issues that were presented against the bill.
067	Rep. Prozanski	Discusses line 5, page 1.
089	Rep. Jenson	MOTION: Moves HB 2207 to the floor with a DO PASS recommendation.
093	Vice Chair Ackerman	Relates his concern regarding vulnerable Oregonians. Does not see how that fits with Parks and Recreation. Says the information is only for vulnerable Oregonians and asks how that helps the department.
102	Carrier	Answers their volunteers number 2,000 annually who deal with programs for families and youths.
114	Chair Williams	Relates that the volunteers work with children and families.
135	Vice Chair Ackerman	States that he thinks this is a “stretch.” He sees it as bad law and can be corrected.
148	Rep. Jenson	Comments that anyone can be “vulnerable” and sees “Oregonians” as unnecessary in the bill.
163	Rep. Jenson	WITHDRAWS MOTION.
167	Chair Williams	Asks the Parks and Recreation Department to work on this language with Legislative Counsel.
210	Taylor	Explains issues and says they go beyond the scope of the bill.
220	Chair Williams	Closes work session on HB 2207. Asks for work on this bill. Opens work session on HB 2047.
<u>HB 2047 WORK SESSION</u>		
292	Bill Taylor	Committee Counsel. Explains HB 2047 which requires police officers and reserve officers to notify detained foreign nationals of detainee’s rights under Vienna Convention on Consular Relations. Explains the -1 amendments (EXHIBIT I).
298	Rep. Jenson	Declares that he is not comfortable with section 1 removed.
303	Taylor	Explains this does not relieve law enforcement from the obligation to notify.

322	Vice Chair Ackerman	Expresses concern about the language of the bill.
325	Chair Williams	Explains that under Oregon law there is the obligation when a national is under custody.
270	Rep. Prozanski	MOTION: Moves to ADOPT HB 2047-1 amendments dated 03/04/03.
		VOTE: 9-0
271	Chair Williams	Hearing no objection, declares the motion CARRIED.
272	Chair Williams	Responds that he is willing to move the bill forward. Submits letter from Dale Penn supporting HB 2047-1 (EXHIBIT J).
273	Rep. Prozanski	MOTION: Moves HB 2047 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
275	Chair Williams	Hearing no objection, declares the motion CARRIED.
		REP. MACPHERSON will lead discussion on the floor.
422	Rep. Krummel	Supports the bill. Has reservations on language on page 5.
058	Rep. Jenson	Comments on page 5, and asks about inclusions for other groups such as health professionals training.
070	Chair Williams	Sees the Vienna Convention issues going into the interim. Closes work session on HB 2047. Opens work session on HB 2091.
<u>HB 2091 WORK SESSION</u>		
094	Bill Taylor	Committee Counsel. Explains HB 2091 conforms Oregon law to Vienna Convention on Consular Relations. Explains the -2 amendments (EXHIBIT K).
095	Rep. Prozanski	MOTION: Moves to ADOPT HB 2091-2 amendments dated 03/17/03.
		VOTE: 9-0
096	Chair Williams	Hearing no objection, declares the motion CARRIED.
097	Rep. Prozanski	MOTION: Moves HB 2091 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 9-0
098	Chair Williams	Hearing no objection, declares the motion CARRIED.
		REP. PROZANSKI will lead discussion on the floor.
105	Chair Williams	Closes work session on HB 2091. Opens work session on HB 2110.
<u>HB 2110 WORK SESSION</u>		
121	Bill Taylor	Committee Counsel. Explains HB 2110 which modifies application of definitions. Describes the -3, -4 amendments (EXHIBITS L and M).
137	Staff	Submits written testimony of Judge McKnight in support of the -4 amendments to HB 2110 (EXHIBIT N).
138	Ronelle Shankle	Department of Justice. Explains the -4 amendments.
175	Shankle	Explains the substantive change in section 2 of the -4 amendments.
189	Tamara Brickman	Legislative Coordinator, Oregon Employment Department. Testifies in support of the -3 amendments. Discusses intercepting payments.
218	Shankle	Responds on section 8, explaining the Child Support Program intends to involve obligees as a participant if there is a review of the tax offset.
222	Rep. Prozanski	MOTION: Moves to ADOPT HB 2110-3 amendments dated 02/19/03.

248	Chair Williams	VOTE: 9-0
249	Rep. Prozanski	Hearing no objection, declares the motion CARRIED. MOTION: Moves to ADOPT HB 2110-4 amendments dated 03/05/03.
250	Chair Williams	VOTE: 9-0
252	Rep. Prozanski	Hearing no objection, declares the motion CARRIED. MOTION: Moves HB 2110 to the floor with a DO PASS AS AMENDED recommendation.
253	Chair Williams	VOTE: 9-0
257	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. JENSON will lead discussion on the floor. Closes the work session on HB 2110 and adjourns meeting at 3:15 pm.

EXHIBIT SUMMARY

- A – HB 2508-1 amendments, staff, 2 pp**
- B – HB 2508-2 amendments, staff, 6 pp**
- C – HB 2508-3 amendments, staff 2 pp**
- D – HB 2508, written testimony, Sybil Hebb, 4 pp**
- E – HB 2508, written testimony by Judge Maureen McKnight, staff, 3 pp**
- F – HB 2746, written testimony, Dan Malin, 2 pp**
- G – HB 2756, letter from Karen Brazeau, 1 p**
- H – HB 2206-1 amendments, staff, 2 pp**
- I - HB 2207-1 amendments, staff, 1 p**
- J – HB 2047, letter from Dale Penn, Rep. Williams, 1 p**
- K – HB 1091-2 amendments, staff, 6 pp**
- L – HB 2110-3 amendments, staff, 4 pp**
- M – HB 2110-4 amendments, staff, 7 pp**
- N – HB 2110, letter by Judge Maureen McKnight, staff, 1 p**