

HOUSE COMMITTEE ON JUDICIARY

March 05, 2003 Hearing Room 357

1:00 p.m. Tapes 66 - 67

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

MEMBER EXCUSED: **Rep. Floyd Prozanski**

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

MEASURE/ISSUES HEARD: **HB 2174 Public Hearing**
 HB 2050 Work Session
 HB 2086 Work Session
 HB 2101 Public Hearing and Work Session
 HB 2082 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 66, A		
002	Chair Williams	Calls the meeting to order at 1:10 p.m. Opens a public hearing on HB 2174.
<u>HB 2174 PUBLIC HEARING</u>		
014	Phil Lemman	Executive Director, Oregon Criminal Justice Commission. Submits testimony and testifies in support of HB 2174 which approves adoption of certain rules and amendments to sentencing guidelines rules by Oregon Criminal Justice Commission (EXHIBIT A). Wants amendments drafted that set out the full text of the statute in the bill.
135	Chair Williams	Tells Mr. Lemman that he is authorized to work on amendments with Bill Taylor, Committee Counsel, and can bring them back to the committee.
143	Rep. Jenson	Asks what the amendments will do.
151	Lemman	Explains that the new amendments will help maintain sentencing guidelines.
160	Rep. Jenson	Wants to know how the attorneys in the committee feel about this bill.
164	Chair Williams	Responds that a later change in policy on how you go forward with something does not impact a case that's on appeal.
179	Rep. Shetterly	Agrees with Chair Williams.
193	Chair Williams	Closes the public hearing on HB 2174 and opens a work session on HB 2050.
<u>HB 2050 WORK SESSION</u>		
203	Bill Taylor	Committee Counsel. Introduces HB 2050 which expands definition

232	Chair Williams	of abuse for purposes of child abuse reporting. Discusses the -1 amendments (EXHIBIT B). MOTION: Moves to ADOPT HB 2050-1 amendments dated 01/31/03. VOTE: 8-0-1 EXCUSED: 1 - Prozanski
238	Chair Williams	Hearing no objection, declares the motion CARRIED.
240	Rep. Krummel	MOTION: Moves HB 2050 to the floor with a DO PASS AS AMENDED recommendation.
242	Rep. Shetterly	Questions what statute infers “culpable mental state” for this bill.
259	Taylor	Says that this is the child abuse reporting statutes and they are talking about an adult failing to report and thinks the penalty is a fine.
274	Chair Williams	Explains and reads part of the bill, including the amendments.
282	Taylor	Reads ORS 419B.010. Reports that if you have reasonable cause to believe then you have to report it.
303	Rep. Shetterly	Worries about the expansion of civil liability for mandatory reporters.
330	Taylor	Discusses civil liability and third party liability.
360	Chair Williams	Points out the importance of this bill.
382	Rep. Shetterly	States that he wishes they could re-visit the whole issue of civil liability. Stresses that the obligation to report is mandatory, and if you don’t report you are potentially civilly liable.
431	Vice-Chair Anderson	Expresses that this is a big problem and we need to be more attuned to what’s going on around us, and to alert the authorities of possible illegal activities.
TAPE 67, A		
014	Vice-Chair Ackerman	Recommends that the civil liability issue be discussed during the interim.
026	Rep. Macpherson	Expresses his concerns regarding the bill, and the responsibility of the mandatory reporters.
049	Chair Williams	Discusses obligations of people to report.
064	Rep. Jenson	Suggests that legislators be included as mandatory child abuse reporters.
099		VOTE: 8-0-1 EXCUSED: 1 - Prozanski
106	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. BARKER will lead discussion on the floor.
110	Chair Williams	Closes the work session on HB 2050 and opens a work session on HB 2086.
<u>HB 2086 WORK SESSION</u>		
115	Bill Taylor	Committee Counsel. Introduces HB 2086 which creates crime of cockfighting. Discusses the -1 amendments (EXHIBIT C).
137	Chair Williams	Explains the -1 amendments (Exhibit C). Summarizes the letter from Legislative Counsel (EXHIBIT D) and notes the testimony from Kelly Peterson, Humane Society of the United States (EXHIBIT E).
177	Rep. Shetterly	MOTION: Moves to ADOPT HB 2086-1 amendments dated 03/04/03. VOTE: 8-0-1 EXCUSED: 1 – Prozanski
180	Chair Williams	Hearing no objection, declares the motion CARRIED.
178	Rep. Shetterly	MOTION: Moves HB 2086 to the floor with a DO PASS AS AMENDED recommendation.

182 Rep. Shetterly Mentions that there are other considerations for amendments.
190 **VOTE: 7-1-1**
AYE: 7 - Ackerman, Anderson, Barker, Krummel, Macpherson, Shetterly, Williams
NAY: 1 - Jenson
EXCUSED: 1 - Prozanski
192 Chair Williams The motion CARRIES.
REP. WILLIAMS will lead discussion on the floor.
195 Chair Williams Closes the work session on HB 2086 and opens a public hearing on HB 2101.

HB 2101 PUBLIC HEARING

213 Jonathan Fussner Assistant Attorney General, Oregon Department of Justice. Submits testimony and testifies in support of HB 2101 which provides that contempt proceedings for violation of Family Abuse Prevention Act restraining order and for violation of Elderly and Disabled Person Abuse Prevention Act restraining order may be conducted in county where violation of restraining order occurs (**EXHIBIT F**).
265 David Nebel Oregon Law Center. Submits testimony and testifies in support of HB 2101 (**EXHIBIT G**).
293 Chair Williams Asks if there would be any additional costs associated with the court.
301 Fussner Says, no.
311 Rep. Macpherson Asks if the court that issued the order would lose jurisdiction to issue contempt proceedings or sanctions.
317 Nebel Answers that both courts have the authority and those courts decide which county will handle the proceeding.
329 Fussner Adds that he doesn't anticipate any problems with this.
340 Rep. Krummel Asks if phone contact violates a restraining order.
345 Fussner Answers that it can and explains that the restraining order is up to the issuing judge.
363 Nebel Agrees with Mr. Fussner and says that the court decides on the order.

TAPE 66, B

006 Chair Williams Closes the public hearing on HB 2101 and opens a work session on HB 2101.

HB 2101 WORK SESSION

010 Vice-Chair Anderson MOTION: Moves HB 2101 to the floor with a DO PASS recommendation.
VOTE: 8-0-1
AYE: In a roll call vote, all members present vote Aye.
EXCUSED: 1 - Prozanski
018 Chair Williams The motion CARRIES.
REP. ANDERSON will lead discussion on the floor.
019 Chair Williams Closes the work session on HB 2101 and opens a public hearing on HB 2082.

HB 2082 PUBLIC HEARING

035 Craig Prins Committee Counsel. Introduces HB 2082 which allows investigator in civil commitment proceeding access to Law Enforcement Data System (LEDS).
054 Bob Joondeph Director, Oregon Advocacy Center. Submits testimony and testifies in opposition to HB 2082 (**EXHIBIT H**).
148 Bob Nikkel Manager, Community Services, Department of Human Services. Submits testimony and testifies in opposition to HB 2082

(EXHIBIT I).

173	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 2082.
246	Dave Rugg	Legal Assistant, Metro Public Defenders. Testifies in opposition to HB 2082.
319	Chair Williams	Asks the panel for clarity on the issues. Explains history of the issue to committee.
404	Nikkel	Stresses that most mentally ill people do not have criminal records.
412	Joondeph	Comments on the process of civil commitment. Discusses unfairness of LEDS.
TAPE 67, B		
007	Chair Williams	Says he understands, but feels that the most accurate information should be available on these people.
027	Rugg	Agrees with what Chair Williams is saying, but thinks that some of the information is not investigated thoroughly.
035	Rep. Macpherson	Asks if LEDS can be sorted to screen out arrest data.
041	Nikkel	Answers that he is not an expert on LEDS and defers to someone that knows more about the program.
045	Chair Williams	Thinks that they can sort out the arrest data fairly easily.
052	Rep. Macpherson	States that the question is at what cost can this be accomplished.
056	Vice-Chair Ackerman	Asks if they view all of the information in the report from LEDS as admissible.
065	Skye	Answers no, the LEDS report is not automatically admissible.
089	Rep. Jenson	Comments on the LEDS report as a law enforcement tool.
109	Skye	States that in a criminal proceeding the report would rarely be admissible.
135	Chair Williams	Addresses what the bill does.
150	Rep. Jenson	Questions how the LEDS report is used.
164	Skye	Explains civil commitment proceeding.
171	Rep. Jenson	Says that he understands, but has some concerns about the use of the LEDS information.
196	Rep. Krummel	Asks if a LEDS report can provide information to an investigator as to what type of treatment would be effective for a particular patient.
205	Joondeph	Answers, no. Thinks that LEDS information should be primarily used to assess the dangerousness aspect of the person, not their mental state.
213	Rugg	States that he is not an investigator, but says that the investigators are not in the business of how to treat the person.
230	Rep. Krummel	Wonders about the use of the LEDS report to establish cause, gives example.
251	Joondeph	Says that any hint of a weapon is immediate civil commitment. Explains civil commitment.
279	Rep. Shetterly	Comments that the discussion is probably only academic since the bill will probably not be funded.
300	Rep. Barker	Says that as a policemen, he has read a lot of LEDS reports and feels they are not appropriate for this. Adds that LEDS reports are hard to read and to explain.
330	Frances Baker	National Association for the Mentally Ill (NAMI). Testifies on HB 2082. Explains how she supports part of the bill.
386	Phil Chadsey	NAMI. Testifies on HB 2082.
408	Rep. Jenson	Asks Ms. Baker about her proposal to make the LEDS report a part of the investigative report.
422	Baker	Says that the LEDS report as a part of the investigative report is not included in the bill.
433	Chair Williams	Closes the public hearing on HB 2082. Adjourns the meeting at

2:55 p.m.

EXHIBIT SUMMARY

- A – HB 2174, written testimony, submitted by Phil Lemman, 3/5/03, 15 pgs.**
- B – HB 2050, -1 amendments, dated 1/31/03, submitted by staff, 1 pg.**
- C – HB 2086, -1 amendments, dated 3/4/03, submitted by staff, 1 pg.**
- D – HB 2086, written testimony of Greg Chaimov and Charles Daniel Taylor, Legislative Counsel, submitted by staff, 2 pgs.**
- E – HB 2086, written testimony of Kelly Peterson, submitted by staff, 9 pgs.**
- F – HB 2101, written testimony, submitted by Jonathan Fussner, 2 pgs.**
- G – HB 2101, written testimony of Laura Bruce, submitted by David Nebel, 3 pgs.**
- H – HB 2082, written testimony, submitted by Bob Joondeph, 2 pgs.**
- I – HB 2082, written testimony, submitted by Bob Nikkel, 2 pgs.**