

HOUSE COMMITTEE ON JUDICIARY

April 09, 2003 Hearing Room 357

1:00 p.m. Tapes 131-133

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. Floyd Prozanski
 Rep. Lane Shetterly

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

MEASURE/ISSUES HEARD: **HB 3426 Public Hearing**
 HB 2199 Public Hearing
 HB 2620 Public Hearing
 HB 3250 Public Hearing
 HB 2174 Work Session
 HB 2237 Work Session
 HB 2732 Public Hearing and Work Session
 HB 2733 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 131, A		
003	Chair Williams	Calls the meeting to order at 1:10 p.m. Opens a public hearing on HB 3426.
<u>HB 3426 PUBLIC HEARING</u>		
010	Craig Prins	Committee Counsel. Introduces HB 3426 which restricts circumstances under which peace officer may use deadly physical force. Discusses Supreme Court Case and the -1 amendments (EXHIBITS A & B) .
050	Lieutenant Troy Clausen	Oregon State Sheriff's Association. Testifies in opposition to HB 3426.
060	Nick Armenakis	Deputy Director, Oregon Department of Corrections. Submits testimony and testifies in support of HB 3426 (EXHIBIT C) .
070	Bruce Hoffman	Sergeant, Oregon State Police. Testifies in opposition to HB 3426.
082	Rep. Jenson	Asks for more information on the bill.
089	Prins	Explains the use of deadly force.
118	Rep. Barker	Discusses the issue of a fleeing felon.
139	Brian DeLashmutt	Oregon Council of Police Association and The Association of Oregon Corrections Employees. Testifies as neutral on HB 3426.

		Says that they would like to be a part of a work group for this bill because they have some concerns.
141	Mark Landauer	City of Portland, Office of Government Relations. Testifies as neutral on HB 3426.
145	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in support of HB 3426.
152	Rep. Prozanski	Notes that keynote 9, on page 2 of the Supreme Court Case (Exhibit A) sets out the parameters of when deadly force is acceptable.
162	Chair Williams	Closes the public hearing on HB 3426 and opens a public hearing on HB 2199.

HB 2199 PUBLIC HEARING

167	Bill Taylor	Committee Counsel. Introduces HB 2199 which expands offense of driving while under the influence of intoxicants to include substances that adversely affect person's physical or mental ability to noticeable or perceptible degree.
180	Captain Chuck Hayes	Director, Oregon State Police. Submits testimony and testifies in support of HB 2199 (EXHIBITS D-F) .
359	Dr. Barry Logan	Washington State Patrol. Submits testimony and testifies in support of HB 2199 (EXHIBIT G) .

TAPE 132, A

002	Dr. Logan	Continues his testimony in support of HB 2199.
060	Kamala Shugar	Oregon District Attorneys Association. Testifies in support of HB 2199.
090	Rep. Shetterly	Asks what happens if a person does not know that a drug is going to affect them.
115	Shugar	Answers that all of these drugs are labeled on the box warning people not to drive or operate heavy machinery.
140	Dr. Logan	Emphasizes that public safety education about taking these medications and driving is very important.
153	Rep. Shetterly	Says he is concerned about where they are going with this bill.
159	Rep. Prozanski	Comments that they are going to have to allow a Drug Recognition Expert (DRE) to analyze these people.
169	Shugar	Agrees that they are going to have to prove it some other way than with the intoxilyzer.
174	Rep. Prozanski	Points out that not all officers are trained at the level of a DRE.
180	Hayes	States that all officers in Oregon are being trained in the basic drug recognition skills.
207	Rep. Jenson	Shares his concerns about the bill.
237	Vice-Chair Ackerman	Wonders about the definition of intoxicant in the bill.
254	Taylor	Asks if there is a way to test how much of a drug has been taken, like a breathalyzer for alcohol, or a blood, or urine test.
262	Captain Hayes	Answers that there is no blood or urine test to test how much a person has taken of one of these drugs.
297	Shugar	Explains one of the tests for certain types of drug.
336	Dr. Logan	Answers that a quantitative blood test can determine if the drug is being used for therapeutic or recreational use.
351	Captain Hayes	Discusses combination of inner ear infection and drinking and driving.
365	Rep. Shetterly	Questions what they are criminalizing with this bill.
370	Rep. Barker	Asks if a person using one of these drugs could be charged with reckless driving.
373	Captain Hayes	Says that reckless driving is more difficult to prove and convict

		than DUII.
380	Shugar	Explains that if they are driving erratically then they can be charged with reckless driving.
410	Dr. Emma Dutton, Ken Meneely	Oregon State Police Forensic Services Division. Submits testimony and testifies in support of HB 2199 (EXHIBITS H & I) .
461	Mary Anderson	Deputy District Attorney, Deschutes County. Submits testimony and testifies in support of HB 2199 (EXHIBIT J) .
TAPE 131, B		
015	Mary Anderson	Continues her testimony in support of HB 2199.
064	Tim Weaver	Sergeant, Newberg Police Department. Testifies in support of HB 2199. Gives examples of cases where people took substances discussed in the bill.
126	Rep. Prozanski	Asks Ms. Anderson how an officer would make a distinction between someone driving under the influence of a substance and someone driving intoxicated.
134	Anderson	Answers that an officer could not make a distinction, but they would make a determination whether the person is impaired.
150	Rep. Prozanski	Asks if what she will be trying to prove is that their physical or mental capacities were affected to a noticeable or perceptible degree.
154	Anderson	Answers, yes, that would be their goal, but they would have to be realistic about all of the circumstances of the case.
159	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 2199.
230	Chair Williams	Wonders about the fiscal impact of the bill. Closes the public hearing on HB 2199 and opens a public hearing on HB 2620.
<u>HB 2620 PUBLIC HEARING</u>		
242	Bill Taylor	Committee Counsel. Introduces HB 2620 which provides that third offense of driving while under the influence of intoxicants is felony under specified circumstances.
249	Kamala Shugar	Oregon District Attorneys Association. Testifies in support of HB 2620.
265	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 2620.
275	Chair Williams	Closes the public hearing on HB 2620 and opens a public hearing on HB 3250.
<u>HB 3250 PUBLIC HEARING</u>		
280	Bill Taylor	Committee Counsel. Introduces HB 3250 which permits court to require security, bond or other guarantee from person who will travel with minor child in another country if parent, grandparent or guardian requests court order and court finds existence of certain circumstances.
293	Laura Butterfield Phillips	Submits testimony and testifies in support of HB 3250 (EXHIBIT K) .
398	Phillips	Continues her testimony in support of HB 3250.
TAPE 132, B		
004	Phillips	Continues her testimony in support of HB 3250. Says that child abduction is both a form of domestic violence and child abuse.
028	Chair Williams	Discusses testimony of Kristine Uhlman (EXHIBIT L) and Lillian Frease (EXHIBIT M) . Explains the -1 amendments (EXHIBIT N) .
050	Rep. Krummel	Asks how this bill would keep a child from being abducted.
066	Phillips	Answers that a bond may cause a financial hardship and stop

070 Chair Williams them from doing this.
Says that the posting of a bond may not stop a person from doing this, but it may give a person an incentive to come back with the child.

085 Kathryn S. Root Attorney. Submits testimony and testifies in support of HB 3250. **(EXHIBIT O)**.

206 Sybil Hebb Oregon Law Center. Submits testimony and testifies as neutral on HB 3250 **(EXHIBIT Q)**.

294 Rebecca Gandy Staff Attorney, Oregon Coalition Against Domestic and Sexual Violence. Submits testimony and testifies in opposition to HB 3250 **(EXHIBIT R)**.

333 Chair Williams Asks if Ms. Hebb and Ms. Gandy have any trouble with the intent of the bill to provide some incentive to not abscond their children.

341 Hebb Says that she does not have an objection with that goal so long as the court finds there is an inappropriate threat to the child.

345 Gandy Says that she agrees with Ms. Hebb.

348 Rep. Shetterly Asks if there are constitutional limitations on allowing travel outside the country.

359 Root Answers that she believes there is not a constitutional problem with this bill.

390 Chair Williams Discusses custody laws.

400 Rep. Shetterly Says that there must be limitations on posting a bond.

TAPE 133, A

007 Matt Meador Legislative Assistant, Rep. Donna Nelson. Submits testimony and testifies in support of HB 3250 and the -2 amendments **(EXHIBITS S-U)**.

033 Chair Williams Closes the public hearing on HB 3250 and opens a work session on HB 2174.

HB 2174 WORK SESSION

039 Bill Taylor Committee Counsel. Introduces HB 2174 which approves adoption of certain rules and amendments to sentencing guidelines rules by Oregon Criminal Justice Commission. Discusses the -2 and -3 amendments **(EXHIBITS V & W)**.

085 Rep. Prozanski **MOTION: Moves to ADOPT HB 2174-2 amendments dated 04/09/03.**
VOTE: 8-0-1
EXCUSED: 1 - Ackerman

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

090 Rep. Prozanski **MOTION: Moves to ADOPT HB 2174-3 amendments dated 04/09/03.**
VOTE: 8-0-1
EXCUSED: 1 - Ackerman
Hearing no objection, declares the motion CARRIED.

092 Chair Williams **MOTION: Moves HB 2174 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.**

108 Rep. Prozanski **VOTE: 8-0-1**
EXCUSED: 1 - Ackerman
Hearing no objection, declares the motion CARRIED.
REP. PROZANSKI will lead discussion on the floor.

110 Chair Williams

128 Chair Williams Closes the work session on HB 2174 and opens a work session on HB 2237.

HB 2237 WORK SESSION

- 130 Bill Taylor Committee Counsel. Introduces HB 2237 which limits authority of Board on, and Department of, Public Safety Standards and Training (DPSST) to disclose photograph of public safety officer. Discusses the -2 amendments (**EXHIBIT X**).
- 152 Rep. Prozanski **MOTION: Moves to ADOPT HB 2237-2 amendments dated 04/04/03.**
VOTE: 8-0-1
EXCUSED: 1 - Ackerman
Hearing no objection, declares the motion CARRIED.
- 155 Chair Williams Asks what statute they are amending.
157 Rep. Shetterly Deputy Director, DPSST. Testifies and says that they were told
175 Allan Scharn by Legislative Counsel that it wasn't necessary to change any language in the public records law.
- 182 Brian DeLashmutt Oregon Council of Police Associations. Testifies on HB 2237 and says that they did amend this in the public records section (of ORS) two sessions ago.
- 208 Rep. Prozanski **MOTION: Moves HB 2237 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 8-0-1
EXCUSED: 1 - Ackerman
Hearing no objection, declares the motion CARRIED.
REP. BARKER will lead discussion on the floor.
- 211 Chair Williams Closes the work session on HB 2237 and opens a public hearing on HB 2732.
- 218 Chair Williams

HB 2732 PUBLIC HEARING

- 220 Rep. Floyd Prozanski House District 8. Submits testimony and testifies in support of HB 2732 which modifies distribution scheme for fines imposed for traffic offenses for which prosecution was initiated by city police officers (**EXHIBIT Y**).
- 295 Rep. Barker Asks if he is aware that there is a bill coming out for the State Police so that they can get paid more for writing up tickets.
- 302 Rep. Prozanski Says that this is a different issue and they are not attempting to limit the enforceability of the laws.
- 330 Rep. Krummel Asks if the League of Oregon Cities or the Association of Oregon Counties have taken a stance on this bill.
- 332 Rep. Prozanski Answers, no they have not.
- 359 Chair Williams Closes the public hearing on HB 2732 and opens a work session.

HB 2732 WORK SESSION

- 368 Rep. Anderson **MOTION: Moves HB 2732 to the floor with a DO PASS recommendation.**
VOTE: 6-0-3
EXCUSED: 3 - Jenson, Macpherson, Ackerman
Hearing no objection, declares the motion CARRIED.
REP. PROZANSKI will lead discussion on the floor.
- 377 Chair Williams Closes the work session on HB 2732 and opens a work session on HB 2733.
- 382 Chair Williams

HB 2733 WORK SESSION

- 386 Rep. Floyd Prozanski House District 8. Testifies in support of HB 2733 which reorganizes provisions relating to venue in violation cases. Discusses the -1 amendments (**EXHIBIT Z**).
- 420 Rep. Shetterly Asks if that leaves a problem for West Salem.
- 425 Rep. Prozanski Answers that there may be a problem.
- 472 Chair Williams Closes the work session on HB 2733. Adjourns the meeting at

3:25 p.m.

EXHIBIT SUMMARY

- A – HB 3426, Supreme Court Case, submitted by staff, 19 pgs.**
- B – HB 3426, -1 amendments, submitted by staff, dated 4/9/03, 2 pgs.**
- C – HB 3426, written testimony, submitted by Nick Armenakis, 1 pg.**
- D – HB 2199, written testimony of Dr. Robert Julien, submitted by Captain Chuck Hayes**
- E – HB 2199, written testimony, submitted by Captain Chuck Hayes, 8 pgs.**
- F – HB 2199, articles, submitted by Captain Chuck Hayes, 6 pgs.**
- G – HB 2199, written testimony, submitted by Dr. Barry Logan, 35 pgs.**
- H – HB 2199, written testimony, submitted by Dr. Emma Dutton and Ken Meneely, 3 pgs.**
- I – HB 2199, written testimony of Gretchen McKenzie, submitted by Dr. Emma Dutton, 1 pg.**
- J – HB 2199, written testimony, submitted by Mary Anderson, 1 pg.**
- K – HB 3250, written testimony, submitted by Laura Butterfield, 20 pgs.**
- L – HB 3250, written testimony of Kristine Uhlman, submitted by staff, 14 pgs.**
- M – HB 3250, written testimony of Lillian Frease, submitted by staff, 9 pgs.**
- N – HB 3250, -1 amendments, submitted by staff, dated 4/3/03, 1 pg.**
- O – HB 3250, written testimony, submitted by Kathryn Root, 6 pgs.**
- Q – HB 3250, written testimony, submitted by Sybil Hebb, 2 pgs.**
- R – HB 3250, written testimony, submitted by Rebecca Gandy, 1 pg.**
- S – HB 3250, written testimony of Rep. Donna Nelson, submitted by Matt Meador, 2 pgs.**
- T – HB 3250, -2 amendments, submitted by Matt Meador, dated 4/8/03, 3 pgs.**
- U – HB 3250, submitted by Matt Meador, 2 pgs.**
- V – HB 2174, -2 amendments, submitted by staff, dated 4/9/03, 75 pgs.**
- W – HB 2174, -3 amendments, submitted by staff, dated 4/9/03, 2 pgs.**
- X – HB 2237, -2 amendments, submitted by staff, dated 4/4/03, 1 pg.**
- Y – HB 2732, written testimony, submitted by Rep. Prozanski, 1 pg.**
- Z – HB 2733, -1 amendments, submitted by staff, dated 4/9/03, 1 pg.**
- AA – HB 3426, written testimony of Walt Myers, Salem Chief of Police, submitted by staff, 1 pg.**
- BB – HB 3250, written testimony of Nancy Hammer, National Center for Missing & Exploited Children, submitted by Matt Meador, 2 pgs.**