

## HOUSE COMMITTEE ON JUDICIARY

May 21, 2003 Hearing Room 357

1:00 p.m. Tapes 202 - 203

**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:**

- SB 617A Public Hearing and Work Session
- HB 2390 Work Session
- SB 65 Work Session
- SB 59 Work Session
- SB 882A Work Session

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 202, A</b>		
003	Chair Williams	Calls the meeting to order at 1:40 p.m. Opens a public hearing on SB 617A.
<b><u>SB 617A PUBLIC HEARING</u></b>		
018	Rep. Billy Dalto	Representative, House District 21. Testifies in support of SB 617A.
027	Erica Davis	Crime Victim. Testifies in support of SB 617A which requires restitution in all cases in which victim suffers injury, loss or damage.
111	Rep. Dalto	Says that it was very important to allow Ms. Davis to testify and tell her story.
141	Vice Chair Anderson	Asks if the driver was uninsured.
144	Davis	Answers that she had liability insurance only.
150	Rep. Prozanski	Wonders why Ms. Davis could not enforce this judgment.
169	Davis	Says that it is a civil money judgment.
177	Fred Boss	Assistant Attorney General, Department of Justice. Addresses certain questions by committee.
238	Rep. Prozanski	Asks where restitution is in the formula for payments.
259	Boss	Answers that restitution is number 2 and is split 50/50.
269	Rep. Prozanski	Asks if they need to make a policy decision so a crime victim can pursue a judgment on their own.
275	Boss	Says yes, that is a policy decision they can make. Discusses Colorado's policy decision.

294	Vice Chair Ackerman	Wonders if it is a money judgment. Asks what their intent is.
306	Boss	Says it is their intent to have it as part of the money judgment and to be fully enforceable as a civil money judgment would be.
311	Vice Chair Ackerman	Asks if they are avoiding any consequence of the joint and severable liability rules.
320	Boss	Says that he does not know, but can find out.
305	Rep. Shetterly	Asks if a victim can initiate a judgment debtor examination.
339	Boss	Answers, no.
347	Rep. Shetterly	Asks if the victim can obtain writ of execution.
350	Boss	Says, no.
354	Connie Gallagher	Department of Justice, Crime Victims Assistance Section. Says that Ms. Davis's case illustrates problems throughout the system.
390	Rep. Shetterly	Asks if criminal judgment for restitution is good for 10 years and can it be renewed for 10 years.
393	Boss	Answers that it has a 20-year life that's nonrenewable.
398	Rep. Shetterly	Asks how that relates to the expungement statutes.
405	Boss	Answers that it stays on the records for 20 years.
415	Bradd Swank	Special Counsel, Government Relations, State Court Administrator's Office. Testifies on SB 617A.

**TAPE 203, A**

012	Swank	Continues his testimony on SB 617A.
040	Rep. Prozanski	Asks about Ms. Davis's situation.
044	Swank	Says that he does not know the status of her individual judgment.
055	Rep. Prozanski	Asks if the judgment didn't expire within the 15 years, then could someone in a similar situation go to the courts for collection.
060	Swank	Says, yes, now they have that capability and explains.
085	Chair Williams	Closes the public hearing on SB 617A and opens a work session.

**SB 617A WORK SESSION**

<b>091</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves SB 617A to the floor with a DO PASS recommendation.</b>
100	Rep. Shetterly	Says that he will not support the motion and explains.
123	Rep. Prozanski	Says that he is going to withdraw his motion.
127	Rep. Jenson	Says that he will vote no and has concerns.
136	Vice Chair Anderson	Asks Rep. Shetterly if this would be covered by insurance.
140	Rep. Shetterly	Answers typically, no, one would not have insurance coverage to pay.
145	Vice Chair Anderson	Wonders if the victim will be compensated for.
150	Rep. Shetterly	Says that he is not arguing against accountability, but says that he doesn't think there is a need to make a second victim.
167	Vice Chair Anderson	Asks Rep. Shetterly if he thinks that the bill is written so strictly that it cannot be obtained.
169	Rep. Shetterly	Says, yes, the only discretion in the bill is a payment schedule.
183	Vice Chair Ackerman	States that we have come a long way on victim's rights since this moment.
197	Chair Williams	Says that he recommends the attorney general and members of the task force and committee work amendments.
213	Rep. Macpherson	Says that he sees the restitution obligation as a moral statement by society to the perpetrator as to what damage they caused. Urges that they not lose track of that objective.
233	Rep. Krummel	Comments that he would have supported the bill in its current form, but not the -A2 amendments ( <b>EXHIBIT E</b> ). Says that he is outraged by the acts committed on these victims and thinks

304	Chair Williams	that they need to pay for their actions. Closes the work session on SB 617A and opens a work session on HB 2390.
<b><u>HB 2390 WORK SESSION</u></b>		
290	Bill Taylor	Committee Counsel. Introduces HB 2390 which prohibits all restrictions in noncompetition agreements in broadcasting industry other than 30-day restriction on employee's service in broadcasting industry after termination of employment. Discusses -5 amendments and says that they will become the bill <b>(EXHIBIT A)</b> .
327	Dave Fiskum	Oregon Association of Broadcasters. States that they do not support the -5 amendments.
354	Rep. Mark Hass	House District 27. Testifies on HB 2390. Says that they have reservations on the -5 amendments.
380	Rep. Macpherson	Wants to understand the -5 amendments. Asks for the significant changes.
386	Chair Williams	Explains the changes and the compromises.
430	Rep. Jenson	Asks if there is a retroactivity portion to the bill.
436	Chair Williams	Points out section 2 of the bill. Says it would not impact current contracts.
<b>TAPE 202, B</b>		
005	Rep. Jenson	Asks if this affects an individual after the date the bill becomes law.
011	Chair Williams	Answers that it would only affect contracts made after the date the bill becomes law.
015	Rep. Shetterly	Wonders why we are creating a special exemption for the broadcast industry.
027	Chair Williams	Responds that there will eventually have to be a standard set by court decisions.
048	Rep. Macpherson	Says that he supports the bill because he thinks that a move away from noncompetition agreements is good public policy.
061	Rep. Krummel	Says that he will not support the bill.
<b>072</b>	<b>Vice Chair Ackerman</b>	<b>MOTION: Moves to ADOPT HB 2390-5 amendments dated 05/12/03.</b>
		<b>VOTE: 9-0</b>
<b>074</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>083</b>	<b>Rep. Ackerman</b>	<b>MOTION: Moves HB 2390 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-1-1</b>
		<b>AYE: 7 - Ackerman, Anderson, Barker, Jenson, Prozanski, Shetterly, Williams</b>
		<b>NAY: 1 - Krummel</b>
		<b>EXCUSED: 1 - Macpherson</b>
<b>080</b>	<b>Chair Williams</b>	<b>The motion CARRIES.</b>
		<b>REP. ACKERMAN will lead discussion on the floor.</b>
089	Chair Williams	Closes the work session on HB 2390 and opens a work session on SB 65.
<b><u>SB 65 WORK SESSION</u></b>		
097	Craig Prins	Committee Counsel. Introduces SB 65 which modifies crime of sexual assault of animal. Discusses the -1 amendments <b>(EXHIBIT B)</b> .
106	Rep. Rob Patridge	Representative, House District 6. Testifies in support of SB 65 and the -1 amendments.

125	Chair Williams	Explains the bill and the particular case in Southern Oregon.
138	Rep. Jenson	Believes that these people have mental illnesses and will not be effectively treated as criminals.
146	Rep. Patridge	Says that this whole statute has to do with people that have mental illnesses.
162	Chair Williams	Discusses the bill.
177	Rep. Jenson	Points out his concerns. Thinks that we fail to deal with the problem on the level that he believes it should be dealt with.
<b>212</b>	<b>Rep. Krummel</b>	<b>MOTION: Moves to ADOPT SB 65-1 amendments dated 05/15/03.</b>
		<b>VOTE: 9-0</b>
<b>214</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>218</b>	<b>Rep. Krummel</b>	<b>MOTION: Moves SB 65 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 9-0</b>
<b>222</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED. REP. PATRIDGE will lead discussion on the floor.</b>
231	Chair Williams	Closes the work session on SB 65 and opens a work session on SB 59.

**SB 59 WORK SESSION**

233	Craig Prins	Committee Counsel. Introduces SB 59 which extends period during which forfeiture counsel must file criminal information or indictment for criminal forfeiture. Discusses the -2 and -3 amendments ( <b>EXHIBITS C &amp; D</b> ).
278	Rep. Prozanski	Explains the differences between the -2 and -3 amendments.
312	Rep. Krummel	Asks what the department would do with the weapons.
318	Rep. Prozanski	Explains that they have several choices.
353	Rep. Barker	Discusses what the Portland police have done with these weapons.
365	Daina Vitolins	Assistant Attorney General, Department of Justice. Talks about the amendments and the discussion with the Asset Forfeiture Committee.
406	Rep. Jenson	Says that he will probably oppose the bill because he doesn't understand why they can't re-use these weapons.
436	Chair Williams	Discusses the reason that they don't want the weapon that was used in a crime back in circulation.

**TAPE 203, B**

010	Rep. Prozanski	Explains that this is an exception to the forfeiture rules.
<b>042</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT SB 59-3 amendments dated 05/20/03.</b>
		<b>VOTE: 9-0</b>
<b>043</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>044</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves SB 59 to the floor with a DO PASS AS AMENDED recommendation.</b>
045	Rep. Jenson	Decides that he will support the bill after the discussion.
<b>047</b>		<b>VOTE: 9-0</b>
<b>050</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.</b>
052	Chair Williams	Closes the work session on SB 59 and opens a work session on SB 882A.

**SB 882A WORK SESSION**

054	Craig Prins	Committee Counsel. Introduces SB 882A which authorizes
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presiding judge of twenty-second judicial district to enter into memorandum of understanding with Confederated Tribes of Warm Springs regarding adjudication and disposition of youths and youth offenders.

072	Rep. Jenson	<b>MOTION: Moves SB 882A to the floor with a DO PASS recommendation.</b> <b>VOTE: 8-0-1</b> <b>EXCUSED: 1 - Krummel</b>
078	Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. JENSON will lead discussion on the floor.</b>
080	Chair Williams	Closes the work session on SB 882A and adjourns the committee at 3:05 p.m.

### **EXHIBIT SUMMARY**

- A – HB 2390, -5 amendments, submitted by staff, dated 5/21/03, 4 pgs.**
- B – SB 65, -1 amendments, submitted by staff, dated 5/15/03, 1 pg.**
- C – SB 59, -2 amendments, submitted by staff, dated 5/14/03, 8 pgs.**
- D – SB 59, -3 amendments, submitted by staff, dated 5/20/03, 8 pgs.**
- E – SB 617A, -2 amendments, submitted by staff, dated 5/16/03, 1 pg.**