

## SENATE COMMITTEE ON JUDICIARY

May 07, 2003  
8:00 AM

Hearing Room 343  
Tapes 122-123

**MEMBERS PRESENT:**     **Sen. John Minnis, Chair**  
                                  **Sen. Ginny Burdick, Vice-Chair**  
                                  **Sen. Ted Ferrioli**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Vicki Walker**

**MEMBER EXCUSED:**     **Sen. Charles Starr**

**STAFF PRESENT:**       **Craig Prins, Counsel**  
                                  **Bill Taylor, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **SB 621 Work Session**  
                                  **SB 801 Work Session**  
                                  **SB 808 Work Session**  
                                  **HB 2238A Public Hearing and Work Session**  
                                  **HB 2877 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.

---

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 122, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a work session on SB 621.
<b><u>SB 621 WORK SESSION</u></b>		
006	Craig Prins	Committee Counsel. Introduces SB 621 that expands category of persons who may enter into written agreements with adoptive parents to continue contact with adopted child to include birth relatives, and the -1 amendments ( <b>EXHIBIT A</b> ).
021	Vice Chair Burdick	<b>MOTION: Moves to ADOPT SB 621-1 amendments dated 4/25/03.</b> <b>VOTE: 4-0-2</b> <b>EXCUSED: 2 - Sen. Ferrioli, Sen. C. Starr</b>
024	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
028	Vice Chair Burdick	<b>MOTION: Moves SB 621 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 4-0-2</b> <b>EXCUSED: 2 - Sen. Ferrioli, Sen. C. Starr</b>
030	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. BROWN will lead discussion on the floor.</b>
037	Chair Minnis	Closes the work session on SB 621 and opens a work session on SB 801.
<b><u>SB 801 WORK SESSION</u></b>		

045	Craig Prins	Committee Counsel. Introduces SB 801 that imposes automatic restraining order on parties to marital annulment, separation, dissolution or paternity proceeding, and the -4 amendments <b>(EXHIBIT B)</b> .
094	Vice Chair Burdick	Asks about a time period for the petitioner.
098	Prins	Says the petitioner acknowledges restraint upon filing.
101	Sen. Kate Brown	Senate District 21. Clarifies further when the restraining order would begin.
110	Vice Chair Burdick	Asks if the petitioner has more notice than the respondent of the filing.
116	Prins	Says the restraining order takes effect at time of filing for the petitioner, and the respondent is restrained once it is served.
127	Sen. Walker	Asks about sanctions referred to on page 2, line 26 and 27 of the amendment.
119	Prins	Explains remedial sanctions.
146	Sen. Ringo	Asks if a person would have to go to court to seek relief from a restraining order.
150	Prins	Says, yes.
159	Sen. Ringo	Asks which section of the Oregon State Bar is requesting the bill.
164	Sen. Brown	Says it is a separate section associated with the National Academy of Family Law.
168	Sen. Ringo	Asks about a party's interest in property.
171	Sen. Brown	Says it would apply to any of the assets that either party owns.
180	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT SB 801-4 amendments dated 5/2/03.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Starr</b>
184	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
185	<b>Vice Chair Burdick</b>	<b>MOTION: Moves SB 801 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Starr</b>
188	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. BROWN will lead discussion on the floor.</b>
193	Chair Minnis	Closes the work session on SB 801 and opens a work session on SB 808.

**SB 808 WORK SESSION**

182 Craig Prins Committee Counsel. Introduces SB 808 that requires court to include review of child’s comprehensive plan for transition to independent living at certain permanency hearings, and the -1 amendments (**EXHIBIT C**). Mentions an email from Mickey Serice expressing his concerns with the bill (**EXHIBIT D**).  
233 Julie McFarlane Juvenile Rights Project. Testifies in opposition to SB 808. Talks about the need for another amendment.  
288 Chair Minnis Closes the work session on SB 808 until tomorrow at 9:15 a.m., and opens a public hearing on HB 2238A.

**HB 2238A PUBLIC HEARING**

297 Bill Taylor Committee Counsel. Introduces HB 2238A that changes payment of benefits awarded by public safety memorial fund board to payment in lump sum and the –A2 amendments (**EXHIBIT E**).  
314 Alan Scharn Department of Public Safety Standards and Training. Submits testimony and testifies in support of HB 2238A (**EXHIBIT F**).  
400 Sen. Ferrioli Discusses a case, and asks if this fund would be available in this instance.  
444 Scharn Says it would depend on the severity of the injury.  
460 Chair Minnis Asks about reserve officers.  
466 Scharn Says this bill covers reserve officers as well.  
469 Sen. Ringo Asks where funding for the memorial fund comes from.  
470 Scharn Explains that it comes from a portion of the Criminal Fines and Assessment Account.  
483 Sen. Ringo Asks if there is any financial analysis available.  
487 Scharn Says he will provide it.  
510 Brian Delashmutt Oregon Council of Police Association. Testifies in support of HB 2238A.

**TAPE 123, A**

512 Chair Minnis Closes the public hearing on HB 2238A and opens a work session.

**HB 2238A WORK SESSION**

**056 Sen. Ringo MOTION: Moves to ADOPT HB 2238A-A2 amendments dated 5/6/03.**  
**VOTE: 5-0-1**  
**EXCUSED: 1 - Sen. C. Starr**  
**Hearing no objection, declares the motion CARRIED.**  
**059 Chair Minnis MOTION: Moves HB 2238A to the floor with a DO PASS AS**  
**060 Sen. Ringo AMENDED recommendation.**  
**VOTE: 5-0-1**  
**EXCUSED: 1 - Sen. C. Starr**  
**Hearing no objection, declares the motion CARRIED.**  
**062 Chair Minnis SEN. FERRIOLI will lead discussion on the floor.**

066 Chair Minnis Closes the work session on HB 2238A and opens a public hearing on HB 2877.

**HB 2877 PUBLIC HEARING**

070 Doug Harcleroad District Attorney, Lane County. Testifies in support of HB 2877 that requires that early disposition programs allow district attorney to make resolution offer to offenders before arraignment. Introduces -1 amendments (**EXHIBIT G**).

148 Chair Minnis Asks when the disposition would be taken.

150 Harcleroad Says it would be done before arraignment.

152 Vice Chair Burdick Asks about allowable evidence in court.

157 Harcleroad Says that under certain circumstances anything said could be used.

184 Angel Lopez Oregon State Bar. Submits testimony and testifies in opposition to HB 2877 (**EXHIBIT H**). Discusses “Community Court” and the information provided to those who attend.

211 Sen. Walker Wonders with the heightened sense of terrorism if this is even more important now.

219 Lopez Agrees that it is hyper-critical issue right now. Continues testimony.

258 Vice Chair Burdick Asks for an example of how deportation works.

263 Lopez Explains the procedure. Continues his testimony on HB 2877.

323 John Martz Criminal Defense Attorney, Portland, OR. Testifies in opposition to HB 2877.

**TAPE 122, B**

025 Geoff Silver Attorney, Multnomah County. Testifies in opposition to HB 2877. Says this legislation will pass costs on to the court system.

092 Chair Minnis Discusses a case that took many years to conclude.

107 Silver Explains how he would handle such a case.

127 Chair Minnis Discusses a defendant’s waiver of counsel, and wonders why it is a problem.

142 Silver Explains how an un-counseled plea works and the length of time involved.

186 Sen. Ringo Asks if part of the discussion related to the offer includes the right to counsel.

193 Silver Explains that all the offers include a group advice regarding counsel.

220 Sen. Ringo Asks about deals being made.

223 Lopez Provides a typical scenario, and says this bill would eliminate the knowing and counseled plea.

240 Bill Taylor Committee Counsel. Talks about the waiver of counsel.

253 Silver Talks about his experience with arraignment cases.

341 Chair Minnis Asks if there are different standards that apply between police and the court regarding waivers.

330 Silver Says the constitution covers both.

398 Kelly Skye Oregon Criminal Defense Lawyers Association. Submits testimony and testifies in opposition to HB 2877 (**EXHIBIT I**). Says the question is whether or not a valid, legal waiver to right of counsel is always obtained.

**TAPE 123, B**

113 Andrea Meyer American Civil Liberties Union. Testifies in opposition to HB 2877.

136 Taylor Talks about the ethical issues of this legislation.

142	Harcleroad	Explains that defendants have a right to waive their rights, and that is what this legislation is providing.
190	Chair Minnis	Closes the public hearing on HB 2877 and adjourns the meeting at 10:00 a.m.

### **EXHIBIT SUMMARY**

- A – SB 621, -1 amendments submitted by staff, 1 p**
- B – SB 801, -4 amendments submitted by staff, 4 pp**
- C – SB 808, -1 amendments submitted by staff, 2 pp**
- D – SB 808, written testimony of Mickey Serice submitted by staff, 1 p**
- E – HB 2238A, -A2 amendments submitted by staff, 1 p**
- F – HB 2238A, written testimony submitted by Alan Scharn, 2 pp**
- G – HB 2877, -1 amendment submitted by staff, 3 pp**
- H – HB 2877, written testimony submitted by Angel Lopez, 2 pp**
- I – HB 2877, written testimony submitted by Kelly Skye, 2 pp**