

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

March 08, 1999 Hearing Room 357

1:00 p.m. Tapes 56 - 57

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2227

HB 2237

HB 2697

HB 2720

HB 2417

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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TAPE/#	Speaker	Comments
TAPE 56, A		
004	Chair Shetterly	Calls meeting to order at 1:25 p.m.
<u>HB 2697 - PUBLIC HEARING</u>		
013	Sen. Kate Brown	<p>State Senator, District 7</p> <p>Testifies in support of HB 2697. HB 2697 increases marriage license fees by \$25. Directs that moneys collected from the portion of the marriage license fee to which the increase in applied shall be credited to the Domestic Violence Fund. Has sub-referral to Ways and Means. Discusses the statistics regarding domestic violence and the availability of domestic violence shelters.</p>
040	Rep. Wells	What does the \$85.00 cost of a marriage application fee represent?
046	Sen. Brown	The \$85.00 will be the total cost of a marriage application fee if HB 2697 passes.
047	Rep. Wells	Does it cost the same amount in every county for a marriage license?
054	Sen. Brown	No, it is different in some counties.
057	David Nebell	<p>Oregon Law Center</p> <p>Explains the breakdown of costs regarding the marriage application fee.</p>
073	Charles Stearn	<p>Yamhill County Clerk</p> <p>Discusses what the county collects from a marriage license fee. Explains the ten-dollar option included in an application fee which would go to a conciliation program.</p>
097	Rep. Wells	What does the money from a domestic violence fund provide?
096	Sen. Brown	Explains what the domestic violence fund provides.
107	Rep. Uherbelau	Does this include money for shelters?
110	Sen. Brown	Yes.
113	Rep. Witt	What was the public policy that led us to increase the cost of the marriage license

		which goes into a domestic violence fund?
115	Sen. Brown	States that the State of Oregon has decided not to appropriate money from the General Fund to support domestic violence shelters and their programs.
123	Chair Shetterly	Closes public hearing.
<u>HB 2417 n WORK SESSION</u>		
123	Counsel Felton	HB 2417 bars recovery of noneconomic damages in civil action for injury or death arising out of operation of motor vehicle if plaintiff was driving while under the influence of intoxicants or driving uninsured at time of accident.
143	Rep. Witt	MOTION: Moves to ADOPT HB 2417-1 amendments dated 02/24/99.
148	Rep. Uherbelau	Where did the language in the -1 amendment originate from regarding the 30-day leniency given uninsured drivers?
154	Rep. Williams	States that proponents of the bill as well as Rep. Edwards and I worked the proposal for the 30-day leniency.
166	Rep. Witt	States that the proposal for the 30-day leniency for uninsured drivers came about due to the committee's discussion during the January 28, 1999 hearing. HB 2417 shouldn't exclude any driver from collecting punitive damages just because he had a temporary lapse of vehicle insurance.
175	Rep. Uherbelau	Recalls that the committee was concerned about the uninsured driver's right to damages and not with the intoxicated driver's right to damages, but not necessarily concerned with the temporary lapse of insurance.
180	Chair Shetterly	Discusses the purpose of the n1 amendment for HB 2417.
213	Rep. Williams	Discusses the 30-day lapse of insurance issue in HB 2417.
222	Chair Shetterly	VOTE: 7-2 AYE: 7 - Backlund, Edwards, Walker, Wells, Williams, Witt, Shetterly NAY: 2 - Lowe, Uherbelau

		The motion CARRIES.
230	Rep. Williams	MOTION: Moves HB 2417-1 to the floor with a DO PASS recommendation.
237	Rep. Uherbelau	States that HB 2417 is not fair for the lower income class.
247	Rep. Lowe	Expresses her objections to HB 2417 because of the complications involving the proof of intoxication. States that a jury can decide to award damages for individual uninsured driver cases. Gives a court case example where HB 2417 would keep the uninsured driver from receiving damage awards even though they were not at fault.
294	Rep. Williams	Discusses why he supports HB 2417 as amended.
321	Chair Shetterly	Discusses the situation where an intoxicated person pulls off the road and is rear-ended and how HB 2417 is specific regarding this situation. States another situation where an intoxicated person leaves his car and while in a phone booth is hit by another car.
362	Rep. Witt	States that the policy is made when a person decides to drive while intoxicated. Explains why he supports HB 2417 as amended.
396	Rep. Uherbelau	Discusses the fact that there should be some relationship between the uninsured and the intoxicated driver regarding receiving non-economic damages. Asks if every state has uninsured motorist coverage.
432	Rep. Lowe	Gives different examples of intoxicated drivers involved in vehicle accidents and how it implies to being guilty of intoxication. Expresses her objection to HB 2417.
498	Chair Shetterly	Explains the proof that is required when a person is intoxicated and involved in an accident while intoxicated.
Tape 57, A		
039		VOTE: 6-2 AYE: 6 - Backlund, Edwards, Wells, Williams, Witt, Shetterly NAY: 2 - Lowe, Uherbelau EXCUSED: 1 - Walker

	Chair Shetterly	The motion CARRIES. REP. WITT will lead discussion on the floor.
047	Chair Shetterly	Closes public hearing.
<u>HB 2227 n PUBLIC HEARING</u>		
045	Counsel Felton	HB 2227 modifies exemptions available to judgement debtor when execution is issued on judgement for support payments.
066	Ronelle Shankle	Department of Justice, Support Enforcement Division (SED) Testifies and submits written testimony in support of HB 2227 (EXHIBIT A). Discusses the support of HB 2227 and the two key points regarding the amendment.
101	Carl Stecker	Marion County District Attorney's Office Testifies and submits written testimony in support of HB 2227 (EXHIBIT B). Discusses the amount of a lump sum from the retirement benefits which would satisfy a delinquent child support debt. Discusses the proposed amendment regarding the existing provisions of state law (ORS 25.354) to direct the withholding of a greater percentage of the retirement account to pay the delinquent support.
140	Rep. Uherbelau	According to page 2, lines 2-7 of HB 2227, is 25% of personal injury awards paid to child support ?
151	Shankle	Yes, that is correct.
152	Rep. Uherbelau	Does HB 2227 refer to awards of \$10,000 or less?
153	Shankle	Yes.
154	Rep. Uherbelau	Asks if there are any limits to the amount of personal injury awards regarding HB 2227.
159	Stecker	States that amounts over \$10,000 are subject to routine garnishment because the exemptions are the same implied in any debtor-creditor situation.
165	Chair Shetterly	Has any group or individual approached SED with opposition to HB 2227?

167	Shankle	No.
172	Chair Shetterly	Closes public hearing.
<u>HB 2227 - WORK SESSION</u>		
175	Rep. Lowe	MOTION: Moves to ADOPT HB 2227-1 amendments dated 03/03/99.
		VOTE: 8-0-1 EXCUSED: WALKER
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
178	Rep. Lowe	MOTION: Moves HB 2227-1 to the floor with a DO PASS recommendation.
		VOTE: 8-0 AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Wells, Williams, Witt, Shetterly EXCUSED: 1 - Walker
	Chair Shetterly	The motion CARRIES. REP. LOWE will lead discussion on the floor.
<u>HB 2237 - PUBLIC HEARING</u>		
192	Counsel Felton	HB 2237 clarifies procedures when paternity is established by administrative determination.
201	Ronelle Shankle	Department of Justice, Support Enforcement Division (SED) Testifies in support of HB 2237. Discusses of the -2 amendment.
217	Maureen McKnight	Department of Justice, Support Enforcement Division (SED)

		Testifies in support of HB 2237. Discusses the inclusion of the reference of ORS 416.430 regarding the process for deciding name changes for a paternity case.
226	Carl Stecker	Oregon District Attorneys Association Testifies in support of HB 2237. States that HB 2237 is a beneficial change for administrators of paternity.
232	Chair Shetterly	Closes public hearing.
<u>HB 2237 n WORK SESSION</u>		
238	Rep. Lowe	Expresses her support of HB 2237.
239	Rep. Lowe	MOTION: Moves to ADOPT HB 2237-2 amendments dated 03/03/99.
		VOTE: 9-0
	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
254	Chair Shetterly	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WALKER to BE RECORDED as voting AYE on HB 2227 with a Do Pass Recommendation.
<u>HB 2697 - PUBLIC HEARING</u>		
280	Arnie Green	Director, Community Works, Jackson County Testifies in support of HB 2697. Discusses Domestic Violence Shelters' lack of funds.
335	Rep. Witt	Expresses his support of funding shelters, but has concerns about adding another fee to the marriage application.
347	Green	Discusses the fact that some counties do not have any shelters because of the lack of funds.
361	Rep. Witt	Are there other types of fees that could fund these shelters?
363	Green	We at one point received some money from the Unitary Assessment Tax.

370	Rep. Uherbelau	States that the Domestic Violence shelter in Jackson County does a tremendous job with very limited funds. Asks about violence issues coming from a marriage, so isn't it logical to use a fee from a marriage application.
382	Rep. Kitty Piercy	State Representative, House District 39 Testifies and submits written testimony in support of HB 2697 (EXHIBIT C). Discusses the importance of Domestic Violence Shelters.
422	Rep. Williams	Where would be the most appropriate place to obtain funds for domestic violence?
430	Rep. Piercy	Discusses the need for these shelters and the acceptance of using a marriage license fee to support these funds for the shelters.
457	Rep. Williams	Are we taxing the wrong people by taxing those starting out a marriage relationship?.
475	Rep. Piercy	Discusses why the funding should come from marriage licenses.
494	Rep. Witt	Asks about statistics to show that domestic violence is more prevalent in married relationships.
Tape 56, B		
044	Rep. Witt	Asks about the impact on young people getting married and that they are the least able to afford this increase in application fees.
049	Rep. Piercy	States that it isn't a very large increase even for those just starting a marriage and that most would agree that the money was for a good cause.
053	Rep. Uherbelau	States that domestic violence is really a control problem.
058	Rep. Piercy	Discusses the alcohol problem in Oregon and the lack of funds for that social issue.
066	Rep. Lowe	Discusses the statistics regarding domestic violence in a marriage. Asks about some of the services that the shelter would provide.
086	Rep. Piercy	States that there is a lot of educational material regarding domestic violence.
102	Doug Mitchell	Deputy District Attorney, Lane County Testifies in support of HB 2697. Discusses the filing fee for divorce cases.

		Discusses the effect on children involving domestic violence and the grant given to the domestic violence issue in Lane County.
152	Larry Whittlesey	Lane Association of Christian Ministries Testifies and submits written testimony in support of HB 2697 (EXHIBIT D). Discusses the importance of funding in Lane County to helping those involved in domestic violence. Discusses the cost of a wedding in relation to the fee implemented by HB 2697. Discusses the influence of domestic violence in everyone's life.
247	Bonnie Braeutigam	Child Protection & Family Based Services (CPFBS), State of Oregon Testifies and submits written testimony in support of HB 2697 (EXHIBIT E). Discusses how the CPFBS administers the domestic violence fund.
290	Rep. Witt	Asks about the percentage of the marriage license fee used by CPFBS.
293	Braeutigam	Discusses the sources of funds for CPFBS.
312	Rep. Witt	Is the money received, 50% or 15% from the criminal fund?
315	Braeutigam	Fifty percent of the funding comes from the Criminal Assessment Account.
321	Rep. Witt	How will the marriage license fee effect the other sources of funds that CPFBS receives?
323	Braeutigam	States that in 1998, \$656,000 of marriage license fees was received by CPFBS. States that the Criminal Assessment Account will be lower this year.
334	Rep. Witt	How much will the total funding bill increase if HB 2697 passes?
336	Braeutigam	Our revenue would increase by \$656,000 due to the increased marriage license fee. Currently, our agency can not collect any more than 10% of the marriage license fee.
342	Rep. Witt	Did you consider other ways of raising funds for domestic violence?
345	Braeutigam	Our agency knows of no other way to increase these funds.
365	Margaret Brown	The Oregon Coalition Against Domestic and Sexual Violence Testifies and submits written testimony in support of HB 2697 (EXHIBIT F). Submits written testimony in behalf of Gina McClard (EXHIBIT G). States that there has not been an increase in the marriage license tax since 1987. Discusses

		the statistics regarding domestic violence and the effect on the family.
Tape 57, B		
040	Brown	Further testifies concerning what domestic violence shelters provide and how they provide support of the victims of domestic violence. Discusses her story of domestic violence and her lack of resources to be able to leave the relationship with her husband.
112	Rep. Uherbelau	Expresses her support of HB 2697.
118	Chair Shetterly	Closes public hearing.
<u>HB 2720 n PUBLIC HEARING</u>		
127	Counsel Felton	HB 2720 changes the accounting period for probated estates.
	Warren Deras	Attorney, Multnomah County Testifies and submits written testimony in support of HB 2720 (EXHIBITS J & K). Discusses the four issues that addresses court procedures regarding HB 2720.
370	Rep. Wells	Asks about the case in Portland involving theft from an estate by an attorney which would be effected by HB 2720.
377	Deras	Discusses the case of an attorney embezzling money from an estate.
404	Chair Shetterly	Adjourns meeting at 3:10 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

Administrative Support Counsel

EXHIBIT SUMMARY

- A - HB 2227, Written testimony, Ronelle Shankle, p. 2**
- B - HB 2227-1, Written testimony, Carl Stecker, p. 3**
- C - HB 2697, Written testimony, Kitty Piercy, p. 2**
- D - HB 2697, Written testimony, Larry Whittlesey, p. 2**
- E - HB 2697, Written testimony, Bonnie Braeutigam, p. 3**
- F - HB 2697, Written testimony, Margaret Brown, p. 5**
- G - HB 2697, Written testimony, Gina McClard, p. 7**
- H - HB 2697, Written testimony, Carol Gooden-Rice, p. 1**
- I - HB 2697, Statistics on Domestic Violence, Margaret Brown, p. 2**
- J - HB 2720, Written testimony, Warren Deras, p. 2**
- K - HB 2720, California Probate Code, Warren Deras, p. 2**
- L - HB 2417-1, Proposed amendment, p. 1**
- M - HB 2227-1, Proposed amendment, p. 1**
- N - HB 2237-2, Proposed amendment, p. 1**