

## HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

March 22, 1999 Hearing Room 357

8:30 a.m. Tapes 96 - 99

**MEMBERS PRESENT:** Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

**STAFF PRESENT:** John Horton, Counsel

Patsy Wood, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2423 Public Hearing

HB 2677 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 96, A		
005	Chair Mannix	Calls meeting to order at 8:37 a.m.

**HB 2423 PUBLIC HEARING**

037	Counsel Taylor	HB 2423 requires employees of public and private schools to report any person who unlawfully possesses a firearm while in school.
046	<b>Rep. Bill Morrisette</b>	<b>State Representative, House District 42</b>  Testifies and submits written testimony in support of HB 2423 ( <b>EXHIBIT A</b> ). Discusses the shooting incident that occurred at Thurston High School in Springfield, Oregon. Because probable cause is difficult to determine, a 24-hour hold is appropriate to determine if a psychological evaluation should be performed. We should have the same standards for firearms in schools that we have for firearms in airports. Under HB 2423 any student in possession of a firearm would be reported to staff and have a mandatory detention for 24 hours to determine if a psychological exam is appropriate.
145	Chair Mannix	Did you want to comment on SB 344 in the Senate at this time?
148	Morrisette	The Governor put together a similar bill that I support, but there is not a mandatory 24-hour hold in the Governor's bill.
158	Rep. Hansen	HB 2423 mentions firearms in violation of ORS 166.250 and 166.370 on lines 6 & 7 of page 1. Would we need any additional language that covered explosives or devices used to make explosives?
168	Morrisette	I did not want to complicate the bill by including explosives because innocent household items when put together can become dangerous.
175	Rep. Prozanski	HB 2423 says that school staff shall report possession of a firearm by a student, and you mentioned some connection with a teacher noticing Kip's preoccupation with violence. Why did no one report that?
184	Morrisette	There is often a reluctance to report these things such as child abuse. Now the teachers wish they had reported it, by many felt Kip was a class clown and perhaps didn't take him seriously.
196	Rep. Prozanski	Are you more interested in the child being held for the 24-hour detention or getting a psychological evaluation?
201	Morrisette	A mandatory 24-hour hold is my preference. If Kip had been held for 24 hours, people who died may be alive today.
213	Chair Mannix	Closes the public hearing on HB 2423.

**HB 2677 PUBLIC HEARING**

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223	<b>Sen. Ginny Burdick</b>	<b>State Senator, District 6</b>  Testifies in support of HB 2677 that creates a crime of allowing a minor to obtain unsupervised access to a firearm. This legislation is an attempt to stop the carnage from suicides, homicides and accidental deaths among youth people.
252	<b>Kate</b>	<b>Daughter, Senator Ginny Burdick</b>  Testifies and submits written testimony in support of HB 2677 ( <b>EXHIBIT B</b> ). Describes finding a gun in her aunt's closet and the desire that came over her to play with the gun. Unless you have a lock box, you cannot call your guns safe.
280	Rep. Gianella	Would you have been able to resist the urge to play with the gun if you had had training in handling a gun, like a hunter's safety course?
286	Kate	I don't know. I haven't been around guns that much, maybe it would have.
302	Chair Mannix	Closes public hearing on HB 2677.
<b><u>HB 2423 PUBLIC HEARING</u></b>		
324	<b>John Hellen</b>	<b>Oregon Gun Owners</b>  Testifies and submits written testimony in support of HB 2423 ( <b>EXHIBIT C</b> ). Recommends an amendment to line 18 on page 1, to post a school activity or program as such because a gun owner could unknowingly be around a school activity or program with his weapon. We want to insure that exemptions for possession of firearms for ROTC, Hunter's Safety Courses, and Vocational Educational training are not removed from the current statute.
360	Rep. Prozanski	What do you envision as a school function? If a group of students were working on a clean-up project, would that need to be posted?
370	Hellen	Discusses where posting for school activities might occur so a gun owner does not unknowingly break the law.
384	Rep. Prozanski	Discusses inability to post walking tours. How do you envision posting for this type of activity?
393	Hellen	We don't know how this posting will work, but I suggest this be considered and the issue be addressed.
401	Rep. Hansen	Doesn't HB 2423 only apply to the students, so the students would know if they were involved in a school activity?

408	Hellen	Yes, it does apply to students, but there are current exemptions in the law like hunteris safety courses or ROTC.
416	Rep. Hansen	I was referring to the posting of the non-school activities like tours and the facts that students would be aware of those being a school activity. A student taking a gun on a field trip would be a violation of this law.
427	Hellen	If the legislation refers to students in possession of a firearm, you are correct in thinking that they would be aware if they are on a school activity or not.
<b>TAPE 97, A</b>		
003	<b>Harold Burke-Sivers</b>	<b>Security Coordinator, Salem Keizer Schools</b>  Testifies and submits written testimony in support of HB 2423 and HB 2913 <b>(EXHIBIT D)</b> . Discusses the working relationship between the school and law enforcement to provide a safer learning environment. Our crisis management plan has been expanded because we are starting to see more domestic violence, non-custodial parent and drug and alcohol problems at home spill over into the schools. We would like to see this legislation pertain to anyone who possesses a weapon in schools, not just students.
052	<b>Wilma Wells</b>	<b>Confederation of Oregon School Administrators</b>  Testifies in support of HB 2423. Discusses the incident of a child in Portland not being permitted to school after he threatened a secretary at the school with a gun. Gang members should not be allowed at school activities.
067	Chair Mannix	Your concern is gang members, ages 18-20, showing up at sports events or other activities? How do we identify who is a gang member?
071	Wells	We may not know who is a member of a gang, but a ball game is not a good place to have a gun.
076	Rep. Bowman	How will you implement this legislation so the schools know what the new law is? Will there be training taking place in the schools?
081	Wells	Since the shooting incident in Springfield, we have been more aware about reporting child abuse and notifying the police of potential danger.
091	<b>Kathie Osborn</b>	<b>Juvenile Rights Project</b>  Testifies in opposition to HB 2423. We don't think kids or anyone else should be bringing guns to school. Discusses problems in HB 2423 with no time frame for reporting and the mandatory 24-hour hold. If the definition of "school" is going to be expanded to include the premises of any school activity, we feel it should be posted as such so people are aware of the possibility of breaking the law. Addresses the mandatory psychological evaluation and the problem of how long it takes to complete (at least 3 ½ weeks). Discusses that the risk assessment

		instrument used by Multnomah County was dropped and a mandatory hold used after the shooting at Thurston High School. We would suggest a risk assessment instrument be developed by counties to determine how dangerous a child might be.
236	Rep. Bowman	Is it your interpretation that the date of this law would be retroactive so if a teacher knew a child possessed a firearm a year ago, that teacher would have to turn in that student after implementation of this law?
244	Osborn	HB 2423 says any employee should report a child having a gun, it does not say when the child had the gun.
257	Rep. Bowman	Is your concern the past-tense language of "has been in possession of" or "did possess" a firearm? Do you have current language to offer to address this?
262	Osborn	Not yet.
265	Chair Mannix	Closes the public hearing on HB 2423.
<b><u>HB 2677 PUBLIC HEARING</u></b>		
275	Counsel Taylor	HB 2677 creates the crime of allowing a minor to obtain unsupervised access to a firearm.
296	<b>Lisa Millet</b>	<b>Portland Health Division</b>  Testifies and submits written testimony of Dr. Grant Higginson in support of HB 2677 ( <b>EXHIBIT E</b> ). Our Behavioral Risk Factor Survey found that almost half of all Oregonians have a gun in their home, with 20% of those guns loaded and unlocked. Discusses the solution to injury prevention as being a three-pronged approach involving laws and regulations, technological or mechanical improvements, and education.
381	Chair Mannix	Could the Health Division go back to 1930 and provide us with statistical information (nationally and at the state level) on population and incidence of death as a percentage of the population and incidence of firearm-related deaths (accidental v. intentional) so we can see statistics over time?
403	Millet	I would be happy to get you this information. The age groupings were probably not broken down until the 1950s.
407	Rep. Sunseri	How many people were involved in these kinds of accidents that had permits to carry a weapon (since 1990)?
413	Rep. Simmons	Could we also get statistics on how many youths went through the Hunter's Safety Course and then were involved in any firearms-related deaths or injuries?

**TAPE 96, B**

001	<b>Rep. Jo Ann Bowman</b>	<b>State Representative, House District 19</b>  Testifies and submits written testimony in support of HB 2677 ( <b>EXHIBIT F</b> ). Discusses why she is proposing HB 2677 (the Child Access Prevention (CAP) Act) modeled after a Florida law relating to the storage of handguns. "CAP" laws would also reduce juveniles committing suicide with a handgun. Describes "CAP" laws in Florida and California that provide awareness of the danger and the solutions of a trigger lock or lock box. Discusses the National Rifle Association (NRA) support of "CAP" laws. Describes steps to save lives supported by The American Academy for Pediatrics and the Center to Prevent Handgun Violence.
152	Rep. Prozanski	Based upon your testimony, CAP laws only apply to unsupervised storage of loaded guns. Does HB 2677 apply to only loaded firearms, or to all firearms either loaded or unloaded?
162	Rep. Bowman	HB 2677 deals specifically with gun storage in the home, so any gun that is loaded should be stored appropriately.
170	Rep. Prozanski	For it to apply to HB 2677 does the gun have to be loaded or unloaded?
171	Rep. Bowman	The guns have to be loaded for it to apply to HB 2677.
178	Rep. Simmons	How is a "minor" defined for the purposes of HB 2677?
180	Rep. Bowman	The Florida model identifies a minor as 16 years or younger.
184	Rep. Simmons	HB 2677 does not state that, so I am assuming a minor is someone younger than 21 years of age.
187	Rep. Prozanski	A minor is 17 or 18 years old except relating to alcohol.
190	Rep. Simmons	I used to go out hunting when I was 15 or 16 by myself. If HB 2677 passed, a young person would have to wait for an adult to accompany them before they could go hunting.
200	Rep. Bowman	The intent was not to get at young children who were taught, through proper use, to respect firearms. HB 2677 is intended for those adults who allow unsupervised access to a loaded weapon.
232	Rep. Simmons	My understanding of the Thurston incident was that the guns were locked up so HB 2677 wouldn't make a difference in that case. If someone wants to kill someone, they will find a way.

239	Rep. Bowman	In Springfield, the shooter bought a gun from someone at school.
262	Rep. Gianella	Where did you get the figure that 40,000 children were exposed every year to unsafe firearms?
264	Millet	That came from the Behavior Risk Factor Survey that is done every year by the Center for Disease Control.
270	Rep. Gianella	How are these statistics compiled?
272	Millet	Discusses that the Survey tries to determine what public health concerns are found in homes that could be a risk to fatality. If a gun is owned, questions are asked relating to its storage and if children had access to the weapon.
294	Rep. Simmons	Would you bring us the number of fatalities from bicycle accidents?
300	Rep. Prozanski	Could we distinguish solo bicycle accidents from bicycle deaths caused by automobiles?
304	Chair Mannix	Any accidental death or injury comparatives would be helpful.
309	Millet	The Child Fatality Review System determined in 1997 that 26 deaths occurred due to firearm violence. Of those, it was determined that 19 could have been avoided if the guns had been locked up.
352	<b>James Lace, M.D.</b>	<p><b>Oregon Medical Association</b></p> <p>Testifies and submits written testimony in support of HB 2677 (<b>EXHIBIT G</b>). Discusses the figures provided by the Oregon Health Division on the number of children killed each year by firearms. Educational programs on firearm safety would help reduce these accidental deaths. Trigger guards are not intended for loaded weapons. Loaded weapons need storage in a lock box or safe. Demonstrates the trigger guard and lock box.</p>
<b>TAPE 97, B</b>		
024	Chair Mannix	You said some firearms could still be fired even with a trigger guard on, are they older weapons?
028	Lace	No. We placed the trigger guard on different types of weapons and tested them to see if they could still be fired, and some of them fired depending upon how the trigger guard was put on.
036	Rep. Gianella	Are there any statistics on how easy a lock box is to open by a child?

039	Lace	I don't know of any statistics, but adults should keep the lock box in a safe place where children can't gain access to it.
054	Rep. Sunseri	You suggest that in a dark room you could open that box in 5 seconds?
056	Lace	We practiced opening the box, but not in the dead of night.
067	Rep. Simmons	Are you aware that last session we passed a law that authorized the use of the Eddy Eagle firearm safety class to be taught in schools?
069	Lace	If it is being taught, that is a great start in educating school children.
073	Rep. Bowman	That was a resolution to Congress supporting the Eagle Gun training program, but it didn't have to do with the school curriculum.
078	<b>Martin Jones, M.D.</b>	<b>American College of Physicians</b>  Testifies and submits written testimony in support of HB 2677 ( <b>EXHIBIT H</b> ). In Oregon 40,000 latchkey children have access to guns when they come home from school. Describes a survey done with first graders on handguns being stored in their homes and their knowledge of where that gun is kept. Suicide with a loaded weapon is much more successful than any other form of suicide. HB 2677 will remind adults that there is a punishment if guns are not safely stored.
192	Rep. Gianella	Does the responsibility for increased gun use lie with the parents who are allowing children to watch violent television programs and play violent video games excessively?
200	Jones	Yes, I think parents are responsible for what movies their children watch and the video games they play.
204	Rep. Gianella	Should there be legislation for parents letting their kids watch violent movies and play violent video games?
209	Jones	No. We can eliminate senseless deaths through prevention. Just like safety belts and immunizations prevent deaths, a handgun safely stored out of reach could also prevent accidental deaths.
218	Rep. Simmons	On one hand you say parents are responsible for what their kids watch, but then you say we shouldn't do anything about it. How do you rationalize that?
224	Jones	As a good parent, I guide my children by my values. I keep my gun safely stored away from my children.
236	Rep. Simmons	You did indicate there is more exposure to violence in today's society and kids



		are exposed to a greater degree of violence that trivializes violence. Yet you do not think we should do anything about it?
251	Jones	I can't be held responsible for a societal problem of violence.
258	Chair Mannix	Steve Allen is starting a national campaign to look at violence, obscene language and drugs in advertising and on TV, but we don't have much control in Oregon over what the national networks do. Your focus is on preventing injuries or deaths in the home by safely storing firearms where children cannot reach them.
278	Jones	Thank you. You said that better than I could.
310	<b>Cindi, Calvin &amp; Sandra McClain</b>	<b>Family of Kevin McClain</b>  Testifies in support of HB 2677. Discusses the incident that caused her son's death by an accidental shooting in 1997. Five children under the age of 14 live in that home where the shooting occurred, and any one of those children could have become a victim of an accidental shooting. People who own weapons, need to be informed about locking them up.
427	Rep. Bowman	Did you know the family Kevin was visiting when the accidental shooting occurred?
<b>TAPE 98, A</b>		
002	McClain	I did not know them personally, but my son knew a member of their family from cub scouts.
013	<b>Jim Green</b>	<b>Oregon School Board</b>  Testifies in support of HB 2677. Discusses the Gun-Free Schools Act passed by Congress in 1996-97, which pertains to states receiving federal money. This Act says that if a student brings a weapon to school, that student must be expelled for a period of not less than one year and states how many students were expelled in 1996 and 1997. When these students were asked where these guns were found, they indicated in their parents' closet. I feel Section 2, subsection 3 supports firearms being used by minors who know how to use them safely.
056	Rep. Bowman	Does the federal law have an exemption for children who know how to use a weapon?
059	Green	The federal law does not have that exemption, but if the student is authorized under current law or district policy to bring a weapon to school (for ROTC or hunter safety courses), they are not suspended or expelled.
069	Rep. Gianella	What percentage of children who had firearms at school got them from home?

071	Green	Of the 136 children expelled, 70% of the children who were asked where they got the weapon responded "from home".
074	Rep. Gianella	Do you have the number of children who were asked?
076	Green	I would be happy to provide that information.
079	Rep. Simmons	Would you please provide your testimony in writing?
081	Green	Yes.
084	<b>Katie Riley</b>	<p><b>Oregon Public Health Association</b></p> <p>Testifies and submits written testimony in support of HB 2677 (<b>EXHIBIT I</b>). The use of safety devices primarily affects younger children because adolescents are often able to bypass safety devices. The best method of preventing accidental shootings is by not having guns in the home. Discusses ways to prevent access to guns by adolescents by providing background checks or eliminating the sales of assault rifles and handguns that are not used for hunting. Discusses three reasons why the Adolescent Risky Behavior Task Force advocates the passage of HB 2677. Safety devices can act as a deterrent, especially if the key and ammunition are stored separately. HB 2677 sends a message that we want handguns to be used responsibly and under supervision.</p>
197	<b>Lt. Mike Bell</b>	<p><b>Portland Police Bureau</b></p> <p>Testifies in support of HB 2677 on behalf of Portland Chief of Police Charles Moose who was unable to attend the hearing. Discusses the most difficult part of being a police officer is going to someone's home and telling the parents that their child has been killed either accidentally or intentionally. HB 2677 raises the awareness of handguns being safely stored and puts a penalty on people who carelessly leave loaded guns around where children may have access. Discusses the number of police officers killed by juveniles in possession of a firearm in the past year.</p>
240	Rep. Gianella	Do you think this legislation interferes with a gun owner's right to protect themselves?
251	Bell	If you are going to use a gun for self defense, you need to practice using that weapon and be really familiar with it and have the capability to retrieve that weapon quickly from a locked location.
308	<b>Cindy Brown</b>	<p><b>Executive Director, Ribbon of Promise</b></p> <p>Testifies in support of HB 2677. Ribbon of Promise is a national grass roots organization dedicated to ending school violence. The organization was formed by a group of firefighters following the shooting incident at Thurston High School in Springfield, Oregon. Some witnesses have spoken about the inconvenience caused by a trigger guard or lock box, but these are nothing compared to the tragedy suffered by young people when a shooting occurs at</p>

		school.
387	<b>Tuck Wilson</b>	<p><b>Oregon Coalition for Safe Streets, Homes &amp; Schools</b></p> <p>Testifies and submits written testimony in support of HB 2677 (<b>EXHIBIT J</b>). Lists the many organizations that support child access prevention. Submits a packet of Child Access Prevention Materials (<b>EXHIBIT K</b>).</p>
428	<b>Robert Gordon</b>	<p><b>Citizen from Gresham</b></p> <p>Testifies and submits written testimony in opposition to HB 2677 (<b>EXHIBIT L</b>). If you think removing guns might prevent youth suicides, removing one method usually results in substitution of another method. Questions have been raised about how much time it would take to unlock a safe box. If I had an intruder, I'm not sure I would want to take the time to locate the key and open the box.</p>
<b>TAPE 99, A</b>		
014	Chair Mannix	I timed myself to load a weapon and it took about 3 seconds. I understand a lock box can be opened in about 5 seconds. Isn't that enough time to be able to defend your home?
020	Gordon	The statistic used by police officers is: if someone is within 21 feet of you, you have 1 $\frac{1}{3}$ seconds.
023	Chair Mannix	That is if they are about to charge at you with a weapon or knife.
024	Gordon	If you hear your door opening in your room (that is about 21 feet) you better be moving.
026	Chair Mannix	By then, you better have your gun in your hand.
034	Rep. Prozanski	Describes the 21-feet-rule as taught to police officers.
039	Gordon	Refutes the earlier testimony given by Rep. Bowman.
080	Wilson	This year Multnomah County purchased a lock box for each deputy sheriff. The county had the faith that their law enforcement officers could get at their guns easily enough even though they were locked up.
093	<b>Laurel Fisher</b>	<p><b>Citizen, Eugene, Oregon</b></p> <p>Testifies in support of HB 2677. Discusses a meeting of 35 women after the Thurston High School shooting to discuss their concerns. Describes why she is wearing a blue sash. Wherever it is appropriate, we wear the blue sash to show our concern about legislation affecting children. I think children's primary job is to be in school learning, not worrying about staying safe. It is our job as parents</p>

		to keep our children safe.
140	<b>Margaret Coe</b>	<b>Artist, Eugene, Oregon</b>  Testifies in support of HB 2677. Discusses a group of 11 artists in Eugene, Oregon putting on an exhibition at the Holt Center called "Life Out of Balance". This exhibition is in specific response to the tragic shooting at Thurston High School. Because we want our children to be safe, we in Oregon will take a small amount of inconvenience to keep our weapons locked up.
194	Chair Mannix	Closes public hearing on HB 2677. Adjourns meeting at 11:10 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A - HB 2423, written testimony submitted by Rep. Bill Morrisette, dated 3/22/99, 1 pg.**

**B - HB 2677, written testimony submitted by Kate (Sen. Ginny Burdick's daughter), dated 3/22/99, 2 pgs.**

**C - HB 2423, written testimony submitted by John Hellen, Oregon Gun Owners, dated 3/22/99, 1 pg.**

**D - HB 2423, written testimony submitted by Harold Burke-Sivers, Salem Keizer Schools, dated 3/22/99, 1 pg.**

**E - HB 2677, written testimony submitted by Lisa Millet, Oregon Health Division, dated 3/22/99, 4 pgs.**

**F - HB 2677, written testimony submitted by Rep. Jo Ann Bowman, dated 3/22/99, 5 pgs.**

**G - HB 2677, written testimony submitted by James Lace, M.D., dated 3/22/99, 2 pgs.**

**H - HB 2677, written testimony submitted by Martin Jones, M.D., dated 3/22/99, 3 pgs.**

**I - HB 2677, written testimony submitted by Katie Riley, dated 11/6/98, 3 pgs.**

**J - HB 2677, written testimony submitted by Tuck Wilson, Oregonians Against Gun Violence, dated 3/22/99, 2 pgs.**

**K - HB 2677, Packet of Child Access Prevention Materials, submitted by Tuck Wilson, 57 pgs.**

**L - HB 2677, written testimony submitted by Robert Gordon, 2 pgs.**