

SENATE COMMITTEE ON JUDICIARY

February 10, 1999 Hearing Room 343

3:00 PM Tapes 32 -33

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

MEMBER EXCUSED: Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: SB 240

SB 390

SB 387

SB 346

SB 318

SB 319

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 32, SIDE A		

004	Chair Bryant	Calls meeting to order at 3:15 PM.
008	Taylor	Introduces proposed bills: LC 3300 relating to abandoned wives, LC 562 relating to disabled persons, LC 480 relating to appointed counsel for children, and LC 479 related to sex offenders.
<u>SB 240 PUBLIC HEARING</u>		
036	Bradford Telyea	Oregon State Police Forensic Division Testifies and submits written testimony in support of SB 240. (EXHIBIT A) Discusses current method of certifying document authenticity. Summarizes electronic fingerprint method of certifying document authenticity. States that SB 240 offers report integrity without compromising defense strategy.
074	Tom Dixon	Oregon State Police Testifies in support of SB 240.
076	Dale Penn	Marion County District Attorney's Office Testifies in support of SB 240. Suggests amending SB 240 to clarify that the law shall not burden the defense. Discusses the Hancock case which establishes the defense counsel's right to cross-examine criminal forensic experts in person.
121	Layne Barlow	Oregon Men's Association Testifies and submits written testimony in opposition to SB 240. (EXHIBIT B) Discusses Arizona vs. Evans, the U.S. Supreme Court case. Asserts that law enforcement compromises constitutional rights when relying on erroneous computer records.
151	Chair Bryant	Closes SB 240 Public Hearing.
<u>SB 390 PUBLIC HEARING</u>		
165	Melinda Bruce	Civil Enforcement Division, Family Law Testifies and submits written testimony in support of SB 390. (EXHIBIT C) Discusses the need to exclude civil law from juvenile proceedings unless a specific law has been incorporated into the juvenile code. States that SB 390 upholds the juvenile code without barring the state legislature to apply civil law in specific if necessary.
243	Chair Bryant	What is the impetus behind SB 390 at this time?
246	Bruce	Explains the increasing application of civil law in juvenile proceedings,

		especially in motions to dismiss. Discusses the ramifications of these motions when appellate courts overturn lower court rulings.
269	Sen. Brown	Juvenile cases are very ambiguous. Why not apply civil law procedures to address these cases.
278	Bruce	Explains the use of civil law by analogy instead of direct application in juvenile court cases.
305	Chair Bryant	Suggests that Ms. Bruce confer with the Counsel On Court Procedures, the Oregon Law Commission, and the Oregon State Bar regarding the intent of SB 390 Public Hearing.
318	Sen. Brown	Suggests that the Oregon State Bar workgroup may be a good forum for dealing with the issues addressed by SB 390.
324	Bruce	Discusses the ongoing nature of SB 390 issues in juvenile courts. Decides to confer with the suggested groups to resolve juvenile law court procedures.
356	Sen. Courtney	Closes SB 390 Public Hearing.
<u>SB 387 PUBLIC HEARING</u>		
365	Melinda Bruce	Civil Enforcement Division, Family Law Testifies and submits written testimony in support of SB 387. (EXHIBIT D) Discusses the recent appellate court decision denying a juvenile court to hear a parental rights case. Discusses the ramifications of that decision on current juvenile court procedure. SB 387 codifies the current practice of proceeding with termination of parental rights cases when a disposition order appeal is pending.
TAPE 33, SIDE A		
042	Chair Bryant	Discusses the Juvenile Rights Project staff suggestion to place dependency jurisdiction cases on the fast track appeal timeline. Do you agree with this suggestion?
044	Bruce	It is an option, but not, necessarily, a viable option to our proposal.
058	Chair Bryant	Suggests that Ms. Bruce confer with Mr. Olson from the Juvenile Rights Project to review options to SB 390.
064	Nancy Miller	State Court Administrator's Office Citizen Review Board

		Testifies in support of SB 390. Discusses a concern with the Juvenile Rights Project fast track suggestion: judges' time schedules that may not accommodate additional cases on a fast track timeline. Discusses the efficiency of pursuing juvenile jurisdiction cases while a disposition order is on appeal. States that the lower court ruling is generally affirmed in most of these appeals.
084	Chair Bryant	How many jurisdictional cases per year are appealed?
085	Bruce	A significant number of cases are appealed.
087	Miller	Discusses the upcoming implementation of the federal Safe Families Act. Expresses concern for the influx of case workload created by this legislation.
095	Chair Bryant	When will the Safe Families Act be implemented?
100	Taylor	March 10, 1999.
102	Sen. Brown	I would like an opportunity other alternatives to SB 387.
137	Chair Bryant	Closes SB 387 Public Hearing.
<u>SB 346 PUBLIC HEARING</u>		
145	Alan Scharn	Department of Public Safety Standards and Training Testifies and submits written testimony in support of SB 346. (EXHIBIT E) Presents history of agency. Distinguishes between responsibilities of the agency and the agency's board. States that the agency is responsible for granting certification extensions and issuing orders on revocation. SB 346 will shift these responsibilities from the board to the agency.
180	Sen. Courtney	Will assuming these tasks significantly increase your agency's workload?
183	Scharn	We receive several extension requests each year, but only a few revocations.
186	Sen. Courtney	Can your current staff handle the proposed workload increase?
186	Scharn	Yes. They have handled these tasks for the past two years.
190	Sen. Courtney	Your agency trains which workers?
191	Scharn	We train law enforcement, corrections officers, firefighters, 911 dispatchers,

		telecommunication staff, private security officers, parole and probation officers.
195	Chair Bryant	Closes SB 346 Public Hearing.
<u>SB 346 WORK SESSION</u>		
196	Sen. Courtney	MOTION: Moves SB 346 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Tarno
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
<u>SB 318 PUBLIC HEARING</u>		
229	Maureen McKnight	Governor's Council on Domestic Violence Testifies and submits written testimony in support of SB 318. (EXHIBITS F, G, and H) Explains how SB 318 implements the federal Violence Against Women Act. Discusses the National Protective Order Registry and intrastate law enforcement procedures in implementing the Violence Against Women Act. Addresses the gun control issues contained in SB 318.
295	Stan Robinson	Oregon State Sheriff's Association Testifies in support of SB 318. Explains how SB 318 allows law enforcement the necessary latitude to comply with the federal Violence Against Women Act.
325	Dale Penn	District Attorney's Association Testifies in support of SB 318. States that SB 318 provides full faith and credit of compliance with the federal Violence Against Women Act. Discusses how the national registry of restraining and stalking orders enables petitioners to receive copies of registry orders and proof of service entry.
358	Shawn Hoar	United States Attorney's Office Testifies in support of SB 318. States that SB 318 will allow for efficient implementation of the Violence Against Women Act and resolve some discrepancies between Oregon and federal law.

370	Sen. Burdick	Will the instant gun check system remain in place under SB 318?
382	McKnight	Yes. Discusses current gun check system that would continue.
398	Sen. Burdick	What about Concealed Weapons Permit holders?
406	Robinson	This issue has not been addressed.
427	Sen. Burdick	Would we revoke a concealed weapons permit if stalker were not able to carry a gun?
433	McKnight	Yes, grounds for non-issuance and revocation would be consistent.
TAPE 32, SIDE B		
001	Sen. Brown	What are the issues surrounding HB 2330 on gun violence?
005	David Nebel	Oregon Coalition Against Domestic and Sexual Violence Testifies and submits written testimony in support of SB 318. (EXHIBIT I) Discusses HB 2330 that forbids domestic violence felons from possessing firearms.
047	Sen. Brown	How many states have enacted legislation similar to HB 2330?
049	Nebel	I don't know.
052	Hoar	States that several western and other states have legislation similar to HB 2330. Discusses the ramifications of this legislation on the recreational use of firearms.
096	Chair Bryant	Will the U.S. Attorney's Office enforce hunting violations for those restricted from possessing firearms?
097	Hoar	Yes. Hunting violators will be subject to prosecution. Discusses how resource allocation determines the selection of case prosecutions.
134	Penn	Discusses how notice is made to defendants of firearm violations. Explains that the HB 2330 will supplement, not change federal law.
200	Nebel	Discusses gun use statistics in a domestic violence context. Clarifies that a firearm restriction is only valid when a restraining order is in effect.

221	Chair Bryant	When the Violence Against Women Act passed in Congress, did legislators intend for the firearm restriction to apply to recreational gun use?
225	Nebel	The clear intent was to protect the domestic violence victims from gun violence by removing firearms from the home.
240	McKnight	Portland police officers who respond to domestic violence situations ask perpetrators to voluntarily relinquish firearms.
283	Kevin Starrett	Gun Owners of America Testifies in opposition of SB 318. Discusses the Latenburg Law that prohibits gun ownership for domestic violence offenders. Discredits research statistics on gun violence in a domestic violence context. Asserts that SB 318 broadly applies to anyone with a stalking order against a family member. Questions the constitutionality of the federal Violence Against Women law.
377	Chair Bryant	Requests documentation of what courts have declared the Violence Against Women law unconstitutional.
380	Layne Barlow	Oregon Menís Association Testifies in opposition of SB 318. Explains that a stalking order labels a person a victim or a perpetrator without a disposition hearing. Objects to entry of stalking and protective orders into a national registry without an accountability system.
TAPE 33, SIDE B		
026	Starrett	Letís not enshrine bad federal law in Oregon law.
034	Penn	Explains that SB 318 creates procedures for giving notice within the court system. Clarifies that Oregon law would evolve as federal law evolves, since Oregon law cites federal statute.
056	Chair Bryant	How long is a stalking order in effect?
057	Penn	Restraining orders remain in effect for 1 year at a time. States that after a court hearing, a stalking order remains in effect for life.
067	Chair Bryant	Can a stalking order be lifted?
068	Penn	Courts have allowed orders to be withdrawn or re-litigated.
078	Robson	Discusses the District of Columbia circuit court case that addresses law

		enforcement officers who are domestic violence offenders are restricted from carrying firearms.
120	Chair Bryant	Closes SB 318 Public Hearing.
<u>SB 319 PUBLIC HEARING</u>		
128	Maureen McKnight	Governor's Council On Domestic Violence Testifies and submits written testimony in support of SB 319. (EXHIBITS J and K) Discusses current Oregon practice in handling restraining orders. Explains that SB 319 removes the at the scene requirement in making a domestic violence arrest. States that SB 319 expands those protected in domestic abuse situations. The categories of protected individuals would be equivalent with those protected under the Family Abuse Prevention Act. Discusses the emergency relief provisions that expand the locations at which a victim would be protected in a domestic abuse context. Explains a perpetrator's date of birth requirement for LEDS entry.
212	Dale Penn	District Attorneys' Association Testifies in support of SB 319 and discusses the mandatory arrest statute.
235	Stan Robson	Oregon State Sheriff's Association Testifies in support of SB 319 especially the mandatory arrest provision.
261	David Nebel	Oregon Coalition Against Domestic And Sexual Violence Testifies in support of SB 319. Underscores the importance of standard of proof rather than a preponderance of evidence in issuing a restraining order against a domestic violence perpetrator.
298	Sen. Qutub	Why have you changed the wording from spouse to family or household members in SB 319?
305	McKnight	We wanted to eliminate specific relationships and include the relationships as defined in the Family Abuse Prevention Act.
327	Taylor	Does household member encompass fraternity relationships?
330	McKnight	No. Household members include parental, cohabitation, intimate and family relationships as defined in the Family Abuse Prevention Act.
343	Sen. Qutub	"Household members" should be referenced.

345	Chair Bryant	Yes. Its legislative history should be referenced.
370	Layne Barlow	Oregonis Menis Association Reserves testimony for a subsequent SB 319 Public Hearing and submits written testimony in support of SB 319. (EXHIBITS L and M)
380	Chair Bryant	Adjourns meeting at 5:05 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

EXHIBIT SUMMARY

A. SB 240 written testimony, Bradford Telyea, 3pp

B. SB 240 and SB 318 written testimony, Layne Barlow, 1p

C. SB 390 written testimony, Melinda Bruce, 2pp

D. SB 397 written testimony, Melinda Bruce, 3pp

E. SB 346 written testimony, Alan Scharn, 2pp

F. SB 318 written testimony, Maureen McKnight, 1p

G. Governoris Council on Domestic Violence Appointed Members, Maureen McKnight, 1p

H. SB 318 overview from the Governoris Domestic Violence Council, Maureen McKnight, 2pp

I. Summary of Statistics on Gun Use in Context of Domestic Violence, David Nebel

- J. SB 319 written testimony, Maureen McKnight, 2pp**
- K. SB 319 overview from the Governor's Domestic Violence Council, Maureen McKnight, 3pp**
- L. SB 319 written testimony, Layne Barlow, 4pp**
- M. Oregon Men's Association Domestic Violence Overview, 2pp**