

SENATE COMMITTEE ON JUDICIARY

May 10, 1999 Hearing Room 343

3:00 PM Tapes 171 - 173

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: SB 555 Work Session

HB 2305 Work Session

HB 2216 Work Session

HB 2213 Public Hearing

SB 775 Work Session

HB 2304 Work Session

HB 2226 Public Hearing

HB 2365 Work Session

SB 2325 Public Hearing, Work Session

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 171, SIDE A		
004	Chair Bryant	Calls meeting to order at 3:15 PM.
<u>SB 555 WORK SESSION</u>		
024	Bobby Green	Lane County Commissioner Testifies in support of SB 555 which relates to juvenile weapons violations. Introduces panel.
035	Pam Curtis	Governor's Office Testifies in support of SB 555 ñ10. (EXHIBIT A)
097	Gina Furman	Tillamook County Commissioner Testifies in support of SB 555. Discusses the consensus among SB 555 proponents.
116	Sen. Tarno	Can a community be healthy if it is economically depressed?
120	Chair Bryant	No.
126	Randy Frankie	Marion County Commissioner Testifies in support of SB 555 ñ10. Discusses the negotiation process between the bill's proponents.
136	Chair Bryant	Discusses the SB 555 exemption to tailor the use of public funds. Does this exemption extend to the Department of Education services?
162	Curtis	Yes.
176	Chair Bryant	Must the state commission approve of SB 555 expenditures?
185	Curtis	Yes, state expenditures, but not county.
210	Chair Bryant	If the state appoints a lead agency in overseeing SB 555, wouldn't it be the State Commission on Children and Families?

220	Curtis	Yes, on the state level. Explains the need for local lead agencies.
250	Sen. Courtney	Could a county commissioner delegate his or her responsibility for juvenile justice programs.
254	Curtis	Yes.
273	Sen. Courtney	SB 555 addresses children of which age group?
281	Frankie	Discusses the various age groups addressed throughout SB 555.
316	Sen. Brown	What is the SB 555 waiver process for expenditure use?
317	Curtis	Discusses the waiver process of SB 555, section 34.
350	Linda Swearingen	Deschutes County Commission Chair Testifies in support of SB 555. Discusses early intervention program which met the qualifications for a waiver from the state mandated use of funds.
385	Loren DeBates	Concerned Citizen Testifies and submits written testimony in support of SB 555. (EXHIBIT B) Discusses the SB 555 waiver in relation to non-profit organizations.
TAPE 172, SIDE A		
005	DeBates	Continues discussion of using SB 555 funds for alternative programs. Discusses the Rand Report which indicates the dire need for family training.
030	Sen. Courtney	Did SB 941 and SB 555 relate to children under 18 years of age?
039	Counsel Taylor	Contrasts SB 941 and SB 555 in relation to juveniles.
063	Sen. Brown	Discusses prevention by age group as preferable to rehabilitation.
079	Dennis Mahoney	Department of Community Justice, Director Testifies in support of SB 555. Discusses the emphasis on high-risk programs at the expense of prevention. Explains how the SB 555 waiver would allow the county to intervene before youth become delinquent.
103	Chair Bryant	Discusses the SB 555 amendments which allow flexibility in use of funds.

		Closes SB 555 Work Session.
<u>HB 2305 WORK SESSION</u>		
126	Counsel Taylor	Introduces HB 2305 which expands bases of state appeal in criminal actions. Discusses the HB 2305 amendments. (EXHIBIT C)
146	Dale Penn	Marion County District Attorney's Office Testifies in support of HB 2305. Explains amendments which broaden the bill.
161	Sen. Tarno	MOTION: Moves to ADOPT HB 2305-1 amendments dated 04/07/99.
		VOTE: 5-2-0 AYE: 5 - Burdick, Courtney, Qutub, Tarno, Bryant NAY: 2 - Brown, Nelson
	Chair Bryant	The motion CARRIES.
162	Sen. Tarno	MOTION: Moves SB 2305 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-2-0 AYE: 5 - Burdick, Courtney, Qutub, Tarno, Bryant NAY: 2 - Brown, Nelson
	Chair Bryant	The motion CARRIES. SEN. TARNO will lead discussion on the floor.
<u>HB 2216 WORK SESSION</u>		
170	Counsel Taylor	Introduces HB 2216 which requires an offender on post-prison supervision to

		reside in his or her county of residence prior to the conviction. Discusses the HB 2216 ñ1 amendments. (EXHIBIT D)
213	Sen. Courtney	Discusses the legislative history of HB 2216.
200	Sen. Qutub	MOTION: Moves to ADOPT HB 2216-1 amendments dated 04/08/99.
		VOTE: 7-0-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
268	Sen. Qutub	MOTION: Moves HB 2216 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
230	Chair Bryant	Closes HB 2216 Work Session.
<u>HB 2213 PUBLIC HEARING</u>		
239	Dave Cook	Oregon Department of Corrections, Director Testifies and submits written testimony in support of HB 2213 which eliminates the upper age limit for incarceration at boot camp. (EXHIBIT E)
255	Sen. Courtney	MOTION: Moves HB 2213 to the floor with a DO PASS recommendation.
		VOTE: 7-0-0

	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. COURTNEY will lead discussion on the floor.</p>
282	Chair Bryant	Closes HB 2213 Work Session.
<u>SB 775 WORK SESSION</u>		
286	Counsel Taylor	Introduces SB 775 which transfers responsibility for the Court Appointed Special Advocate (CASA) Volunteer Program from the State Commission on Children and Families to the Judicial Department.
300	Sen. Qutub	Discusses the legislative history of SB 775 ñ1 amendments in relation to the funding issues. (EXHIBIT F)
317	Sen. Brown	Is SB 775 cost effective?
320	Nancy Miller	<p>State Court Administratorís Office, Citizen Review Board</p> <p>Testifies in support of SB 775. Discusses the best funding sources of the volunteer program.</p>
374	Sen. Burdick	What problem does SB 775 address?
379	Sen. Qutub	Explains that the CASA program would receive more attention if housed in the Judicial Department.
TAPE 171, SIDE B		
001	Miller	Continues discussion about CASA funding sources and support staff training needs.
025	Donna Middleton	<p>Office of Services to Children and Families</p> <p>Testifies and submits written testimony in support of SB 775. (EXHIBITS G and H) Discusses original funding program funding.</p>
075	Jennifer Hunkin	<p>Grant County CASA Program</p> <p>Testifies in support of SB 775. Discusses CASA program in Grant County. Asserts that the program has few resources.</p>

085	Helen Moore	Linn County CASA Program Testifies in support of SB 775. Discusses lack of adequate CASA funding and inability to serve eligible children.
098	Ida Desoto	Polk County CASA Program Testifies in support of SB 775. Discusses the 1 ½ year closure of the Polk County CASA program due to lack of funding.
114	Larry Basin	Yamhill County CASA Volunteer Testifies in support of SB 775. Asserts that offering children an opportunity for a successful life is satisfying.
170	Chair Bryant	Closes SB 775 Work Session.
<u>HB 2304 WORK SESSION</u>		
185	Counsel Taylor	Discusses HB 2304 which allows defendant to remain in custody pending trial for more than 60 days. Discusses ñA3 and ñA4 amendments. (EXHIBITS I and J)
190	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to HB 2304. Proposes a sunset provision.
221	Dale Penn	Marion County District Attorneys Office Testifies in support of HB 2304. Asserts that the HB 2304 ñA4 amendments give courts flexibility and addresses conviction costs issues. Discusses the value of adding sunset provision to the bill.
289	Swenson	Discusses the conflict of interest arising from a court negotiating directly with a defense attorney. This creates a wedge between the defense attorney and his or her client.
309	Chair Bryant	What happens if a defendant demands to proceed with his case within 60 days?
315	Swenson	The case proceeds to trial.
320	Sen. Courtney	Discusses the presumption of innocence until proven guilty except egregious crimes.
367	Penn	Discusses scope of HB 2304 and a judge's burden of proof to show good cause.

TAPE 172, SIDE B

005	Penn	Continues discussion about the HB 2304 60-day waiver requirements.
020	Sen. Courtney	What is good cause for waiving the 60-day trial requirement?
022	Penn	Explains that good cause is a broad term and any list of reasons would be non-exclusive.
035	Sen. Courtney	Where did the 180-day trial requirement originate?
041	Penn	I don't know. Discusses the constitutional basis for prompt trials. Explains that the exceptions are very narrow in scope.
050	Swenson	Explains that the outside limit of 180 days will become the standard. Asserts that except for prosecution failures, there is no justification to extend the 60-day trial requirement.
124	Sen. Brown	Explains that Multnomah county meets the 60-day trial requirement. HB 2304 issues are not a concern.

HB 2226 PUBLIC HEARING

154	Merry Lawson	Support Enforcement Division Testifies and submits written testimony in support of HB 2226 which subjects SED employees to the child abuse reporting statutes. (EXHIBIT K)
195	Bob Oleson	Professional Liability Fund Testifies in support of HB 2226.

203	Carl Meyers	Testifies in support of HB 2226. Discusses the legislative history of the bill on the House side.
229	Chair Bryant	Discusses the HB 2226 amendments. (EXHIBIT L)
249	Sen. Brown	Are members of the Oregon State Bar subject to the reporting statutes during non-work hours?
264	Meyers	Discusses the ambiguity of mandated reporting issues.

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281	Sen. Brown	Does the Oregon State Bar offer training in child abuse issues for its members?
285	Meyers	Yes, the Family Law Section offers some non-mandatory training.
300	Diane Lancaster	Office of Services for Children and Families Testifies and submits written testimony in support of HB 2226. (EXHIBIT M)
347	Chair Bryant	Does SCF object to the inclusion of dental hygienists within the scope of HB 2226?
348	Lancaster	No.
350	Counsel Taylor	Do abuse and assault cover any physical abuse?
363	Lancaster	Abuse is any physical indicator of a hard action against the body.
395	Sen. Nelson	Is verbal abuse a form of child abuse?
400	Lancaster	Yes, depending upon the tenor of the conversation.
TAPE 173, SIDE A		
008	Chair Bryant	Discusses the subjective nature of verbal abuse.
028	Sen. Brown	Asserts that attorneys would be under the reporting statutes 24 hours daily.
041	Sen. Qutub	How great is the scope of this problem? The bill is broad.
067	Chair Bryant	Closes HB 2226 Public Hearing.
<u>HB 2365 WORK SESSION</u>		
085	Sen. Courtney	MOTION: Moves HB 2365 to the floor with a DO PASS recommendation.
		VOTE: 7-0-0

	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. COURTNEY will lead discussion on the floor.</p>
<u>HB 2325 PUBLIC HEARING</u>		
093	Maureen McKnight	<p>Governor's Domestic Violence Council</p> <p>Testifies and submits written testimony in support of HB 2325 which conforms foreign restraining order provisions to the federal Violence Against Women Act. (EXHIBIT N)</p>
140	Chair Bryant	Are penalties for non-compliance with the federal law assessed?
141	McKnight	No.
148	Counsel Taylor	If we don't pass this law, must we still comply with federal law?
150	McKnight	Yes. Discusses the ambiguity of current Oregon law.
160	Layne Barlow	<p>Oregon Men's Association</p> <p>Testifies and submits written testimony in opposition to HB 2325. (EXHIBIT O) Discusses adversarial restraining procedures that presume that the mother is a victim. Explains that HB 2325 shifts the burden of proof from the accuser to the accused. Proposes certification of restraining order and proof of service upon the respondent.</p>
241	McKnight	Explains that restraining orders are entered into a national database.
272	Barlow	Discusses the pursuit of fathers who seek their children.
290	Chair Bryant	Custodial kidnapping is a crime in Oregon.
314	Sen. Tarno	Did the House address HB 2325 as it relates to reasonable notice?
323	McKnight	Explains that the original state must make reasonable notice which Oregon honors.
350	Sen. Tarno	What is reasonable notice?

360	McKnight	It is the time frame in which the respondent may rebut the restraint claim.
367	Sen. Tarno	How is one notified of the restraining order?
368	McKnight	Notification procedures vary by state.
398	Chair Bryant	Closes HB 2325 Public Hearing.
<u>HB 2325 WORK SESSION</u>		
400	Sen. Brown	MOTION: Moves HB 2325 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Nelson
		Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.
407	Chair Bryant	Adjourns hearing at 5:30 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

EXHIBIT SUMMARY

- A. SB 555 ñ10 proposed amendments, Bill Taylor, 39pp**
- B. Written testimony in support of SB 555, Loren DeBates, 2pp**
- C. HB 2305 ñ1 proposed amendments, Bill Taylor, 1p**
- D. HB 2216 ñ1 proposed amendments, Bill Taylor, 1p**
- E. Written testimony in support of HB 2213, David Cook, 1p**
- F. SB 775 ñ1 proposed amendments, Bill Taylor, 2pp**
- G. Court Appointed Special Advocates (CASA) overview, Donna Middleton, 3pp**
- H. Child Abuse and Neglect, Donna Middleton, booklet**
 - I. HB 2304 ñA3 proposed amendments, Bill Taylor, 1p**
 - J. HB 2304 ñA4 proposed amendments, Bill Taylor, 3pp**
- K. Written testimony in support of SB 2226, Merry Larsen, 3pp**
- L. HB 2226 ñA2 proposed amendments, Bill Taylor, 1p**
- M. Written testimony in support of HB 2226, Dianne Lancaster, 2pp**
- N. Written testimony in support of HB 2325, Maureen McKnight, 3pp**
- O. Written testimony in opposition to HB 2325, Layne Barlow, 4pp**
- P. Written testimony in support of HB 2226, Kirk Hall, 3pp**