

**SENATE COMMITTEE ON JUDICIARY**

**June 30, 1999 Hearing Room B**

**7:30 a.m. Tapes 260-263**

**MEMBERS PRESENT: Sen. Bryant, Chair**

**Sen. Courtney, Vice-Chair**

**Sen. Brown**

**Sen. Burdick**

**Sen. Nelson**

**Sen. Duncan**

**Sen. Tarno**

**STAFF PRESENT: Bill Taylor, Counsel**

**Anne Tweedt, Counsel**

**Judith Minnich, Administrative Support**

**MEASURE/ISSUES HEARD: HB 2226 ñ Work Session**

**HB 2307 ñ Work Session**

**HB 3304 ñ Work Session**

**HB 3361 ñ Work Session**

**HB 3374 ñ Work Session**

**HJR 52 ñ Work Session**

**SB 841 ñ Work Session**

**SB 1009 ñ Work Session**

**SB 875 ñ 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 260, A</b>		
002	Chair Bryant	Calls the hearing to order at 7:50 a.m.
<b><u>SB 875 WORK SESSION</u></b>		
<b>031</b>	<b>Sen. Bryant</b>	<b>MOTION: Moves SB 875 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Public Affairs.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Brown</b>
		<b>Chair Bryant</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>
<b><u>SB 841 WORK SESSION</u></b>		
039	Chair Bryant	SB 841 addresses statutory victim's rights. Discusses the ñ1 amendments <b>(EXHIBIT A)</b> .
048	Counsel Taylor	The ñ1 amendments mirror the provisions of HJR 87, except in statute, not in the constitution.
053	Chair Bryant	The ñ1 amendments replace the entire bill.
056	Sen. Burdick	If they both pass, then the constitution takes precedence.
<b>062</b>	<b>Sen. Bryant</b>	<b>MOTION: Moves to ADOPT SB 841-1 amendments dated 6/28/99.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Brown</b>
		<b>Chair Bryant</b>
		<b>Hearing no objection, declares the motion CARRIED.</b>

064	Sen. Bryant	<b>MOTION: Moves SB 841 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Brown</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
<b><u>SB 1009 WORK SESSION</u></b>		
075	Chair Bryant	Discusses Measure 11 and the allowing of "good time" back into the criminal justice system. Discusses the legislative history of SB 1009.
086	Counsel Taylor	Discusses the ñ2, -3 and ñ4 amendments. Indicates that the amendments would narrow the scope of the offenses covered by the bill <b>(EXHIBITS B, C &amp; D)</b> .
108	Sen. Tarno	Are the sexual offenses not part of the bill?
110	Counsel Taylor	The more serious offenses are not part of the bill anymore.
137	Sen. Tarno	What happened to first degree theft?
141	Counsel Taylor	It is not a Measure 11 offense, so it is not part of this bill.
154	Sen. Duncan	Discusses the young man who died of cancer in prison but could not be released.
173	Chair Bryant	At some time we will have to look at other institutions for older offenders.
184	Counsel Taylor	Discusses the ñ3 amendments that makes HB 1009 consistent with the HJR's which have been sent out.
186	Sen. Duncan	Are there any retroactive provisions in SB 1009?
199	Chair Bryant	No.

207	Sen. Courtney	Discusses the ñ3 amendments and the crimes added to the bill.
235	Chair Bryant	Indicates that the crimes listed in the ñ3 amendments are not crimes they should be adding to the list of those crimes accruing "good time."
<b><u>HB 3374B WORK SESSION</u></b>		
249	<b>Bob Smit</b>	<b>Oregon State Police</b>  Testifies in support of changes to HB 3374B. Under the current draft of the bill, police cannot have a concealed firearm in a public building. The bill then establishes an affirmative defense for possession of a firearm in violation of this requirement. Suggests changes to the B-engrossed bill.
312	Sen. Duncan	I thought police were required to carry a firearm at all times?
313	Smit	That's right. Discusses the concealed weapons permit in relationship to public buildings and HB 3374B.
361	<b>Dale Penn</b>	<b>District Attorney's Organization</b>  Explains that a court case calls common practice into question. Discusses the procedures required of those having a concealed weapons permit. Indicates that each sheriff can issue permits. The purpose of the bill is to offer an affirmative defense to carrying a concealed weapon. Discusses appropriate changes in language to draft the bill appropriately.
436	<b>Dave Amesbury</b>	<b>Department of Justice</b>  Discusses the difficulties of proving that someone does not have a concealed weapons permit.
473	Sen. Burdick	Do charges have to be filed to use an affirmative defense?
476	Amesbury	Yes. Practically speaking, a prosecutor won't charge if an obvious affirmative defense is available to the defendant.
488	Counsel Horton	Might it not be easiest to say that C, D, E, and F are affirmative defenses but A and B are not?
504	Penn	Our intent is to be able to prosecute, so that is a good compromise.
<b>Tape 261, A</b>		
042	Smit	Yes, that would satisfy us.

043	Amesbury	Yes, and also maybe section 3 could receive similar treatment.
051	Sen. Tarno	I'm retired, so this wouldn't help me at all. It doesn't apply to retirees.
058	Penn	Yes, we need similar language for retired police in section 3.
075	Sen. Burdick	What is the purpose of making the changes to section 3?
078	Amesbury	Discusses reasons for the -B20 amendments ( <b>EXHIBIT E</b> ). A recent court case has indicated that passengers in an automobile with a concealed weapon are not covered by existing statute language.
115	Sen. Burdick	This would also apply to the passenger?
116	Ainsbury	Everyone who is in the vehicle.
128	<b>Ingrid Swenson</b>	<b>Oregon Defense Lawyer's Association (ODLA)</b>  Testifies in opposition to the -B22 amendments ( <b>EXHIBIT F</b> ). Discusses the joinder rules in Oregon.
191	Chair Bryant	Is there any opposition to the ñB23 or ñB25 ( <b>EXHIBITS G &amp; H</b> )?
197	Swenson	No, we don't oppose either of those.
200	<b>Dale Penn</b>	<b>Marion County District Attorney, District Attorney's Association</b>  Testifies in support of the original HB 3374 which was designed to address the increasing number of drive-by shootings. Discusses the need for the ñ B22 amendments to the bill. We have patterned our joinder rules after the federal rules and want to continue this. This has been the pattern until a recent court decision which reexamined the Oregon statutes and interpreted "prejudice" differently than "substantial prejudice," which is the federal language.
280	Sen. Duncan	Can you talk about the fairness of joinder?
282	Penn	Discusses, using the <i>Miller</i> decision as an example.
307	Sen. Duncan	Could I ask that same question of the ODLA?
310	Swenson	Discusses the <i>Miller</i> case.
326	Chair Bryant	The -B22 amendments put in the wording of "substantially prejudiced." Does the

		rest of the ñB22 amendmenta correspond to the language in the Supreme Court decision on <i>Miller</i> ?
338	Swenson	The emphatic adjectives were not used in their decision. To change the language now, would have to cause the Supreme Court to reexamine their previous bar to severance.
353	Chair Bryant	Discusses the two emphatic adjectives that were probably not in the <i>Miller</i> decision.
355	Penn	We wouldnít object to having those two adjectives out of the bill. We just need to establish Oregonís connection to the federal rules of joinder.
378	Chair Bryant	Under the federal rules of joinder, are the victimís rights considered?
379	Penn	Yes. Shielding victims from multiple trials is a consideration.
392	Swenson	One of the reasons to require joinder is multiple crimes committed against the same victim. Victimís rights are often the reason to deny severance.
414	Chair Bryant	It would seem that section 4 is already in the statutes if we delete the two adjectives we have been discussing.
<b><u>HJR 52 WORK SESSION</u></b>		
436	Chair Bryant	Reviews the ñ19 and ñ20 amendments and a cover memo from Legislative Counsel discussing these amendments ( <b>EXHIBIT I</b> ). Discusses the difficulty of making a decision on this issue. In the past, ballot measures on this issue have failed. The ñ19 and ñ20 establish that adult businesses wonít be regulated any more than any other non-conforming businesses. Indicates they have considered the ñA15 amendments that would grandfather in existing adult businesses ( <b>EXHIBIT J</b> ).
<b>Tape 260, B</b>		
045	Chair Bryant	Discusses concerns regarding local zoning authorities prejudicial use of their authority in treating adult businesses differently than other businesses.
065	<b>Greg Chaimov</b>	<b>Legislative Counsel</b>  It would depend upon the meaning subscribed to "other similar land uses" or on other businesses within the same zoning classification. There is probably enough vagueness in the wording for local jurisdictions to do several things. To limit their discretion you would need finer tuned wording.

082	Sen. Burdick	We need to treat the rezoning of any business the same.
100	Chaimov	To ensure this, you could specify the definition of those categories mentioned above.
114	Sen. Courtney	How do other states do this? Do they list the disallowed uses within each zoning classification?
117	Chaimov	Yes.
119	Sen. Courtney	Discusses rezoning of Salem when he was on the City Council.
146	Rep Patridge	There is no intent to move out existing businesses. We want to just allow cities to establish zoning so these businesses can't be established anywhere ( <b>EXHIBIT K</b> ). Discusses amortization.
216	Sen. Burdick	You are trying to prospectively limit locations.
230	<b>Bill Linden</b>	<b>Associated Oregon Industries</b>  If the intent is to provide cities in the future with the ability to zone, not to effect existing businesses, then the ñA15 do this. If Portland opposes the ñA15 amendments then they are not honest with their objections.
270	Sen. Duncan	No other business would have that kind of protection.
289	Linden	What other business has a constitutional amendment proposed to regulate it? They are being targeted by this measure and they ought to have additional protection.
312	Sen. Duncan	Could a local jurisdiction prohibit any new adult businesses?
319	Linden	They couldn't prohibit businesses, only through the use of zoning could they regulate their location.
337	Sen. Burdick	If we could work with the ñA19 and ñA20 amendments to assure that the grandfathering of these businesses is done the same way as other non-conforming uses, would that be a solution?
353	Linden	If non-conforming uses could always be addressed the same way, it would work.
361	<b>David Fidanque</b>	<b>American Civil Liberties Union (ACLU)</b>  This is complicated because you are tinkering with the bill of rights and the

		relationship between the state and local government. The campaigns against Measures 19 and 31 not only focused on first amendment rights, they also focused on what you set in motion when you allow all the local jurisdictions to adopt different standards and different methods of implementation.
<b>Tape 261, B</b>		
017	Sen. Courtney	Cities do this all the time right now. Right now we have many local jurisdictions establishing and changing zoning.
039	Fidanque	Generally, non-conforming uses are allowed to continue as long as they don't change their use. That treatment is not required by the Constitution. You must amortize so an illegal taking does not occur. If HJR 52 is approved, these businesses could be amortized.
054	Sen. Courtney	Once you create a non-conforming use, the right of that business to exist is established.
061	Fidanque	The point is that the City of Portland testified that their non-conforming use for adult businesses included amortization that is not included for other non-conforming uses. This ordinance was recently overturned. I would like to lessen the constitutional problems which HJR 52 will have. I would like to adopt the ñA8 amendments ( <b>EXHIBIT L</b> ).
090	Chair Bryant	Yes, I think we should adopt the ñA8 amendments.
092	Fidanque	That will lessen some of the collateral damage to the Oregon constitution.
095	<b>Mark Nelson</b>	<b>Oregon Entertainment Corporation</b>  HJR 52 would not be here today if there wasn't a desire to keep adult businesses out of certain areas and if there wasn't a desire to move existing adult businesses through amortization. The purpose of the ñA15 amendments is to protect existing businesses. The City of Portland opposes the ñA15 amendments and intends to amortize adult businesses only, no other non-conforming uses.
137	<b>Rep. Rob Patridge</b>	<b>State Representative, House District 50</b>  The City of Portland has not stated that they will do this. The ñA15 amendments are too broad. I have already stated my objections to creating a whole second tier of land use for adult businesses.
165	Sen. Burdick	You would not object to an amendment which would specify that all non-conforming businesses must be treated the same?
172	Rep. Patridge	I think it is unnecessary. They are already protected under Article 1, Section 18 of the Oregon constitution as well as the Fifth amendment and the Fourteenth amendment of the U. S. Constitution. A definition of non-conforming use



		doesn't belong in our constitution. Our zoning laws need to be able to change as circumstance changes.
191	Sen. Burdick	My intent is to define other non-conforming uses.
200	Rep. Patridge	These issues don't belong in the constitution. It is too difficult to build a scheme into the constitution.
223	Chaimov	The language we have come up with to limit a local government's ability to discriminate against adult businesses is similar to the ñA20 amendments. We suggest, "A political subdivision that adopts an ordinance for non-conforming land uses under this section, must apply the ordinance in the same manner to all non-conforming land uses and the amortization of non-conforming land uses within the same or similar zoning classification."
254	Chair Bryant	Discusses a residential use in a commercial zone.
273	Sen. Courtney	These witnesses are not the ones we should be listening to. We need the local jurisdictions to consider them. They are the ones who have the knowledge.
297	Chair Bryant	Recesses hearing at 10:04 a.m.
300	Chair Bryant	Reconvenes hearing at 2:12 p.m.
<b><u>HJR 52 WORK SESSION</u></b>		
316	Counsel Tweedt	Discusses the ñA21, -A22, and the ñA23 amendments ( <b>EXHIBITS M, N &amp; O</b> ).
332	Chair Bryant	Indicates a letter from the City of Medford has been received ( <b>EXHIBIT P</b> ) and conceptual amendments have been submitted by Bill Linden ( <b>EXHIBIT Q</b> ).
338	<b>Greg Chaimov</b>	<b>Legislative Counsel</b>  Discusses the HJR 52A ñA21, -A22, -A23 amendments which are all intended to do the same thing, but use different language.
365	<b>Pete Kasting</b>	<b>City Attorney's Office, Portland</b>  Indicates he is attending as a technical resource as he has experience with zoning and land use issues.
370	<b>Claude Cannon</b>	<b>Attorney, League of Oregon Cities</b>  Indicates he is a land use attorney and would be happy to answer any questions.

380	Chair Bryant	Discusses the concerns that were mentioned during the morning hearing.
394	Sen. Courtney	Please explain and bring some realism to the phrase "non conforming use."
400	Cannon	Indicates he has experience in drafting an ordinance that was designed to do the same thing as HJR 52A. The ordinance was declared unconstitutional. Regulating adult businesses must recognize that these businesses are lawful under the first amendment. If you are going to try to regulate their location through zoning, you must treat these businesses as you would any other business under the U. S. Constitution.
<b>Tape 262, A</b>		
032	Kasting	Defines and discusses non-conforming uses in Portland. Discusses the amortization of non-conforming uses.
089	Sen. Burdick	Amortization is very individual due to the economic nature of the business?
091	Kasting	A determination of an amortization schedule depends very much on the economics of that particular business.
103	Chair Bryant	Where does profit come in?
105	Cannon	Local jurisdictions will be very cautious to amortize because if the amortization schedule is improper, the penalties are severe.
117	Sen. Courtney	This is not a common practice in smaller communities?
119	Cannon	I have not done an amortization and I have been working for local governments since 1972.
121	Kasting	There have been none in Portland either, at least in the past 12 years.
136	Sen. Courtney	I thought you had an amortization ordinance?
137	Kasting	We do not have any amortization ordinances in effect.
144	Sen. Burdick	Wasn't there an amortization ordinance that was overturned?
147	Kasting	If there was, it was before I began with the City of Portland. Discusses the issues considered by the courts to assess the reasonableness of an amortization ordinance.

167	Sen. Burdick	In your opinion, if amortization is based on the content of their business, would they have a valid case indicating discrimination?
169	Cannon	HJR 52 is intended to authorize differential treatment based upon the content of their business.
182	Sen. Burdick	If they were a non-conforming use and they were treated differently, would they have a case?
188	Cannon	Discusses the meaning of "true class" as it relates to zoning.
208	Sen. Burdick	If we wanted to protect adult businesses from being treated differently than other businesses, we would have to add language to specify that?
225	Cannon	The answer is no, they have protections under the federal constitution. They can't be prohibited from existing. Discusses the dangers of new terms and concepts being added to the constitution. HJR 52A puts into the constitution issues and concepts that are currently handled by statute. In addition, the unintended consequences may be difficult.
312	Chair Bryant	Legislative Counsel has indicated that the ñA19 and ñA20 amendments don't add anything to the existing statutes. And the ñA21, -A22, and ñA 23 amendments fall under that description also.
339	Sen. Burdick	Indicates the ñA9 amendments are needed to specify the election date <b>(EXHIBIT R)</b> .
343	Sen. Courtney	<b>MOTION: Moves to ADOPT HJR 52A-A8 amendments dated 6/1/99.</b>
		<b>VOTE: 7-0</b>
Chair Bryant		<b>Hearing no objection, declares the motion CARRIED.</b>
347	Rep. Patridge	We are all ready to put this on the November ballot. Please leave the election date at that time.
358	Sen. Brown	This would be the third ballot referral on this issue. Don't you think this should be sent out at the time when most voters go to the polls, in May?
374	Rep. Patridge	We also need to be responsive. The proponents have asked that this be sent to the

		voters as soon as possible. I respectfully request that it be done.
381	Sen. Duncan	Asks about other referrals to the electorate for the November ballot.
390	Rep. Patridge	Discusses the timing of the other possible HJR referrals.
416	Fidanque	We are in support of the ñA9 amendments if you do not adopt the ñA15 amendments.
445	Linden	If the ñA15 amendments are adopted then it doesnít matter.
<b>Tape 263, A</b>		
027	Chair Bryant	Discusses the timing of the election.
041	Sen. Brown	<b>MOTION: Moves to ADOPT HJR 52A-A9 amendments dated 6/1/99.</b>
		<b>VOTE: 6-1</b> <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b> <b>NAY: 1 - Tarno</b>
	Chair Bryant	<b>The motion CARRIES.</b>
055	Sen. BRYANT:	<b>MOTION: Moves HJR 52A be sent to the floor with a BE ADOPTED AS AMENDED recommendation.</b>
		<b>VOTE: 5-2</b> <b>AYE: 5 - Courtney, Duncan, Nelson, Tarno, Bryant</b> <b>NAY: 2 - Brown, Burdick</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>

**SB 1009 WORK SESSION**

073	Chair Bryant	Indicates the 4 amendments are the amendments which they decided they wanted to add to SB 1009.
081	Sen. Duncan	<b>MOTION: Moves to ADOPT SB 1009-4 amendments dated 6/30/99.</b>
		<b>VOTE: 7-0</b>
	Chair	<b>Hearing no objection, declares the motion CARRIED.</b>
086	Sen. Burdick	Asks about kidnapping in the second degree.
087	Counsel Taylor	It often involves child custody issues.
093	Sen. Bryant	<b>MOTION: Moves SB 1009 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
<b><u>HB 3361WORK SESSION</u></b>		
102	Rep. Bill Witt	<b>State Representative, House District 7</b>  Testifies in support of HB 3361A with the -A2 amendments ( <b>EXHIBIT S</b> ). HB 3361A would add a child's Social Security benefits to the formula for child support awards. The 2 amendments would provide that Social Security benefits, or veterans benefits would be a direct offset against the requirement of the obligee for child support. Indicates other states credit the benefits in this manner ( <b>EXHIBIT T</b> ).
136	Chair Bryant	Have you seen the computation the child support enforcement uses to calculate the child support obligation? They don't use a dollar for dollar set off, but a

		formula is used to credit the obligee.
160	Rep. Witt	I believe the question is which method is most fair to the parties involved. If you have a Social Security benefit which pays directly to the child based on your disability, a dollar for dollar offset to that disabled citizen seems most reasonable.
170	Chair Bryant	Discusses the child support computation worksheet ( <b>EXHIBIT U</b> ).
206	Sen. Burdick	Are all sources of income listed?
213	Rep. Witt	Once the total income is determined, looking at the total income, dollars that come through Social Security or Veteran's benefits should go directly to offset the debt of the person who would receive that benefit, rather than just becoming part of the total income.
236	Chair Bryant	Explains the child support formula as it currently stands.
258	Rep. Witt	Mr. Hooyman tells me that this is not the formula currently being used by the Department of Child Support Enforcement.
263	Chair Bryant	They will testify next and we will ask them.
265	Rep. Witt	Indicates that he has no objection to the ñA4 amendments but opposes the ñA3 amendment because they would not apply to those people currently in the system ( <b>EXHIBITS V &amp; W</b> ).
275	<b>Ronelle Shankle</b>	<b>Child Support Enforcement</b>  Submits written testimony and testifies in support of HB 3361A with the ñA7 amendments ( <b>EXHIBITS X, Y &amp; Z</b> ). Discusses the current calculation of child support and how the Social Security benefits are used to make that calculation. Indicates that calculation is a product of a work group that studied all the issues involved. Social Security benefits are included in the family income when the formula for child support is calculated. Discusses the difference between the ñA6 and ñA7 amendments and indicates support for the ñA7 amendments.
327	Chair Bryant	Is this a representation of the calculation that is used to establish each parent's obligation?
328	Shankle	Yes, since March 1, 1999. Unless there was a calculation error, the formula is accurate. Continues discussing the ñA6 and ñA7 amendments and speaks in opposition to the ñA2 amendments.
474	<b>Jean Fogarty</b>	<b>Attorney, Child Support Enforcement</b>  Indicates she is available to answer questions.

478	<b>Maureen McKnight</b>	<b>Legal Aid Services of Oregon</b>  Indicates opposition to the dollar for dollar rule but supports the -A6 or the ñA7 amendments ( <b>EXHIBIT AA</b> ). The difference between the two amendments is that credit for the Social Security benefits and other rule changes can be given either back to March 1 or back to another date established by rule.
<b>Tape 262, B</b>		
094	Chair Bryant	How long does it take to establish rules?
096	Shankle	It takes 90 days, but we can establish a temporary rule within 30 days.
106	Chair Bryant	The difference between the two amendments is that the ñA7 allows the Division of Child Support Enforcement more flexibility?
108	Shankle	The ñA7 only allows more flexibility for lump sums. From the programís point of view we would like to encourage timely filing for modifications.
123	<b>Bradd Swank</b>	<b>State Court Administratorís Office</b>  Testifies regarding the ñA4 amendments. Discusses the revenue flow between bail forfeitures and the fund it is credited to and the programs that fund supports. This fund currently gets \$3.229 million from bail forfeitures. The ñA4 amendments would take some of this income out of that revenue stream and redirect it to child support. It is hard to calculate how much the ñA4 would redirect from that fund. Suggests that an amendment be drafted to allow a child support claimant to appear in court when bail has been posted and make claim to that bail, rather than allowing it to be returned to the obligee.
259	Sen. Burdick	Would it be fair to say that the shift could be more than \$50,000 which would be diverted with the ñA4 amendments?
260	Swank	Yes, it could potentially shift more than that amount.
269	Chair Bryant	I would feel very hesitant to pass the ñA4. We will need to work rapidly to draft that other amendment.
288	<b>David Nebel</b>	<b>Oregon Law Center</b>  Testifies against the ñA4 amendments and indicates that Maureen McKnightís testimony reflects his position.
315	<b>Dennis Hooyman</b>	<b>Citizen</b>  Testifies in support of the ñA2 amendments and against the ñA6 and ñA7 amendments.

**HB 2226A WORK SESSION**

360	Counsel Taylor	Discusses the ñA17 amendments to HB 2226A ( <b>EXHIBIT BB</b> ). HB 2226A adds the Support Enforcement Division of the Department of Justice to the list of people required to report child abuse and the ñA17 amendments add other employees to the list and make certain other changes.
<b>Tape 263, B</b>		
005	Sen. Tarno	Law enforcement has expressed a concern about subsection 5, could we hear them?
012	Counsel Taylor	Continues discussing the ñA17 amendments.
032	Chair Bryant	Indicates that Mark Gibson of the Governorís Office has been in on the drafting of the ñA17 amendments in order to assure the necessary support and signature will be available. The interim Judiciary Committee will also be considering this issue.
050	<b>Russ Spencer</b>	<b>Sheriffís Association</b>  Expresses concern regarding a private cause of action through failure to report suspected child abuse. Could we extend protection to law enforcement?
069	Counsel Taylor	Indicates that he can easily add an amendment to answer their concerns. Specifies appropriate language.
075	<b>Bradd Swank</b>	<b>Department of Justice</b>  Discusses the difficulties with the ñA17 amendments. Indicates his letter was written to address the ñA 15 amendments, but now should be applied to the ñA17 amendments ( <b>EXHIBITS CC &amp; DD</b> ). Indicates that the money would have to be handled differently than it is handled now.
156	Counsel Taylor	Suggests an amendment of the ñA17 amendment which would meet their concerns. Indicates the amendments to the ñA17 would delete line 6 and 7 on page 1, and on page 1, beginning on line 24, delete the bold language and remove the bold language on page 2, lines 1 and 2 and on line 4 add a subsection which would disallow failure to act as a cause for action.
190	<b>Sen. Bryant</b>	<b>MOTION: Moves to ADOPT HB 2226A-A17 amendments dated 6/30/99 and that the amendments be FURTHER AMENDED on page 1, by deleting lines 6 and 7 and on page 1, beginning on line 24, by deleting "and fines collected" and continuing on page 2 deleting the bold language on lines 1 and 2, and on page 2, line 4, after the (1) add "or (5)".</b>



		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Brown</b>
	Chair Bryant	Hearing no objection, declares the motion <b>CARRIED</b> .
206	Sen. Bryant	<b>MOTION: Moves HB 2226A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2</b>  <b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 2 - Burdick, Courtney</b>  <b>EXCUSED: 1 - Brown</b>
	Chair Bryant	The motion <b>CARRIES</b> .  <b>SEN. BRYANT will lead discussion on the floor.</b>
210	Sen. Burdick	Serves notice of possible minority report.
<b><u>HB 2307A WORK SESSION</u></b>		
222	Ingrid Swenson	<b>Criminal Defense Lawyerís Association</b>  Testifies regarding HB 2307A creates a crime of infant assault. Discusses the ñA10 amendments that would add the requirement of reckless behavior ( <b>EXHIBIT EE</b> ). Suggests language which would be acceptable to the district attorney. Discusses the ñA11 amendments ( <b>EXHIBIT FF</b> ). Explains current statutes and discusses how HB 2307A would change them.
369	Chair Bryant	Your ñA11 amendments would elevate the crime by one step, rather than two. There arenít a lot of these cases.
372	Swenson	Thatís true.
420	Counsel Horton	Discusses the ñA11 amendments.

490	Sen. Courtney	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. COURTNEY to CHANGE vote from NAY to AYE on the motion to ADOPT the HJR 52A-A9 amendments.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Brown</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
508	Chair Bryant	Adjourns hearing at 4:45 p.m.

Submitted By, Reviewed By,

Judith Minnich, Sarah Watson,

Administrative Support Office Manager

#### **EXHIBIT SUMMARY**

**A ñ SB 841, -1 amendments dated 6/28/99, 3 pp**

**B ñ SB 1009, -2 amendments dated 5/4/99, 2 pp**

**C ñ SB 1009, -3 amendments dated 6/25/99, 2 pp**

**D ñ SB 1009, -4 amendments dated 6/30/99, 2 pp**

**E ñ HB 3374B, - B 20 amendments dated 6/21/99, 1 pp**

**F - HB 3374B, - B 22 amendments dated 6/25/99, 2 pp**

**G - HB 3374B, - B 23 amendments dated 6/25/99, 2 pp**

**H - HB 3374B, - B 25 amendments dated 6/25/99, 1 pp**

**I ñ HJR 52A, written testimony from Gregory Chaimov, 3 pp**

**J - HJR 52A, - A15 amendments dated 6/17/99, 1 pp**

**K- HJR 52A, written testimony submitted by Rep. R. Patridge, 1 pp**

**L ñ HJR 52A, - A8 amendments dated 6/1/99, 1 pp**

**M - HJR 52A, - A21 amendments dated 6/30/99, 1 pp**

**N - HJR 52A, - A22 amendments dated 6/30/99, 1 pp**

**O - HJR 52A, - A23 amendments dated 6/30/99, 1 pp**

**P ñ HJR 52A, written testimony submitted by Ron Doyle, 1 pp**

**Q ñ HJR 52A, written testimony submitted by Bill Linden, 1 pp**

**R - HJR 52A, - A9 amendments dated 6/1/99, 1 pp**

**S ñ HB 3361A, -A2 amendments dated 5/24/99, 1 pp**

**T ñ HB 3361A, written testimony submitted by Rep. B. Witt, 1 pp**

**U ñ HB 3361A, written testimony submitted by Ronelle Shankle, 3 pp**

**V ñ HB 3361A, -A3 amendments dated 5/28/99, 1 pp**

**W ñ HB 3361A, -A4 amendments dated 6/9/99, 4 pp**

**X ñ HB 3361A, written testimony from Ronelle Shankle, 11 pp**

**Y ñ HB 3361A, -A6 amendments dated 6/30/99, 2 pp**

**Z ñ HB 3361A, -A7 amendments dated 6/30/99. 1 pp**

**AA ñ HB 3361A, written testimony from Maureen McKnight, 3 pp**

**BB ñ HB 2226A, -A17 amendments dated 6/30/99, 3 pp**

**CC ñ HB 2226A, written testimony from Brad Swank, 3 pp**

**DD ñ HB 2226A, -A15 amendments dated 6/24/99, 3 pp**

**EE ñ HB 2307A. ñA10 amendments dated 6/30/99, 1 pp**

**FF ñ HB 2307A, -A11 amendments dated 6/30/99, 1 pp**