

HOUSE COMMITTEE ON JUDICIARY

February 21, 1997 Hearing Room 357

3:15 P.M. Tapes 8 - 9

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Floyd Prozanski, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. Peter Courtney

Rep. George Eighmey

Rep. Lane Shetterly

Rep. Charles Starr

Rep. Ron Sunseri

Rep. Judy Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Scott Lumsden, Counsel

Bill Taylor, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD: HB 2380 - Work Session

HB 2318 - Work Session

HB 2045 - 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.

Tape/#	Speaker	Comments
Tape 8, A		
006	Chair Minnis	Calls meeting to order at 3:17 p.m.
<u>OPENS WORK SESSION ON HB 2380</u>		
007	Scott Lumsden	Committee Counsel Discusses HB 2380 and the -1 amendments to the bill (EXHIBIT A).
022	Rep. Sunseri	MOTION: Moves HB 2380A to the floor with a DO PASS AS AMENDED recommendation.
027	Rep. Uherbelau	What is the reason for the change from seven to six years?
030	Rep. Prozanski	At first they thought seven years was how long they had to retain records for fire, but it is only six.
044	Rep. Prozanski	Comments on concerns about statutes of limitations.
052	Rep. Eighmey	Is this the same as the sex offense in that if the crime is committed under age 18 they have until they're age 24?
059	Chair Minnis	I think the structures for sex offenses are different than they are for arson. I believe Rep. Prozanski was only speaking in terms of the statute of limitations.
		VOTE: 11-0
078	Chair Minnis	Hearing no objection, declares the motion CARRIED. REP. SHETTERLY will lead discussion on the floor.
<u>OPENS WORK SESSION ON HB 2318</u>		
083	Bill Taylor	Committee Counsel Discusses HB 2318 and the -2 amendments to the bill (EXHIBIT B).
		Can we discuss more about how and why the subcommittee made the

098	Chair Minnis	conceptual amendments? I assume the amendments were suggested by the Department of Justice (DOJ).
103	Taylor	Actually, both the subcommittee members and the DOJ made suggestions for amendments
111	Chair Minnis	Can we have some discussion about the notice process?
115	Brenda Rocklin	Department of Justice Explains the process and the DOJ's position on HB 2318.
144	Chair Minnis	So section two deals with a government, federal, state, or local official and section three deals with a person who wants to have a notice of invalid encumbrance dealt with by the court?
147	Rocklin	That's correct.
150	Chair Minnis	Inquires about possible conflicts, referring to page two of the bill.
161	Rep. Shetterly	I don't think that is a problem. Explains why.
168	Rep. Beyer	The whole purpose of the bill is that the county will not accept these invalid encumbrances (refers to section one, subsection two).
183	Rep. Shetterly	Questions why one of the conceptual amendments, the subcommittee had made previously, was changed.
192	Rocklin	Responds that an "officer" will always be a "person".
199	Taylor	The -2 amendments have been through Legislative Counsel's office.
206	Rep. Shetterly	On the bottom of page four of the engrossed version, that notice would be filed at the county court for recording, and that would require it to be notarized. We should probably add that to the form here as well (page eight, lines 16-19).
228	Rep. Uherbelau	I'm not sure we need to have it notarized. We do have to notarize and affidavit, but the notice is just a notice, you're not swearing to.
235	Rep. Shetterly	For recording purposes, it must be notarized.
240	Rep. Eighmey	That's only if it's in the recorder's office. If it's with the clerk, in the clerk's court, they don't require the notary. The affidavit does have a notary because it is being sworn to, and anything being recorded must have a notary on it.
260	Rep. Shetterly	The officer referred to on page three, line 15, of the engrossed version, refers to the filing or recording officer. So, since it is being recorded, then it must be notarized.
272	Taylor	We have two options: send the bill back to subcommittee or send it to the Senate.
287	Chair Minnis	I would prefer we send it back to subcommittee.

318	Rep. Shetterly	MOTION: Moves HB 2318 back to the Subcommittee on Civil Law.
		VOTE: 11-0
320	Chair Minnis	Hearing no objection, declares the motion CARRIED.
325	Rep. Sunseri	Do you know how many states have passed this? Is this approximately the bill that just passed in Montana?
327	Rocklin	I'm not sure about Montana. This bill is modeled specifically on statutes that Idaho and Washington have already passed.
		<u>OPENS WORK SESSION ON HB 2045</u>
349	Taylor	Discusses HB 2045 and -5 amendments to the bill (EXHIBIT C).
362	Rep. Wells	Did we fully address where section three would be placed?
373	Taylor	We decided to leave it as it is.
392	Rep. Courtney	If the owner was known, would they be liable?
400	Rep. Uherbelau	We only discussed concerning when the owner is not known or can't be reached. Gives an example with regard to the HB 2045.
		TAPE 9, A
011	Rep. Courtney	If the owner is known or is reached, the veterinarian would be liable for ordinary negligence?
016	Rep. Uherbelau	Yes, just as under present law. If you knew the owner, reached the owner, and then did something he/she did not consent to, then you would be liable.
018	Rep. Courtney	Why would you say that they are not liable for ordinary negligence in one situation and not the other?
027	Rep. Shetterly	Explains the differences, in the eyes of the law, between knowing and not knowing the owner.
033	Rep. Uherbelau	On line 12, page one, of the hand-engrossed bill, we are talking about emergencies, where there isn't time to do extensive searching for the owner and there is a critical situation.
045	Chair Minnis	A veterinarian may be more apt to help a pet under HB 2045. If you're a veterinarian and were likely to be sued, would you treat?

051	Rep. Eighmey	They are still liable for gross negligence. The ordinary negligence is in the routine conduct of the emergency situation. I was persuaded that the veterinarian would not help this animal if they knew they were liable for even a small slip up.
062	Rep. Prozanski	Gives an example where the owner of a pet was not known.
080	Rep. Shetterly	This bill came to us coupled with another bill to bring veterinarians in under the "Good Samaritan" law.
100	Rep. Beyer	I did a no vote in subcommittee, not because of the content, but because I felt section three was dropped on us. I have no problem with sections one and two. I'm still not sure I agree with section three.
114	Chair Minnis	Do you have a problem with the policy that is being developed by the section?
117	Rep. Prozanski	I believe Rep. Beyer had a problem that the amendment came from someone other than the original maker.
123	Taylor	There probably needs to be another amendment to this bill. The amendment would be sections two and three of this act.
134	Rep. Beyer	Section three does not fit in 686. I'm sorry, I cannot support that.
135	Rep. Uherbelau	Section three does not fit in 686. If you look at that section, it is mainly a definitional type of thing, and this does not have to be in the same section that defines what things are.
147	Rep. Shetterly	MOTION: Moves HB 2045 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 11-0
152	Chair Minnis	Hearing no objection, declares the motion CARRIED. REP. WELLS will lead discussion on the floor.
162	Chair Minnis	Adjourns at 4:00 p.m.

Submitted by, Reviewed by,

Lisa Fritz, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2380, proposed amendments, Legislative Counsel, 1 page.

B - HB 2318, proposed amendments, Legislative Counsel, 8 pages.

C - HB 2045, proposed amendments, Legislative Counsel, 2 pages.