

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON FAMILY LAW**

**May 15, 1997 Hearing Room 357**

**3:15 P.M. Tapes 91 - 92**

**MEMBERS PRESENT:**

**Rep. Ron Sunseri, Chair**

**Rep. Roger Beyer**

**Rep. Peter Courtney**

**Rep. Charles Starr**

**Rep. Judy Uherbelau**

**MEMBER EXCUSED:**

**Rep. George Eighmey, Vice-Chair**

**STAFF PRESENT:**

**William E. Taylor, Counsel**

**Lauri A. Smith, Administrative Support**

**MEASURE/ISSUES HEARD:**

**HB 3187 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 91, A</b>		
003	Chair Sunseri	Calls the meeting to order at 3:21 p.m.
<b><u>HB 3187 - WORK SESSION</u></b>		
005	Chair Sunseri	Opens a work session on HB 3187.
		Executive Director Multi-Family Housing Council of Oregon

008	Emily Cedarleaf	<p>Testifies in support of HB 3187 and presents correspondence drafted by Nancy E. Collins, General Partner of Cascade View Apartments and a hand engrossed page of SB 1078 (<b>EXHIBIT A</b>).</p> <p>Refers to Oregon Judicial Information Network (OJIN). However, OJIN doesn't have all the information needed by landlords.</p> <p>Once a sex offender is off supervision, there is no access for landlords to know who is a registered sex offender. Screening process is, therefore, not complete by the landlord.</p>
058	Cedarleaf	<p>Within HB 3187, the state police could set up a accessible data base for landlords to determine sex offenders.</p> <p>Where do sex offenders live? Gives example.</p>
066	Sergeant Mike Ramsby	<p>Oregon State Police (OSP) - Assistant Manager of the Violent Offender Unit which includes the Sex Offender Registration</p> <p>Testifies in opposition to HB 3187 and presents a fiscal impact statement prepared by Danny C. Bisgaard, Budget Director of Oregon State Police (<b>EXHIBIT B</b>).</p> <p>&gt;will provide sex offender information on the internet</p> <p>&gt;with inquires by phone - substantial increase in costs</p> <p>Gives example of an unintended consequence of access to sex offender information.</p>
093	Rep. Uherbelau	If the information is on the internet, would the information be available to the public at large?
095	Ramsby	Yes.
108	Rep. Courtney	Ms. Fagel, could you provide your background with the sex offender notification law passed in 1993 Legislative Session.
108	Faye M. Fagel	<p>Oregon Youth Authority</p> <p>Work background:</p> <p>&gt;coordinator of the Sex Offender Supervision Network - Department of Corrections</p> <p>&gt;involved with the process of enacting the notification bill with Rep. Courtney in 1993</p> <p>&gt;worked on the implementation and administrative rules with the Department of Correction</p>
118	Rep.	I am asking for information from an agency that deals with sex offender

	Courtney	notifications.
121	Fagel	I do not speak for the Department of Corrections or for the Oregon Youth Authority.
123	Rep. Courtney	I am looking for assistance only from your experience.
128	Fagel	Explains her involvement and intent behind the Sex Offender Supervision Network.  In terms of this measure, there is concern with the release of information on such a broad scale which would interfere with the community notification process. We need the ability to manage the notifications in order to deal with the ramifications.
159	Ramsby	OSP believes the registration program is a very useful proactive tool in preventing future and continuing sex crimes.  OSP has concern about the issues of notification and designating predatory offenders. OSP does not want to lose the valuable tools obtained over the last legislative sessions.
169	Rep. Beyer	Shares comments about maintaining the sex offender information current on the internet. Refers to <u>Section 4</u> of the printed measure. Gives example.  Current law states that OSP "may not" release sex offender information to the public. In HB 3187, it states OSP "may" release lists of registered sex offenders or addresses of registered sex offenders to the public. Refers to <u>Section 1</u> subsection (3). The measure, therefore, does state OSP "has to" release the information.
185	Ramsby	OSP envisions inquiries about potential sex offenders and after receiving sufficient information, OSP will release information on whether a person is a registered sex offender or not.
199	Fagel	Currently for those offenders on supervision, a phone call can be made to the Department of Corrections for confirmation of whether the person is a registered sex offender under supervision. The call will receive information as to where they live, who is their probation officer, and what was their crime. The party can discuss the case with the assigned probation officer.  Our concern is over the release of lists to the public of every registered sex offender in Oregon or by county.
208	Cedarleaf	Shares the intent behind HB 3187. Gives examples.
236	William E. Taylor	Counsel  OJIN is OSP's computer base which keeps track of all arrests?
239	Ramsby	OJIN is the Oregon Justice Information Network which is the court records.
241	Taylor	OJIN keeps track of all convictions. So if an individual was convicted of a crime in Oregon, he/she would appear on OJIN?

244	Ramsby	<p>If the conviction occurred in Oregon, OJIN should reflect the information. The information would not be in OJIN, if the conviction was older than 1985, was an out of state conviction, or came to Oregon under a compact through the Department of Corrections.</p> <p>If the offender came to Oregon under a compact, then the Department of Correction would have the information. However, the public does not have access to the Department of Corrections data system.</p>
254	Taylor	The public does have access to OJIN?
255	Ramsby	Yes.
256	Cedarleaf	Provides what information is contained in OJIN's data system. I was told the OJIN's data base is maintained by the courts and would be impossible to include registered sex offender information. The Department of Corrections is, therefore, not involved with OJIN.
266	Taylor	Is there a place within your rental agreements, where a person would identify they were convicted of a certain offenses and is, therefore, not eligible to lease an apartment?
271	Cedarleaf	Being a convicted felon in the state of Oregon is not a protected class under fair housing protections. Some landlords have within their screening criteria that conviction for certain offenses may be a direct threat to premises and could be cause for being turned down for leasing an apartment. Gives example of why OJIN is requested.
287	Fagel	If the measure is generalized to all offenders, where will these people go, if the intent of the landlords is to turn down these potential renters? It is much more difficult to provide supervision for a sex offender when their homeless. Their risk to the community is substantially increased and their treatment process is effected. This would be my argument against separating the population from all registered sex offenders, more than just the predatory sex offenders.
309	Chair Sunseri	I would not believe the intent behind HB 3187 is to shut out these individuals?
311	Cedarleaf	<p>Gives examples.</p> <p>&gt;shares concern with term "predatory"</p> <p>&gt;landlords need all available information</p>
344	Chair Sunseri	Is HB 3187 going to create an implicit liability to landlords?
351	Cedarleaf	<p>Refers to an Oregon Supreme Court case - Davis vs. Campbell.</p> <p>Liability is already there for the landlord for not adequately screening the tenant who is a sexual offender. Gives examples of cases.</p>
381	Rep. Uherbelau	There is a long history of landlord/tenant case law that outlines the responsibilities of landlords. Gives examples.
		Why would a landlord take the risk of renting to a sex offender once public

405	Fagel	notice has been given? Gives example.
417	Taylor	OJIN will have all convictions in Oregon since 1985? Those not on OJIN would be out of state sex offender convictions who have moved into Oregon and then registered?
430	Cedarleaf	Refers to what is listed on OJIN records. No information is given on OJIN to registered sex offenders whether from Oregon or from out of state. It has been necessary to identify the meanings behind the codes within OJIN's data. Gives example.
465	Rep. Courtney	Shares intent behind the initial law in 1993.
<b>Tape 92, A</b>		
035	Rep. Courtney	Continues discussion. >refers to a case currently in the federal courts on this law, may lose portions of the law, gives example >subjective to landlord risk levels
048	Chair Sunseri	There is a dilemma between tenants who are not notified of a registered sex offender living in the premise and landlords being sued because they should have known of the registered sex offender and provided the information to the other tenants.
057	Fagel	I am not familiar with the specifics of the Davis vs. Campbell case. However, with regards to the administrative rules with the Department of Corrections, one concern while drafting was the ramification of notification on the rest of the community. Gives examples.  Refers to Davis vs. Campbell case. It seems in this case the notice did not occur. I don't believe in this one situation, a law is needed to release information. Perhaps there is another way to resolve the issue by improving existing policy.
082	Rep. Uherbelau	I understood the Davis vs. Campbell case was not about a lack of notification.
089	Cedarleaf	Explains the court of appeals case, Davis vs. Campbell. The case referenced ORS 90.360 which holds landlords liable on issues of the rental agreement or habitability.  Refers to <b>(EXHIBIT A)</b> . Marion County is not following procedures talked about by Faye Fagel. Gives examples of other county action support systems.  The notification plan doesn't say to notify the landlord. Notification is given to the families, the sponsors, etc. not to the landlord. If the notification had been given to the landlord, there would be an opportunity to give a thirty day eviction notice to the tenant in question.
	Rep.	I would like the Davis vs. Campbell case to be reviewed to determine if the

109	Uherbelau	case is broad enough to open the door for landlords to be sued because the landlord did not have access to information about sexual offenders.
115	Cedarleaf	Landlords have screening criteria by which to make informed decisions about whom they should lease to or not. Within that screening process, there is a residual fallout coming forth, that the landlord should have known about the sex offender.
126	Rep. Beyer	I believe, there is more of an enforcement and interpretation issue rather than a legal issue. Perhaps sheriffs need to be instructed to notify landlords and that may solve the entire problem.
134	Fagel	The ability of the sheriff or the police to give notification only occurs once the offender is off supervision.
137	Chair Sunseri	Closes the work session. Adjourns the meeting at 4:00 p.m.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - HB 3187, correspondence drafted by Nancy E. Collins, General Partner of Cascade**

**View Apartments and a hand engrossed page of SB 1078, Emily Cedarleaf, 4 pages.**

**B - HB 3187, outside agency fiscal impact statement, Mike Ramsby, 1 page.**