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**SENATE COMMITTEE ON CRIME & CORRECTIONS**

**March 14, 1997 Hearing Room B**

**1:00 P.M. Tapes 37 - 38**

**MEMBERS PRESENT: Sen. Jeannette Hamby, Vice-Chair**

**Sen. Avel Gordly**

**Sen. Eileen Qutub**

**Sen. Cliff Trow**

**MEMBER EXCUSED: Sen. Shirley Stull, Chair**

**Sen. Veral Tarno**

**STAFF PRESENT: Nikola Jones, Counsel**

**Julie Clemente, Administrative Support**

**MEASURE/ISSUES HEARD:**

**Public Hearing : HB 2380**

**SB 570**

**SB 553**

**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 37, A</b>		
004	Vice-Chair Hamby	Opens meeting at 1:37 p.m. in the absence of Chair Stull
<b><u>OPENS PUBLIC HEARING ON HB 2380</u></b>		
010	<b>Rep. Dennis Luke</b>	<b>District 54.</b> Introduces HB 2380 which extends time in which prosecution for arson may be commenced to six years. Gives bill's background and introduces witnesses from Deschutes County.
028	<b>John Diehl</b>	<b>Sergeant, Deschutes County Sheriff's Department representing Sheriff Greg Brown and the Central Oregon Arson Task Force.</b> Submits written testimony in support of HB 2380. <b>[Exhibit A]</b>
063	<b>Hassina E. Cassim</b>	<b>Oregon Fire Chiefs' Association and the Oregon Fire District Director's Association</b> urges support of HB 2380
<b><u>CLOSES PUBLIC HEARING ON HB 2380</u></b>		
<b><u>OPENS PUBLIC HEARING ON SB 553</u></b>		
073	<b>Sen. Kate Brown</b>	<p><b>Representing Senate District 7.</b> Introduces SB 553 which expands crimes of assault in the third and fourth degrees. It enhances the punishment to a felony when a prior conviction occurs or when the assault was committed in the presence of a minor child. This bill or similar versions have been introduced at prior sessions and have been successful through committee. Because of the fiscal impact, it hasn't gone further.</p> <p>&gt;affects children both physically and psychologically</p> <p>&gt;prevention of future domestic violence depends upon intervention of the children who have witnessed violence in the home</p> <p>&gt;children who witness violence learn it is a way to gain power and control over other people</p>

		<p>&gt;huge impact on families</p> <p>&gt;not tied to specific language</p>
112	<b>Chris Gardner</b>	<b>Chairman, Children's Justice Act Task Force.</b> Testifies in support of SB 553. Discusses failure last session in Senate Ways & Means Committee because of fiscal impact.
127	<b>Walt Beglau</b>	<p><b>Deputy District Attorney, Marion County representing the Oregon District Attorney's Association.</b> Testifies in support of SB 553. This is a solid bill that makes repeated violence within the home a priority. Takes into account when a child is actually present in a domestic violence situation.</p> <p>&gt;creates trauma to the child</p> <p>&gt;violence is a learned behavior</p> <p>&gt;children are used as a shield or a pawn</p>
158	<b>Jeffrey A. Green</b>	<p><b>Detective, Clackamas County Sheriff's Office.</b> Presents written testimony in support of SB 553. <b>[Exhibit C]</b> Speaks of a child's trauma when they see their father beating their mother.</p> <p>&gt;infants who hear violence - stop growing</p> <p>&gt;abuses siblings both physically and sexually</p>
206	Green	<p>Continues:</p> <p>&gt;wanted her brother to stop hitting her like her father hits her mother</p> <p>&gt;urges passage of SB 553 - for the children</p>
248	Sen. Gordly	For Mr. Gardner - Have you had conversations with ways and means discussing the urgency of this issue as it deals with children in abusive circumstances? Have you gotten any assurances for greater priority this time around?
	Gardner	<p>No. Continues.</p> <p>&gt;prepared to bring a significant amount of attention to the issue</p> <p>&gt;plenty of money in our prison budget - someone lower down the priority line will get released</p>
278	Sen. Gordly	Fiscal impact this time?
	Gardner	<p>Approximately \$1 million last time</p> <p>Discusses:</p> <p>&gt;Section 1(c) - language ambiguous</p>

		>Section 2(i) - could come out >Section 3 - not sure what it means - out also
330	Gardner	Speaks of law in State of Indiana and how it was used as an effective tool - explains. >when children are present, more than one victim to the crime >empower the children to stop this abuse - children show great courage >changes mentioned are a giant step in the right direction
384	Vice Chair Hamby	Comments on brain numbing and damage done to infants
425	<b>Jane Lokan</b>	<b>Representing District 25, Milwaukie.</b> Submits written testimony in support of SB 553. [Exhibit D]
<b>TAPE 38,A</b>		
	Lokan	Continues: Violence, like any behavior pattern, can be taught.
047	<b>Rep. Patti Milne</b>	<b>Representing District 38.</b> Testifies in support of SB 553. Discusses her experience as a victim of domestic violence. >addressing people who are repeat offenders >intentionally doing this over and over to same person - must stop this cycle >we've put blame on the victim - not on the offender >men are also victims of domestic violence Comments on children who witness violence: >potential of becoming offenders themselves >carry this very heavy burden for their entire lives >SB 553 is a step in the right direction
084	Vice Chair Hamby	Comments on urgency to the Committee on Ways & Means
090	Sen. Gordly	Comments on the number of women representatives and senators who have had this personal experience >not talking of something in theory - very real >address the issue now

097	<b>Rep. Floyd Prozanski</b>	<p><b>Representing District 40.</b> Shares suggestions with Committee in hopes of maintaining a consistency in the criminal code. Provides a bit of personal background on this subject.</p> <p>&gt;important to realize a new focus on this type of conduct</p> <p>&gt;reports of officers concise to documentation of details</p> <p>&gt;effort to bring these cases forward - able to break the cycle</p>
129	Prozanski	<p>&gt;elevating the offense as to type of conduct - sanctions available based on conduct</p> <p>&gt;important we maintain the concepts within the bill</p> <p>Discusses modifications:</p> <p>&gt;Section 1 - harassment - suggests leaving as a harassment - treat as a Class A misdemeanor</p> <p>&gt;Section 2 leave as is - become Class C felony for the same type of conduct - Assault 4</p>
164	Prozanski	<p>Continues:</p> <p>&gt;Section 3 - very good - continue to enhance the penalty - suggests broadening it beyond 5 years to give more control</p> <p>&gt;very important concept - demonstrate to society that we are no longer going to tolerate this conduct in front of young children</p>
187	Vice Chair Hamby	Suggests meeting with Chris Gardner for amendments
	Prozanski	Happy to meet with counsel.
201	<b>Sen. Thomas Wilde</b>	<p><b>Representing District 8.</b> Testifies in support of SB 553 Comments on his support of bill. Continues comments regarding Section 3- feels very comfortable with extension of time</p> <p>&gt;minors don't always have the ability to cover pain</p>
223	<b>Marcia Latta</b>	<b>Representing Women's Rights Coalition.</b> Presents written testimony in support of SB 553. [Exhibit E]
247	<b>Donna Oaks</b>	<p><b>Member, Concerned Citizens for Health &amp; Safety of Women, Eugene and the Oregon Coalition Against Domestic and Sexual Violence. [Exhibit J]</b> Testifies in support of SB 553 for personal reasons as a survivor of domestic violence. Discusses her experiences with abuse in front of her children.</p> <p>&gt;bill is long overdue</p>

		<p>&gt;voters in Oregon want stronger penalties for violent crimes</p> <p>&gt;will improve punishment and increase prevention of domestic violence</p>
286	<b>Ronda Green</b>	<p><b>Member, Concerned Citizens for Health &amp; Safety of Women, Eugene.</b> Testifies in support of SB 553. Discusses that she is a survivor of domestic violence. Relates that her husband was jailed five times in five years, but most time served was 30 days.</p> <p>&gt;children began hitting her - saw their father hit me</p>
323	Sen. Gordly	Thanks witness for her courage in coming forward.
327	<b>Ingrid Swenson</b>	<p><b>Oregon Criminal Defense Lawyers Association</b> - Appreciates sponsors concerns. Continues that ordinarily criminal law is not the best way to address most issues - not the most efficient way nor the most effective way.</p> <p>&gt;appreciates this group working on multiple solutions</p> <p>&gt;criminal penalties can be an important piece of a larger effort to reduce domestic violence</p> <p>&gt;most concerns would be remedied by proposed changes by Rep. Prozanski and concurrence by Mr. Gardner</p>
364	Swenson	<p>&gt;provisions in Section 1, lines 13-17 would reasonably accomplish same thing. Explains</p> <p>Refers to one issue not addressed:</p> <p>&gt;sub(b) aggravating penalty for assault if it occurs in the presence of children - some definition of "presence" might be useful</p>
396		<p>&gt;conviction for offense occurring after a pattern of practice - focus on instances where there has been a conviction - change might be agreeable to the sponsors</p> <p>&gt;Section 3 - somewhat redundant to other provisions - just what you have accomplished in the first two parts of the bill - not clear what it would mean to raise the crime category by one classification</p>
<b>TAPE 37, B</b>		
023	Swenson	Would be happy to participate in discussions.
	Vice Chair Hamby	Your feelings on the extension of time period?
	Swenson	Entire Section 3 could be enacted in lieu of the other sections. Continues.
041	Gardner	<p>Agrees with Swenson on Section 3. Continues.</p> <p>&gt;get together and come up with amendments</p>

		>consistent and simple to apply
066	<b>Lane Barlow</b>	<b>Oregon Men's Association</b> - Testifies in opposition of SB 553. <b>[Exhibit F]</b> Discusses organization's view of domestic violence which is in the minority. Reminds Committee that there are two sides to this issue. Domestic violence needs to be criminalized. Discusses the other side of the issue giving examples.
106	Vice Chair Hamby	Language in the bill before us states "a person" -
110	Barlow	states statue - not a single shelter for men - no hotline - >all for women >excludes all male children over 12 >people problem - all funds go to women and children >laws are gender neutral - not that way >numbers on the opposite side - always ignored - must no longer ignore them
<b><u>CLOSES PUBLIC HEARING ON SB 553</u></b>		
<b><u>OPENS PUBLIC HEARING ON SB 570</u></b>		
143	<b>Vicki M. Bates</b>	Submits written testimony in support of SB 570. Requester of bill. Introduces SB 570 due to a recent family experience. Discusses the purpose as giving access of mental health records to custodial parents of minor children. Tells of wanting to help their son. Because of his age - over 14 - they were not allowed access to any medical tests, other information -
189	Sen. Trow	What reason do they give you for not releasing the information?
	Bates	In Oregon if a child is over the age of 14, their privacy needs to be protected. Continues. >voluntary situation - trying desperately to help our son
	Sen. Trow	Would this bill allow that?
	Bates	Yes. Reads from bill.
214	Sen. Trow	Questions the structure of the bill. Continues for clarification.
	Bates	Agrees it needs to be broader - not tied to language
236	Sen. Qutub	Who is withholding this information from you?

	Bates	Continues to reply to Sen. Qutub's questions. >if your child is over 14
257	<b>Madeline M. Olson</b>	<b>Assistant Administrator, Office of Mental Health Services, Mental Health and Developmental Disability Services Division, Department of Human Resources.</b> Submits written testimony in opposition to SB 570. [Exhibit H]  Comments on previous testimony: misunderstanding on the part of the clinician or misapplication of the law
316	<b>Barbara Cimaglio</b>	<b>Director, Department of Human Resources Office, Alcohol and Drug Treatment Programs.</b> Testifies in opposition to SB 570. Submits Oregon statute and federal statute regarding confidentiality. [Exhibit I] Supports Olson's testimony and discusses key points:  >statute states that the provider must involve the parents before the end of treatment  >providers may advise parents of the course of treatment when clinically appropriate  >administrative rule regarding notification  >reads from federal confidentiality law - substance abuse  >if SB 570 passes - would put us directly in conflict with the federal confidentiality statute for substance abuse  >Oregon statute - parents are not liable for payment if they are not informed and given consent for treatment
369	Cimaglio	Speaks of reason behind statute regarding substance abuse:  >continues to be great social stigma attached to the illegal use of drugs  >make sure there is access to proper treatment for those who want help
403	<b>James MacLeod</b>	<b>Quality Assurance Specialist, Mental Health and Developmental Disability Services Division, Department of Human Resources.</b> Speaks of personal involvement in the process and explains same. Concurs there seems to be a misapplication of the laws regarding Ms. Bates' testimony.  >states concern with the definition of "custodial parent" in regard to child abuse cases - could be detrimental to children
<b>TAPE 38, B</b>		
		Asks witnesses to think about her questions, coming back at a later time with responses.



023	Sen. Gordly	>to Ms. Olson - No reports that current law is not working as intended since 1971. How would a parent know where they could report or how would a parent be informed of their rights?
	Olson	Replies: States that she can only speak to publicly funded or managed system. Continues.  >private system requirements not clear
047	Sen. Gordly	Questions statement that parents don't have to pay if they are not informed.
	Cimaglio	Calls attention to page 90, ORS 109.690
058	Sen. Gordly	Will have staff prepare questions and submit.  Comments that a law put in place in the early '70s needs to be reviewed. Needs more background.
064	Vice Chair Hamby	Agrees with need for additional background.
066	Sen. Trow	May be an individual problem here that can be resolved in some other way. Continues.  >to pass a bill like this would clearly get in the way of good treatment  >have reservations
073	Sen. Qutub	Surprised this law exists. Comments further. Wants additional information.
069	Vice Chair Hamby	Invites witnesses back when posted for work session.
096	<b>Craig Daniels</b>	Testifies in support of SB 570 . Speaks to the fact that he is a single father and much like the person who gave first testimony, sought treatment for daughter who was abandoned by her mother. And like Ms. Bates, wanted to take an active part in his daughter's counseling. Was not given access to files because of "confidentiality". Feels this is not an isolated incidence.
	Vice Chair Hamby	Declares meeting adjourned at 3:07 p.m.

**Submitted by, Reviewed by,**

**Julie Clemente, Nikola Jones,**

## **Administrative Support Counsel**

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### **EXHIBIT SUMMARY**

**A - Testimony in Support of HB 2380 - John Diehl - 2 pgs**

**B - Testimony in Support of SB 553 - Senator Kate Brown - 2 pgs**

**C - Testimony in Support of SB 553 - Jeffrey A. Green - 2 pgs**

**D - Testimony in Support of SB 553 - Representative Jane Lokan - 2 pgs**

**E - Testimony in Support of SB 553 - Marcia Latta - 2 pgs**

**F - Testimony in Opposition to SB 553 - Lane Barlow - 9 pgs**

**G - Testimony in Support of SB 570 - Vicki Bates - 3 pgs**

**H - Testimony in Opposition to SB 570 - Madeline Olson - 2 pgs**

**I - Oregon Statute - SB 570 - Barbara Cimaglio - 3 pgs**

**J - Testimony in Support of SB 553 - Donna Oaks - 2 pgs**

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