

HOUSE COMMITTEE ON
JUDICIARY

Hearing Room 357
Tapes - 30

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Kate Brown, Vice-Chair
Rep. Chuck Carpenter
Rep. Jerry Grisham
Rep. Bryan Johnston
Rep. Leslie Lewis
Rep. Lisa Naito
Rep. Floyd Prozanski
Rep. Eileen Qutub
Rep. Veral Tarno

MEMBER EXCUSED:

Rep. Peter Courtney
Rep. Bob Tiernan

STAFF PRESENT:

Holly Robinson, Committee Counsel
Milt Jones, Committee Counsel
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 72A - Work Session
SB 602 - Work Session
SB 622 - Work Session
SB 192A - Work Session
SB 195A - Work Session
SB 300A - Work Session
SB 933A - Public Hearing
SB 212A - Public Hearing and Work Session
SB 225A - Public Hearing and Work Session
SB 587A - Public Hearing and Work Session
SB 652A - Public Hearing and Work Session
SB 653A - Public Hearing and Work Session

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE , SIDE A

003 CHAIR PARKS: Calls the meeting to order at 9:38 AM

WORK SESSION ON SB 72A

006 MILT JONES, COMMITTEE COUNSEL: SB 72A specifies, for purposes of
intestacy, when person is considered surviving spouse.

013 MOTION: REP. BROWN: Moves SB 72A be sent to the floor with a DO
PASS recommendation.

VOTE: 7-0 MOTION PASSES
AYE: Brown, Grisham, Johnston, Lewis, Prozanski, Tarno, Parks
NO: None
EXCUSED: Carpenter, Courtney, Naito, Qutub, Tiernan

019 CHAIR PARKS: Discusses proposed rule to amend the House Committee on
Judiciary Rules, that if adopted would be put into effect, tomorrow May 10.

WORK SESSION ON SB 192A

038 MILT JONES, COMMITTEE COUNSEL: SB 192A revises laws relating to courts
and administration of justice. (EXHIBIT A)

041 MOTION: REP. BROWN: Moves SB 192A be sent to the floor with a DO
PASS recommendation.

VOTE: 8-0 MOTION PASSES
AYE: Brown, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Carpenter, Courtney, Naito, Tiernan

048 CHAIR PARKS: Rep. Qutub will carry the bill.

WORK SESSION ON SB 195A

050 MILT JONES, COMMITTEE COUNSEL: SB 195A authorizes State Court Administrator to establish minimum retention schedules and standards for all records of courts of state.

052 MOTION: REP. BROWN: Moves SB 195A be sent to the floor with a DO
PASS recommendation.

VOTE: 8-0 MOTION PASSES
AYE: Brown, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Carpenter, Courtney, Naito, Tiernan

060 CHAIR PARKS: Rep. Grisham will carry the bill.

WORK SESSION ON SB 300A

064 MILT JONES, COMMITTEE COUNSEL: SB 300A extends term of member of board of governors of Oregon State Bar from three to four years and adds one public member.

065 MOTION: REP. BROWN: Moves SB 300A be sent to the floor with a DO
PASS recommendation.

VOTE: 9-0 MOTION PASSES
AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno,
Parks
NO: None
EXCUSED: Courtney, Naito, Tiernan

071 CHAIR PARKS: Rep. Brown will carry the bill.

WORK SESSION ON SB 602

073 MILT JONES, COMMITTEE COUNSEL: SB 602 revises chapter of Uniform Commercial code regulating investment securities.

076 MOTION: REP. BROWN: Moves SB 602 be sent to the floor with a DO
PASS recommendation.

VOTE: 9-0 MOTION PASSES
AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno,
Parks
NO: None
EXCUSED: Courtney, Naito, Tiernan

082 CHAIR PARKS: Rep. Grisham will carry the bill.

WORK SESSION ON SB 622

083 MILT JONES, COMMITTEE COUNSEL: SB 622 expands procedures required to obtain way of necessity. (EXHIBIT B)

086 MOTION: REP. BROWN: Moves SB 622 be sent to the floor with a DO
PASS recommendation.

VOTE: 9-0 MOTION PASSES
AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno,
Parks
NO: None
EXCUSED: Courtney, Naito, Tiernan

093 CHAIR PARKS: Rep. Lewis will carry the bill.

PUBLIC HEARING ON SB 212A

(SB 212A mandates full faith and credit for paternity determination in another state.)

Witnesses: John Ellis, Department of Justice
Maureen McKnight, Oregon Legal Services

117 JOHN ELLIS, DEPARTMENT OF JUSTICE: Testifies and submits written testimony in support of SB 212A. (EXHIBIT C)

152 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: Testifies and submits written testimony on SB 212A. (EXHIBIT D)

207 CHAIR PARKS: How much does genetic testing cost?

208 ELLIS: It depends because we contract it out. It ends up to be about \$70 a party for DNA testing. Discusses that in the laboratory testing is much more expensive. We do the testing for about \$210 per triad, mom, dad, and child.

215 REP. BROWN: My concern about doing a voluntary testing and then giving them a year to do the blood testing is, aren't we playing around with the paternity judgments and leaving them up in the air for a period of time? I would rather have something that is a little more conclusive.

222 ELLIS: If paternity were established without a blood test, I thought we were going to leave it open for a year and then close it down?

227 REP. BROWN: We were dealing with administrative findings as opposed to the voluntary signing of paternity.

228 ELLIS: True, that is an important difference. Would you prefer to have this conclusive at the outset? The problem is that this is a federal requirement.

233 REP. BROWN: I am concerned because I know people get excited and sign forms when they don't understand them.

236 ELLIS: That is why I agreed with the proposed amendment by the Oregon Legal Services.

240 CHAIR PARKS: I like that amendment.

244 REP. LEWIS: Are you going to specify that they have to have a DNA testing? Doing a blood type test is much cheaper.

250 ELLIS: We have used DNA testing for several years exclusively because it is so much more accurate, explains.

258 REP. LEWIS: Do you have some way for people to pay for this over a period of time?

260 ELLIS: Yes we do. It isn't something that we collect with vigorously. We allow people to pay it off as they can.

266 CHAIR PARKS: If I wanted to challenge this under the proposed amendments, you would arrange for the test and pay for it and then I would owe you?

268 ELLIS: Correct.

269 CHAIR PARKS: Can that be part of your amendment, as to the party that challenges the testing has to request that the Department of Justice provide the test and will be reimbursed?

273 ELLIS: Yes, we can easily do that.

WORK SESSION ON SB 212a

267 MOTION: REP. BROWN: moves to AMEND SB 212A by inserting ",except as provided by subsection (7) of this section" after "." on page 4, line 18 of the bill, and by inserting "subsection (7)" after "line 19" on page 4, line 20 of the bill.

VOTE: Hearing no objections the amendments are ADOPTED.

289 ELLIS: That is fine.

290 MCKNIGHT: Discusses other amendment on page 2 of testimony, EXHIBIT D. Explains and discusses what the amendment would do and where it would be inserted.

304 REP. LEWIS: Where would your amendment go in the bill?

305 MCKNIGHT: Cites where amendment would be placed if adopted.

314 REP. PROZANSKI: I have a problem with this amendment, explains.

318 REP. BROWN: Support enforcement is getting 150 new staff people.

320 ELLIS: We are getting 100 net over what we have now, but 150 overall because we have 50 temporary people now.

324 MCKNIGHT: Explains that this is the existing time frame.

335 MOTION: REP. BROWN: Moves SB 212A AS AMENDED be sent to the floor with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES

AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno, Parks

NO: None

EXCUSED: Courtney, Naito, Tiernan

345 CHAIR PARKS: Rep. Brown will carry the bill.

PUBLIC HEARING ON SB 225A

(SB 255A changes period for filing post-conviction relief petition to specify that for person whose conviction and appeals became final on or after July 7, 1993, and before effective date of Act, petition must be filed within two years of certain date.)

Witnesses: Lynn Larsen, Department of Justice
Jim Arneson, Oregon Criminal Defense Lawyers Association

360 LYNN LARSEN, DEPARTMENT OF JUSTICE: Testifies and submits written testimony in support of SB 225A. (EXHIBIT E)

400 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies in opposition to SB 225A.

TAPE 30, SIDE A

WORK SESSION ON SB 225A

009 MOTION: REP. TARNO: Moves SB 225A be sent to the floor with a DO PASS recommendation.

011 REP. JOHNSTON: Discusses bill and his concerns. If two years was an appropriate statute of limitations, then we shouldn't change it.

024 VOTE: 6-3 MOTION FAILS
AYE: Carpenter, Grisham, Lewis, Qutub, Tarno, , Parks
NO: Brown, Johnston, Prozanski
EXCUSED: Courtney, Naito, Tiernan

PUBLIC HEARING ON SB 587A

(SB 587A allows diagnostic or therapeutic radioisotopes remaining inside body of deceased person to be buried or entombed with body.)

Witness: David Stewart-Smith, Department of Energy

032 DAVID STEWART-SMITH, DEPARTMENT OF ENERGY: Testifies and submits written testimony in support of SB 587A. (EXHIBIT F)

WORK SESSION ON SB 587A

044 MOTION: REP. PROZANSKI: Moves SB 587A be sent to the floor with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES
AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Courtney, Naito, Tiernan

051 CHAIR PARKS: Rep. Lewis will carry the bill.

PUBLIC HEARING ON SB 652A

(SB 652A creates crime of abuse of memorial to dead.)

Witness: Ray Gribling, Oregon Cemetery Association

056 RAY GRIBLING, OREGON CEMETERY ASSOCIATION: Testifies and submits written testimony in support of SB 652A. (EXHIBIT G)

WORK SESSION ON SB 652A

061 MOTION: REP. TARNO: Moves SB 652A be sent to the floor with a DO PASS recommendation.

VOTE: 10-0 MOTION PASSES
AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Courtney, Tiernan

068 CHAIR PARKS: Rep. Naito will carry the bill.
PUBLIC HEARING ON SB 653A

(SB 653A provides for expedited forfeiture of animals impounded as result of certain animal offenses.)

Witnesses: Diana Vitolins, Oregon District Attorneys Association
Susan Mentley, Humane Society of Willamette Valley

074 DIANA VITOLINS, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in support of SB 653A. Discusses some concerns of bill.

088 SUSAN MENTLEY, HUMANE SOCIETY OF WILLAMETTE VALLEY: Testifies in support of SB 653A.

111 CHAIR PARKS: You think this bill is a big improvement?

113 MENTLEY: Yes.

WORK SESSION ON SB 653A

115 REP. GRISHAM: HB 3177 that you carried, didn't it have a subsection that dealt with forfeiture?

118 REP. TARNO: No, explains.

121 REP. GRISHAM: I thought that during the floor speech that you addressed

the woman in Astoria?

123 REP. TARNO: In a different respect, I did.

124 HOLLY ROBINSON, COMMITTEE COUNSEL: There is no ability in this bill to waive a security deposit. Animals could be impounded and subsequently put to sleep if you can't waive the bond, then a person will go to trial. If the person is acquitted of the criminal act, then they are acquitted but their animal is dead. The committee might want to put a provision of a waiver of the bond under certain circumstances.

132 MOTION: REP. PARKS: moves to AMEND SB 653A by inserting "provision of waiver of the bond under certain circumstances" in the bill.

VOTE: Hearing no objections the amendments are ADOPTED.

134 MOTION: REP. TARNO: Moves SB 653A AS AMENDED be sent to the floor with a DO PASS recommendation.

136 REP. LEWIS: I am concerned that this could result in animals being put to sleep, explains.

143 VOTE: 10-0 MOTION PASSES
Tarno, Parks AYE: Brown, Carpenter, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub,
NO: None
EXCUSED: Courtney, Tiernan

149 CHAIR PARKS: Rep. Josi will carry the bill.

PUBLIC HEARING ON SB 933A

(SB 933A allows parole and probation officers to carry firearms while engaged in official duties.)

Witnesses: Jim Kiely, President of the Federation of Parole Officers
Scott Taylor, Department of Corrections

160 JIM KIELY, PRESIDENT FEDERATION OF PAROLE OFFICERS: Testifies and submits written testimony in support of SB 933A. (EXHIBIT H)

219 CHAIR PARKS: You think that would offset the cost that you incur in doing this?

221 KIELY: Yes, explains that there is a \$50 charge to gain a concealed weapons permit. Instead of having it automatic under the law, the parole officers would have to go through a process like a citizen off the street.

230 REP. BROWN: One of my concerns is that carrying a concealed weapon might change the relationship of a parole officer and client. Can you address that?

235 KIELY: We have had ample time to see that relationship, explains. People from the department will see that it isn't evidence that there has been a significant change. Discusses study in Grants Pass on parole officers that were armed.

254 CHAIR PARKS: When this bill came up last session, I made a deal with them to allow this to happen. Somewhere in the middle of that, the State Police had the guns taken away. I am convinced that this needs a statute.

270 SCOTT TAYLOR, DEPARTMENT OF CORRECTIONS: Testifies and submits written testimony in opposition to SB 933A. (EXHIBIT I)

289 CHAIR PARKS: The bill, as passed by the Senate, does not provide for what you want?

291 TAYLOR: When we testified in the Senate, the chairman guaranteed that the language as stated in the bill was clear and that it did not allow probation/parole officers to say that they have the right to be armed. Discusses what the administration can say.

298 CHAIR PARKS: Do you agree?

299 KIELY: It is my understanding is this doesn't make the administrator arm the parole officer, explains. It is based on administrative policy rather than the law itself.

308 CHAIR PARKS: Then the department would have the final say as to whether to allow officers in a certain county to be armed?

312 KIELY: That is my understanding of the law.

314 REP. NAITO: If the parole officer has completed the two requirements. If we do want to do it any differently you would need to adopt the language "authorized by the employer".

323 CHAIR PARKS: Adjourns the hearing at 10:29 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments to SB 192 - Staff - 1 page
- B. Testimony on SB 622 - Staff - 3 pages
- C. Testimony on SB 212 - John Ellis - 3 pages
- D. Testimony on SB 212 - Maureen McKnight - 3 pages
- E. Testimony on SB 225 - Lynn Larsen - 5 pages
- F. Testimony on SB 587 - David Stewart-Smith - 1 page
- G. Testimony on SB 652 - Ray Gribling - 2 pages
- H. Testimony on SB 933 - Jim Kiely - 9 pages
- I. Testimony on SB 933 - Scott Taylor - 1 page