

HOUSE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 43

MEMBERS PRESENT:

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

STAFF PRESENT:

Holly Robinson, Committee Counsel
Milt Jones, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD: Reconsideration and work session on SB 362 A
 Reconsideration and work session on SB 1053 A
 Work session on SB 641 A
 Work session on SB 943 A
 Work session on SB 1038 A
 Public hearing and work session on SB 107 A
 Public hearing and work session on SB 220 A
 Public hearing and work session on SB 231
 Public hearing and work session on SB 232
 Public hearing and work session on SB 871 A

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 , A

004 CHAIR PARKS: Convenes meeting at 8:33 A.M.

006 CHAIR PARKS: What happened at the work session yesterday was that we said that a majority of the committee present could amend, or not amend a bill, and that is not the rule in the full committee. The rule is that you need to have 7 members.

011 MOTION: CHAIR PARKS: To reconsider SB 362 A

013 CHAIR PARKS: The motion CARRIES.

OPENS the WORK SESSION on SB 362 A

014 ROBINSON: Discusses the -A2 and -A4 amendments.

016 CHAIR PARKS: The alcohol amendments that you decided are those amendments that provide that if you do not give notice within six months, then you are barred from bringing a subsequent action.

020 MOTION: REP. CARPENTER: Moves to have the -A2 amendments rescinded from SB 362 A.

023 REP. GRISHAM: I object.

025 VOTE: In a roll call vote REPS. BROWN, CARPENTER, COURTNEY, JOHNSTON, NAITO, PROZANSKI, TARNO and PARKS vote AYE. REPS. GRISHAM and QUTUB vote NAY. REPS. LEWIS and TIERNAN are EXCUSED.

026 CHAIR PARKS: The motion CARRIES.

040 CHAIR PARKS: That leaves the original content of the bill plus the -A4 amendments.

042 REP. GRISHAM: What are we voting on now?

043 JONES: Gives brief overview of SB 362 A.

047 MOTION: REP. BROWN: Moves SB 362 A to the Floor with a do pass recommendation.

049 VOTE: In a roll call vote all members present vote AYE. REP. TIERNAN is EXCUSED.

056 CHAIR PARKS: The motion CARRIES.

060 REP. CARPENTER will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 362 A
OPENS the WORK SESSION on SB 1038 A

060 JONES: Gives brief overview of SB 1038 A. [EXHIBIT A]

064 MOTION: REP. GRISHAM: Moves the -A2 amendments to SB 1038.

066 CHAIR PARKS: The motion CARRIES.

069 MOTION: REP. GRISHAM: Moves SB 1038 A as amended to the Floor with a do pass recommendation.

072 REP. NAITO: Gives explanation as to why she will be voting no on SB 1038 A.

089 REP. LEWIS: I to feel the city of Cannon Beach has done a fairly good job with their ordinance and the time table they have set up to phase out the rentals, however, I feel what we're doing is catching property owner's in a catch twenty two.

103 REP. JOHNSTON: I'm not sure where I will be on this bill, but I have to say I don't think deciding to enforce a regulation is changing the rules.

106 REP. TARNO: I have some problems with this bill also. I have some real problems with telling a small community how to run their lives.

111 CHAIR PARKS: I think the officials at Cannon Beach are more sensitive. I'm voting against the bill also.

124 REP. GRISHAM: I will be voting for the bill. I ask you to think back to when we did away with "Granny Flats", and changed the zoning for small business's.

135 CHAIR PARKS: I don't think anyone will disagree that no matter how you vote on this one, it's such a close call.

138 VOTE: In a roll call vote REPS. CARPENTER, GRISHAM, LEWIS and QUTUB vote AYE. REPS. BROWN, COURTNEY, JOHNSTON, NAITO, PROZANSKI, TARNO and PARKS vote NAY. REP. TIERNAN is EXCUSED.

142 CHAIR PARKS: The motion FAILS.

144 CHAIR PARKS: Is there any other bill the committee want's to vote on before some of us have to go to other responsibilities?

146 REP. PROZANSKI: We had one bill that we were entertaining discussion on, SB 641 A. We've left it with a motion I made to make an amendment to the bill.

CLOSES the WORK SESSION on SB 1038 A
OPENS the WORK SESSION on SB 641 A

156 ROBINSON: Gives brief overview of SB 641 A.

159 MOTION: REP. PROZANSKI: Moves conceptual amendment to SB 641A, to allow community colleges to remain in the bill but to delete the private institutions.

162 REP. PROZANSKI: Gives brief explanation of conceptual amendment.

180 REP. TARNO: I can't support Rep. Prozanski's motion. I'm concerned about those private institutions, one being Willamete University.

191 REP. COURTNEY: I'm also going to vote no. He's right about how far you can take this police power. I have been horrified at the increase of violence and crime in that kind of world.

216 REP. JOHNSTON: I understand Rep. Prozanski's fear's and concerns and I share them. I agree with Rep. Courtney in regard to providing more power's to policing. Where does this committee think we draw the line between the private industrial police forces and the private neigHB orhood police forces and the private community police forces, all of whom will transform our free state into a police state?

241 REP. BROWN: My concern is we would end up moving towards the Lloyd Center's of the world. What happens procedurally in these circumstances where you have a private cop on campus, don't they end up calling the police anyway?

249 REP. TARNO: They would use local law enforcement to help.

251 REP. JOHNSTON: What this bill lets them do is stop and make the arrest, so you would call the police after you have a suspect in custody.

254 CHAIR PARKS: What do you mean the Lloyd Center's of the world?

255 REP. BROWN: Malls.

256 REP. NAITO: My family owns the "Gallaria" and we hire special security guards who do not have state police powers to make arrests.

301 REP. TARNO: Even some of your private, large shopping center's hire off duty certified police officer's as opposed to private security officer's, simply because they have the training, the certification and they have the ability to make probable cause arrests.

334 CHAIR PARKS: Once your certified by the board, then do you have to do something to keep your certification in effect?

339 REP. TARNO: You have to remain in the occupation. If you get out of the occupation for a period of time, you lose your certification.

343 CHAIR PARKS: That means you must be employed by a municipality or some government agency.

344 REP. TARNO: Correct.

346 CHAIR PARKS: How long can you be out of the field?

347 REP. TARNO: I think it's a three year period.

349 CHAIR PARKS: Do you have continuing education requirements to maintain your certification?

351 REP. TARNO: No, you do not.

349 REP. NAITO: Is it true that a local municipality or government body would have their own rules and regulations pertaining to the police and what their protocol is in given situation?

355 REP. TARNO: To establish policy on procedures, you are correct.

357 REP. NAITO: Those are made up by the public body?

360 REP. TARNO: It would be similar to the rules and regulations established by the campus at University of Oregon.

362 REP. QUTUB: I have talked to Rep. Prozanski about this and one of the things in our discussion about his proposed amendments is that we are a legislative body that is giving the power to do this, but we also are a legislative body that at another time if we see it has been abused, we can take it away.

386 REP. CARPENTER: In reference to Rep. Johnston's comment about the "NIKE campus", can we do a conceptual amendment of "higher education campus" instead of just saying "campus"?

396 CHAIR PARKS: I think both sides here are right. My real concern is that they also have the potential to defeat the efforts of the police by getting in there and wandering around and I don't want to get into the O.J.

Simpson case, but there were a lot of things that happened in that investigation that are going to handicap the prosecution because of the amateur ways things were done.

428 REP. PROZANSKI: From my background, you know that I take public safety very seriously.

I have a private institution that border's my district, and as a former district attorney I have been there to prosecute cases that have come off the University of Oregon campus.

TAPE 42, A

038 CHAIR PARKS: I have to go to a meeting and I want to bring this to a conclusion. We will vote on Rep. Prozanski's conceptual amendment.

040 VOTE: In a roll call vote REPS. BROWN, JOHNSTON, NAITO, and
vote AYE. REPS. CARPENTER, COURTNEY, GRISHAM,
LEWIS, QUTUB, TARNO and PARKS vote NAY. REP. TIERNAN is
EXCUSED.

PROZANSKI

043 CHAIR PARKS: The motion FAILS.

048 MOTION: REP. BROWN: Moves conceptual amendment to SB 641 that all officer's will be certified by the Board on Public Safety Standards and Training,
(BPSST) and that would be inserted on lines 15 and 16.

050 CHAIR PARKS: To be certified would mean to be currently certified,
correct?

051 REP. BROWN: Yes.

053 REP. PROZANSKI: I would request a "sunset" or some type of reporting
back to this assembly or to the next assembly.

062 REP. GRISHAM: Does that require a Ways and Means referral, is there an
impact on BPSST?

064 CHAIR PARKS: These folks, if they are not certified, would have to go
there and pay their own
way. Last session we passed a way to do that. I think most of the people
would already be certified.

065 REP. QUTUB: I'm wondering if there will be room at the academy within
the two year window we're giving for a report back.

069 REP. JOHNSTON: Most of the folks already have the certification.

072 VICE-CHAIR BROWN: Hearing no objections the motion CARRIES.

075 MOTION: REP. PROZANSKI: Moves conceptual amendment to SB 641 A.
Reporting back in two years to the next assembly with a follow up reporting
in four years.

078 VICE-CHAIR BROWN: Hearing no objections the motion CARRIES.

084 MOTION: REP. TARNO: Moves SB 641 A as amended to the Floor with do
pass recommendation.

088 REP. GRISHAM: It seems like in the last couple of months we've imposed
a lot of new standards on people who are having to go to BPSST.

094 VICE-CHAIR BROWN: It's my understanding that most of their officer's
are already board certified.

099 REP. NAITO: This is a very difficult issue for me. I think I will
support the bill as amended, however, I think it is something we should
look over next session and make sure it's not being
misused.

104 VICE-CHAIR BROWN: I have those same concerns and I think with Rep.
Prozanski's amendments, I'm going to support the bill.

106 REP. PROZANSKI: I'm going to vote no at this point, but I'm reserving
the right to vote yes on
the Floor. I want to think about this. I think there are other
safeguards, that if we're going forward, we need to put in the bill.

110 VOTE: In a roll call vote REPS. BROWN, CARPENTER, GRISHAM, JOHNSTON,
LEWIS, NAITO, QUTUB. and TARNO vote AYE.
REP. PROZANSKI vote NAY. REPS. COURTNEY, TIERNAN and
CHAIR PARKS are EXCUSED.

113 VICE-CHAIR BROWN: The motion CARRIES.

114 REP. JOHNSTON will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 641 A
OPENS the WORK SESSION on SB 943 A

123 JONES: Gives brief overview of SB 943 A. [EXHIBIT B]

135 VICE-CHAIR BROWN: The -A3 amendments were the amendments that I had
proposed.
I could not hear you with regard to the Attorney Generals amendments.

138 JONES: Explains the AG's amendments.

148 MOTION: REP. TARNO: Moves the -A3 amendments to SB 943 A.

150 VICE-CHAIR BROWN: The motion CARRIES.

152 MOTION: REP. TARNO: Moves SB 943 A to the Floor as amended with a
do pass recommendation.

153 REP. GRISHAM: Can you explain what the bill does?

156 JONES: Gives a brief explanation of the intent of SB 943 A.

164 VICE-CHAIR BROWN: I would also add that we passed out earlier this
week a restraining order provisions for the elderly, so this is a companion
piece to that.

168 REP. GRISHAM: What I am trying to find is a definition of what other
personal transgressions are.

172 JONES: That was my summary of provisions in here which include things
like sexual abuse.

173 REP. GRISHAM: Other types of sexual abuse other than rape and sodomy?

176 JONES: Yes, intimidation, that is in section 2, page 2, lines 1 through 22.

181 REP. LEWIS: In regards to the amendment suggested by the Attorney General, is it in legislative counsel form, or are we conceptually adopting them?

185 VICE-CHAIR BROWN: It's my understanding it's in the first five lines of the -A3 amendments.

187 JONES: Yes, it's on page 3, line 35.

191 REP. QUTUB: Did we adopt the amendment that eluded to verbal abuse, or was that the other bill?

193 JONES: That was the other bill.

196 VICE-CHAIR BROWN: In regard to the fiscal impact in terms of the amendments, my office talked with the fiscal office and it should be negligible.

204 VOTE: In a roll call vote all members present vote AYE. REPS. COURTNEY and TIERNAN are EXCUSED.

207 VICE-CHAIR BROWN: The motion CARRIES.

209 REP. BROWN will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 943 A
OPENS the PUBLIC HEARING on SB 107 B

230 JONES: Gives brief overview of SB 107 B. [EXHIBIT E]

238 JUSTICE EDWIN J. PETERSON: Testimony on SB 107 B. [EXHIBIT D]

271 PAUL SNIDER, ASSOCIATION of OREGON COUNTIES: We agree.

278 JONES: The bill is as Justice Peterson described, it would include the -B4 amendments and type written amendments which are labeled "proposed amendments to SB 107 B.

290 ROY POLVERDS, STAFF ATTORNEY, OREGON SUPREME COURT: Testimony in support of SB 107 B. [EXHIBIT F, G & H]

304 JONES: I understand you want to change the type written 107 B amendments?

306 POLVERDS: What I would like to do is to take the -B4 amendments and add a subsection F that says "a district attorney's office".

312 JONES: So then we have two sets of handwritten amendments.

314 REP. JOHNSTON: I did not notice any forms of alternative dispute resolution in the appeal process.

321 POLVERDS: This bill has been an attempt to standardize and reform the procedural process's for judicial review of government actions.

336 BRADD SWANK, STATE COURT ADMINISTRATOR'S OFFICE: The court of appeals was about to embark on an alternative dispute resolution pilot program.

348 POLVERDS: In addition, the bill analogies that one appropriate disposition of a case of course is settlement and dismissal pursuant to a settlement.

351 REP. PROZANSKI: Since we have two different sets of amendments that are being offered, I would like to ask Mr. Avera if the Oregon District Attorney's Association (ODAA) is in agreement with the changes that effect district attorney's.

354 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY, OREGON DISTRICT ATTORNEY'S ASSOCIATION: Yes, I do believe the Oregon District Attorney's Association is in support of those amendments.

384 VICE-CHAIR BROWN: Two days ago we passed out a referral to the voter's that would allow any citizen to challenge any type of state government action by bringing a complaint in front of a committee that we will set up, designed to deal with these process's.

403 POLVERDS: Your referring to the Legislative Oversight of Administrative Rules provision. What this bill is intended to do is deal with present law and to reform and clarify present law.

421 REP. GRISHAM: The judicial system seems to move closer and closer to writing law rather than interpreting law. It looks like what we're doing is further enabling the judicial system to interpret and set law in to place that is outside the legislative system.

438 JUSTICE PETERSON: With all respect the bill would have the opposite

result. Gives example.

TAPE 41, B

032 POLVERDS: In the section by section analysis, [EXHIBIT G], you will note that in section 12, that is an attempt to codify the nature of judicial review of government actions.

054 REP. GRISHAM: On the proposed amendments [EXHIBIT F], page 3 line 17, does any thing in that have to do with measure 11?

060 AVERA: No, it would not. Any of those types of adjudication's would be subject to normal review by appeal.

064 REP. PROZANSKI: I think what the judiciary branch is doing is just like any other group that would be coming before us to submit proposal's to us. I think these are very good ones in the sense that they are trying to make sure that the doors are not closed on citizen's.

072 MIKE REYNOLDS, ASSISTANT SOLICITOR GENERAL, DEPARTMENT OF JUSTICE: Testimony in support of SB 107 B.

CLOSES the PUBLIC HEARING on SB 107 B
OPENS the WORK SESSION on SB 107 B

106 MOTION: REP. JOHNSTON: Moves the May 18, 1995 [EXHIBIT F] and the -B4 amendments [EXHIBIT E] as further amended to SB 107 B. amendments

108 VICE-CHAIR BROWN: The motion CARRIES.

110 MOTION: REP. JOHNSTON: Moves SB 107 B as amended to the Floor with a do pass recommendation.

112 VOTE: In a roll call vote all members present vote AYE. REPS.
COURTNEY and QUTUB are EXCUSED.

115 VICE-CHAIR BROWN: The motion CARRIES.

117 REP. JOHNSTON will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 107 B
OPENS the PUBLIC HEARING on SB 220 A

133 REP. TIERNAN: We have HB 3303 in our packet's, is this an amendment to something?

136 ROBINSON: Those amendments were adopted and incorporated in SB 943 A.

Gives brief overview of SB 220 A. [EXHIBIT I]

148 JANINE ROBBEN, DIRECTOR, MEDICAID FRAUD UNIT, DEPARTMENT OF JUSTICE: Testimony in support of SB 220 A. [EXHIBIT J]

168 REP. TIERNAN: Were these amendments discussed as part of the main bill in the Senate?

171 ROBBEN: This amendment was proposed at the suggestion of Chairman Parks and it was not a concern on the Senate side, but Chairman Parks is correct.

177 REP. TIERNAN: Have you discussed the proposed amendments with the originator of the bill?

178 ROBBEN: I am the originator of the bill.

180 VICE-CHAIR BROWN: Was there any opposition to this bill?

182 ROBBEN: No, there is no opposition at this time. The Oregon Medical Association and the Defense Attorney's Association both came to the initial Senate hearing and either had no problem's with the bill or recommended amendments which I thought were excellent and we incorporated them.

CLOSES the PUBLIC HEARING on SB 220 A
OPENS the WORK SESSION on SB 220 A

186 MOTION: REP. TARNO: Moves the -A3 amendments to SB 220 A.

188 REP. TIERNAN: Objection to the amendments. Can you give me an explanation of the -A3 amendments?

194 ROBINSON: The intent of the -A3 amendments is to solely clarify that the intent of the bill as they define "person" in the bill, is that they are person's or entities or associations that provide health care services.

203 REP. TIERNAN: Has there been any opposition to the amendment?
204 ROBINSON: No, it's really a clarification amendment.
206 VICE-CHAIR BROWN: Rep. Tiernan, do you wish to withdraw your objection?
207 REP. TIERNAN: No, I just like to have an explanation before we vote on things.
207 REP. PROZANSKI: Where does that leave us, do we still have an objection?
210 REP. TIERNAN: No, I will withdraw my objection.
213 VICE-CHAIR BROWN: The motion CARRIES.
214 MOTION: REP. TARNO: Moves SB 220 A as amended to the Floor with a do pass recommendation.
215 VOTE: In a roll call vote all members present vote AYE. REP. COURTNEY is EXCUSED.
218 VICE-CHAIR BROWN: The motion CARRIES.
220 REP. PROZANSKI will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 220 A
OPENS the PUBLIC HEARING on SB 231 and SB 232

235 REPRESENTATIVE BRYAN JOHNSTON, DISTRICT 31: Testimony in support of SB
231 and SB 232. [EXHIBIT K]
265 ALICE PHALAN, EXECUTIVE DIRECTOR, DISPUTE RESOLUTION COMMISSION:
Testimony in support of SB 231 and SB 232. [EXHIBITS L & M]
300 SUZANNE TOWNSEND, ATTORNEY, GOVERNMENT SERVICES SECTION, GENERAL COUNSEL
DIVISION, DEPARTMENT OF JUSTICE: Testimony in support of
SB 231 and SB 232.
318 REP. TIERNAN: What's the update right now, how has dispute resolution been working and what kind of disputes have you been resolving through this method in the past two years?
321 PHALAN: The update on our activity with the public policy program is that during the past biennium we have worked specifically with the Natural Resource agencies.
334 REP. TIERNAN: Of those forty cases, how many have you helped resolve?
342 PHALAN: In dealing with those forty cases, our role in most of those instances, is to provide the case assessment.
358 REP. JOHNSTON: Gives brief testimony on SB 232.
434 REP. TIERNAN: There would be no confidentiality if the state was a party to the mediation?
438 REP. JOHNSTON: Under current law, that is not the case.
443 REP. TIERNAN: In your amendment, any time the state is a party.
446 REP. JOHNSTON: No, all the amendment does is it clarify's that if there is public records law already, the mediation, confidentiality provision would remain. Under current law, the state could participate as a party and it would be confidential.
456 REP. TIERNAN: If a public body is a part of mediation, we're back to the opposite direction we've been going to all session with opening things up. Why are we letting the state hide behind confidentiality?

TAPE 42, B

030 TOWNSEND: The Department of Justice has been concerned about that aspect of the bill. The intent of the amendments is to make sure that nothing that is currently required of a public body, which would include state agencies, in the public records law or the public meeting's law, is altered by this provision.
040 REP. TIERNAN: If the state is a party to the action, I don't think there is a compelling reason why the information is being transferred or is confidential. I think the public has a right to know what the state is saying and what there position is.
046 TOWNSEND: That is the intent of the amendment, to make that change and to make that clear that that will happen.
048 REP. TIERNAN: Anytime the state is a party to the action, the confidentiality will not apply?

050 REP. JOHNSTON: The current state of the law is that if the parties agree in writing, then it's all confidential.

059 REP. TIERNAN: But if the state is a party to the mediation now, and one of the parties insist that it be confidential, then it will be confidential, correct?

061 TOWNSEND: Under the statute as it is now, it said "if there is a written agreement, mediation communication's will be confidential".

074 REP. TIERNAN: Any time a state agency is involved in a mediation, it will not be confidential, period?

076 TOWNSEND: Correct, unless there is some other exception within the public records law or public meeting's law.

079 REP. TIERNAN: So the statute mandates it must be confidential, like a personnel action?

081 TOWNSEND: Correct.

083 CHAIR PARKS: You will find that reference on line 11, and that is what chapter 192 is all about.

CLOSES the PUBLIC HEARING on SB 231 A
OPENS the WORK SESSION on SB 231 A

085 MOTION: REP. NAITO: Moves SB 231 A to the Floor with a do pass recommendation.

088 VOTE: In a roll call vote all members present vote AYE. REP. COURTNEY is EXCUSED.

091 CHAIR PARKS: The motion CARRIES.

092 REP. JOHNSTON will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 231 A
OPENS the WORK SESSION on SB 232

098 MOTION: REP. BROWN: Moves the -A4 amendments as amended to SB 232.

102 CHAIR PARKS: The motion CARRIES.

103 REP. GRISHAM: This does not pertain to collective bargaining?

105 ROBINSON: No.

107 MOTION: REP BROWN: Moves SB 232 as amended to the Floor with a do recommendation. pas

109 VOTE: In a roll call vote all members present vote AYE. REP. COURTNEY is EXCUSED.

111 CHAIR PARKS: The motion CARRIES.

112 REP. JOHNSTON will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 232
OPENS the PUBLIC HEARING on SB 871 A

125 ROBINSON: Gives brief overview of SB 871 A.

130 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY, OREGON DISTRICT ATTORNEY'S ASSOCIATION: Testimony in support of SB 871 A.

167 REP. JOHNSTON: Are you familiar with the affidavit of counsel? [EXHIBIT P]

168 ERIC WASSMAN, DEPARTMENT OF JUSTICE: Testimony in support of SB 871 A. [EXHIBITS O & P]

195 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYER'S ASSOCIATION: Testimony on SB 871 A.

222 REP. PROZANSKI: If you think it's going to get so bad to the point that it's so egregious, there's going to be some other constitutional violation, more than likely.

225 ARNESON: That is what I think, I have not encountered this in my practice.

232 REP. PROZANSKI: Wouldn't it be more appropriate if there was an assistant district attorney, or a district attorney, that kept on pushing the envelope for the court to put that person on notice and say "if this conduct continues in this or any other proceeding, that I will be finding you in contempt of court"?

249 ARNESON: I agree that a court in analyzing a situation will do exactly what you've done.

CLOSES the PUBLIC HEARING on SB 871 A
OPENS the WORK SESSION on SB 871 A

265 MOTION: REP. TIERNAN: Moves SB 871 to the Floor with a do pass recommendation.

268 VOTE: In a roll call vote REPS. CARPENTER, GRISHAM, JOHNSTON, LEWIS, NAITO, PROZANSKI, QUTUB, TARNO, TIERNAN and PARKS vote AYE. REP. BROWN votes NAY. REP. COURTNEY is EXCUSED.

271 CHAIR PARKS: The motion CARRIES.

272 REP. PROZANSKI will lead discussion on the Floor.

CLOSES the WORK SESSION on SB 871 A
OPENS the WORK SESSION on SB 1053 A

288 MOTION: REP. BROWN: Moves to reconsider the vote by which SB 1053 A was previously passed.

291 REP. GRISHAM: For what purpose?

292 ROBINSON: The initial purpose was the adoption of conflict amendments.

293 JONES: The -A7 amendments [EXHIBIT Q] are before you for the purpose's of adopting under reconsideration.

303 REP. BROWN: There is another issue and I don't know how to resolve it.

The Federal Violence Against Women Act, prohibits someone who has been subject to a court order, either on the stalking issue or on the family abuse prevention act order, that prohibits the use of force.

318 CHAIR PARKS: The motion CARRIES.

325 MOTION: REP. BROWN: Moves the -A7 conforming amendments to SB

1053 A.

327 CHAIR PARKS: The motion CARRIES.

334 MOTION: REP. BROWN: Moves that the typed amendments to SB 1053 A. [EXHIBIT R]

338 JONES: Russ Lipetsky from the Family and Juvenile Law Section of the Oregon State Bar is here to speak to the amendments.

342 CHAIR PARKS: I will rule that this is an amendment that falls within the 24 hour rule.

346 REP TIERNAN: Objection to reconsider the amendments.

350 RUSS LIPETSKY, LEGISLATIVE CHAIR, OREGON STATE BAR: Speaks to the -A7 amendments. [EXHIBIT Q]

384 REP. QUTUB: I have a question about the objection being raised. It automatically happens if you don't object, maybe someone can help me.

391 LIPETSKY: That is correct. Under the restraining order procedure's currently, and under this bill, an exparte immediate order that is issued.

421 REP. QUTUB: That is not in this bill but in some previous law?

423 LIPETSKY: It's a federal crime bill.

429 REP. GRISHAM: Can you point that out?

431 LIPETSKY: It's 18 USC 922 (g). Refers to [EXHIBIT S]

438 REP. BROWN: Reads the language in 18 USC 922 (g).

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030 REP. BROWN: Continues to read language in 18 USC 922 (g).

041 REP. GRISHAM: That does not do what your saying it does. That does not refer to possession of firearms in the home under a stalking order.

044 REP. BROWN: The reason I have proposed the amendment is because I don't want respondents who go out hunting in the fall, who have restraining order's against them, to be caught under this federal law. I'm very happy to withdraw the amendment but then these people are not going to have the notice they need.

050 REP. QUTUB: I understand it's the federal law, but is there something with the Oregon law, something with this exparte hearing, that is creating a situation where this person falls under the law, where maybe in other states they wouldn't fall under this law?

063 LIPETSKY: The current bill, SB 1053, does nothing to expand anything beyond the current statute that would bring an order under the provisions of the federal law that would not otherwise come under the federal law.

080 REP. GRISHAM: The federal law prevents someone from purchasing after

the fact, but that has been translated to possessing, which I am opposed to.

088 CHAIR PARKS: Do you say it say's "possessing"?

090 LIPETSKY: I do not have a copy of the statute, I have a summary in front of me.

099 REP. GRISHAM: I believe it's taken out of context.

103 LIPETSKY: I have been provided a copy of the statute. Reads the statute.

105 REP. GRISHAM: Your trying to pull something out of context and make it apply to something that doesn't.

108 LIPETSKY: We're happy to pull the amendment out, we're simply trying to give the respondent's notice of what we saw might happen under the federal law.

110 REP. PROZANSKI: Rep. Grisham, all this is is to give notice, it seems like your going to take on the witness.

112 REP. GRISHAM: I'm very happy to support the language that say's "you'll be prohibited from purchasing firearms", which I believe is the intent of the crime bill.

114 REP. PROZANSKI: We can't interpret federal law.

116 REP. BROWN: I will withdraw the amendment.

121 REP. GRISHAM: I support your amendment and if you agree to change "possessing" to "purchasing" I think we're in accordance and we can move forward.

123 REP. BROWN: I'm not willing to do that because I don't think that is in accordance with federal law.

128 REP. NAITO: I think it would be harmful to try to interpret what the intent and the application of the federal law is. This is an issue that is being debated all around the country.

142 REP. JOHNSTON: Why don't we say "possessing or purchasing firearms while the order remains in effect"?

151 MOTION: REP. JOHNSTON: Moves conceptual amendment to SB 1053 A.

153 CHAIR PARKS: The motion CARRIES.

156 MOTION: REP. BROWN: Moves SB 1053 A as amended to the Floor with a pass recommendation. do

158 VOTE: In a roll call vote all members present vote AYE. REP. COURTNEY is EXCUSED.

161 CHAIR PARKS: The motion CARRIES.

163 REP. NAITO will lead discussion on the Floor.

168 REP. LEWIS: We have some question as to whether we adopted the conceptual amendment proposed by Rep. Johnston.

170 ROBINSON: Yes, there was no objection.

172 JONES: For the record it reads, "may be prohibited from purchasing or possessing firearms".

174 CHAIR PARKS: We are on "stand down" which means we won't meet until next week. With nothing further the meeting is adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Clerk Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments to SB 1038 A - Staff - 1 page
B - Proposed amendments to SB 943 A - Staff - 1 page
C - Testimony on SB 943 A - Bertalan - 13 pages
D - Testimony on SB 107 A - Peterson - 6 pages
E - Proposed amendments to SB 107 A - Staff - 1 page
F - Proposed amendments to SB 107 A - Polverds - 1 page
G - Section by section summary of SB 107 A - Polverds - 6 pages
H - Testimony on SB 107 A - Polverds - 4 pages
I - Proposed amendments to SB 220 A - Staff - 1 page
J - Testimony on SB 220 A - Robben - 3 pages
K - Proposed amendments to SB 232 A - Rep. Johnston - 1 page

L - Testimony on SB 231 - Phalan - 2 pages
M - Testimony on SB 232 - Phalan - 2 pages
N - Testimony on SB 232 - Anselm - 2 pages
O - Testimony on SB 871 A - Wassman - 2 pages
P - Testimony on SB 1053 A - Staff - 1 page
Q - Proposed amendments to SB 1053 A - Staff - 1 page
R - Testimony on SB 1053 A - Staff - 6 pages
S - Testimony on SB 1053 A - Rep. Prozanski - 1 page