

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357
10:00 am Tape

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Bryan Johnston, Vice-Chair
Rep. Kate Brown
Rep. Chuck Carpenter
Rep. Lisa Naito
Rep. Eileen Qutub
Rep. Bob Tiernan

STAFF PRESENT:

Milt Jones, Committee Counsel
Sarah Watson, Committee Assistant

MEASURES HEARD:

HB 2228 - Public Hearing and Work Session
HB 2909 - Public Hearing and Work Session
HB 2993 - Public Hearing and Work Session
HB 3125 - 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

004 CHAIR PARKS: Calls the meeting to order at 10:10 am

WORK SESSION ON HB 2228

005 MILT JONES, COMMITTEE COUNSEL: HB 2228 requires that proceedings removed from small claims department of district court by reason of request

for jury trial be referred directly to arbitration in any court that has established mandatory arbitration program. (EXHIBITS A, B)

010 REP. JOHNSTON: We have included mediation in the approach to have an arbitration program or a mediation program, depending on what the court has

establish under authorized government procedure.

013 MOTION: REP. JOHNSTON: Moves to ADOPT HB 2228-1 amendments dated 04/25/95.

VOTE: Hearing no objections the amendments are ADOPTED.

015 MOTION: REP. JOHNSTON: Moves HB 2228 be sent to the full committee with a DO PASS AS AMENDED recommendation.

VOTE: 5-0 MOTION PASSES

AYE: Brown, Carpenter, Johnston, Naito, Parks

NO: None
EXCUSED: Qutub, Tiernan

WORK SESSION ON HB 3125

023 MILT JONES, COMMITTEE COUNSEL: HB 3125 prohibits employer from discriminating against employee for engaging or participating in political activities during employee's own time while off employer's premises.

027 MOTION: REP. BROWN: Moves HB 3125 be sent to the full committee with a DO PASS recommendation.

030 REP. TIERNAN: Isn't this already law?

030 MILT JONES, COMMITTEE COUNSEL: Only for public employees.

033 VOTE: 6-0 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Naito, Tiernan, Parks
NO: None
EXCUSED: Qutub

WORK SESSION ON HB 2909

(HB 2909 requires notification of next of kin prior to performing autopsy or retaining body parts of decedent [EXHIBITS C, D])

048 REP. BROWN: Are those the -2 amendments? EXHIBIT C. Discusses amendments.

070 CHAIR PARKS: I understand that the fourth item is "whether and when the body parts are retained".

072 REP. JOHNSTON: Discusses possibility of tabling bill. I don't think we should be doing this. I don't think we will meet the needs of the police, medical examiners, and personal religious affiliations.

088 REP. TIERNAN: I agree with Rep. Johnston. I'm not sure how we can legislate around all of the problems, but I don't think we can ensure that it won't happen again, explains.

106 REP. NAITO: I feel that the legislature can adopt a minimum standard that must be met. At least these people should be notified about the autopsy. Is there a problem with the -2 amendments?

113 REP. QUTUB: Notification is not the problem, education is. There needs to be a procedure in place so that people are told what is going to happen to a decedent's body. Even if people are notified, it might not cure the issue.

127 REP. BROWN: I agree with Rep. Tiernan. We have been going on a policy of "don't ask, don't tell". My concern about us doing nothing, is that nothing will change. We need to make some kind of effort to notify people of what is happening. People don't have any control over their own organs.

140 REP. TIERNAN: Discusses possible amendment of "best effort", that would help solve problem. The other possibility is to direct the state agencies that are involved, that would make administrative rules to make sure these situations do not take place again.

150 REP. NAITO: If we do adopt the "best efforts" amendment, I want the list as to what type of notification we are talking about, in the -2 amendments.

166 REP. TIERNAN: Discusses possible amendments.

183 CHAIR PARKS: Do we all understand the proposal?

185 REP. TIERNAN: Continues with possible conceptual amendments.

187 MILT JONES, COMMITTEE COUNSEL: This leaves the notification provisions of the original bill in tact.

188 CHAIR PARKS: It also takes out the temporary injunction?

190 REP. BROWN: We may accomplish what we want by gutting and stuffing the bill.

192 REP. TIERNAN: I would take all of section 3 and make it the bill and insert "best efforts" between shall and within.

195 REP. CARPENTER: Are we also deleting the three day period? I think we should.

197 REP. NAITO: I feel that we should delete the three day period because people should be informed before and not after the autopsy. Cites language.

205 REP. CARPENTER: I would like to leave it open so that it is their "best efforts to inform" either before or after the autopsy.

209 CHAIR PARKS: Proposes that notification shall not interfere with the duties imposed on them by ORS 146.117. I want that phrased so that if there is a conflict between the notification and them performing their statutory responsibilities, the statutory responsibilities come first. Do we all agree with that?

220 REP. BROWN: Discusses possible conceptual amendments.

237 CHAIR PARKS: We will hear this before the full committee tomorrow and will have the opportunity to correct the language if need be.

243 MOTION: REP. BROWN: Moves to ADOPT HB 2909-2 amendments dated 04/26/95 and that the bill be further amended on page 1, line 5, by deleting "within three days of the completion of the autopsy", and on page 1, line 5, by inserting "use their best efforts to" after "shall," and on pg. 1, line 12, by inserting "such notification shall not interfere with duties prescribed by ORS 146.117", and by deleting section 1 of the bill.

VOTE: Hearing no objection the amendments are ADOPTED.

247 MOTION: REP. BROWN: Moves HB 2909 AS AMENDED be sent to the full committee with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Naito, Qutub, Tiernan, Parks
NO: None

WORK SESSION ON HB 2993

263 MILT JONES, COMMITTEE COUNSEL: HB 2993 prohibits civil action for injury, death or damage if injury, death or damage occurred while person was committing felony, attempting to commit felony or fleeing scene of felony. (EXHIBITS E, F, G)

279 REP. JOHNSTON: Discusses -3 and -5 amendments and that neither should be adopted.

284 MILT JONES, COMMITTEE COUNSEL: That leaves us with the original bill. Explains what original bill does.

288 CHAIR PARKS: What is the statute now?

289 MILT JONES, COMMITTEE COUNSEL: The present statute provides that it is a qualified defense for certain civil actions, that the person who was injured was committing a crime. Discusses crimes and that they have to be a substantial factor contributing to the injuries. It is a limited protection.

297 CHAIR PARKS: What does the original bill provide to do?

301 MILT JONES, COMMITTEE COUNSEL: This does not require that there be a relationship between the crime and injury, explains.

304 REP. BROWN: I have some grave concerns about HB 2993, explains. The language is very broad in addition to the unconstitutional issues.

312 REP. NAITO: If we already have this law in the books, why are we doing it again?

314 CHAIR PARKS: Because it is an offense after a lawsuit rather than an exception out of a lawsuit.

318 REP. QUTUB: Can't we just specify that they are fleeing after having perpetrated the crime, rather than just being a person at the crime scene?

322 REP. BROWN: This doesn't even require that someone be convicted of a felony.

330 REP. JOHNSTON: Would those parties be interested in merging ORS 30.085 which would reverse the order? Instead of it being a complete defense, it would be substituted as a bar to any civil action. Explains the differences of ORS 30.085 now and HB 2993. HB 2993, is much broader and would potentially be a bar from someone leaving the scene, gives example.

366 MILT JONES, COMMITTEE COUNSEL: ORS 30085 is limited to class a or b felonies.

368 REP. BROWN: I could support that because it sufficiently narrows the scope of what we are trying to do.

372 MILT JONES, COMMITTEE COUNSEL: That would be simple to accomplish, explains.

380 MOTION: REP. JOHNSTON: Moves to substitute the provisions of HB 2993 with the language of ORS 30.085 with an amendment that, rather than being a complete defense to any civil action arising out of a class a or b felony or aggravated murder, it would "bar" any action.

VOTE: Hearing no objections the amendments are ADOPTED.

386 MOTION: REP. JOHNSTON: Moves HB 2993 be sent to the full committee with a DO PASS AS AMENDED recommendation.

VOTE: 5-0 MOTION PASSES
AYE: Brown, Carpenter, Johnston, Qutub, Parks
NO: None
EXCUSED: Naito, Tiernan

394 CHAIR PARKS: Adjourns the hearing at 10:36 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments to HB 2228 - Staff - 3 pages
- B. Testimony on HB 2228 - Kingsley Click - 4 pages
- C. Proposed Amendments to HB 2909 - Staff - 1 page
- D. Testimony on HB 2909 - Larry Lewman - 2 pages
- E. Proposed Amendments to HB 2993 - Staff - 2 pages
- F. Proposed Amendments to HB 2993 - Staff - 3 pages
- G. Testimony on HB 2993 - Staff - 2 pages