

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes - 157

MEMBERS PRESENT:

Sen. Neil Bryant, Chair  
Sen. Randy Miller, Vice-Chair  
Sen. Ken Baker  
Sen. Jeannette Hamby  
Sen. Peter Sorenson  
Sen. Dick Springer  
Sen. Shirley Stull

STAFF PRESENT:

M. Max Williams II, Committee Counsel  
Julie Clemente, Committee Assistant

MEASURES HEARD: Public Hearing & Work Session HB 3377  
Public Hearing SB 908  
Public Hearing SB 1147  
Public Hearing & Work Session HB 3098  
Public Hearing & Work Session HB 2912  
Work Session SB 2325  
Work Session SB 601

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

002 CHAIR BRYANT: Calls committee to order.

OPENS PUBLIC HEARING ON HB 3377

Witnesses: Rep. Tim Josi, House District #2  
Rep. Larry Sowa, House District #26  
Sharon M. Harmon, Operations Director, Oregon Humane Society  
Joshua Marquis, Clatsop County District Attorney  
Susan Mentley, Oregon Animal Welfare Alliance  
Donald N. Turco, M. D.  
Pamela Frasch for Charles H. Turner, Circuit Court Judge Pro Tem, State of

Oregon

Mark Williamson, Supervisor, Animal Cruelty Investigations Department,  
Humane Society

Oregon

Don Myers, Executive Director, Humane Society of the Willamette Valley  
Dani Wilke, Veterinary Medical Association

John McCulley, Oregon Cattlemen's Association and Oregon Fairs Association  
Lois Davis, Oregon Health Science University

03 REPRESENTATIVE TIM JOSI, House District #2: Testifies in support of HB  
3377. [EXHIBIT A]

- Expands on the crime of animal abuse
- Creates the crime of aggravated animal abuse, a class C felony

068 Cases all over America indicate that a number of the more notorious  
serial killers started their life of crime by abusing animals.

- A judge by court order could require available psychological counseling.

097 REPRESENTATIVE LARRY SOWA, House District #26: Testifies in support of  
HB 3377. Favors amendments.

109 SEN. SPRINGER: Animal includes a fish. What kind of fish, a goldfish?

115 JOSI: What you need to do is look at the term maliciously. What does  
maliciously mean?

127 SEN. SPRINGER: Recklessly, knowing causes a serious injury to a fish -  
goldfish. I don't think that is what you're getting at. As I read this,  
literally that is what it could apply to.

139 JOSI: I would like to defer those questions.

142 SOWA: That and a lot of other reasons is why the hunting, fishing and  
animal welfare groups have been observing the outcome of this bill.

144 SEN. BAKER: In section four you have the penalty of a class C felony.  
Can you explain to me why you're increasing the penalty?

156 JOSI: Refers to Joshua Marquis.

RECESSES PUBLIC HEARING ON SB 3377

OPENS PUBLIC HEARING ON SB 908

Witnesses: Sen. Mae Yih, Senate District #19  
Tim Pitzer, President, Albany Rifle & Pistol Club  
Jim Ricke, Albany Rifle & Pistol Club and Lebanon Shooting Range  
Ron D. Harder, Oregon Sportsmen's Defense Fund, Inc.

187 SENATOR MAE YIH, Senate District #19: Testifies in support of SB 908 [EXHIBIT B] and offers proposed amendments. [EXHIBIT B-1]

205 TIM PITZER, President, Albany Rifle & Pistol Club: Testifies in support of SB 908. [EXHIBIT C]

250 JIM RICKE, President, Lebanon Shooting Range and owner, Ricke's Sporting Goods: Testifies in support of SB 908.  
- Ranges also offer hunter safety programs at no charge  
- Classes for concealed weapons permits

260 SEN. SPRINGER: Tell me a little more about this litigation?

266 PITZER: We recently spent in excess of \$15,000 defending ourselves from neighbors who live over three miles away.

287 SEN. SPRINGER: What happened in the case?

288 PITZER: With sound consultants and the help of the county commissioners, we finally worked it out. We are expected to install sound abatement structures. It is very costly.

290 RICKE: I understand that Four Corners has a law suit in operation now. I don't know the details.

295 SEN. SPRINGER: Copies of the litigation or agreement would be helpful.

303 CHAIR BRYANT: In reference to HB 3112, it deals with same subject.

316 PITZER: The only objection to that would be for police training. They need later hours for the night training.

321 SEN. YIH: How late do they go?

322 PITZER: Eleven or twelve p.m.

324 RICKE: It depends on the time of the year.

328 CHAIR BRYANT: I will keep that in mind.

332 SEN. SORENSON: Discusses the legislation that had to do with farms or land owners. Does that bill protect you from people who move to your activity area?

353 CHAIR BRYANT: I don't think it would. That is the Right to Farm Bill.

364 SEN. SORENSON: Are you aware of any other litigation? Is this a problem outside the Albany area?

368 PITZER: Tri County Gun Club had some litigation.

380 SEN. YIH: This is a state-wide concern.

387 ROD HARDER, Executive Director, Oregon Sportsmen's Defense Fund: I am here to assist Senator Yih with questions.

Additional Testimony submitted for the record:

Steven R. Shippey, Vice President, Four Corners Road & Gun Club in support of SB 908. [EXHIBIT U]

CLOSES PUBLIC HEARING ON SB 908

REOPENS PUBLIC HEARING ON HB 3377

407 SHARON M. HARMON, Operations Director, Oregon Humane Society: Testifies in support of HB 3377. [EXHIBIT D]  
- 80% of homes where child abuse occurs, animals are also being abused.  
- Many serial murders started out by abusing animals [EXHIBIT E].

TAPE 155, SIDE A

44 It does not broaden the cruelty statutes. If its legal today, it will still be legal under HB 3377.

67 JOSHUA MARQUIS, Clatsop County District Attorney: Testifies in support of HB 3377. [EXHIBIT F]

94 In my experience everybody who commits sociopathic acts, particularly those of a sexual nature later in life, has committed animal abuse earlier in life.

120 SEN. BRYANT: You also have reviewed SB 1147 and find most of the substance contained in that is now in the hand-engrossed HB 3377?

121 MARQUIS: I believe so.

123 SUSAN MENTLEY, Humane Society of the Willamette Valley, Oregon Animal Welfare Alliance: Testifies in support of HB 3377. [EXHIBIT G] Submits testimony of Ronald N. Turco, M. D. in support of HB 3377. [EXHIBIT H]  
- Gives an example of where this bill would help in interceding on behalf of a human.  
- Do need better tools for non-profits to prosecute cases

163 MARQUIS: References Sen. Springer's goldfish question. That is the law right now. This bill doesn't change one thing.

175 SEN. SORENSON: Speaks to the abolishment of the Criminal Justice Council.

186 MARQUIS: If the Criminal Justice Council was abolished, we would go back to the matrix system. Law socially tags these people.

202 SEN. SORENSON: If this bill passes, will it have a minimum mandatory similar to other crimes under ballot measure 11?

MARQUIS: No, absolutely not.

218 PAMELA FRASH, Attorney. Presents testimony in support of HB 3377 of Charles H. Turner, Circuit Court Judge Pro Tem for the State of Oregon: [EXHIBIT I].

241 DON MYERS, Executive Director, Humane Society of the Willamette Valley:

Testifies in support of SB 3377. I employ two humane investigators who respond to approximately 600 animal abuse and neglect cases annually.

287 Speaks to hand engrossed copy of the bill. [EXHIBIT A]  
- Section 7 - very important language - early intervention

297 MARK WILLIAMSON, Supervisor, Animal Cruelty Investigations Department, Oregon Humane Society: Testifies in support of HB 3377. [EXHIBIT J].

331 DANI WILKE, Oregon Veterinary Medical Association: Testifies in support of HB 3377.

- Veterinarians are committed to the health and well-being of animals
- Believe that the law needs to be strengthened - HB 3377 does that.

359 JOHN McCULLEY, Oregon Cattlemen's Association and the Oregon Fairs Association: Testifies in support of HB 3377.  
- Speaks to intent of 603.065 as it relates to the killing of livestock on page 2, line 32 of the hand engrossed version of the bill.

406 LOIS DAVIS, Oregon Health Sciences University: Offers proposed amendments to HB 3377. [EXHIBIT K] The only problem with the bill was in Section 5, sub 9.  
- Offers an amendment that would read as follows: On page 2, line 36, delete the words "valid and verifiable scientific research" and insert "Legal scientific or agricultural research or teaching involving the use of animals."  
- Looking for consistency.

TAPE 154, SIDE B

CLOSES PUBLIC HEARING ON HB 3377

OPENS PUBLIC HEARING ON SB 1147

Witnesses: Sen. Joan Dukes, Senate District #1

37 SENATOR JOAN DUKES, Senate District #1: Testifies in support SB 1147. Presents testimony on behalf of Tommie Brunick, Clatsop County Animal Control Supervisor in support of SB 1147. [EXHIBIT L]  
- Able to house and give animals treatment

55 SEN. HAMBY: Clarification: Today you are allowed veterinary care but not veterinary treatment. Line 20 carries the word "care."

62 DUKES: It does, because Legislative Counsel believed this language would take care of what we wanted to.

CLOSES PUBLIC HEARING ON HB 1147

OPENS WORK SESSION ON HB 3377

87 CHAIR BRYANT: I just discussed with Counsel what effect, if any, Sen. Duke's bill would have on what is being proposed in HB 3377. It only relates to Section 6 of HB 3377.

102 SEN. STULL: I presume Sen. Dukes is okay with this.

104 CHAIR BRYANT: Which way?

109 SEN. STULL: Has this been discussed with her?

110 CHAIR BRYANT: I don't think she objects. I think it is her preference that her bill go forward.

112 SEN. STULL: I have concerns about SB 1147 that have not been addressed.  
- Court may order animal impound  
- There is no provision that allows the discretion of the court that

restitution be recouped.

120 CHAIR BRYANT: I think that is taken care through other statutes.

126 SEN. STULL: I hope that the funds would come from the suspect.

134 CHAIR BRYANT: What is the preference of the committee? The Chair's inclination is to go with the House Bill.

139 MOTION: SEN. BRYANT: MOVES to adopt the Oregon Health Science University  
amendments to HB 3377 as follows: on page 2, line 35 subject to review  
by legislative counsel.

145 VOTE: 6-0 MOTION PASSES  
AYE: Baker, Hamby, Sorenson, Springer, Stull, Bryant  
NO: None  
Sen. Miller is excused

150 SEN. STULL: I have concerns to share with the committee.  
- The elevation of this crime to a felony status when we don't have enough  
beds for the other felony situations.

167 SEN. BAKER: I would also echo that concern. There seems to be a  
movement to make everything a felony.  
- Appropriate to delete entire Section 4 of bill. Would remain a Class A  
misdemeanor. Still a year in jail.

176 CHAIR BRYANT: I am looking at deleting Section 4.

177 Then it just relates to whatever the current statute is?

179 SEN. BAKER: Other than that, it's a very good bill.

180 SEN. SORENSON: I thought the testimony was that the felony would kick  
in after a person had previously been convicted of a misdemeanor.  
Explains.  
- Share the concern that if you make animal abuse initially a felony,  
going to have the kinds of problems Sen. Stull related. This is about the  
second time a person commits this kind of crime.

206 SEN. BAKER: Was there testimony that there are in fact people  
committing sequential offenses?

1210 SEN. SORENSON: I think we should call on Mr. Marquis.

215 SEN. STULL: My concern with that is we are having trouble locking  
people that are praying on our children first.

219 SEN. SORENSON: Speaks of testimony relating to animal abuse crimes.

228 SEN. BAKER: Section 7 of the bill takes care of that.

235 SEN. STULL: Speaks to the problem of the crime being elevated in  
future.

247 MOTION: SEN. BAKER: MOVES to amendments to HB 3377 as follows: delete  
section 4 of the bill.

250 VOTE: 4-2 MOTION PASSES  
AYE: Baker, Hamby, Stull, Bryant  
NO: Springer, Sorenson  
Sen. Miller is excused

260 MOTION: CHAIR BRYANT: MOVES amendments to House Bill 3377 as  
follows: delete 167.310 and insert 167.315, delete 167.340 and insert  
167.330 on page 1, line 5 of the bill.

265 VOTE: 6-0 MOTION PASSES  
AYE: Baker, Hamby, Sorenson, Springer, Stull, Bryant  
NO: None  
Sen. Miller is excused

268 MOTION: CHAIR BRYANT: MOVES HB 3377, as amended, to the floor with a DO  
PASS recommendation.

270 VOTE: 6-0 MOTION PASSES  
AYE: Baker, Hamby, Sorenson, Springer, Stull, Bryant  
NO: None  
Sen. Miller is excused  
Sen. Sorenson will lead discussion on the floor.

CLOSES WORK SESSION ON SB 3377

OPENS PUBLIC HEARING ON SB 398

Witnesses: C. Scott R. Gallent, Oregon Medical Association  
Robert Wheeler, M.D., Medical Director, Lane Individual Practice  
Association  
Tom Mattis, Workers Compensation Division  
Larry Wobbrock,  
Kristen Grainger, Oregon Advocacy Center  
Department Steven R. Shelton, M.D., Medical Director of Health Services, Oregon  
of Corrections  
Michael D. Crew, Attorney, Cooney & Crew

286 C. SCOTT R. GALLANT, Oregon Medical Association: Testifies in support

of HB 3098.

- Important legislation
- Written appropriately
- Refers to testimony from Ed Patterson, Vice President, Government Relations, Oregon Association of Hospitals and Health Systems [EXHIBIT M] who also support the bill.

304 CHAIR BRYANT: Speaks of Sen. Parks support for the bill. Intention is directed at the peer review process and was not intending to limit discovery.

314 ROBERT WHEELER, M.D., Medical Director, Lane Individual Practice Association: Testifies in support of HB 3098. [EXHIBIT M-1]

346 We are trying to improve all medical care. To do that, we need access to sensitive information.

380 MICHAEL D. CREW, Attorney, Cooney & Crew: Testifies in support of HB 3098. A bill such as House Bill 3098 is imperative so that physicians and other health-care organizations can do their work.

- Referencing comments of Lawrence Wobbrock. This bill doesn't affect the discoverability of any of that information. [EXHIBIT M-2]

423 References concerns regarding Medicare/Medicaid. As a condition by contract, they have to allow the federal government access to that information.

454 SEN. SORENSON: I am trying to understand the purpose of the bill.

460 CREW: The purpose as we see it is that a great deal of peer review has been shifted out of the hospitals into the HMO setting.

TAPE 155, SIDE B

60 KRISTEN GRAINGER, Oregon Advocacy Center: Presents written testimony of Cinda M. Conroyd, Attorney with emphasis in Elder Law in opposition to HB 3098. [EXHIBIT N]

- Speaks to consumer concerns regarding ability to appeal a legitimate denial of coverage.

78 LAWRENCE WOB BROCK, Lawyer, representing victims of medical malpractice: Offers testimony in opposition to HB 3098. [EXHIBIT T] Urges non-passage of bill or amending it significantly.

- Speaks to line 10 of bill -- utilization review

118 If you allow the term "utilization review" to be used and put into the statute as now drafted, you will invite much litigation.

142 SEN. BRYANT: Mr. Crew's disclaimer in testimony - still not satisfactory.

150 WOB BROCK: I can't say that everybody subscribes to his standards.  
- Malpractice case is retrospective  
- Offered solution in a letter directed to Chair Bryant dated May 2, 1995  
- One amendment that would clarify the problem would be to add the language " privilege for utilization review material should not extend any

claim by a patient for the denial of the withholding of needed medical services."

171 CHAIR BRYANT: Mr. Crew, have you seen a copy of Larry's letter of May 2nd and the proposed solution?

179 CREW: Yes, I have.  
- Trying to protect data  
- Amendment doesn't add anything. Confuses it.

192 SEN. SORENSON: Is it possible for common ground here?

199 WOB BROCK: What we would be seeking would be utilization review decisions that encompass things like that.

220 SEN. SORENSON: Is it possible to amend the legislation so it more carefully defines what is discoverable?

224 WOB BROCK: I've tried.

229 SEN. SORENSON: Speaks to issue of professional negligence litigation and substance abuse. Is that true in the medical profession?

231 WOB BROCK: I can't say.

253 SEN. SORENSON: Is a review for alcohol or substance abuse discoverable?

254 WOB BROCK: If involved with quality assurance, it would not be.

263 SEN. SORENSON: This bill, in your view, would further tighten that?

270 WOB BROCK: If they would start making decisions on a economic basis.

276 TOM MATTIS, Manager of Compliance, Workers Compensation Division:  
- Speaks of concern about the bill and its possible limitation of the power of the Director to obtain data pursuant to ORS 656.260.

300 What we would like to do is on line 16 & 28 of the bill, after the word proceeding insert either "except as other wise provided by law" or if that is too broad, could be "except as provided under ORS 656.260." It would dispose of the problem for us entirely.

337 I have language and can leave it for the committee counsel.

340 CHAIR BRYANT: Mr. Gallant, you have any objections?

345 GALLANT: That is correct. This legislation has been floating through the process since February.

356 STEVEN R. SHELTON, M.D., Medical Director, Oregon Department of Correction: Testifies in support of HB 3098.

383 MATTIS: Speaks to Mr. Gallant's testimony. Calls attention to potential conflict. During all the discussions, no question that the Director's authority needed to be in place. Asks that the Committee would include language that would exempt ORS 656.260.

403 SEN. BRYANT: While sitting here, I have added language as a comprise - "except as provided in ORS 656.260, if ORS 656.260 applies".

419 MATTIS: I have seen some final reports on the certification.

439 CHAIR BRYANT: What I will do as Chair, if the bill passes out tonight, is hold signing it until I have checked with Legislative Counsel to see if ORS 656.260 could apply.

CLOSES PUBLIC HEARING ON HB 3098

OPENS WORK SESSION ON HB 3098

TAPE 156, SIDE A

34 CHAIR BRYANT: Did everyone understand what I intend to have Max do on the question raised by Mr. Mattis?

39 MOTION: SEN. MILLER: MOVES to the floor with a DO PASS recommendation.

41 VOTE: 3-3 MOTION FAILS  
AYE: Miller, Stull, Bryant  
NO: Baker, Hamby, Springer  
Sen. Sorenson is excused

CLOSES WORK SESSION ON HB 3098

OPENS PUBLIC HEARING ON SB 2912

Witnesses: Brenda J.P. Rocklin, Assistant Attorney General, Department of Justice representing Oregon District Attorneys  
Susan Tripp, Deputy District Attorney, Marion County District Attorney's Office  
Rep. Liz VanLeeuwen, HD #37  
Ingrid Swenson, Oregon Criminal Defense Lawyers Association

59 BRENDA J.P. ROCKLIN, Assistant Attorney General, Department of Justice representing Oregon District Attorneys: Testifies in support of HB 2912 and offers proposed amendments. [EXHIBIT P].  
- Simply an amendment of the Evidence Code.  
- Current hearsay section exception only allows testimony outside the court room when cases involve acts of sexual conduct. Expands hearsay exception in section 24 to also include child abuse as defined in the Juvenile Code.

74 SUSAN TRIPP, Deputy District Attorney, Marion County District Attorney's Office: Testifies in support of HB 2912.  
- Asks that committee amend HB 2912: It makes it easier for children to testify by allowing them to testify in separate area by simultaneous transmission.  
- Or, amending 18a and 18b.

104 REP. LIZ VANLEEUVEN, Representing HD #37: Speaks of HB 2912 which passed 55-0 to house. I have no problem with the amendments that are suggested.

115 INGRID SWENSON, Oregon Criminal Defense Lawyers Association: Testifies in opposition of the amendments offered by the District Attorney's Association [EXHIBIT P]  
- Hearsay rules serve an important function during the trial. They require that the witness be there.  
- Laws apply equally in juvenile cases.

163 Asks to either pass bill without amendments or outline concerns more concisely.

168 SEN. BAKER: I understand your concerns about right of confrontation. Right now an existing statute says testimony will not be allowed only if the court finds there is substantial likelihood that the child will suffer severe emotional or psychological harm.

172 SWENSON: This amendment would amend 18a as well as 18b.

180 SEN. BAKER: Page 4, any problem with that section?

189 SWENSON: No, we're not opposing the original bill.

196 SEN. BAKER/SWENSON: Discussion regarding her opposition.

207 SEN. BAKER: Amendments would broaden considerably what the original bill does?

209 SWENSON: Yes. Continues.

219 CHAIR BRYANT: Do you oppose all of the amendments?

222 SWENSON: Yes.

225 ROCKLIN: Speaks to concerns that the amendments will substantially broaden what was allowed. Hearsay exceptions already exist. What the bill does, simply broadens one particular hearsay exception.

267 SEN. BAKER: Subsection a, the only thing that comes in is the fact that a complaint has been made.

270 ROCKLIN: Right.

274 SEN. BAKER: It ends right there.

278 ROCKLIN: Right. You can't identify the offender.

282 SEN. BAKER: Clarify for my mind -- on 18b -- how is this used?

285 ROCKLIN: It is used in two different ways.

297 SEN. BAKER: Section 24, it when the child himself testifies, in certain cases it allows video testimony?

298 ROCKLIN: Yes.

CLOSES PUBLIC HEARING ON HB 2912

OPENS WORK SESSION ON HB 2912

300 MOTION: SEN. BAKER: MOVES to adopt the Department of Justice amendments to HB 2912 subject to review by legislative counsel.

305 VOTE: 5-1 MOTION PASSES  
AYE: Baker, Hamby, Miller, Stull, Bryant  
NO: None  
Senators Sorenson and Springer are excused

318 MOTION: SEN. BAKER: MOVES HB 2912, as amended the floor with a DO PASS recommendation.

322 VOTE: 5-1 MOTION PASSES  
AYE: Baker, Hamby, Miller, Stull, Bryant  
NO: None  
Senators Sorenson and Springer are excused

Sen. Baker will carry the bill.

CLOSES WORK SESSION ON HB 2912

OPENS WORK SESSION ON HB 25325

Invited Testimony: Betsy Bailey, Associated Oregon Industries  
Elizabeth S. Harchenko, Special Counsel to the Attorney General, Department  
of Justice  
Kingsley Click, Acting State Court Administrator  
Robert P. Douglas Oregon Society of Certified Public Accountants

326 CHAIR BRYANT: Speaks to amendments A-15 and A-16. [EXHIBITS W & W-1]

331 MAX WILLIAMS: To avoid confusion, the -A15 amendment is a compilation of the -7, -8, -11, & -12 amendments that were previous reviewed. Minor modifications to those amendments are contained in the -15 amendments.

345 CHAIR BRYANT: This goes to Ways and Means to determine financial impact.

349 ELIZABETH S. HARCHENKO, Special Counsel to the Attorney General, Department of Justice: Reviews HB 2325-15 amendments. [EXHIBIT W] Should

I go through the whole -15 or just what is new?

351 CHAIR BRYANT: Just go over what's new.

357 HARCHENKO: Starting on page 5, line 25.

375 SEN. BAKER: Speaks to page 5, line 27. You would define delay also, or is it just common knowledge?

380 HARCHENKO: No.

TAPE 157, SIDE A

28 Page 10, lines 6 through 26.

56 Page 12, line 21. In order to address the fiscal impact and transition issues, operative date was changed from January 1, 1996 to September 1, 1996.

78 SEN. BAKER: Is there a typo on page 13, line 16?

81 BETSY BAILEY, Associated Oregon Industries: Yes. Cross out the word July.

84 HARCHENKO: One technical correction that needs to be added is on page 6, line 17.

91 CHAIR BRYANT: The dash 16 amendments are from the accountants.

94 KINGSLEY CLICK, Acting State Court Administrator: If it helps the bill, Judge Byers felt perhaps the existing language dealt with this issue, but more explicit language is needed, he would not object to it.

104 ROBERT P. DOUGLAS, Oregon Society of Certified Public Accountants: The A-16 amendments represent those amendments discussed by Mr. Gaffney at your last meeting.

109 CHAIR BRYANT: Does this solve the confidentiality issue?

112 DOUGLAS: It Solves it to the best of our ability. I urge their adoption.

114 MOTION: CHAIR BRYANT: MOVES the following dash A15 amendments to Bill 2325 dated 05/10/95, and that House Bill 2325 be further amended on page 6, line 17, by inserting "petition" after the word "complaints" and on page 13, line 16, delete the word "July".

120 VOTE: 5-0 MOTION PASSES  
AYE: Baker, Hamby, Miller, Stull, Bryant  
NO: None  
Senators Springer and Sorenson are excused

128 MOTION: CHAIR BRYANT: MOVES to adopt the -A16 amendments to House Bill 2325-A, dated 05/10/95.

132 VOTE: 5-0 MOTION PASSES  
AYE: Baker, Hamby, Miller, Stull, Bryant  
NO: None  
Senators Springer and Sorenson are excused

138 MOTION: CHAIR BRYANT: MOVES HB 2325, as amended, to the floor with PASS recommendation and BE REFERRED to the committee on Ways and Means. a DO

142 VOTE: 5-0 MOTION PASSES  
AYE: Baker, Hamby, Miller, Stull, Bryant  
NO: None  
SENATORS SPRINGER AND SORENSON ARE EXCUSED

CLOSES WORK SESSION ON HB 2325

OPENS WORK SESSION ON SB 601

Invited Testimony: Rep. Bryan Johnston, House District #31  
Robert J. Neuberger, Oregon Trial Lawyers Association  
Tom Tongue, Member of the Board, Oregon Association of Defense Counsel,  
Portland  
Michael H. Long, Member of the Board, Oregon Association of Defense  
Counsel, Eugene  
Lawrence Wobbrock, Attorney  
Tom Chambers, Attorney, Seattle, Washington via video

146 CHAIR BRYANT: We are not working bill tonight. This is a courtesy to Sen. Springer, we will take testimony. SB has been previous heard in the subcommittee on Civil Process. I want to address two recent decisions: McDonld's case and the O'Brien case.

162 REP. BRYAN JOHNSTON, Representing House District #31: Testifies in opposition to SB 601. Fears SB 601 as currently proposed is going to "screw up" the ability to get deals.

176 One defendant has the opportunity to prevent other defendants from settling under SB 601. I don't believe that is the proponents intention. Urges committee to vote against SB 601.

179 SEN. BRYANT: Refers to solution provided by Sen. Johnston. The problem is, the person who is 10% could be required to pay a portion of the verdict.

195 JOHNSTON/BRYANT: Discussion SB 601-5 seem to be a reasonable compromise.

CLOSES WORK SESSION ON SB 601

REOPENS WORK SESSION ON HB 3098

208 SEN. MILLER: Requests permission to change his vote on House Bill 3098 from aye to nay.

210 MOTION: CHAIR BRYANT: Hearing no objection, permission is granted.

213 SEN. MILLER: I serve notice of a possible reconsideration on House Bill



3098.

CLOSES WORK SESSION ON HB 3098

REOPENS WORK SESSION ON SB 601

233 TOM TONGUE, Member of the Board of the Oregon Association of Defense Counsel, Portland: Introduces Michael Long. Mr. Long tried one of the cases that has been much cited; and was cited in the Davis v O'Brien decision as part of the rationale behind it.

- Presents testimony of Frank Lagesen, President, Oregon Association of Defense Counsel and offers proposed amendments. [EXHIBIT R]

286 TONGUE: We urge the Legislature to consider the attached proposal, which would permit a jury to include the fault of settling parties in allocating shares of fault.

- Would have the effect of overturning the Supreme Court's decision in Davis v. O'Brien.

337 The amendments before you are a composite of the A -5 amendments which we understood had been suggested by the OTLA with 18.570 not added to it.

375 The effort is really to address what we understood to be the wishes of the Chair - to have a bill that would address Davis v O'Brien and not add in parties that the plaintiff could not sue.

408 This is consistent all the way through.

421 MICHAEL H. LONG, Member of the Board, Oregon Association of Defense Counsel, Eugene. I have more of a practical exposure to this problem than a theoretical one.

TAPE 156, SIDE B

32 The proposed amendment is very modest.  
- Doesn't include immune people.  
- Does not change the law with regard to third party.  
- Not increase litigation.  
- Does not complicate settlement.  
- Only change -- adds to the allocation of negligence.

60 CHAIR BRYANT: Helpful to committee if you concentrated on what Mr. Tongue proposed and not the Uniform Act.

118 ROBERT J. NEUBERGER, Oregon Trial Lawyers Association: Offers testimony on SB 601 and offers proposed amendments. [EXHIBIT S]

137 Don't claim that the Uniform Act is perfect.  
- Causes court clog.  
- Result in fewer settlements.

167 Mr. Tongue's proposal has already been held unconstitutional in Montana.

172 CHAIR BRYANT: Do you cite the Montana case in your information?

175 NEUBERGER: Yes.

184 LAWRENCE WOBBEROCK, Lawyer. Shows video of testimony from Tom Chambers, a personal injury lawyer from Seattle, Washington, in opposition to SB 601.  
- Passed a bill similar to one in effect in the State of Washington.  
- Provisions of SB 601 will increase litigation, clog the courts.  
- Makes settlement almost impossible.

210 CHAMBERS: Gives example.  
- A trial that should have taken two weeks took 6.5 weeks. Continues.

252 SB 601 is a full employment act for lawyers who are representing various defendants. Settlement is almost impossible.

264 CHAIR BRYANT: Which version SB 601 was he reviewing?

270 WOBBEROCK: A previous version, but the problem still exists.

272 Speaks to easel board exhibit [EXHIBIT V] .

291 CHAIR BRYANT: If it was limited to just the "warm seat" of parties the plaintiff has settled with, then at least part of your concern disappears.

301 WOBBEROCK: It won't for one reason. Makes reference to [EXHIBIT T].

324 We seem to go from one extreme to another. This uniform act is not something I would adopt. It is a compromise. It creates problems for both defendants and plaintiffs.

343 Makes reference to [EXHIBIT T]. Things would have been different under the Uniform Act.

367 We put it before you because we think it is time. Give the Uniform Act a chance.

370 CHAIR BRYANT: Submit to me your ideas for the Uniform Act without pure comparative negligence.

375 WOBROCK: References [EXHIBIT T] It's in here.

For the record: Senator Baker submits additional testimony in opposition to SB 601 from Raymond R. Bagley, Presiding Judge and Sid Brockley, Circuit Court Judge, Fifth Judicial District, Clackamas County. [EXHIBIT Q]

CLOSES WORK SESSION ON SB 601

400 CHAIR BRYANT: Adjourns committee at 6:15 p.m.

Submitted by:

Reviewed by:

Paula Gilmer Purcell  
Committee Assistant

M. Max Williams II  
Committee Administrator/Counsel

EXHIBIT LOG:

A -- A-Engrossed HB 3377 -- Tim Josi -- 3 pages  
B -- Testimony SB 908 -- Sen. Mae Yih -- 3 pages  
B-1 -- Proposed Amendments SB 908 -- Sen. Mae Yih -- 2 pages  
C -- Testimony SB 908 -- Tim Pitzer -- 2 pages  
D -- Testimony HB 3377 -- Sharon Harmon -- 2 pages  
E -- Exhibit HB 3377 -- Sharon Harmon -- 2 pages  
F -- Testimony HB 3377 -- Joshua Marquis -- 2 pages  
G -- Testimony HB 3377 -- Susan Mentley -- 1 page  
H -- Testimony HB 3377 -- Ronald Turco -- 6 pages  
I -- Testimony of Charles Turner on HB 3377 -- Pamela Frash -- 14 pages  
J -- Testimony HB 3377 -- Mark Williamson -- 2 pages  
K -- Proposed Amendments HB 3377 -- Lois Davis -- 1 page  
L -- Testimony of Tommie Brunick SB 1147 -- Sen. Joan Dukes -- 2 pages  
M -- Testimony HB 3098 from Ed Patterson -- Presented by Scott Gallant -- 1 page  
M-1 -- Testimony HB 3098 -- Scott Gallant -- 1 page  
M-2 -- Testimony HB 3098 -- Mike Crew -- 2 pages  
N -- Testimony HB 3098 of Cinda M. Conroyd -- presented by Kristin Grainger -- 1 page  
O -- Testimony HB 3098 -- Steven Shelton -- 1 page  
P -- Proposed Amendments HB 2912 -- Brenda Rocklin -- 1 page  
Q -- Testimony of Raymond R. Bagley & Sid Brockley SB 601 -- presented by Sen. Ken Baker -- 1 page  
R -- Testimony & Proposed Amendments SB 601 of Frank Lagesen -- presented by Tom Tongue -- 7 pages  
S -- Testimony SB 601 -- Robert J. Neuberger -- 26 pages  
T -- Testimony SB 601 -- Lawrence Wobbrock -- 59 pages  
U -- Testimony SB 908 -- Steven R. Shippey -- 1 page  
V -- SB 601, Oversized Charts -- Lawrence Wobbrock -- 6 pieces  
W -- Proposed Amendments SB 2325 -- Staff -- 14 pages  
W-1 -- Proposed Amendments SB 2325 -- Staff -- 1 page