

SENATE COMMITTEE ON  
JUDICIARY

January 17, 1995

Hearing Room C

3:00 P.M.

Tapes 8-10

MEMBERS PRESENT:  
Sen. Neil Bryant, Chair  
Sen. Ken Baker  
Sen. Jeannette Hamby  
Sen. Randy Miller  
Sen. Dick Springer  
Sen. Peter Sorenson  
Sen. Shirley Stull

STAFF PRESENT: Bill Taylor, Committee Counsel  
Diane Dussler, Committee Assistant

MEASURES HEARD: BILL INTRODUCTION - LC 1307, LC 2239  
PUBLIC HEARING - SB 75, SB 76, SB 77, SB 79  
WORK SESSION - SB 76, SB 77, SB 79

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

003 CHAIR BRYANT: Calls meeting to order at 3:00 p.m.

008 BILL INTRODUCTION: LC 1307, LC 2239

WITNESSES:

Judy Henry, President Oregon State Bar  
Bob Udziela, Oregon State Bar  
011 JUDY HENRY: President, Oregon State Bar: Speaks in favor of LC 1307

which streamlines procedures, and gives bar members more management  
[EXHIBIT G], personal testimony, House of Delegates.

035 BOB UDZIELA: Oregon State Bar: Speaks in favor of LC 2239. House of  
Delegates assists governments in face of growing attorney population.  
[EXHIBIT H] Personal testimony, State Bar Organizational Changes.

054 SEN. SORENSON: Was there a vote by bar members on the changes,  
when did it occur, and who participated?

059 HENRY: We had on a meeting on LC 1307 in December and majority voted  
in favor of changes.

065 UDZIELA: LC 2239 Had a mail ballot in 1991 or 1992, and 40% ballots  
were returned. Vote was 2 to 1 in favor.

083 SEN. BAKER: Questions if House of Delegates has participation  
of more rural delegates in this new draft.

090 UDZIELA: Bill was modified by adding president of each local county bar

association .

135: HENRY: Recent survey doesn't have results in yet. One of questions is would you be member if it weren't mandatory.

MOTION: CHAIR BRYANT: Moves the committee introduce LC 1307 and LC 2239.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members are present.

OPENS PUBLIC HEARING ON SB 75

WITNESS:

RUSS LIPETZKY, Oregon State Bar, Legislative Chair for Family and Juvenile Law Section

145 RUSS LIPETZKY, Oregon State Bar: Presents written testimony in favor of SB 75 [EXHIBIT I], personal testimony.

186 CHAIR BRYANT: What is rational on students who attend college, Section 4, subsection D, where court may terminate support under this section if child doesn't authorize release or records?

190 LIPETZKY: Rationale is burden should shift to child who is in fact an adult in all other respects of law. Intend was to be not too specific to types of school.

278 SEN. BAKER: What is rationale on support ceasing in summer months after completion of high school?

285 LIPETZKY: Puts burden on child to indicate if they are going to continue in school.

205 SEN. SORENSON: Have you had a chance to clarify this with students attending community college, trade schools, apprenticeship, and state universities?

325 LIPETZKY: Rationale is these are adult children who parents are being asked to support them as adults. Rationale is that it is appropriate to shift obligation to child.

351 SEN. MILLER: Questions whether current statute is utilized to give someone between 18-21 opportunity to go to school or is it opportunity to continue support of someone.  
TAPE 9, A

031 LIPETZKY: Statute doesn't specify contempt proceedings if parents doesn't pay child support to attend school.

066 LIPETZKY: Do have some amendment for measure. Amendment does pull child support out of guidelines.

WITNESS

Jane Lesser, Legislative Director for Oregon Student Lobby  
Mark Rhinard, University of Oregon Student President, Oregon Student Lobby  
Maureen McKnight, Oregon Legal Services, Coalition Against Domestic and Sexual Violence  
Brad McCarrens, Director of Government Relations, Oregon System of Higher Education  
John Ellis, Department of Justice

130 JANE LESSER, Legislative Director for Oregon Student Lobby: Provides written testimony in opposition to SB 75 [ EXHIBIT K], personal testimony.

180 LESSER: Continues. Section 4B. This bill circumvents federal law and puts burden to release those records on child. Students right to privacy is based on parents martial status.

245 LESSER: Students dependent on parents should maintain privacy of their records.

255 MARK RHINARD, Oregon Student Lobby: Speaks in opposition to SB 75. Sections 2, 3 would require courts to examine my records and release records which should be private. Verification of enrollment should have a simpler method.

315 SEN. SORENSON: Questions whether medical records be included for disclosure under this bill.

347 SEN. STULL: Questions whether there disclosure of academic records or achievement are ever required to maintain scholarships or loans. TAPE 8, B

030 SEN. MILLER: Questions how long parental support of child is continued if performance is adequate.

080 MAUREEN McKNIGHT, Oregon Legal Services Coalition. against Domestic and Sexual Violence: Gives written testimony pro and con on SB 75 [EXHIBIT L], personal testimony..

137 McKNIGHT: Continues. Believes limits are needed on disclosure location of abused child.

175 BRAD McCARRENS, Director of Government Relations, Oregon System of Higher Education: Bill drafted was not aimed at institutions. Has concern that language would make them referees in what is reasonable progress towards completion.

235 JOHN ELLIS, Department of Justice: Speaks for clarification only on bill. Questions whether we want to give referees and administrative law judges more discretion..

245 CHAIR BRYANT: Suggest if Mr. Lipetzky wants to move bill need to answer questions then come back with amendments.

CLOSES the PUBLIC HEARING on SB 75

OPENS the PUBLIC HEARING on SB 76

WITNESS

Russ Lipetzky, Oregon State Bar, Family and Juvenile Law Section

290 RUSS KIPETZKY, Oregon State Bar: Provides written testimony in support of SB 76 [EXHIBIT M], personal testimony. Section 2 changes current statutes, and tightens up modification

CLOSES the PUBLIC HEARING on SB 76

OPENS the WORK SESSION on SB 76

MOTION: SEN. BRYANT: Moves SB 76 be sent to the Floor with a DO PASS recommendation.

VOTE: Hearing no objections the motion CARRIES. All members are present.

SEN. BAKER will carry the bill to the Floor.  
OPENS the PUBLIC HEARING on SB 77

WITNESS:

Russ Lipetzky, Oregon State Bar, Family and Juvenile Law Section  
James W. Shofner, Private Citizen

361 RUSS LIPETZKY, Oregon State Bar: Speaks in favor of SB 77. Intent to bring ORS 109.119 into conformance with rest of domestic relations statutes which provide authority to court to provide an award of attorney fees and costs in appropriate circumstances.

400 LIPETZKY: Continues. Offers amendment page 2 line 15 item 7. Change "either" to "any".

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049 JIM SHOFNER: Presents testimony in favor of SB 77. [EXHIBIT N], personal testimony. Presents written testimony from DEANNE L. DARLING. Offers his personal viewpoint as private citizen, and seeking way for legal challenges to be stopped.

109 CHAIR BRYANT: Do you have any concerns or objections to the proposed amendment?

118 LIPETZKY: I think amendment referred to in Ms. Darling letter is probably not entirely necessary. I would propose that on 2, line 15 change "either" to "any" and at line 16 the phrase "the other" be changed to read "any other".

141 SEN. SORENSON: Ask for clarification of reasonable attorney fees or the grounds in family law litigation when attorney fees are awarded.

CLOSES the PUBLIC HEARING ON SB 77  
OPENS the WORK SESSION ON SB 77

176 CHAIR BRYANT: Need to amend bill, lines 15 and 16 to read, in the proceeding under the section the court may "assess against any party a reasonable attorney's fee and cost for the benefit of any other party".

MOTION: CHAIR BRYANT: Moves to ADOPT the [EXHIBIT E, PAGE 1] amendment.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All present with the exception of SEN. MILLER and SEN. SPRINGER who are EXCUSED.

MOTION: SEN. SORENSON: Moves that SB 77, AS AMENDED, be sent to the floor

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VOTE: In a roll call vote, SEN. BAKER votes NAY. SEN. HAMBY, SEN. SORENSON, SEN. STULL, CHAIR BRYANT vote AYE. All present with the exception of SEN. MILLER and SEN. SPRINGER who are EXCUSED.

SEN. STULL will carry the bill to the Floor.

OPENS the PUBLIC HEARING on SB 79

WITNESS:

Frank Brawner, President, Oregon Bankers Association  
Russ Lipetzky, Oregon State Bar, Family and Juvenile Law Section  
Kevin Hamway, Lobbyist for Oregon Law Title Association

235 FRANK BRAWNER, President Oregon Bankers Association: Provides written testimony in favor of SB 79 [EXHIBIT P]. This bill amends effective date in SB 251.

310 RUSS LIPETZKY, Oregon State Bar: Takes no position on draft bill or amendment.

345 SEN. SORENSON: Questions if title companies are concerned.

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010 KEVIN HAMWAY: Confirms Mr. Brawner's testimony that concern is with reviving judgments that might have expired.

CLOSES the PUBLIC HEARING on SB 79  
OPENS the WORK SESSION on SB 79

MOTION: SEN. HAMBY: Moves to ADOPT the [EXHIBIT O, PAGE 1] amendment.

CHAIR BRYANT: Hearing no objections the amendment is ADOPTED All members are present with the exception of SENS. MILLER and SPRINGER.

033 MOTION: SEN. HAMBY: Moves that SB 79, AS AMENDED, be sent to the floor with a DO PASS recommendation. All members are present with the exception of SENS. MILLER, and SPRINGER.

SEN. BAKER: Discussion: Motion includes emergency clause is that necessary? I prefer not to over use emergency clauses.

035 BRAUNER: On advice of our bank council, emergency clause is necessary from our vantage point.

040 SEN. SORENSON: Can we have discussion of emergency clause issue. Is that extraordinary power of Legislative Assembly?

045 CHAIR BRYANT: No, needs to be true emergency.

059 CHAIR BRYANT: Meeting adjourns 5:00 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR  
Committee Assistant Committee Counsel

#### EXHIBIT SUMMARY:

A-- LC Draft 1307--6 pages  
B-- LC Draft 2239--13 pages  
C-- SB 75--11 pages  
D-- SB 76--7 pages  
E-- SB 77--2 pages  
F-- SB 79--1 page  
G-- Testimony on LC 2239--Oregon Bar--Bob Udziela --2 pages  
H-- Testimony on LC 1307--Oregon Bar--Judy Henry--2 pages  
I-- Testimony on SB 75--Russell Lipetzky--2 pages  
J-- Amendment on SB 75--Russell Lipetzky--1 page  
K-- Testimony on SB 75--Jane Lesser--2 pages  
L-- Testimony on SB 75--Maureen McKnight--2 pages  
M-- Testimony on SB 76 --Russ Lipetzky--1 pages  
N-- Testimony on SB 79--Jim Shofner/Darlene Darling--1 page  
P-- Testimony on SB 79--Frank Brawner--1 page  
O-- Amendment on SB 79--Frank Brawner--1 page