

HOUSE COMMITTEE ON JUDICIARY

June 17, 1993 Hearing Room 357 1:30 p.m. Tapes 47 - 48

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Ken Baker Rep. Tom Brian
Rep. Kate Brown Rep. Peter Courtney Rep. Jim Edmunson Rep. Veral Tarno
Rep. Bob Tiernan

MEMBERS EXCUSED: Rep. Tom Mason

STAFF PRESENT: Sarah May, Committee Clerk Holly Robinson,
Committee Counsel Carole Souvenir, Committee Counsel

MEASURES CONSIDERED: SB 201 - Relating to adoption SB 222 -
Relating to garnishment SB 230 - Relating to business corporations SB
251 - Relating to domestic relations SB 286 - Establishes Oregon Health
Care Decisions Act SB 586 - Relating to child-support relationships SB
735 - Relating to representation of children in
judicial system SB 813 - Relating to peace officers SB 833 - Relating to
crime; stalking SB 1003 - Relating to international dispute resolution
SB 1061 - Relating to rules against perpetuities SB 1111 - Relating to
liens for storage fee recovery SB 1115 - Relating to mediation

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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. [--- Unable To Translate
Graphic ---]

TAPE 47, SIDE A

007 CHAIR PARKS: Calls the meeting to order at 2:25 p.m.

009 REP. BRIAN: Moves for a suspension of the rules to send SB 201, SB
286 , and SB 586 back to the Civil Subcommittee.

VOTE: Hearing no objections the bills are moved back to
Civil Subcommittee. Rep. Mason is excused.

Recess at 2:30 p.m.

041 CHAIR PARKS: Reopens meeting at 2:39 p.m.

WORK SESSION ON SB 286

043 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 286 establishes Oregon Health Care Decisions Act. (EXHIBITS A,B)

067 REP. COURTNEY: Was the Counsel adding something to this bill?

070 CAROLE SOUVENIR, COMMITTEE COUNSEL: Explains that the statutes for power of attorney and the directives were in separate statutes, and this act combines those statutes and repeals others.

073 REP. BAKER: It also only has one form with everything in it, instead of separate forms.

074 REP. COURTNEY: The power of attorney form was turned into what?

076 REP. BRIAN: The advanced directive form.

078 REP. TIERNAN: Who spoke in opposition to the bill?

079 REP. BRIAN: Almost all of the concerns were met, I don't know now who would be in opposition to it. The bill was written rather

conservatively.

117 REP. TIERNAN: Do any religious organizations object to the bill now?

118 CHAIR BRIAN: Not that I know of.

119 REP. TARNO: Did you deal with assisted suicide?

122 REP. BRIAN: Yes, but we feel it was written so that approach can't be taken.

127 REP. BAKER: The Civil Subcommittee was very conservative in writing this bill.

139 REP. TIERNAN: How likely is it that it will go back to the Senate, and they will not agree with it?

142 REP. BRIAN: Sen. Shoemaker, the prime sponsor of the bill, was present during most of the meetings. There are some issues that he might want

to deal with, but if any, the changes will be minor.

171 MOTION: REP. TIERNAN: Moves SB 286 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 8-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Mason

Rep. Brian to carry to the floor

WORK SESSION ON SB 251

214 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 251 allows court to award same temporary relief pending appeal of certain domestic relations suits

as

court can award prior to issuing decree. (EXHIBIT C)

239 MOTION: REP. BAKER: Moves to ADOPT SB 251-5 AMENDMENTS.

243 REP. BROWN: Objects. Concerned with the last page of the -5 amendments about changing the standard of custody disputes between natural parents and interveners.

257 CHAIR PARKS: Asks about how this changes the standard.

258 REP. BROWN: This is a rebuttable presumption standard.

260 CHAIR PARKS: As being opposed to a property right.

263 REP. BRIAN: Discusses key words of the bill concerning children. Asks if the child should always be in the custody of the parents, or if there should be conditions. This does change the law, but it is needed.

292 CHAIR PARKS: This is rebuttable only by clear and convincing evidence which is difficult to prove.

295 REP. BROWN: Discusses terms that she is concerned about, which are too broad.

315 REP. BRIAN: Discusses the issue of an intervener and the court's decision dealing with the parent's custody.

333 REP. BROWN: States concern about the rebuttable presumption.

348 REP. BAKER: Discusses current law practice to take rights away from the natural parent. This is a clearer statute.

393 REP. BROWN: Wants committee to be aware of what is going to be changed. Asks about a lien renewal on property judgements.

404 HOLLY ROBINSON, COMMITTEE COUNSEL: It does not changes.

405 REP. BROWN: Asks why the committee chose not to address the lien renewal issue.

410 REP. BAKER: Explains the language in original bill concerning property judgements.

422 REP. BRIAN: We restored language into this bill that we already passed that wasn't moving in other legislation.

426 REP. BROWN: The property issues weren't addressed?

427 REP. BAKER: No.

TAPE 48, SIDE A

013 CHAIR PARKS: Rep. Brown withdraws objection to SB 251-5 amendments.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Mason is excused.

015 MOTION: REP. BAKER: Moves SB 251-5 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 8-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Mason

Rep. Baker to carry to the floor

WORK SESSION ON SB 1061

033 CAROLE SOUVENIR, COMMITTEE COUNSEL: Modifies rule against perpetuities.

045 MOTION: REP. EDMUNSON: Moves SB 1061 TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Edmunson to carry to the floor

WORK SESSION ON SB 222

061 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 222 provides procedures to be followed when bankruptcy petition is filed by or on behalf of debtor

after writ of garnishment has been delivered to garnishee.

071 MOTION: REP. TIERNAN: Moves SB 222 TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Baker to carry to the floor

WORK SESSION ON SB 201

087 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 201 provides that adoption laws do not prevent adoption agreements allowing contact between birth family and adoptive family. (EXHIBITS D & E)

098 MOTION: REP. EDMUNSON: Moves to AMEND SB 201 by deleting the "a" on line 2.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian, and Rep. Mason are excused.

100 MOTION: REP. BROWN: Moves SB 201 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

106 REP. TIERNAN: Why is there so much opposition to this bill by certain groups?

112 REP. BAKER: Discusses and explains open adoption and why some agencies don't like it.

137 REP. TIERNAN: Is there a fear that some agencies will only have open adoptions or they won't let people adopt a child? 140 REP. BAKER: Doesn't know.

143 REP. BROWN: This bill specifically recognizes the adoption of older children.

147 REP. TARNO: Concerned that the biological parents of a child who is adopted would return, and the child would want to go away with them.

155 REP. EDMUNSON: Discusses that the intention of an adoption is for the best interest of the child, and not the parents.

175 REP. BROWN: This bill does not allow biological parents to have contact if not previously stated in a contract.

186 REP. TARNO: Discusses concern of a child's natural draw to the biological parents. Doesn't like the visitation rights, thinks that it

will be hard on the child.

194 REP. BAKER: This bill doesn't settle or expand the issue of the natural draw to find the biological parents.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tiernan, Parks NO: Tiernan EXCUSED: Brian, Mason

Rep. Brown to carry to the floor

WORK SESSION ON SB 230

220 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 230 revises Business Corporation Act. (EXHIBIT F)

227 MOTION: REP. BAKER: Moves to ADOPT SB 230-2 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian, Rep. Mason, and Rep. Tiernan are excused.

231 MOTION: REP. BAKER: Moves SB 230 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Parks NO: None EXCUSED: Brian, Mason, Tiernan

Rep. Tiernan to carry to the floor WORK SESSION ON SB 735

242 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 735 directs Oregon Community Children and Youth Services Commission to conduct study regarding

implementing American Bar Association resolution concerning appointment of guardians ad litem for children in legal system.

252 MOTION: REP. COURTNEY: Moves SB 735 TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Parks NO: None EXCUSED: Brian, Mason, Tiernan

Rep. Tiernan to carry to the floor

WORK SESSION ON SB 586

262 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 586 specifies related or nonrelated foster parent who has established emotional ties with child

may file motion to intervene and petition court for custody, guardianship, visitation or other generally recognized right of parent or person in loco parentis. (EXHIBIT G)

271 MOTION: REP. BAKER: Moves SB 586 TO THE FLOOR with a DO PASS recommendation.

277 REP. TIERNAN: Asks about definition of "emotional ties".

280 CAROLE SOUVENIR, COMMITTEE COUNSEL: The definition is in ORS 109.119.

289 REP. TIERNAN: Why isn't the statute six months?

292 REP. BAKER: Discusses the time period for a foster parent.

306 REP. TIERNAN: There will be a bond made by the duration of time, so why should the time period make a difference?

313 REP. BAKER: Explains that the goal of the state is to eventually return the child to the natural parents. Discusses the intervening process.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Edmunson to carry to the floor

WORK SESSION ON SB 813

340 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 813 provides that criminal impersonation of peace officer is punishable by maximum of five years

imprisonment, \$100,000 fine, or both.

347 MOTION: REP. COURTNEY: Moves SB 813 TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney,
Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Tarno to carry to the floor

WORK SESSION ON SB 833

361 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 833 creates crime of stalking.

(EXHIBIT H)

374 MOTION: REP. BAKER: Moves to ADOPT SB 833-4 AMENDMENTS.

377 REP. BROWN: Objects and states concerns about the deletion of a provision.

390 REP. EDMUNSON: Joins in objection. Concerned that "picketing" is not defined and explains.

427 REP. TIERNAN: Discusses "picketing" and the Senate changes.

TAPE 47, SIDE B

018 REP. EDMUNSON: Is "picketing" defined in the state law?

021 REP. TIERNAN: It is defined in the federal labor laws.

026 REP. EDMUNSON: Asks why it was limited to picketing, and not the negotiation and pre-picketing.

036 REP. TIERNAN: If someone is outside the situation but observing, that defines "surveillance", and it is prohibited. Discusses certain labor

situations that can get out of hand.

052 REP. EDMUNSON: Asks about surveillance that is done by an employer illegally and why that couldn't be defined as stalking.

060 REP. TIERNAN: Discusses the labor law.

065 REP. MANNIX: Explains that the exemption from contact isn't needed in this bill. We want to make a clear definition of stalking. Cites

language in the bill.

103 REP. TIERNAN: Cites another examples about surveillance.

112 REP. EDMUNSON: Gives examples of unlawful labor activities. Asks about the intention to intimidation and if that would that fit the definition of stalking.

126 REP. MANNIX: Yes, if it was not sanctioned by labor laws. Gives examples.

15 REP. BROWN: Withdraws objection to SB 833-4 amendments.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian, and Rep. Mason are excused.

158 MOTION: REP. TIERNAN: Moves SB 833 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Mannix to carry to the floor

WORK SESSION ON SB 1003

172 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 1003 modifies provisions of Oregon International Commercial Arbitration and Conciliation Act.

185 MOTION: REP. BAKER: Moves SB 1003 TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Tiernan to carry to the floor

WORK SESSION ON SB 1111

199 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 1111 provides that lien claimant who fails to comply with notice requirement is limited to recovery of

expenses incurred during initial 20-day period. (EXHIBITS I & J)

208 MOTION: REP. BAKER: Moves to ADOPT SB 1111-3 & 4.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Brian, and Rep. Mason are excused.

216 MOTION: REP. BAKER: Moves SB 1111 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 7-0 MOTION PASSES AYE: Baker, Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Brian, Mason

Rep. Baker to carry to the floor

WORK SESSION ON SB 1115

232 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1115 provides that mediation may be used in resolving certain criminal and juvenile offenses.

244 CHAIR PARKS: Is this mandatory mediation?

245 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains the referral operations.

252 MOTION: REP. EDMUNSON: Moves SB 1115 TO THE FLOOR with a DO PASS recommendation.

VOTE: 6-0 MOTION PASSES AYE: Brown, Courtney, Edmunson, Tarno, Tiernan, Parks NO: None EXCUSED: Baker, Brian, Mason

Rep. Courtney to carry to the floor

WORK SESSION ON HB 3319

270 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3319 defines certain kinds of knives.

287 MOTION: REP. TIERNAN: Moves HB 3319 TO THE FLOOR with a DO PASS recommendation.

325 CHAIR PARKS: This bill is going to be reworked.

337 CHAIR PARKS: Adjourns the meeting at 3:55 p.m.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed Amendments to SB 286 - Committee Counsel - 8 pages B - Engrossed Amendments to SB 286 - Committee Counsel - 30 pages C - Proposed Amendments to SB 251 - Committee Counsel - 6 pages D - Proposed Amendments to SB 201 - Committee Counsel - 2 pages E - Proposed Amendments to SB 201 - Committee Counsel - 2 pages F - Proposed Amendments to SB 230 - Committee Counsel - 1 page G - Proposed Amendments to SB 586 - Committee Counsel - 1 page H - Proposed Amendments to SB 833 - Committee Counsel - 1 page I - Proposed

Amendments to SB 1111 - Committee Counsel - 1 page J - Proposed
Amendments to SB 1111 - Committee Counsel - 5 pages