

HOUSE COMMITTEE ON JUDICIARY

June 28, 1993 Hearing Room 357 1:30 p.m. Tapes 72 - 73

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

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

MEASURES CONSIDERED: SB 640 - Relating to death penalty for persons with mental retardation SB 660 - Relating to restraining orders SB 732 - Relating to trial procedures for violations SB 852 - Relating to presumption regarding child support amount SB 916 - Relating to adoption SB 1051 - Relating to juveniles SB 1064 - Relating to background checks for handgun purchases SB 633 - Relating to unlawful taking of wildlife HB 3674 - Relating to office of Special Investigations for Department of Human Resources in Department of Justice

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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 72, SIDE A

034 CHAIR PARKS: Calls the meeting to order at 1:48 p.m.

WORK SESSION ON SB 640

036 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 640 provides that person convicted of aggravated murder is not subject to death penalty if person is mentally retarded. (EXHIBIT A)

045 MOTION: REP. BROWN: Moves SB 640 TO THE FLOOR with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Brown to carry to the floor

WORK SESSION ON SB 660

053 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 660 modifies filing

time for Abuse Prevention Act restraining order.

059 MOTION: REP. EDMUNSON: Moves SB 660 TO THE FLOOR with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Baker to carry to the floor

WORK SESSION ON SB 732

067 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 732 establishes procedure for trial of violations.

082 MOTION: REP. COURTNEY: Moves SB 732 TO THE FLOOR with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Courtney to carry to the floor

WORK SESSION ON SB 852

091 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 852 provides that medical situations of parent is criterion to be considered in determining

whether amount of child support parent is ordered to pay is correct.

094 MOTION: REP. EDMUNSON: Moves SB 852 TO THE FLOOR with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown, Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Brown to carry to the floor

WORK SESSION ON SB 916

106 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 916 requires petition for adoption by stepparent to be served to grandparents who have established custody, visitation or other rights. (EXHIBIT B)

116 MOTION: REP. EDMUNSON: Moves to ADOPT SB 916-9 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

119 MOTION: REP. EDMUNSON: Moves SB 916 AS AMENDED TO THE FLOOR with

a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown,
Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Brian to carry to the floor

WORK SESSION ON SB 1051

127 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1051 revises juvenile
code. (EXHIBIT C)

135 MOTION: REP. EDMUNSON: Moves to ADOPT SB 1051-9 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members
are present.

138 MOTION: REP. EDMUNSON: Moves SB 1051 AS AMENDED TO THE FLOOR with
a DO PASS recommendation.

140 REP. BROWN: Asks if a child's attorney is now prohibited from
filing a parental termination petition.

143 HOLLY ROBINSON, COMMITTEE COUNSEL: The language in the bill
was restored to the original language in the juvenile code. So, yes
a

child's attorney would be able to do so.

150 REP. TIERNAN: (Tape unintelligible)

152 HOLLY ROBINSON, COMMITTEE COUNSEL: The -9 amendments conform
that section to what was previously adopted.

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown,
Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Edmunson to carry to the floor

WORK SESSION ON SB 1064

168 CAROLE SOUVENIR, COMMITTEE COUNSEL: SB 1064 exempts holder of
concealed handgun license from State Police conducted background
checks when

purchasing handgun. (EXHIBIT D)

175 MOTION: REP. BRIAN: Moves to ADOPT SB 1064-3 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members
are present.

181 MOTION: REP. BRIAN: Moves SB 1064 AS AMENDED TO THE FLOOR with

a DO PASS recommendation.

184 REP. COURTNEY: (Tape unintelligible)

186 REP. BRIAN: (Tape unintelligible)

VOTE: 9-0 MOTION PASSES AYE: Baker, Brian, Brown,
Courtney, Edmunson, Mason, Tarno, Tiernan, Parks NO: None

Rep. Brian to carry to the floor

WORK SESSION ON SB 633

(EXHIBITS E,F,G)

214 REP. COURTNEY: Moves to reconsider the vote by which SB 633 was passed to the floor. Motions that were made had insufficient votes.

248 REP. BRIAN: What were the amendments?

251 REP. BAKER: What happens if we don't get it back to full committee, will it die?

VOTE: Hearing no objections the SB 633 is reconsidered. All members are present.

272 MOTION: REP. BAKER: Moves to AMEND SB 633 by deleting lines 9,10 from pg. 1.

280 REP. BRIAN: What are the three ORS's that are in there?

281 REP. BAKER: They are trespass statutes, explains.

302 REP. BROWN: Disagree's with Rep. Baker. Explains what the people who owned private land were concerned about during hunting season.

331 REP. EDMUNSON: Asks what happens if the land owner does not have the property posted "private".

334 REP. BRIAN: Shouldn't need to post a backyard.

339 REP. EDMUNSON: It is fairly common to post signs on big fields that were private property.

344 REP. BRIAN: Do the signs do any good?

345 REP. EDMUNSON: Yes, for the people who honor the sign. Some people won't honor anything, so it doesn't matter.

349 REP. BRIAN: If lines 9-10 are not deleted, someone who trespassed on posted property would be guilty of an offense.

357 REP. TARNO: Gives example of posted signs being torn down by hunters.

367 REP. BROWN: We should discourage people from doing this by making it a crime, by leaving these two lines in there.

374 REP. TARNO: There needs to be an intent of trespassing.

375 REP. BAKER: The bill doesn't say intent, and it doesn't say posted property.

380 REP. MASON: Not a simple issue. Gives examples.

431 REP. BROWN: Asks about ORS 164, "intent".

434 HOLLY ROBINSON, COMMITTEE COUNSEL: No.

436 REP. BAKER: Discusses that people will ignore laws, and that they need to get at those people, but not with this bill.

447 VOTE: 4-5 MOTION FAILS AYE: Baker, Mason, Tiernan, Parks
NO: Brian, Brown, Courtney, Edmunson, Tarno

TAPE 73, SIDE A

015 MOTION: REP. BROWN: Moves to AMEND SB 633 by inserting "intentional" on line 10 after "while".

027 REP. TARNO: How difficult would it be to show intent?

028 REP. BROWN: Gives example of someone saying that they are lost.

030 REP. TARNO: Does this ascribe to hunting and fishing?

031 REP. BROWN: Probably, but gives example.

035 REP. BAKER: But someone could still abuse the rule.

039 REP. BRIAN: Rep. Brown's language would help.

043 REP. TIERNAN: When people are hunting it is likely that they will get lost, people will just always say that they are lost even if there is an intent.

048 REP. BROWN: We are trying to get at people who will intentionally go into someone's yard to shoot something.

051 REP. BAKER: Suggests a friendly amendment that says "if you intentionally invite the trespass laws on property that is clearly

posted".

055 REP. TARNO: What should the distance be between the postings?

062 REP. BROWN: Restates motion.

067 VOTE: 6-3 MOTION PASSES AYE: Brian, Brown, Courtney, Edmunson, Tarno, Parks
NO: Baker, Mason, Tiernan

073 MOTION: REP. TIERNAN: Moves to AMEND SB 633 by adding on pg. 2, line 6 "loaded" before "rifle, and "loaded before "firearm".

094 REP. EDMUNSON: Objects. Asks about aiming an unloaded firearm

out of the window.

102 REP. TIERNAN: Discusses people putting guns out of the windows for sighting purposes.

110 REP. BROWN: But people shouldn't be sticking their guns out the windows.

113 REP. TARNO: Discusses trying to sight in a moving truck.

138 REP. TIERNAN: We had people testify that people are shooting from moving vehicles, that doesn't seem possible.

142 REP. BAKER: It is illegal to fire a weapon from a vehicle.

143 REP. BROWN: So why should we allow someone to scope from their vehicle?

150 VOTE: 3-6 MOTION FAILS AYE: Mason, Tiernan, Parks NO: Baker, Brian, Brown, Courtney, Edmunson, Tarno

157 MOTION: REP. MASON: Moves TO TABLE SB 633.

VOTE: 4-5 MOTION FAILS AYE: Baker, Mason, Tiernan, Parks NO: Brian, Brown, Courtney, Edmunson, Tarno

171 MOTION: REP. EDMUNSON: Moves SB 633 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 5-4 MOTION PASSES AYE: Brian, Brown, Courtney, Edmunson, Tarno

NO: Baker, Mason, Tiernan, Parks

Rep. Brown to carry to the floor

186 REP. BAKER: Serves notice of a possible minority report.

198 REP. TIERNAN: Moves to defer HB 3598 to next full meeting.

PUBLIC HEARING ON HB 3674

Witnesses: Marry Budlong, Adult and Family Services Investigations
Russell Carlisle, Adult and Family Services Investigations
Joseph Shaffer, U.S. Immigrations
Norman Cobb, Welfare Fraud Investigator
Victor Merced, Deputy Administrator for Adult and Family Services
Art Kaptyn, Adult and Family Services
Marla Ray, Attorney General Office

213 CAROLE SOUVENIR, COMMITTEE COUNSEL: HB 3674 establishes Office of Special Investigations for Department of Human Resources in Department

of Justice.

229 MARRY BUDLONG, ADULT AND FAMILY SERVICES INVESTIGATIONS (AFS): Testifies and submits written testimony in support of HB 3674. (EXHIBIT H)

286 REP. MASON: Asks about them being police officers under this bill.

290 BUDLONG: Explains that they would be members of the criminal justice system, not sworn officers.

292 REP. MASON: Wouldn't this be a step toward being a sworn officer?

295 BUDLONG: Explains that the majority of them have been police officers in the past.

300 REP. MASON: Eventually would this result in an increase in your PERS rate?

302 BUDLONG: No, there is no pay increase in this bill.

303 REP. TARNO: Most members with investigative capacity aren't necessarily sworn officers.

306 BUDLONG: Correct.

309 REP. MASON: Why do we need this?

314 BUDLONG: Explains her work with counties. Discusses that there is a necessity for this bill because of getting access to private information.

328 REP. BAKER: Asks if the head of AFS is going to support this bill.

335 BUDLONG: Doesn't know.

336 REP. BAKER: This bill is being encouraged by employees in the agency and not the agency itself. 338 BUDLONG: Correct.

347 RUSSELL CARLISLE, AFS INVESTIGATIONS: Testifies and submits written testimony in support of HB 3674. (EXHIBIT I)

401 REP. MASON: Could you expand on how AFS and Department of Justice philosophies differ?

403 CARLISLE: Explains the difference between the two agencies.

433 JOSEPH SHAFFER, U.S. IMMIGRATIONS: Testifies in support of HB 3674. (EXHIBIT J)

TAPE 72, SIDE B

051 REP. TARNO: How long have you been in Oregon?

051 SHAFFER: Ten years.

052 REP. TARNO: You've been here since the beginning of the alien

problem?

054 SHAFFER: Yes, from about 1983.

055 REP. TARNO: Asks if a local law enforcement can detain an illegal alien.

059 SHAFFER: No they are not authorized by statute to do that.

060 REP. TARNO: So we have to rely on U.S. immigrations to do that?

061 SHAFFER: Yes.

070 NORMAN COBB, WELFARE FRAUD INVESTIGATOR: Submits and reviews written testimony in support of HB 3674. (EXHIBIT K)

133 REP. TARNO: How many people are classified as investigators in the AFS? (Art responds from the audience, 20.)

145 VICTOR MERCED, DEPUTY ADMINISTRATOR FOR AFS: Testifies in opposition to HB 3674. Explains why the AFS administration opposes this bill.

202 ART KAPTYN, ADULT AND FAMILY SERVICES: Testifies in opposition to HB 3674.

354 REP. BAKER: Asks if there are any other agencies who are shifting their investigators to the Department of Justice (DOJ).

357 KAPTYN: AFS responsibility went to the DOJ in 1984.

370 REP. COURTNEY: Asks if he is familiar with PERS relating to police officers.

375 KAPTYN: No.

377 REP. COURTNEY: Discusses Mr. Kaptyn's testimony about retirement and having AFS going to DOJ.

392 KAPTYN: Correct, explains the cost reimbursement.

399 REP. TARNO: Asks if the AFS staff can issue citations of arrest.

404 KAPTYN: No, but cites language in the bill that says that the AFS staff has the ability to issues subpoenas.

410 REP. TARNO: Asks about the definition of "administering oath".

411 KAPTYN: That language comes from the enabling statute for issuing subpoenas, explains.

421 REP. TARNO: Asks about Section 5 and what "setting witness fees" means?

425 KAPTYN: Explains what "witness fees" means.

429 REP. TARNO: Asks if the investigators would have that capability under this statute.

430 KAPTYN: Yes, that isn't current though.

443 MARLA RAY, ATTORNEY GENERALS OFFICE: Testifies in opposition to HB 3674.

465 REP. MASON: Adjourns the meeting at 3:10 p.m.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed Amendments to SB 640 - Committee Counsel - 1 page B - Proposed Amendments to SB 916 - Committee Counsel - 1 page C - Proposed Amendments to HB 1051 - Committee Counsel - 1 page D - Proposed Amendments to SB 1064 - Committee Counsel - 1 page E - Proposed Amendments to SB 633 - Committee Counsel - 1 page F - Testimony on SB 633 - Committee Counsel - 2 pages G - Testimony on SB 633 - Committee Counsel - 1 page H - Testimony on HB 3674 - Marry Budlong - 2 pages I - Testimony on HB 3674 - Russell Carlisle - 1 page J - Testimony on HB 3674 - Joseph Shaffer - 3 pages K - Testimony on HB 3674 - Norman Cobb - 3 pages L - Testimony on HB 3674 - Phil Bay - 3 pages M - Testimony on HB 3674 - Robert Sheets - 2 pages