

SENATE COMMITTEE ON
JUDICIARY

March 12, 1993 Hearing Room C
1:00 p.m. Tapes 50-51

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Neil Bryant
 Sen. Jeannette Hamby
 Sen. Karsten Rasmussen
 Sen. Bob Shoemaker
 Sen. Catherine Webber

MEMBERS EXCUSED:

STAFF PRESENT: Bill Taylor, Committee Counsel
 Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Public Hearing on SB 233 and SB 234
 Public Hearing and Work Session on SB 179
 Public Hearing and Work Session on HB 2411

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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.

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TAPE 50, SIDE A

003 VICE-CHAIR SHOEMAKER: Opens the hearing at 1:11 pm.

Public Hearing

SB 233: Extends statute of limitations to six years for tort actions arising out of sexual intercourse, sexual penetration, sexual contact and deviate sexual intercourse.

SB 234: Repeals limitation on bringing action based on conduct constituting child abuse that requires that action be brought before plaintiff attains 40 years of age.

WITNESSES:

JILL OTEY, SEXUAL ABUSE SURVIVORS
KELVIN BARTON, LEGAL RIGHTS FOR SURVIVORS OF CHILD SEXUAL ABUSE
MICHAEL MOREY, MULTIPLE SEXUAL ABUSE SURVIVORS
NANCY WILLIAMS, SEXUAL ABUSE SURVIVORS
LINDA UHLER, SEXUAL ABUSE SURVIVORS

LAUREN MOUGHON, WOMENS RIGHTS COALITION
PAULA HOLE, SEXUAL ABUSE SURVIVORS
GAY ANGELOS, CITIZEN
LINDA MUELLER, CITIZEN

JANICE JOHNSON, PAULA HOLE, CHRISTIE NEWBILL, and BARRIE ANN MASON
submitted
written testimony only in support of the bills (EXHIBIT B).

013 SEN. SHOEMAKER: Convenes SB 233 and SB 234 together.

017 JILL OTEY: Submits and reviews written testimony in support of the
bill
(EXHIBIT A-1). Submits additional information on both SB 233 and SB
234
(EXHIBIT A).

089 SEN. SHOEMAKER: Clarifies purpose of bills. SB 233 is
extending
statute of limitations for only certain sexual courts which normally
occur in a relationship between a professional and client?

095 OTEY: That is the most heightened area.

101 SEN. SHOEMAKER: Revises process to consider bills separately to
avoid
confusion.

109 OTEY: Reviews written testimony on SB 234 (EXHIBIT A-1).

131 SEN. SHOEMAKER: This involves child sexual abuse which occurs
before
age of 18.

OTEY: Correct.

133 SEN. SHOEMAKER: Statute of limitations runs at age 18, with 12
year
statute of repose. Age 40 is simply mechanical device?

139 OTEY: Reviews example of two sisters abused at different ages.

157 SEN. SHOEMAKER: What if 12 year limit after the incident?

OTEY: Wouldn't help sister a.
>Existing provision treats people differently.
>Reviews provisions in different states.
>Bill includes protections against spurious claims.

223 MICHAEL MOREY: Testifies in support of the bill.
>Last year; 28 victims who were over 40 and could not pursue claim.
>Delayed discovery of abuse is well-documented in the medical
literature. No dispute to validity.
>40 year limitation is unnecessary, prevents valid and more severe
claims.

291 SEN. SHOEMAKER: Tort is by perpetrator or anyone knowingly

allowing
child abuse.

MOREY: Correct.

298 OTEY: Applies most often in case of parent, say wife
who supports/promotes abuse.
>Lack of good insurance coverage for this tort heightens need for
legislation.

330 KELVIN BARTON: Submits and reviews written testimony in support of
the bill (EXHIBIT D).
>Reviews letters from survivors.

404 SEN. WEBBER: On page 2, lines 8-9, bill means if you have tried
and been dismissed you cannot bring a case?

OTEY: Exactly opposite, applies retroactively. Not an ex post facto
law.

428 SEN. SHOEMAKER: What were amendments in 1991?

OTEY: That was the passage of entire package.

432 SEN. SHOEMAKER: 40 year provision?

OTEY: The entire statute, 40 year provision added as an effort at
compromise.

444 BARTON: Comments on retroactivity and notes it is allowed in
other states.

TAPE 51, SIDE A

015 NANCY WILLIAMS: Submits and reviews written testimony in support of
the bill (EXHIBIT B).
>Describes medical and psychological effects of her abuse.

084 MOREY: Nancy William's representative.
>Her case is the perfect example of the situation the provision
attempts to the address.

103 LINDA UHLER: Testifies in support of the bill.
>Summarizes history of abuse and medical and psychological effects.
>Summarizes treatment efforts.

195 LAUREN MOUGHON: Submits and reviews written testimony in support of
the bill (EXHIBIT E & F).

225 PAULA HOLE: Submits and reviews written testimony in support of

the
bill (EXHIBIT G).

282 SEN. WEBBER: Is 3 years enough time for discovery and then
recovery
sufficient to assert a right of action?

286 HOLE: 3 - 6 years would be better.

293 BARTON: Most states have 3 years, many from date of last discovery.

306 GAY ANGELOS: Testifies in support of the bill.
>Summarizes history of abuse and medical and psychological effects.

377 MOREY: Comments on letters sent to senators.

SB 233: Extends statute of limitations to six years for tort actions
arising
out of sexual intercourse, sexual penetration, sexual contact and
deviate sexual intercourse.

WITNESSES:

401 JILL OTEY: Testifies in support of the bill.
>Sees this greatly with women abused by professionals. Refers to
Packwood case.

TAPE 50, SIDE B

034 MICHAEL MOREY: Comments generally in support of the bill.
>Urges 6 years on all torts involving sexual offenses.

Public Hearing and Work Session

SB 179: Includes bark and needles of Pacific Yew within definition of
"minor
forest products".

WITNESSES:

DAVE STERE, FOREST RESOURCES PLANNING PROGRAM DIRECTOR
BILL BRADLEY, BUREAU OF LAND MANAGEMENT
ANN HANUS, DEPARTMENT OF FORESTRY
DAN BOWLING, BUREAU OF LAND MANAGEMENT

JOHN LOWE, U.S. DEPARTMENT OF AGRICULTURE submitted written testimony only
in
support of the bill (EXHIBIT H).

067 ANN HANUS, DEPARTMENT OF FORESTRY: Testifies in support of the bill.

077 DAVE STERE: Submits and reviews written testimony in support of
the
bill (EXHIBIT I).

092 SEN. SHOEMAKER: Make it illegal to transport these needles a class
b

misdemeanor, what are penalties?

BILL TAYLOR, COMMITTEE COUNSEL: Reviews possible penalties under sentencing guidelines.

103 SEN. SHOEMAKER: We need to know penalties. Continues consideration of the bill.

106 STERE: Requests emergency clause and concludes.

114 BILL BRADLEY, BUREAU OF LAND MANAGEMENT: Submits and reviews written testimony in support of the bill (EXHIBIT J).

139 SEN. WEBBER: Is this a lucrative industry? Is it organized or random theft?

BRADLEY: Yes, both lucrative and organized.

149 SEN. WEBBER: Almost seems like class b felony level crime? Is penalty sufficient?

158 DANIEL BOWLING: Theft is felony, this is regulation of paperwork for transport.

163 SEN. HAMBY: Does bark replace itself?

BRADLEY: If bark taken completely then it cannot replace itself, if just a portion it will grow back eventually.

169 SEN. HAMBY: Research only takes a portion?

BRADLEY: Efforts concentrated in timber sale areas and have been harvesting whole trees for the last year.

177 SEN. SHOEMAKER: Penalties?

179 TAYLOR: 6 months or \$1000. Reviews ORS 161.615 and ORS 161.635.

182 SEN. SHOEMAKER: Theft is felony, but transport without permit is only misdemeanor? Crime but funny crime? Need crime to create probable clause to stop and inspect?

194 HANUS: This fills in loophole in the law. Bark is not currently covered.

198 SEN. SHOEMAKER: Because its value wasn't understood?

HANUS: Correct.

SEN. SHOEMAKER: Is this appropriate crime, either currently or under

this legislation?

>Speculates on need for advice from the Attorney General.

209 SEN. RASMUSSEN: Comments generally and clarifies issue.

223 BOWLING: Transport is possible without knowledge of origin, and hence

this is the only crime that can be brought.

>Same individuals are showing up with the product in a commercial manner.

242 SEN. SHOEMAKER: What gives right to stop truck in the first place?

BOWLING: Probable cause contained in the existing law.

252 SEN. HAMBY: What happens if product is covered?

BOWLING: That is a grey area. If product is visible then probable cause is easy to establish.

SEN. HAMBY: Is class b severe enough?

BOWLING: Yes. Other laws can come into play.

>Unreasonable to penalize any more severely those who were simply not aware.

275 MOTION: SEN. WEBBER: moves SB 179 A-ENGROSSED be sent to the floor

with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. CHAIR SPRINGER is excused.

284 SEN. SHOEMAKER: The bill CARRIES.

286 TAYLOR: Note from SEN. CEASE requesting that SEN. KINTIGH lead

discussion on the floor.

HB 2411: Repeals sunset on Law Enforcement Medical Liability Account.

WITNESSES:

JAMES CARLTON, OREGON ASSOCIATION OF CHIEFS OF POLICE

PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES

VAL PAULSON, LEAGUE OF OREGON CITIES

WILLIAM CASTOR, DEPARTMENT OF HUMAN RESOURCES

309 JIM CARLTON: Submits and reviews written testimony in support of the bill (EXHIBIT K).

371 SEN. HAMBY: Inquires about Rodney King type situation?

CARLSON: This fund would cover his type of injuries. If injury occurs as a direct and proximate part of arrest.

386 SEN. SHOEMAKER: Fund is paid from?
CARLSON: From unitary assessment.

390 SEN. HAMBY: Where is that language?

391 SEN. SHOEMAKER: Where does fund come from?

393 PAUL SNIDER: Bill doesn't include all the provisions that affect
the
law, only those needed to repeal sunset.
>Fund is created and funded through assessment for all criminal and
traffic cases.

406 SEN. SHOEMAKER: Assessment against whom?
SNIDER: Against all convictions.

408 SEN. SHOEMAKER: Who pays?
SNIDER: Defendants.

410 SEN. SHOEMAKER: Every defendant in a criminal case?
SNIDER: Unless court waives it.

420 SEN. SHOEMAKER: Covers everyone who is arrested?
CARLSON: Yes.

425 SNIDER: Responds to Sen. Hamby's question relating to Rodney
King
situation.
>Allows appropriate claims even if compensated for injury's.

438 SEN. HAMBY: Citation?
SNIDER: Page 2, at top, where it states "Except as otherwise
provided...".

450 VAL PAULSON: Testifies in support of the bill.

TAPE 51, SIDE B

027 SNIDER: Comments on lawsuit issue.
>Requests bill not be sent to Ways and Means.

065 SEN. SHOEMAKER: How large is fund?
SNIDER: Defers to fund administrators.

069 WILLIAM CASTOR: Submits and reviews written testimony in support of
the
bill (EXHIBIT L).
>Summarizes account balance of fund - \$525,000.

078 SEN. SHOEMAKER: Over year and a half?

CASTOR: Yes. Collecting between \$30-40,000 per month plus interest.

084 SEN. SHOEMAKER: Reviews accounts.
>Is fund receiving more than it needs?

CASTOR: Adequate for current claims but unsure of future demand.

092 SEN. SHOEMAKER: Money is collected from solvent criminals?

CASTOR: Yes.

095 SEN. SHOEMAKER: What is the fee?

TAYLOR: Reviews assessments in bill.

105 SNIDER: Comments on fund balances.
>Numbers reflect year of income before claims.
>Intent was to build up fund to cover costs.

113 SEN. HAMBY: Weighs heavily on need to repeal sunset and release
from legislative review to discover in several years the fund has grown
exorbitantly.

SNIDER: Assembly can review at its discretion.
>Statistics reflect only 7 months of claims.

122 SEN. HAMBY: Does Ways and Means need to review this?

SEN. SHOEMAKER: They may not because they are only reviewing cost to
state and this bill has no impact.

130 SEN. RASMUSSEN: Notes that 7 months will not be enough claims
history to make predictions.
>Not opposed to collecting fund when it can be reviewed at any time.

144 CASTOR: Directed by Legislature to collect test claims which
provide additional claims history.

153 SEN. WEBBER: Perhaps we should ask for regular reports on fund
balance for review?

166 SEN. SHOEMAKER: Could extend sunset rather than repeal.

170 SEN. WEBBER: Does sunset do anything dysfunctional?

SNIDER: Describes effect of sunset provision running out.

175 SEN. SHOEMAKER: Clarifies question?

CASTOR: Under sunset provision there is an administrative position
which will be discontinued if the sunset runs out.

186 SEN. SHOEMAKER: Full time position?

CASTOR: No, received 1 FTE to run fund.

189 SEN. SHOEMAKER: Is this your sole job?

CASTOR: This one position of all duties.

195 SEN. SHOEMAKER: Clarify 1 FTE? Means one person full time.

CASTOR: Correct.

202 SEN. SHOEMAKER: Is that person fully busy operating fund?

CASTOR: Not fully. Comments on administrative organization.

211 SNIDER: Medical liability is a significant question.

>If fund amount growth is too large prefer report and review
requirement
rather than continual sunset provisions.

229 SEN. SHOEMAKER: If report indicated overfunding then legislation
could

trim account?

>Is there a more appropriate agency to review?

CASTOR: No idea.

236 SEN. WEBBER: Suggests executive department.

239 SEN. HAMBY: Clarify total FTE?

248 SEN. WEBBER: Limited FTE is common administrative technique.

>Is executive department approval required to convert position to
permanent?

258 CASTOR: If bill passes then a description of position
and

reclassification will occur.

262 SEN. WEBBER: Does conversion require approval from Ways and Means
or

Emergency Board?

CASTOR: Yes, before Ways and Means.

>1 FTE was needed to set up fund. Unclear on total need for FTE.

288 SEN. SHOEMAKER: Requests Sen. Webber review the issue and report
to

committee.

289 SEN. WEBBER: comments on the issue generally.

302 SEN. SHOEMAKER: Adjourns hearing at 2:55 pm.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Bill Taylor
Administrator

EXHIBIT LOG:

- A-1 - Testimony on SB 233 & SB 234, Jill Otey, 10 pages
- A - Testimony on SB 233, Jill Otey, 2 pages
- B - Testimony on SB 233 & SB 234, J. Johnson, P. Hole, C. Newbill,
B.A.
Mason, N. Williams, 11 pages
- D - Testimony on SB 234, Kelvin Barton, 2 pages
- E - Testimony on SB 234, Lauren Moughon, 2 pages
- F - Testimony on SB 234, Michelle Coker, 2 pages
- G - Testimony on SB 234, Paula Hole, 3 pages
- H - Testimony on SB 179A, John Lowe, 1 page
- I - Testimony on SB 179A, Dave Stere, 2 pages
- J - Testimony on SB 179A, Bill Bradley, 2 pages
- K - Testimony on HB 2411, Jim Carlton, 1 page
- L - Testimony on HB 2411, William Castor, 11 pages