

SENATE COMMITTEE ON  
JUDICIARY

April 30, 1993      Hearing Room C  
1:00 p.m.      Tapes 135 -136

MEMBERS PRESENT:    Sen. Dick Springer, Chair  
                      Sen. Bob Shoemaker, Vice-Chair  
                      Sen. Jeannette Hamby  
                      Sen. Gordon Smith  
                      Sen. Catherine Webber

MEMBER EXCUSED:    Sen. Rasmussen

VISITING MEMBERS:  Sen. Tricia Smith  
                      Rep. Kate Brown

STAFF PRESENT:        Karen Quigley, Legislative Counsel  
                      Kate Wrightson, Committee Administrator  
                      Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED:    Work Session on SB 246.  
                      Public Hearing and Work Session on SB 724, SB 456,  
SB  
904 .

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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 135, SIDE A

003      CHAIR SPRINGER: Opens hearing at 1:10 p.m.

WORK SESSION

SB 246:  
    Allows city or county to approve creation of certain purported lots or parcels under certain conditions.

114      QUIGLEY: Gives overview of SB 246-1 amendments. (EXHIBIT A)

124      WALTER GOWELL, OSB REAL ESTATE LEGISLATIVE COMMITTEE: Submits  
and  
    reviews written testimony in support of SB 246. (EXHIBIT B, C)  
    - The purpose of the statute is to make clear that land use bodies  
    who are charged with making land use decisions would be the bodies

who hear and decide whether or not land use criteria has been satisfied concerning land use application.  
- This has no effect on existing substantive land use laws.

178 SEN. SHOEMAKER: What is the underlying problem of the Killian case?  
182 GOWELL: There were the two parcels that came out of one. Houses  
had been built on all but one lot. When a developer wanted to build on the lot a homeowner appealed because their consent wasn't obtained.  
- The SB 246-1 amendments were suggested by the DLDC staff.

224 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 246-1 amendments.  
VOTE: Hearing no objection the amendments are ADOPTED. SEN. RASMUSSEN is EXCUSED.

226 MOTION: CHAIR SPRINGER: Moves that SB 246 as amended be sent to the Floor with a DO PASS recommendation.  
VOTE: In a roll call vote all members present vote AYE. Senator Rasmussen is EXCUSED.

234 The motion is ADOPTED.

#### PUBLIC HEARING & POSSIBLE WORK SESSION

SB 724:  
Allows use of telephone testimony by party or witness in civil proceeding upon motion and showing of good cause.

247 MARK KRAMER, OREGON STATE BAR & SELF: Submits and reviews written testimony in support of SB 724. (EXHIBIT D, E, F, G)

354 DEBORAH WILSON, DEPARTMENT OF JUSTICE: Submits and reviews written testimony and amendments in support of SB 724. (EXHIBIT H, I)

389 KRAMER: I support the DOJ amendments. I want to note that termination of parental rights proceedings implicate due process clause protections.

#### TAPE 136, SIDE A

007 CHAIR SPRINGER: Have you had the chance to take this to a Bar Committee on Practice and Procedures or Council and Court Procedures?

KRAMER: Yes. I sent some preliminary drafts to Council and Court Procedures. They are in favor of the bill. The Committee on Practice

and Procedures didn't take a position.

024 CHAIR SPRINGER: Have you spoken to Mr. Kanter? Should we bear in mind live testimony as opposed to the telephone?

KRAMER: No, I didn't. It should be considered. But the best judge for live testimony is the trial court.

038 SEN. HAMBY: I support this bill. The visual fiber optic hook-up could be used in for calls.

KRAMER: The bill also requires 30 days notice. So, even if the judge allows phone testimony, there is nothing to prevent opposing counsel from taking a deposition.

053 SEN. WEBBER: Corrections will soon have the capability to do interactive telecommunications that would be a cost saving benefit. Maybe we

should amend the bill to say "telephone or interactive telecommunications"?

SEN. SHOEMAKER: We could find a generic term that would bring the idea of anything other than court room presence and let it relate to that broader term; therefore letting the judge decide what's appropriate.

081 CHAIR SPRINGER: Lets look at amendments and have another hearing next week.

KRAMER: I'll get the OSB amendments to the Oregon Trial Lawyers Association.

098 MOTION: CHAIR SPRINGER: Moves the committee introduce LC 3942 by Portland Corporation ELF\ATO\CAM North America, Inc. and LC 3943 by Lono Greyson Association & Multnomah Kennel Club.

VOTE: Hearing no objection the motion is ADOPTED. Senator Rasmussen is EXCUSED.

SB 456:  
Authorizes access to certain records of developmentally disabled individuals by state agency designated to protect and advocate rights of individuals.

120 QUIGLEY: Gives overview of SB 456 proposed amendments by the

Oregon  
Advocacy Center.

124 BOB JOONDEPH, OREGON ADVOCACY CENTER: Submits and reviews  
written  
testimony in support of SB 456. (EXHIBIT J, K, L)  
- This bill intends to make Federal and State law come into  
compliance.

178 TOM STERN, MENTAL HEALTH & DD SERVICES DIVISION: Submits and  
reviews  
written testimony in support of SB 456. (EXHIBIT M)

183 SANDRA MILLIUS, MENTAL HEALTH ASSOCIATION: Submits and reviews  
written  
testimony in support of SB 456. (EXHIBIT N)

194 SEN. WEBBER: How would SB 499 & 500 interact with SB 456?

199 JOONDEPH: There is no affect. SB 500 would transform these records  
to  
public records.

QUIGLEY: This is getting access as opposed to keeping things from  
disclosure.

232 SEN. SHOEMAKER: Please define "the system".

JOONDEPH: It is defined on line 15 under part C.

259 MOTION: CHAIR SPRINGER: Moves to ADOPT the Oregon Advocacy Center SB  
456  
amendments and the correction on page 1, line 6; change "an  
individual"  
to "a person".

VOTE: Hearing no objection the amendments are ADOPTED. SEN. RASMUSSEN  
is EXCUSED.

269 MOTION: SEN. WEBBER: Moves that SB 456 as amended be sent to the  
Floor  
with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. Senator  
Rasmussen is EXCUSED.

277 The motion is ADOPTED. SEN. WEBBER will CARRY.

#### PUBLIC HEARING

SB 904: Adds gender to list of categories protected by intimidation  
statutes.

300 SENATOR TRICIA SMITH, DISTRICT 17: Submits and reviews written  
testimony

on SB 904. (EXHIBIT O, P, R, S)

- More than half of the women who seek refuge in Battered Womens' Shelters are turned away because there's no space.

408 SEN. G. SMITH: What is SCR 1?

SEN. T. SMITH: It is a bill which sets in place domestic violence training for police officers. It also requests that the Parole and Probation Board look at existing cases and individuals being held for assault or manslaughter to determine whether the crime was committed as a result of abusive partners.

TAPE 135, SIDE B

003 REP. KATE BROWN, DISTRICT 13: Submits and reviews written testimony in support of SB 904. (EXHIBIT Y, Z)

021 SEN. T. SMITH: Gives overview of bill section by section. (EXHIBIT R)  
- Sections 1-4 add gender to the list of categories in intimidation statutes.

103 SEN. WEBBER: I do believe we collect gender information on victims. We do on the bias crimes.

SEN. T. SMITH: We don't in all crimes.

SEN. WEBBER: Have you been able to identify a definition of when a crime is gender based?

118 SEN. T. SMITH: Section 4 requires the Board of Police/Public Safety Standards & Training to insure that police officers are trained to investigate, identify and report intimidation crimes.

126 SEN. WEBBER: Maybe a tighter definition could come out of that?

SEN. T. SMITH: I think the way we should deal with the Criminal Justice System is to go through a new change.

137 REP. BROWN: Statistics that are collected on racial based crimes can be useful in determining gender crimes.

SEN. T. SMITH: Eight other states have added gender to their intimidation statutes. The Federal Violence Against Women Act also included gender based biased crimes.

170 REP. BROWN: I have some testimony from Gail Shibley. (EXHIBIT W)  
HB  
2843 is modeled after the Washington statute, which is working very  
well. It rids of confusing language such as "sodomy" and "deviant  
sexual intercourse" and categorizes all forced sexual contact as rape.  
SEN. T. SMITH: Rape is rape no matter what object is used. We endorse  
the amendment to section 5 by the DAA.

209 LAURIE WIMMER, OREGON COMMISSION FOR WOMEN: Submits and reviews  
written  
testimony in support of SB 904. (EXHIBIT U, V)  
- Gives overview of Sections 5-37 (EXHIBIT R)  
- Rape is not a sex crime it is a violent crime.  
- The rape rate has escalated at four times the rate of other  
crimes.  
- Between 1990 and 1991 rape rose 17.2% in Oregon.

REP. BROWN: Talks to section 38. (EXHIBIT R)

284 LAURA BOYD, RN: Submits and reviews written testimony in support of  
SB  
904.  
(EXHIBIT T)

381 KAREN SHELDON, SPRINGFIELD: Submits and reviews written testimony  
in  
support of SB 904. (EXHIBIT X)

TAPE 136, SIDE B

003 SHELDON: Continues testimony.  
- Requests that there be no statute of limitations

040 SEN. T. SMITH: Talks to sections 39-42, which deal with stalking.  
- Talks to sections 43-51, which is the No Contact provision.  
(EXHIBIT R)

117 SEN. SHOEMAKER: In section 6 it appears something is missing.  
It  
doesn't say what the person has to have done.

SEN. T. SMITH: In sub B it says, "the offenses...constituting domestic  
violence as is defined in the statute..".

137 VIETTA HELMLE, WOMEN'S CRISIS CENTER: Submits and reviews  
written  
testimony in support of SB 904. (EXHIBIT BB)

159 KATHY KIEL, MID VALLEY WOMEN'S CRISIS SERVICE: Submits and  
reviews  
written testimony in support of SB 904. (EXHIBIT AA)

231 SEN. T. SMITH: Section 44 changes the definition of "family"

or

"household members" to include persons who've been involved in sexually intimate relationships but never lived together.

253 SEN. G. SMITH: I want to support this bill, but I'm concerned about a few things. Should we check a man and a woman's record, instead of just the abuser's record?

SEN. T. SMITH: The cycle of abuse that exists in a relationship would become a factor in release and in charging of assault charges and throughout the whole trial.

281 SEN. G. SMITH: Women mustn't be re-victimized. There doesn't seem to be any rights for a man. Is his entire past opened up? This bill mustn't be preceded as anti-man.

HELMLE: Both men and women can be abusers. Ninety percent of offenders are going to be male and 10% are going to be female.

316 SEN. G. SMITH: I think there should be a lengthy statute of limitations rather than none at all. We have to educate both sexes to speak out as soon as possible.

HELMLE: Women need to have a safe place to speak in before they will ever come forward. This proposal doesn't address a statute of limitations.

347 SEN. T. SMITH: Sections 48-51 increase the crime category of assault when domestic violence exists.

- Section 52 deals with the concept of self defense as a result of battering or domestic violence.

CHAIR SPRINGER: Is there any significant Fiscal Impact upon the Judicial or Criminal Justice system?

SEN. T. SMITH: The total impact in 1994 would be 91 beds.

425 CHAIR SPRINGER adjourns hearing at 3:10 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal  
Assistant

Karen Quigley  
Administrator

EXHIBIT LOG

- A - Proposed SB 246-1 amendments-staff-1 pg.
- B - Testimony on SB 246-Walter Gowell-1 pg.
- C - Testimony on SB 246-Walter Gowell-2 pgs.
- D - Testimony on SB 724-Mark Kramer-14 pgs.
- E - Testimony on SB 724-Mark Kramer-4 pgs.
- F - Testimony on SB 724-Mark Kramer-2 pgs.
- G - Testimony on SB 724-Mark Kramer-2 pgs.
- H - Testimony on SB 724-Deborah Wilson-1 pg.
- I - Proposed SB 724 amendments-Deborah Wilson-1 pg.
- J - Proposed SB 456 amendments-Bob Joondeph-1 pg.
- K - Testimony on SB 456-Bob Joondeph-1 pg.
- L - Testimony on SB 456-Bob Joondeph-10 pgs.
- M - Testimony on SB 456-Thomas Stern-2 pgs.
- N - Testimony on SB 456-Sandra Millius-1 pg.
- O - Testimony on SB 904-Tricia Smith-64 pgs.
- P - Proposed SB 904 amendments-Tricia Smith-7 pgs.
- Q - Testimony on SB 904-Peter Sandrock-2 pgs. \*
- R - Testimony on SB 904-Tricia Smith-1 pg.
- S - Proposed SB 904-Tricia Smith-2 pgs.
- T - Testimony on SB 904-Laura Boyd-28 pgs.
- U - Testimony on SB 904-Laurie Wimmer-5 pgs.
- V - Testimony on SB 904-Laurie Wimmer-2 pgs.
- W - Testimony on SB 904-Rep. Gail Shibley-1 pg. \*
- X - Testimony on SB 904-Kaaren Sheldon-37 pgs.
- Y - Testimony on SB 904-Kate Brown-1 pg.
- Z - Testimony on SB 904-Kate Brown-2 pgs.
- AA- Testimony on SB 904-Kathy Kiel-2 pgs.
- BB- Testimony on SB 904-Vietta Helmle-2 pgs.
- CC- Testimony on SB 904-Marilyn Hamilton-4 pgs. \*
- DD- Testimony on SB 904-Kathleen Clark-3 pgs. \*

\* Submitted written testimony only.