

SENATE COMMITTEE ON  
JUDICIARY

July 21, 1993 Hearing Room C  
1:00 p.m. Tapes 225-226

MEMBERS PRESENT: Sen. Dick Springer, Chair  
Sen. Jeannette Hamby  
Sen. Karsten Rasmussen  
Sen. Bob Shoemaker  
Sen. Gordon Smith  
Sen. Catherine Webber  
STAFF PRESENT: Bill Taylor, Committee Counsel  
Karen Quigley, Committee Counsel  
Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Reconsideration & Work Session on HB 2033, HB 2224, HB  
288 7,  
HB 3052  
Public Hearing & Work Session on HB 2323, HB 2737, HB 2360,  
HB 3314, HB 2658

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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 225, SIDE A  
003 CHAIR SPRINGER: Opens the hearing at 1 20 p m

HB 2323: Prohibits child-caring agency providing residential care and  
foster home caring for child from denying parent of guardian right to visit  
child solely as disciplinary measure against child.

WITNESSES:  
REPRESENTATIVE MARY ALICE FORD  
HEIDE ANDERSON, OREGON ALLIANCE OF CHILDREN'S PROGRAMS  
STEPHEN KAFOURY, OREGON ALLIANCE OF CHILDREN'S PROGRAMS

REP. FORD Testifies in support of the bill. Gives background regarding  
visitation rights for children in residential facilities. The rights are  
being withheld for purpose of punishment

050 CHAIR SPRINGER Were these secure facilities?

REP FORD Correct I visited several and it is occurring at several different  
sites  
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HEIDE ANDERSON, OREGON ALLIANCE OF CHILDREN'S PROGRAMS:  
Testifies in support of the bill, with amendments (EXHIBIT A).  
REP. FORD: Reviews amendments.  
081 -Clarifies what amendments does.

STEPHEN KAFOURY, OREGON ALLIANCE OF CHILDREN'S PROGRAMS: Clarifies that the  
bill/amendments address visitation rights granted by agency, not the court.

REP. FORD: Objects to amendment; understood it to do something different

120 CHAIR SPRINGER: Asks proponents to work together to draft appropriate  
language.

HB 2033: Provides that certain property held in safe deposit box which  
remains unclaimed for more than one year is presumed abandoned.

125 QUIGLEY: Reviews bill and proposed amendments (EXHIBIT B).

MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION  
VOTE: NO OBJECTIONS

MARCELLA EASLYE, in response to Chair Springer, this amendment is okay.

MOTION: CHAIR SPRINGER MOVES ADOPTION OF THE -A6 PROPOSED AMENDMENTS

VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES HB 2033, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: THE MOTION CARRIES. HAMBY, RASMUSSEN, SMITH, SHOEMAKER, AND SPRINGER VOTE AYE. WEBBER IS EXCUSED.

HB 2323:

REP. FORD: Supports language in bill, as is.

171 BETTY UCHYTIL, CSD: Supports intent of the -A version of the bill. Additional language restricting parental visitation will decrease parental rights for visitations.

MOTION: RASMUSSEN AND HAMBY MOVE HB 2323-A TO THE FLOOR WITH A DO PASS RECOMMENDATION

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VOTE: THE MOTION CARRIES. HAMBY, RASMUSSEN, SMITH, SHOEMAKER, AND SPRINGER VOTE AYE. WEBBER IS EXCUSED. RASMUSSEN CARRIES.

HB 2224: Creates crime of unlawful impersonation of peace officer.

192 TAYLOR: Reviews bill and -a5 amendments, a conflict amendment (EXHIBIT C).

CHAIR SPRINGER: Where is the conflict?

HAMBY: In section 7.

CHAIR SPRINGER: What did SB 813 do?

TAYLOR: Reviews. This is a style recommendation from Legislative Counsel Office.

MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION OF HB 2223

VOTE: NO OBJECTIONS

MOTION: HAMBY MOVES ADOPTION OF -A5 PROPOSED AMENDMENTS

VOTE: NO OBJECTIONS

MOTION: HAMBY MOVES HB 2224, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: THE MOTION CARRIES. HAMBY, SMITH, WEBBER, SHOEMAKER, AND CHAIR SPRINGER VOTE AYE. RASMUSSEN VOTES NO. HAMBY CARRIES.

HB 2887: Modifies and defines "sexual abuse" and "rape of a child" when referring to sex acts against children.

233 TAYLOR: Reviews bill and -a3 amendments, conflict amendments (EXHIBIT D).

MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION

VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES -A3 PROPOSED AMENDMENTS

VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES HB 2887, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

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VOTE: THE MOTION CARRIES. HAMBY, RASMUSSEN, SMITH, WEBBER AND SPRINGER VOTE AYE. SHOEMAKER IS EXCUSED. HAMBY CARRIES.

HB 3052: Requires public or private official to report information that causes official to believe

child has been abused, unless communication is privileged.  
TAYLOR: Reviews bill and -a5 amendments, conflict amendments (EXHIBIT E).  
CHAIR SPRINGER: Notes that the amendments also add clarification language regarding the responsibilities of the designee.  
MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION  
VOTE: NO OBJECTIONS  
MOTION: CHAIR SPRINGER MOVES ADOPTION OF -A5 PROPOSED AMENDMENTS  
VOTE: NO OBJECTIONS  
MOTION: CHAIR SPRINGER MOVES HB 3052, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION  
VOTE: THE MOTION CARRIES. HAMBY, RASMUSSEN, SHOEMAKER, SMITH, WEBBER AND SPRINGER VOTE AYE. HAMBY CARRIES.

HB 2737: Provides for forfeiture and destruction, use for law enforcement, donation or sale of deadly weapons used during commission of crime or unlawfully possessed.

291 TAYLOR: Reviews bill and -a5 amendments (EXHIBIT F).

MOTION: CHAIR SPRINGER MOVES FOR RECONSIDERATION OF THE BILL FOR THE PURPOSE OF CONSIDERING THE -A5 AMENDMENTS

VOTE: NO OBJECTIONS

RASMUSSEN: Reviews bill and amendments.

331 HAMBY: If a concealed weapon is forfeited then an individual has the option to repurchase the weapon?  
RASMUSSEN: That is not the intent.  
HAMBY: I thought that is what I heard you say.  
RASMUSSEN: If they are eligible to purchase a firearm, that eligibility would be the

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same eligibility that a licensed dealer, under federal law, would be required to ascertain. Then the police agency could sell it direct.

CHAIR SPRINGER: Thinks this applies to any weapon not just concealed.

RASMUSSEN: Correct; concealed was just an example.

359 HAMBY: In other words, it could be on a first come, first serve basis.

RASMUSSEN: The only language the amendment changes is the last two lines of

the

bill; who can sell weapons

CHAIR SPRINGER: that disqualification is cross referenced

TAYLOR: Reviews criminal code cross reference.

MOTION: RASMUSSEN MOVES ADOPTION OF THE -A5 PROPOSED AMENDMENTS

SHOEMAKER: Under the law, is there some requirement for the dealer to put

the

prospective buyer into the LEDS system?

CHAIR SPRINGER: Only for handguns.

SHOEMAKER: Is this language sufficient to impose that same obligation on

the law

- enforcement agencies who sell to prospective buyers? Waiting period  
doesn't do any

good unless there is a reporting requirement.

RASMUSSEN: Intent is that it would do so; expands

SHOEMAKER: Should we review the statute?

CHAIR SPRINGER: Let's take time to review statute.

HAMBY: References controlling factor in ORS 166.470

RASMUSSEN: Are you talking about any weapon?

HAMBY: No, just handguns.

SHOEMAKER: I just want to be sure.

450 TAYLOR: Reviews ORS 166.420.

SHOEMAKER: That doesn't do it. Only tracks who it was sold to. This looks more complicated than anticipated.

CHAIR SPRINGER: Holds bill for further review. Who does this bill belong to?

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TAYLOR: Rep. Markham.

RASMUSSEN: No problem holding bill.

TAPE 226, SIDE A

CHAIR SPRINGER: Holds bill for further review.

TAYLOR: Reviews further provisions of the bill and previous discussion.

045 Committee discusses issue generally and recall previous action.

HB 2360: Requires affirmative vote by majority of Council on Court Procedures on matters other than rules.

WITNESSES: CARL MYERS, OREGON STATE BAR CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION

072 CARL MYERS, OREGON STATE BAR: Submits written testimony in support on behalf of the Oregon State Bar (EXHIBIT H) and the Oregon Trial Lawyers Association

(EXHIBIT G).

CHAIR SPRINGER: What is the status of the budget?

CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: It passed the House yesterday and is in the Senate Ways and Means Committee.

MOTION: SHOEMAKER MOVES HB 2360-A TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: THE MOTION CARRIES. RASMUSSEN, SHOEMAKER, SMITH, WEBBER AND SPRINGER VOTE AYE. HAMBY EXCUSED.

HB 3314: Extends exemption from prohibition against possessing gambling device to possession of slot machine or gambling device manufactured at least 15 years ago.

WITNESSES: TOM BARROWS TIM STEINER, OREGON STATE POLICE JOHN RIZZO, OREGON

STATE POLICE

113 TAYLOR: Reviews bill.

TOM BARROWS: Testifies in support of the bill. Submits testimony in support of the

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bill on behalf of Dick McNicholas (EXHIBIT I). -In response to Shoemaker, the possession of games can be used for only non-gambling purposes

SHOEMAKER: Statute language is vague.

HAMBY: Aren't these the grays?

CHAIR SPRINGER: Could be, depends on how it is used.

HAMBY: There's nothing to prevent an old gray from once again being used and I object.

BARROWS: Assume you mean video poker?

HAMBY: Any gaming machine.

175 SERGEANT TIM STEINER, OREGON STATE POLICE: Submits and reads written testimony in opposition to the bill (EXHIBIT J).

220 BARROWS: Testimony on the House side indicated that machines become outdated in 5 years.

HAMBY: Are these meant to be used in public amusement parks?

BARROWS: No, in a private game room (i.e. home use).

HAMBY: But it could be used in a gaming establishment according to the language of the bill.

BARROWS: I don't know; could be.

245 MOTION: CHAIR SPRINGER MOVES TO DELETE LANGUAGE IN THE ORIGINAL BILL ON LINE 13 AND 14 DELETE THE NEW LANGUAGE, REMOVE THE BRACKETS, AND ADD "PRIOR TO 1968"

VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES HB 3314, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

HAMBY: What about use in private establishment?

CHAIR SPRINGER: That's fine with me; do you have some language? Although it

is

assumed, it is not specified.

SHOEMAKER: Offers language: If they were not operated in a commercial

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establishment or for unlawful gambling.

267 Committee and Counsel discuss additional language.

SHOEMAKER: Recommends language: "was operated in a private residential establishment, and not for purposes of unlawful gambling."

CHAIR SPRINGER: Suggests: "private residence" instead of "private

residential establishment".

SHOEMAKER: Agrees.

MOTION: SHOEMAKER MOVES AMENDING THE BILL WITH THE PREVIOUSLY STATED LANGUAGE

VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES HB 3314, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: THE MOTION CARRIES. HAMBY, RASMUSSEN, SHOEMAKER, SMITH, WEBBER AND SPRINGER VOTE AYE. HAMBY CARRIES.

HB 2658: Allows incarceration of county prisoners in state correctional facilities if county has entered into intergovernmental agreement with Department of Corrections.

WITNESSES: PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES RUSS SPENCER, OREGON STATE SHERIFFS ASSOCIATION

298 TAYLOR: Reviews bill.

PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: Testifies in support of the bill. Interprets the bill which expands authority.

CHAIR SPRINGER: Provides example, would it be fair to incarcerate individual from Curry County in Malheur County because of availability of room?

SNIDER: That would create some hardships. That is not the intent.

CHAIR SPRINGER: Gives additional scenarios.

WEBBER: Is it possible to limit it to a local county? Discusses Snake River facility. Would geographic limitation make sense?

362 CHAIR SPRINGER: What about population limitation?

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RUSS SPENCER, OREGON STATE SHERIFFS ASSOCIATION: That situation would be unlikely because the county would have to bear the costs of the transportation and the upkeep of the prisoner.

WEBBER: Maybe we could amend it to being in the same county?

CHAIR SPRINGER: Or adjacent.

385 SPENCER: No objection.

SNIDER: No objection.

395 Committee discusses amendments generally.

CHAIR SPRINGER: Suggests conceptual amendments and reviews with proponents; will run it by the sponsors of the bill.

HAMBY: Do counties ever reach across state borders for a more cost effective bed space?

SPENCER: Yes, they do on some occasions.

443 SNIDER: It has happened. Frequently with juvenile facilities.

SMITH: County budgets will be best limitation on this sort of thing.

SPENCER: That is the case with women prisoners, that they have been sent across state.

CHAIR SPRINGER: Pleasure of the committee?

SHOEMAKER: Go with the bill and if there are problems then review?

CHAIR SPRINGER: Possibly add a sunset?

SHOEMAKER: Not a bad idea.

SPENCER: No objection.

CHAIR SPRINGER: Sunset for 2 years - June 30, 1995  
485 Committee discusses additional amendments generally, deciding on a  
sunset for 4  
years  
and adding an emergency clause.

TAPE 225, SIDE B

MOTION: CHAIR SPRINGER MOVES TO AMEND THE BILL BY INCLUDING A SUNSET FOR 4 YEARS (JUNE 30, 1997) AND ADDING AN EMERGENCY CLAUSE

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VOTE: NO OBJECTIONS

MOTION: CHAIR SPRINGER MOVES HB 2658, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION

VOTE: THE MOTION CARRIES. HA ~BY, SHOEMAKER, SMITH, WEBBER AND SPRINGER VOTE AYE. RASMUSSEN EXCUSED. WEBBER CARRIES.

CHAIR SPRINGER: adjourns hearing at 2:17 pm.

Submitted by,  
Pamela Berger  
Committee Assistant

EXHIBIT LOG:

A - HB 2323 - proposed amendments - Anderson/Ford - 1 p-  
B - HB 2033 - proposed amendments - staff - 1 p-  
C - HB 2224 - proposed amendments - staff- 6 pp-  
D - HB 2887 - proposed amendments - staff - 6 pp \_  
E - HB 3052 - proposed amendments - staff - 2 pp. \_  
F - HB 2737 - proposed amendments - staff - 1 p\_  
G - HB 2360 - testimony - Myers for OTLA - 1 p\_  
H - HB 2360 - testimony - Myers for OSB - 1 p-  
I - HB 3314 - testimony - Barrows for McNicholas - 1 p-  
J - HB 3314 - testimony - Steiner - 3 pp \_

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