

HOUSE COMMITTEE ON JUDICIARY

April 25, 1991 Hearing Room 357 1:00 p.m. Tapes 38 - 39
MEMBERS PRESENT: Rep. Randy Miller, Chair Rep. Tom Mason, Vice Chair
Rep. Ray Baum Rep. Judith Bauman Rep. Marie Bell Rep. Tom Brian Rep.
Kelly Clark Rep. Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix Rep.
Ron Sunseri

MEMBER EXCUSED: Rep. Del Parks STAFF PRESENT: Greg Chaimov,
Committee Counsel Holly Robinson, Committee Counsel Jim Dole, Assistant
Committee Counsel Kathy Neely, Committee Assistant MEASURES
CONSIDERED: HB 2669 WS (Obscene Material) HB 2828 WS (Police Agency)
HJR 55 WS (Constitutional Amendment) HB 2019 WS (Charitable
Solicitations) HB 3317 WS (Juveniles) HB 3545 WS (Health Benelits) HB
2312 WS (Vehicle Dealer Certification) HB 2381 WS (International
Arbitration and Conciliation) HB 3157 WS (Garnishment Service Fees) SB
214 WS (Parole Status) 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.

TAPE 38, SIDE A 003 REPRESENTATIVE MILLER, CHAIR: Calls the meeting to
order at 1:40 p.m WORK SESSION: HB 2669

011 HOLLY ROBINSON: The bill as amended (EXHIBIT A) revises the
criminal statues relating to the furnishing or sending of obscene
materials to minors making Oregon statute conform with both state and
federal constitutional requirements. 015 MOTION: REP. MANNIX: Moves the
amendments to the bill.

017 CHAIR MILLER: Rep. Mannix moves the amendments. Hearing no
objection, so adopted. 019 MOTION: REP. MANNIX: Moves HB 2669 to the
House as amended with a do pass recommendation. House Committee on
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020 CHAIR MILLER: Rep. Mannix moves HB 2669 as amended to the House.

VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Edmunson, Mannix, Mason,
Sunseri, Miller NO: 0 EXCUSED: Clark, Parks

026 CHAIR MILLER: HB 2669 as amended is passed to the House. Rep.
Mannix will carry.

WORK SESSION - HB 2828

039 GREG CHAIMOV: Requires parties to civil lawsuits to reimburse
cities and counties for the expense of police officers testifying as
expert witnesses. The amendments adopted by the subcommittee removed any
fiscal impact. Should adopt the amendments. (EXHIBIT B)

050 MOTION: REP BRIAN: Moves the adoption of the amendments.

CHAIR MILLER: Rep. Brian moves the adoption of the amendments.

055 REP. MASON: Will oppose the bill. Seems to be a "not so clever cost
shift on the part of local government." Testifying is part of the police
officer's job.

REP. BELL: Removal of the word "expert" would include every time. But
went back to include it and will narrow the bill down.

REP. MANNIX: This could be a "user" fee.

070 REP. BAUMAN: Are the witnesses (meaning the police officers) being used by private litigants or government agencies? REP. BAUM: Government.

CHAIR MILLER: Hearing no objection to the amendments, so adopted.

MOTION: REP. BRIAN: Moves HB 2828 as amended to the House with a do pass recommendation.

VOTE: 10-1 MOTION: PASSES Aye: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller Nay: Mason Excused: Parks

CHAIR MILLER: HB 2828 as amended is passed to the House. Rep. Minnis will carry.

WORK SESSION - H.1R 55 GREG CHAIMOV: Asks the voters to amend the State's Bill of Rights to add protection of society as the main goal of state criminal laws.

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REP. CLARK: Moves HJR 55 as amended to the floor with a do pass recommendation.

080 CHAIR MILLER: Rep. Clark moves HJR 55 as amended to the House.

REP. JOHNSON: Staff stated this would make protection of society the main concept. Reads that it would be on equal footing with reformation.

GREG CHAIMOV: Understands committee placed protection of society ahead of reformation so that if there is a conflict, the protection of society would take precedence.

REP. JOHNSON: Under what statutory or rule of construction would that take place?

REP. CLARK: There is no rule of construction that states simply because one phrase is listed before another that it gets higher priority. *The effect of adding "protection of society" is important.

090 CHAIR MILLER: Need to act on the amendments.

REP. CLARK: Withdraws the motion to send the bill to full.

CHAIR MILLER: Recesses session on HJR 55. Convenes on page 5.

WORK SESSION - HB 2019

GREG CHAIMOV: Revises the Charitable Solicitations Act to reduce the regulation on people who ask for donations without selling goods or services. The amendments (EXHIBITS D and E) need to be adopted.

102 MOTION: REP. BRIAN: Moves the amendments (EXHIBIT D).

CHAIR MILLER: Rep. Brian moves the HB 2019-1 amendments to the bill. Hearing no objection, so adopted.

MOTION: REP. BRIAN: Moves the amendments (EXHIBIT E).

CHAIR MILLER: Rep. Brian moves the HB 2019-2 amendments. Hearing no objection, so adopted. *Recesses session on HB 2019. Convenes on page 5.

WORK SESSION ON HB 3317

120 HOLLY ROBINSON: Allows information in a juvenile's file in the Juvenile Court or CSD to be disclosed when it is currently confidential to the appropriate person or entity when the juvenile presents a imminent danger to another.

MOTION: REP. MANNIX: Moves the amendments to the bill with the change on line 17 to read "an agency or person who discloses information under sub".

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REP. BAUMAN: Concerned about leaving out "or fails to discloses". Asks about the intent?

REP. MANNIX: This is an immunity provision for the failure to disclose.

REP. BAUMAN: This is creating a liability for failure to disclose. REP. MANNIX: Taking no action as to whether or not there is liability for failure to disclose. Simply stating that someone who does disclose is immune. *Subcommittee intent was no statement regarding liability for someone who fails to disclose. Current laws will remain in place. Just protecting someone who take the action.

240 REP. EDMUNSON: An important protection is if an agency or individual, in their professional judgment, failed to disclose information regarding a danger, they will be liable. If there was doubt regarding disclosure then there would be no liability.

REP. BAUMAN: Concern about balance between confidentiality and juveniles' special protection. *With this erroneous disclosure is protected by immunity from any civil or criminal immunity that might otherwise be imposed. *This might cause losing the confidence of people in a treatment environment.

REP. CLARK: Comments on discussion with counselor regarding breaching the gap to report information. Confidentially aspect was told upfront and used to gain confidence and trust.

REP. MANNIX: There is another technical amendment to the HB 3317-1 amendments. Discusses corrections.

REP. CLARK: Comments on the change from "clear and present danger" to "eminent" because that standard was higher and clearer in terms.

MOTION: REP. MANNIX: Moves those amendments.

CHAIR MILLER: Rep. Mannix moves the amended HB 3317-1 amendments to the bill.

REP. BRIAN: Asks about line 17 regarding the removal of "or fails to disclose". Believes that is the balancing point.

320 REP. MANNLY: Rational was trying to encourage people to disclose information in an emergency situation. Not trying to create a new cause of action.

REP. BRIAN: It could be argued that if this is up to the professional judgment, they should be immune either way.

REP. MANNIX: That is a policy issue and the subcommittee decided that it was taken out of the rest of the bill. 380 REP. BAUMAN: As written there is no policy being made.

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CHAIR MILLER: Hearing no objection to the adoption to the amendments, so adopted.

MOTION: REP. MANNIX: Moves HB 3317 as amended to the House with a do pass recommendation.

CHAIR MILLER: Rep. Mannix moves HB 3317 as amended to the House with a do pass recommendation.

VOTE: 8-2 AYE: Baum, Bell, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NO: Bauman, Brian EXCUSED: Mason, Parks

CHAIR MILLER: HB 3317 as amended is pass to the House. Rep. Bell will carry.

REP. CLARK: Gives notice of possible reconsideration.

CHAIR MILLER: Closes work session on HB 3317.

REOPENS WORK SESSION ON HJR 55

CHAIR MILLER: Comments on the HJR 55-1 amendments.

MOTION: REP. BRIAN: Moves the amendments (EXHIBIT C).

400 CHAIR MILLER: Rep. Brian moves the amendments to the bill. Hearing no objection, so adopted.

MOTION: REP. CLARK: Moves HJR 55 as amended to the House with a do pass recommendation.

CHAIR MILLER: Rep. Clark moves HJR 55 as amended to the House.

VOTE: 11-0 AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Sunseri, Miller NO: 0 EXCUSED: Parks

CHAIR MILLER: HJR 55 as amended is passed to the House. Rep. Clark will carry.

REOPEN WORK SESSION ON HB 2019 Witness: Steven Kafoury

CHAIR MILLER: Comments on the amendments (EXHIBIT D).

MOTION: REP. BRIAN: Moves the amendments.

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CHAIR MILLER: Rep. Brian moves the amendments to the bill.

REP. BELL: Inserting the word "firm"? In the Housing Committee, there was testimony that there was no such legal term as "firm".

GREG CHAIMOV: The State Charitable Solicitation Act has used the term "firm" to describe in general terms the outfits that are seeking donations.

TAPE 39, SIDE A

STEVEN KAFOURY: Discusses what the Housing Committee was discussing with regard to the use of the word "firm". It was used for an alternative to sole practitioner, PC, partnership, etc. which is different than what is meant here.

040 REP. MANNIX: There is a definition in the bill for a "professional fund raising firm". "Firm" is inserted instead of "professional fund raising council". That whole terminology is defined.

049 CHAIR MILLER: Hearing no objection to the adoption of the amendments, so ordered.

MOTION: REP. JOHNSON: Moves HB 2019 as amended to the House with a do pass recommendation.

VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Edmunson, Johnson, Mannix, Mason, Sunseri, Miller NO: 0 EXCUSED: Clark, Parks

069 CHAIR MILLER: HB 2019 as amended is passed to the House. Rep. Johnson will carry.

WORK SESSION ON HB 3545

078 HOLLY ROBINSON: Requires that petitioner in dissolution provide information to the respondent on continuation of health insurance benefits when dissolution petition is served on respondent rather than requiring court clerk to mail notice to both parties. It will save approximately \$50,000 in the next biennium. . 087 MOTION: REP. MANNIX: Moves HB 3545 to the House with do pass recommendation.

CHAIR MILLER; Rep. Mannix moves HB 3545 to the House.

VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NO: 0 EXCUSED: Mason, Parks

107 CHAIR MILLER: HB 3545 is passed to the House. Rep. Mason will carry.

WORK SESSION ON HB 2312 House Committee. on Judiciary April 25, 1991 - Page 7

109 JIM DOLE: Provides civil remedies to the DMV for enforcement of certification requirement of vehicle and mobile home dealers. Discusses the amendments (EXHIBIT F).

124 MOTION: REP. BRIAN: Moves adoption of the HB 2312A-7 amendments.

CHAIR MILLER: Rep. Brian moves the amendments to the bill. (EXHIBIT E). Hearing no objection, so adopted. 129 MOTION: REP. BRIAN: Moves HB 2312 as amended to the House with a do pass recommendation. CHAIR MILLER: Rep. Brian moves HB 2312 as amended to the House with a do pass recommendation. VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NO: 0 EXCUSED: Parks, Mason CHAIR MILLER: HB 2312 as amended is passed to the House. Rep. Brian will carry.

WORK SESSION ON HB 2381

139 JIM DOLE: It is the International Arbitration and Conciliation Act. Several states and foreign countries have adopted. It provides a system of rules for arbitration of commercial disputes and adds conciliation provisions.

148 MOTION: REP. BRIAN: Moves the amendments. (EXHIBIT G) CHAIR MILLER: Rep. Brian moves the amendments. Hearing no objection, so adopted.

151 MOTION: REP. BRIAN: Move HB 2381 as amended to the House with a do pass recommendation.

CHAIR MILLER: Rep. Brian moves HB 2381 as amended to the House with a do pass recommendation.

VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NO: 0 EXCUSED: Mason, Parks

CHAIR MILLER: HB 2381 as amended is passed to the House. Rep. Clark will carry.

WORK SESSION ON HB 3157 162 JIM DOLE: Raises the population levels for determining maximum fees collectable for the delivery of a writ of garnishment. - House Committee on Judiciary April 25, 1991 - Page 8

MOTION: REP. MANNIX: Moves to re-refer HB 3157 to the subcommittee.

CHAIR MILLER: Rep. Mannix moves re-referring HB 3157 back to the Civil subcommittee. 183 REP. MANNIX: Discusses what the subcommittee did with regard to social policy. 190 REP. EDMUNSON: The social policy was simply. It was whether Multnomah County gets special favors in Oregon law. There should be no special favors for any county. This bill simply set a ceiling. Opposes the motion. 195 REP. CLARK: Joins in the request to send the bill back. 210 REP. EDMUNSON: Previously handled

disagreements by a minority report on the House floor. 215 CHAIR MILLER: Calls for the vote on Rep. Mannix's motion to re-refer the bill to the Civil subcommittee. VOTE: 8-2 AYE: Baum, Bauman, Bell, Brian, Clark, Mannix, Sunseri, Miller NO: Edmunson, Johnson EXCUSED: Mason, Parks 223

CHAIR MILLER: HB 3157 is referred back to the Civil subcommittee. WORK SESSION ON SB 214 234 HOLLY ROBINSON: Discusses why the bill was brought back to the committee from the House floor to look specifically at the issue of which parole population this bill specifically applies to. The provisions of this bill apply only to the parole population incarcerated between December of 1986 and November, 1989. 255 MOTION: REP. MANNIX: Moves SB 214 back to the House with a do

pass recommendation. CHAIR MILLER: Rep. Mannix moves SB 214 to the House with a do pass recommendation. VOTE: 10-0 AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NO: 0 EXCUSED: Mason, Parks 272 CHAIR MILLER: SB 214 is passed back to the House with Rep. Parks to carry. *Adjourns at 2:40 p.m. Submitted by:
Reviewed by Kathy Neely, Assistant David Harrell, Office Manager

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