

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.

HOUSE COMMITTEE ON JUDICIARY

May 28, 1991Hearing Room 357 1:00 p.m.Tapes 50 - 51

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. Del Parks Rep. Ron Sunseri

STAFF PRESENT: Greg Chaimov, Committee Counsel Holly Robinson, Committee Counsel Jim Dole, Committee Counsel Jeff Steve, Committee Assistant

MEASURES HEARD:HB 2618 - W.S. SB 380 - W.S. SB 943 - W.S. SB 2720 - W.S. HB 2789 - W.S. HB 3495 - W.S. HB 2659 - W.S. HB 2843 - W.S. HB 3116 - W.S. HB 2673 - W.S. HB 3098 - W.S.

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TAPE 50, SIDE A

004 CHAIR RANDY MILLER: Opens House Committee on Judiciary at 1:37 p.m.

Opens work session on HB 2618.

HB 2618 - WORK SESSION

012 CHAIMOV: Reviews provisions of HB 2618 which increases from \$1,000 to \$2,000 the amount courts may ordered convicted defendants to pay for rewards paid to help capture them.

018 MOTION: REP. EDMUNSON: Moves adoption of HB 2618-1 amendments (EXHIBIT

A).

VOTE: Without objection, amendments are adopted.

020 MOTION: REP. BAUM: Moves HB 2681-1, as amended, to the floor with a do pass recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bell, Clark, Edmunson, Johnson, Sunseri, Miller NAYS: None EXCUSED: Reps. Bauman, Brian, Mannix, Mason, Parks

030 CHAIR MILLER: Rep. Sowa will carry the bill.

Closes work session on HB 2618.

Opens work session on SB 380.

SB 380 - WORK SESSION

032 CHAIMOV: Reviews provisions of SB 380 which increases the maximum number of alternate jurors in felony cases from two to six.

059 MOTION: REP. SUNSERI: Moves SB 380, as amended, to the floor with a "do pass" recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Sunseri, Miller NAYS: None EXCUSED: Reps. Brian, Mason, Parks

068 CHAIR MILLER: Rep. Mason will carry the bill.

Closes work session on SB 380.

Opens work session on SB 948.

SB 943 - WORK SESSION

068 HOLLY ROBINSON: Reviews provisions of SB 943 which expands the responsibilities of the local multidisciplinary teams established by the 1989 Legislature to investigate and review fatalities resulting from abuse and neglect.

076 MOTION: REP. EDMUNSON: Moves adoption of SB 943-A3 amendments (EXHIBIT B).

VOTE: Without objection, amendments are adopted.

079 MOTION: REP. EDMUNSON: Moves SB 943-A, as amended, to the floor with a "do pass" recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Parks, Sunseri, Miller NAYS: None EXCUSED: Reps. Brian, Mason

090 CHAIR MILLER: Rep. Bauman will carry the bill on the floor.

Closes work session on SB 943.

Opens work session on HB 2720.

HB 2720 - WORK SESSION

089 CHAIMOV: Reviews provisions of HB 2720 which expands the offenses for which the court may suspend the driving privileges of 13 to 17 year olds to include all offenses.

Subcommittee also prohibited insurance companies from raising car

insurance rates based on suspensions for non-driving offenses. Fiscal impact statement continues to show a substantial cost.

101 REP. BAUM: Does the committee have a bill related to 18 to 21 year olds?

103 CHAIMOV: That is the next bill up. It has a similar fiscal impact.

105 REP. CLARK: Suspension is discretionary with the court but covers any offense.

108 CHAIMOV: Yes.

Current law addresses alcohol and drug offenses whether or nor they are driving related.

115 MOTION: REP. MANNIX: Moves adoption of HB 2720-1 amendments (EXHIBIT C).

116 VOTE: Without objection, amendments are adopted.

117 MOTION: REP. MANNIX: Moves HB 2720 as amended to the floor with a "do pass" recommendation.

128 REP. MANNIX: The amended version of HB 2720 which is before the committee, takes current law which says there is a mandatory sanction for drug or alcohol offenses and mandates license suspension for juveniles for those offenses.

For other crimes, as an additional sanction available to the court, the court may suspend driving privileges. The offense does not have to be driving related. If the offense is not driving related, the amendments make it clear that the insurance rating of the individual can not be affected. The bill is designed to give juvenile court judges an added potential sanction to use in marginal cases involving juveniles. Also gives juveniles an answer to peer pressure.

Concerned that the Division of Motor Vehicles always has an extreme liberal view on how expensive costs will be when we try to propose crime control measures. Does not agree with DMV's estimate of costs with a discretionary program. Feels that actual costs will be much lower than DMV estimates and does not feel that the bill needs to go to Ways and Means.

164 REP. BAUMAN: Is not sure that existing law has reduced drug and alcohol use and traffic accidents by minors as the Staff Measure Summary states.

Without substantiation for the statement, asks that it be deleted before the summary goes to members on the floor.

188 CHAIR MILLER: Feels that the statement is supportable.

205 REP. MANNIX: The genesis of the bill was information I received from National Council of State Legislatures that other states are beginning to move on using the availability of the driver license as a tool in dealing with juvenile misconduct.

223 REP. CLARK: What happens to a juvenile who is stopped for driving while suspended?

229 HOLLY ROBINSON: It would be handled the same as an adult offense. If the judge were to sentence the individual time it would have to be according to the provisions of the juvenile code in order to place the juvenile in a juvenile detention facility.

240 REP. CLARK: Did the series of forfeiture laws, including the law for driving while suspended we have considered this session, include juveniles driving while suspended?

247 REP. MANNIX: That was driving while suspended for DUII.

251 REP. CLARK: Does not want a whole set of juveniles driving while suspended as a result of HB 2720.

260 REP. MANNIX: At least if we suspend someone's license the parents are in a position to take away the keys without having to engage in a lengthy moral debate with the teenager.

265 ROBINSON: The asset forfeiture statutes deal with drug offenses. The only time that a juvenile's car could be suspended under asset forfeiture is if the car is being used to convey drugs. If HB 2720 created other offenses, is not aware that it would trigger the asset forfeiture statutes unless controlled substances were involved.

278 REP. PARKS: The information from Department of Motor vehicles is suspect, but how are we going to make a determination on what to send to Ways and Means. Have to recognize that we have a financial responsibility and if leadership wants us to send bills with an impact of over \$50,000 to Ways and Means, thinks that should be done.

301 REP. MANNIX: Comments to the revised fiscal impact statement show us that whoever did it did not understand what they were doing or they were misinformed by DMV.

307 CHAIR MILLER: Perhaps this bill should be carried over to Friday's full Committee meeting and we can ask Robin Lamont to tell us how the impact statement was prepared.

329 REP. MANNIX: Withdraws motion to allow bill to be brought back.

334 REP. CLARK: Will be interested to hear what Fiscal Office has to say and may amend Rep. Mannix' motion for a Ways and Means referral.

345 CHAIR MILLER: Closes work session on HB 2720.

Opens work session on HB 2789.

HB 2789 - WORK SESSION

341 CHAIMOV: Reviews provisions of HB 2789 which expands the same drug suspension law you were just discussing. It would apply to 18 to 20 year olds guilty of alcohol and drug offenses. Under the amended version, the bill reads "may" suspend not "shall" suspend. The subcommittee also expanded the drug and alcohol conduct that triggers a suspension to include manufacturing, attempting to purchase, and furnishing. The fiscal impact statement you have is new and reduced but still substantial.

354 MOTION: REP. BAUM: Moves adoption of the HB 2789-2 amendments (EXHIBIT D).

VOTE: Without objection, amendments are adopted.

356 REP. BAUM: Prefers to have the bill carried over until more fiscal information is obtained.

371 REP. MANNIX: Would like Rep. Baum and himself to meet with the fiscal statement preparer and the information provider from DMV.

400 CHAIR MILLER: Closes work session on HB 2789.

Opens work session on HB 3495.

HB 3495 - WORK SESSION

405 CHAIMOV: Reviews provisions of HB 3495 which requires the court to suspend the driving privileges of minors who lie about their age or use false identification to buy alcohol. The bill also allows a liquor serving establishment to sue a minor who causes the establishment to be fined or closed.

394 MOTION: REP. SUNSERI: Moves adoption of the HB 3495-1 amendments (EXHIBIT E).

VOTE: Without objection, amendments are adopted.

397 MOTION: REP. SUNSERI: Moves HB 3495, as amended, to the floor with a "do pass" recommendation.

VOTE: On a roll call vote, motion passes. AYE: Reps. Baum, Bauman, Bell, Clark, Edmunson, Johnson, Mannix, Parks, Sunseri, Miller NAY: No EXCUSED: Reps. Brian, Mason

430 CHAIR MILLER: Rep. Brian will carry the bill on the floor.

Closes work session on HB 3495.

Opens work session on HB 2659.

TAPE 51, SIDE A

HB 2659 - WORK SESSION

006 CHAIMOV: Reviews provisions of HB 2659 which provides that health care providers who treat people for free will not be liable for negligence, only gross negligence or intentional misconduct. The bill does not apply where the medical service providers are required to provide their services for free.

012 MOTION: REP. MANNIX: Moves adoption of HB 2649-3 amendments (EXHIBIT F).

VOTE: Without objection, amendments are adopted.

013 MOTION: REP. MANNIX: Moves HB 2649, as amended, to the floor with a "do pass" recommendation.

015 REP. JOHNSON: Asks Counsel to compare HB 2649 with HB 2843 before

either bill is voted on.

020 CHAIMOV: HB 2843 applies to retired physicians who act on behalf of the County Health Department when acting as a branch of the public body. Their liability would then be limited like a public body.

HB 2659 applies to all medical service providers including retired physicians when they are simply treating people for free.

032 REP. MANNIX: Gives additional detail on HB 2659 and retired physicians, and HB 2843.

053 REP. BAUMAN: Concerned about the underlying policy theory in the bill. Does not think it is a bill to protect doctors, but that we are making a value judgment about needy people as opposed to those who have money.

The standard of practice is an important concept. Finds it offensive to assume that needy people do not have comparable value and do not experience comparable pain and loss when someone makes a judgment or standard of practice error.

074 REP. CLARK: Disagrees with Rep. Bauman. Thinks the assumption is that if you limit the liability there will be more people encouraged to engage in the practice of treating low income people.

092 REP. MASON: Will vote for the bill. Speaks of the work of Northwest Medical Team and his involvement with them.

130 REP. MANNIX: Conceptually need to remember that we are talking about zero medical services with wonderful opportunity to litigate versus some medical services with limited opportunities for litigation.

157 REP. BAUMAN: Feels bill does not go far enough in doing away with liability.

165 REP. BELL: By offering people a choice of care without liability for the physician, they will welcome the choice. Believe we have a much higher chance of expecting and getting high quality standards from our volunteering medical people than we do from getting state government to put more money into providing more medical care for the poor and needy.

177 REP. MANNIX: Gives letter to counsel for the record addressing the issue of constitutionality.

183 MOTION: REP. MANNIX: Moves HB 2659, as amended, to the floor with a "do pass" recommendation.

195 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bell, Brian, Clark, Johnson, Mannix, Mason, Sunseri, Miller NAYS: Reps. Bauman, Edmunson, Parks

200 CHAIR MILLER: Rep. Mannix will carry the bill on the floor. He will be joined by Rep. Mason.

Opens work session on HB 2843.

HB 2843 - WORK SESSION

198 DOLE: Agrees with Chaimov's review of HB 2843. Adds that HB 2843-2

amendments would include naturopathic physicians within the scope of the Act. Amendments may need clarification.

204 MOTION: REP. MANNIX: Moves HB 2843-2 amendments (EXHIBIT G) with deletion of lines 4 and 5 on page 1 and insertion of "except as provided in this Act."

220 REP. MANNIX: We had agreed that the physician would have the same kind of liability for his or her acts, but the liability in effect is shifted to the government agency. We had not agreed to restrict the liability of the physician.

237 VOTE: Without objection, amendments are adopted.

240 MOTION: REP. MANNIX: Moves HB 2843, as amended, to the floor with a "do pass" recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NAYS: None

270 CHAIR MILLER: Rep. Markham will carry the bill on the floor.

Closes work session on HB 2843.

Opens work session on HB 3116.

HB 3116 - WORK SESSION

274 HOLLY ROBINSON: Reviews provisions of HB 3116 which deletes the requirement that disclosure to parents can only occur under circumstances where the child's condition has deteriorated, the minor is suicidal, or where detox services are required and allows professional discretion to involve the parents when clinically appropriate and in the best interests of the child.

283 MOTION: REP. MANNIX: Moves HB 3116, as amended, to the floor with a do pass recommendation.

300 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NAYS: None EXCUSED: Rep. Clark

305 CHAIR MILLER: Rep. Mannix will carry the bill on the floor.

Closes work session HB 3116.

Opens work session on HB 2673.

HB 2673 - WORK SESSION

308 HOLLY ROBINSON: Directs committee's attention to HB 2673-2 amendments dated 5/23/91 (EXHIBIT H) which are a total revision of the bill. The revised bill will establish a specific prohibition in Oregon against baby selling and establishes a penalty of \$50,000 or three times the improper fee and directs Childrens Services Division to not delay an adoption due to the lack of potential adoptive families based solely on race, creed, color, or national origin.

312 MOTION: REP. MANNIX: Moves adoption of HB 2673-2 amendments.

316 VOTE: Without objection, amendments are adopted.

317 MOTION: REP. MANNIX: Moves HB 2673, as amended, to the floor with a do pass recommendation.

VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller
NAYS: None EXCUSED: Rep. Clark

343 CHAIR MILLER: Rep. Mason will carry the bill on the floor.

Closes work session on HB 2673.

Opens work session on HB 3098.

HB 3098 - WORK SESSION

342 HOLLY ROBINSON: Reviews provisions of HB 3098 which directs the State Marine Board to establish a safe boating education course which may be offered as a sentencing option for individuals convicted of boating offenses, revises procedures for handling boat cases so that they parallel traffic infractions, and allows the State Marine Board to suspend the boating registration of an individual who was charged with a boating offense or infraction and who is the registered owner of the boat until court imposed obligations are satisfied or the person subsequently appears.

The bill addresses the lack of sanctions on boating infractions against offenders.

356 MOTION: REP. MANNIX: Moves HB 3098 as already amended by the subcommittee to the floor with a do pass recommendation.

395 ROBINSON: Anticipates that a revised fiscal impact statement would drop significantly following amendment of the bill.

405 REP. MANNIX: Withdraws his motion pending revised fiscal analysis.

430 CHAIR MILLER: Adjourns at 2:35 p.m.

Transcribed by,

Pat Zwick

EXHIBIT LOG: A:HB 2618-1 Amendment - Staff - 1 page B:SB 943-A3
Amendment - Staff - 1 page C:HB 2720-1 Amendment - Staff - 3 pages D:HB
2789-2 Amendment - Staff - 5 pages E:HB 3495-1 Amendment - Staff - 2
pages F:HB 2659-3 Amendment - Staff - 2 pages G:HB 2843-2 Amendment -
Staff - 2 pages H:HB 2673-2 Amendment - Staff - 2 pages