

HOUSE COMMITTEE ON JUDICIARY

June 21, 1993 Hearing Room 357 1:30 p.m. Tapes 49 - 51

MEMBERS PRESENT: Rep. Del Parks, Chair Rep. Tom Mason, Vice-Chair Rep. Ken Baker Rep. Tom Brian Rep. Kate Brown Rep. Peter Courtney Rep. Jim Edmunson Rep. Veral Tarno Rep. Bob Tiernan

STAFF PRESENT: Sarah May, Committee Clerk Holly Robinson, Committee Counsel

MEASURES CONSIDERED: SB 139 - Relating to crime; declaring an emergency

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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. [--- Unable To Translate Graphic ---]

TAPE 49, SIDE A

003 CHAIR PARKS: Calls the meeting to order at 1:45 p.m.

PUBLIC HEARING ON SB 139

(SB 139 modifies allocation formula for community corrections enhancement grants)

Witnesses: Dale Penn, Oregon District Attorney Association Paul Snider, Association of Oregon Counties Bob Keyser, Federation of Oregon Parole and Probation Officers John Hartner, Washington County Community Corrections Dee Dee Kouns, Crime Victims United Bob Kouns, Crime Victims United Frank Hall, Oregon Department of Corrections Lisa Claussen, Department of Corrections Danny Santos, Parole Board Fred Avera, Oregon District Attorney's Association

031 DALE PENN, OREGON DISTRICT ATTORNEY ASSOCIATION: Testifies in support of SB 139. Would add to the definition of the bill, in the

reclassification of theft charges, a definition of aggregation, explains.

040 CHAIR PARKS: Are you satisfied with the definition of "aggregation" that is in there now?

047 PENN: Yes. Continues with testimony.

178 REP. TIERNAN: What section of the bill addresses the monies allowed in the guidelines? And could you give us some examples of what the

sentences would be?

183 PENN: Explains and discusses sentencing guidelines. Discusses the definition of the provisions.

219 REP. TIERNAN: Asks about the levels of sentencing on the grid, and how much time a person consequently will spend in jail.

226 PENN: Discusses "departure" and the sentencing of jail time under this provision.

249 REP. TIERNAN: Asks about the reduction of prison terms.

261 PENN: We now have a reduction of jail time sentencing. Explains the reduction in sentencing guidelines, changing felonies to misdemeanors,

and jail beds vs. prison terms. Discusses the judges prerogative in sentencing.

346 REP. BRIAN: Where are felonies made misdemeanors in this provision?

352 PENN: Discusses the types of crimes that are made into misdemeanors.

389 REP. BRIAN: Asks about the crime sentencing numbers and when they were established.

393 PENN: 1971.

405 CHAIR PARKS: Asks about specific language in the bill and where it was derived from.

411 PENN: The language came from a bill last session. Explains the language and what it does.

441 PAUL SNIDER, ASSOCIATION OF OREGON COUNTIES: Testifies in support of SB 139.

TAPE 50, SIDE A

019 BOB KEYSER, FEDERATION OF OREGON PAROLE AND PROBATION OFFICERS, AND THE OREGON COUNCIL OF POLICE ASSOCIATIONS: Testifies in opposition to SB

139.

029 REP. BROWN: This bill repeals ORS 144.305, correct?

032 KEYSER: That's true. Continues with testimony.

070 REP. BROWN: Do you think letting criminals back out on the street so that the voters will pass a tax reform, is a better

public safety

measure?

074 KEYSER: No, you have to have prisons.

075 REP. BROWN: There isn't enough money.

076 KEYSER: The Department of Corrections does have some money. People should be on parole for three or more years, with an option for their

sentence to be shortened.

087 CHAIR PARKS: Asks about the long probations, and if it wouldn't be better to keep them in prison.

093 KEYSER: Not opposed to that.

094 REP. TIERNAN: Asks about the different views of the six month probation period.

109 KEYSER: Discusses the options of a six month probation and the different examples that can happen.

124 REP. TIERNAN: How does the reduction of parole and probation work through the initiative petition?

128 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses the Denny Smith initiative.

134 REP. TIERNAN: I thought that was a constitutional amendment?

135 HOLLY ROBINSON, COMMITTEE COUNSEL: No, it was a statutory change.

138 CHAIR PARKS: I don't see how you hound people into being good. Discusses options.

145 KEYSER: Six months probation won't work.

153 JOHN HARTNER, WASHINGTON COUNTY COMMUNITY CORRECTIONS: Testifies in support of SB 139.

202 REP. BRIAN: If there was money to put into the system, what would you do with it?

205 HARTNER: Would make an investment in community corrections, explains.

230 REP. BRIAN: Asks about what would happen to the personnel if this bill passed.

238 HARTNER: We will be laying off staff.

239 REP. BRIAN: How many?

240 HARTNER: With this bill, we will lay off 10 people.

249 REP. BRIAN: Would that mean increasing intermediate sanction

activity?

252 HARTNER: We have to purchase intermediate sanction activity, explains.

266 REP. BRIAN: What do you lose by laying off six people?

268 HARTNER: We lose supervision for lower risk offenders.

272 REP. BRIAN: If extra money is available, where would that be applied?

277 HARTNER: It would go into a combination of restitution, community corrections, and supervision.

294 REP. BROWN: What kind of case load do your parole officers have?

296 HARTNER: Depends on the classification. Discusses the goal for next year between 70-80 cases per parole officer.

301 REP. BROWN: For the higher risk?

302 HARTNER: Yes. Discusses the ratios for the other classifications.

306 REP. TARNO: What percentage of cases are drug related?

308 HARTNER: 70%.

309 REP. TARNO: Asks about the involvement of a program similar to Multnomah County's.

311 HARTNER: That is the general idea, but it would be some what different.

312 REP. TARNO: Can you revoke parole if you find a drug user?

313 HARTNER: No, but this legislation will give us the capacity to use those sanctions. Discusses parole programs.

348 REP. TIERNAN: What section of the bill reduces the presumptive sentence by a two-thirds?

351 HOLLY ROBINSON, COMMITTEE COUNSEL: Section 15.

354 DEE DEE KOUNS, CRIME VICTIMS UNITED: Testifies in opposition to SB 139 .

TAPE 49, SIDE B

094 CHAIR PARKS: Doesn't this bill introduce an immediate consequence?

098 KOUNS: Doesn't work for the people who are first starting out doing crime.

102 REP. MASON: Asks about Kouns' role with public concern and ballot Measure 5. 126 KOUNS: Crime Victims United didn't support ballot Measure 5. Discusses ballot Measure 5.

207 BOB KOUNS, CRIME VICTIMS UNITED: Testifies in opposition to SB 139.

238 FRANK HALL, OREGON DEPARTMENT OF CORRECTIONS: Testifies in support of SB 139. Discusses the positive effect of evaluations being done by

someone outside of our offices.

252 CHAIR PARKS: Asks about the determination of the enhancement grants formula.

261 LISA CLAUSSEN, DEPARTMENT OF CORRECTIONS: Discusses the allocations of local counties.

285 REP. BRIAN: The formula has already been reviewed by the Community Corrections Advisory Board (CCAB)?

287 CLAUSSEN: Yes.

291 REP. BRIAN: Asks about the creation of measurement outcomes being evaluated by outside agencies and how that would happen.

295 HALL: Discusses that in the Senate version, there is a budget note to that effect.

305 REP. BROWN: Asks if "supervisor" refers to probation officer or management.

311 CLAUSSEN: The supervising officer is the agency and the probation and parole officer.

317 REP. BROWN: Asks about the language that was in previous legislation, and if that was the intent in this bill?

321 CLAUSSEN: Yes.

335 REP. COURTNEY: When is the evaluation to take place?

342 HALL: Reads language from the bill. Discusses the evaluation process of a person coming back to prison.

367 REP. COURTNEY: The language in the bill doesn't say that an evaluation is to be done by an outside agency, and there is no interim language in it.

375 HALL: Reads interim language from Senate budget. This attempts to address that the information is forwarded to the parole board.

399 REP. COURTNEY: Discusses what should be done in the interim relating to this bill.

421 REP. BRIAN: Asks about the shift to the six month intensity of the post-custody program.

453 HALL: It is important that we look at that. Discusses the amount of revocation that has been cut, dealing with the sanctions that are

applied. TAPE 50, SIDE B

025 REP. BRIAN: Where would you spend extra money if it were available?

027 HALL: Agree's with Hartner's answer. Discusses his options and what he would do with the money.

WORK SESSION ON SB 139

066 CHAIR PARKS: Discusses changes and amendments or lack of in Section 1, Section 4, Section 5.

081 REP. BAKER: Uncomfortable with the parolee's only being supervised for six months. Would like a three year supervision.

091 CLAUSSEN: Discusses Section 4 about probation supervision.

125 MOTION: REP. BAKER: Moves to AMEND SB 139 by "six months" and inserting "three years" in Section 4, line 12.

129 REP. BRIAN: Asks about language in the bill regarding the six month minimum probation.

135 CLAUSSEN: Discusses the different options now for sentencing.

141 REP. BRIAN: Are you trying to retain the six month minimum which eliminates the graduations from parole?

148 CLAUSSEN: Yes, this does eliminate the specific graduations, but it does allow them to be kept on an inactive status for the remainder of

their term.

152 REP. BRIAN: Are you seeking flexibility with this bill?

153 CLAUSSEN: Yes, explains.

163 HALL: Discusses the supervision plan, and how people are supervised.

171 REP. BROWN: Doesn't like the six month minimum on all felonies. Discusses sentencing guidelines grid. Doesn't think that all crimes

should have the same probation time.

188 CLAUSSEN: Explains the guidelines for probation.

194 REP. TIERNAN: Agree's with Rep. Brown.

197 REP. BAKER: Six months just isn't long enough.

205 HALL: 41% go back to prison three years after release.

210 REP. BAKER: Two classes of people go back into prison, explains.

213 HALL: All classes of felons add up to 41%.

222 REP. TIERNAN: Discusses following grid for sentencing probation. Explains and restates motion for an amendment.

245 REP. BRIAN: How is that different than current plan?

248 CLAUSSEN: This is the current plan.

250 DANNY SANTOS, PAROLE BOARD: Explains that this is the current post supervision plan.

266 REP. TARNO: Asks about reducing the size of staff, and if they would still be able to effectively supervise the people on probation.

271 HALL: We wouldn't have adequate staff, explains.

285 REP. BROWN: Discusses grid, suggests language, and asks if the numbers would change on the grid.

293 SANTOS: Explains the supervision process and that probation is a different matter.

306 REP. TIERNAN: Restates Rep. Baker's motion based on the sentencing guideline grid for post prison supervision and the exceptions.

313 CHAIR PARKS: Don't they still have to serve the minimum amount of time?

318 REP. TIERNAN: States language dealing with the exceptions to the minimum amount of time to be served.

325 HOLLY ROBINSON, COMMITTEE COUNSEL: You will need to delete Section 4 because you are restoring statutes to what they are now.

337 CHAIR PARKS: Discusses the presumptive with the right of the parole officer to excuse a parolee for good performance. Asks if there is a
minimum time period, if someone who was supposed to be on parole for three years could get out in 2 months.

348 REP. BROWN: We want a minimum parole sentence.

354 REP. BRIAN: Asks if a minimum of a year parole could increase.

357 HALL: Yes, there would be a substantial impact.

363 CLAUSSEN: Explains the financial increase in certain areas, and the difficulty of the funding for the kind of status they need.

380 CHAIR PARKS: Discusses that the sentencing should be done on a ratio.

388 REP. TIERNAN: Explains the ratios and what they would be. 394
REP. MASON: This is a economic bill.

408 CHAIR PARKS: Agrees.

412 REP. TARNO: Asks about the grid outlines and what kind of a

fiscal impact that would have?

415 CLAUSSSEN: Can't say.

419 REP. BROWN: This has to cut the impact in half.

430 MOTION: REP. TIERNAN: Moves to AMEND SB 139, restates language stated above at tape count 318.

436 HOLLY ROBINSON, COMMITTEE COUNSEL: This language would be restoring the bill to what it currently is?

439 REP. TIERNAN: Yes, with a mandatory minimum.

TAPE 51, SIDE A

007 REP. MASON: How much work are we forcing the parole board into, are they always going to worry about the money?

015 HALL: We need to know in cost how much of a change this would be making.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Courtney and Rep. Edmunson are excused.

031 CHAIR PARKS: Need to adopt an amendment dealing with a parole officer determining when someone should be excused from parole.

037 HALL: The recommendation should be made by the parole officer to the board of parole.

039 SANTOS: Discusses compliance and recommendation.

042 MOTION: REP. BROWN: Moves to AMEND SB 139 by CONCEPTUALLY ADOPTING CRITERIA STATED BY HALL AND SANTOS.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Courtney and Rep. Edmunson are excused.

052 CHAIR PARKS: Are any changes needed in the intermediate sanction procedure? Discusses Section 15.

056 REP. TIERNAN: Doesn't like Section 15, explains.

072 REP. BROWN: States concern of lack of local jail space, discusses judges sentencing options.

086 REP. TIERNAN: Discusses judge's sentencing rights, and if Section 15 is needed?

096 HALL: The goal is to preserve some local sanctions.

100 REP. TIERNAN: Gives example of crime and what the sentence should be, and the judge's prerogative of assigning a sentence or parole time.

107 CLAUSSSEN: The judge can put someone in prison, he just has to make the finding that there is a bed available.

110 REP. TIERNAN: Don't judges give their own idea of how long

sentencing should be now?

112 CLAUSSEN: Yes, explains what this would allow the judge to use their own prerogative. This is already in the guidelines.

124 CHAIR PARKS: Need to add language so that we don't have to rely on what is in the guidelines.

128 CLAUSSEN: That should be fine.

132 MOTION: REP. TIERNAN: Moves to AMEND SB 139 by deleting Section 15, line 19-20, "and pursuant to the rules of state sentencing guidelines"

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Courtney and Rep. Edmunson are excused.

136 CHAIR PARKS: Discusses Section 16, Section 19.

147 REP. TIERNAN: Suggests adding "forfeiture" to Section 27.

155 CHAIR PARKS: Discusses Tiernan's de-felonizing proposal.

159 REP. TIERNAN: Gives suggestions to the bill about de-felonization.

171 REP. BRIAN: Asks about the financial numbers involved.

178 REP. BAKER: Supports \$1000 change.

181 REP. TIERNAN: Withdraws the motion for a \$1,000 change, gives more suggestions for an amendment.

189 REP. BAKER: I've never heard of anyone getting these fines.

197 REP. TIERNAN: Discusses the class felony fines.

202 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill only deals with misdemeanor crimes.

207 MOTION: REP. TIERNAN: Moves to AMEND SB 139 to include the felony fines. VOTE: Hearing no objections the amendments are ADOPTED. Rep. Courtney and Rep. Edmunson are excused.

216 MOTION: REP. TIERNAN: Moves to AMEND SB 139 by adding the civil forfeiture language dealing with driving while suspended.

223 HOLLY ROBINSON, COMMITTEE COUNSEL: That has already been adopted, we can replace it. We need to either make it consistent, or add it in lieu of.

241 REP. BRIAN: Suggest a duplication.

244 HOLLY ROBINSON, COMMITTEE COUNSEL: Do you want the other reclassification of felonies in this bill as well?

247 REP. PARKS: Yes.

VOTE: Hearing no objections the amendments are ADOPTED.
Rep. Courtney and Rep. Edmunson are excused.

250 REP. TIERNAN: Why is there an emergency clause on the bill?

257 HOLLY ROBINSON, COMMITTEE COUNSEL: He is correct, if there is an emergency clause, it will have to exclude the new offenses.

268 MOTION: REP. TIERNAN: Moves to AMEND SB 139 by deleting Sections 23 and 24.

269 REP. BRIAN: Objects. Asks about a definition of "ocean burglary".

278 REP. MASON: Explains ocean burglary.

294 FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION: Agrees with Mason's explanation.

298 REP. BRIAN: Asks about the Oregon District Attorney's position on the bill.

309 AVERA: The Oregon District Attorney doesn't agree with everything, but likes SB 139 overall.

313 REP. BRIAN: Support leaving ocean burglary in if two misdemeanors equal a felony.

322 REP. TIERNAN: There are not very many Ocean Burglary prosecutions.

323 AVERA: Can't say for other parts of the state, but explains their policy for Ocean Burglary prosecution.

338 REP. TIERNAN: Discusses that most merchants use this as a "felony" scare.

VOTE: 2-5 MOTION FAILS AYE: Tarno, Tiernan NO: Baker, Brian, Brown, Mason, Chair Parks EXCUSED: Courtney, Edmunson

367 MOTION: REP. TIERNAN: Moves to AMEND SB 139 by reinstating the Clackamas County intake center, and that it is not closed.

376 CHAIR PARKS: Where is that in the bill?

379 HALL: It is not part of the bill, but part of the budget plan.

382 REP. BRIAN: Was it in SB 139?

383 HALL: No.

390 REP. BRIAN: Asks about writing a letter to Appropriations, and what should be included in that.

405 REP. TIERNAN: Withdraws motion.

411 REP. BAKER: Discusses language in Section 4 dealing with the

length of felon sentencing.

429 CHAIR PARKS: We aren't dealing with the felon classes of people.

439 CLAUSSEN: Discusses what the offset will be from changing Section A.

453 CHAIR PARKS: The parole officer can recommend to the board that a person can be terminated from probation, but we have set minimums.

462 CLAUSSEN: This follows the grid.

481 CHAIR PARKS: Adjourns the meeting at 4:06 p.m.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk