

HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

March 29, 2005 Hearing Room 357

8:30 A.M. Tapes 33 - 34

MEMBERS PRESENT: Rep. Jeff Barker, Chair

Rep. Greg Macpherson

Rep. Andy Olson

Rep. Kim Thatcher

GUEST MEMBER: Rep. Wayne Krieger

STAFF PRESENT: Heidi Moawad, Counsel

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

HB 3010 – Public Hearing

HB 2972 – Public Hearing and Work Session

HB 2312 – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/# Speaker Comments

TAPE 33, A

003 Chair Barker Calls the meeting to order at 8:35 a.m. Opens a public hearing on HB 3010. Announces the work group meeting.

HB 3010 – PUBLIC HEARING

012 Heidi Moawad Counsel. Asks interested parties to sign up so they may be contacted for work group meeting.

014 Chair Barker Closes public hearing on HB 3010. Opens public hearing on HB 2972.

HB 2972 – PUBLIC HEARING

015 Heidi Moawad Counsel. Introduces HB 2972, which modifies provisions relating to consecutive sentences.

042 Brad Berry Oregon District Attorneys Association (ODAA).

044 Jonathan Fussner Assistant Attorney General, Department of Justice (DOJ).

046 Berry Testifies in support of HB 2972. Provides background for the bill.

069 Fussner Testifies in support of HB 2972. Discusses consecutive sentences.

106 Moawad Suggests an amendment adding an emergency clause. Seeks clarification on “are for offenses of the same class” on line 27, page 1.

114 Fussner Explains basis on which consecutive sentences may be imposed.

159 Rep. Olson Asks if the rewording resolves the *Blakely* issue regarding consecutive sentences.

160 Fussner Answers affirmatively.

165 Rep. Macpherson Notes two areas with offenses in the same class where there is a different standard of discretion for judges.

178	Fussner	Explains the intent of HB 2972, and the cases where consecutive sentences may be imposed.
203	Rep. Macpherson	Seeks clarification for times when courts have discretion, the factors taken into account, and the mechanics of determining which list to follow.
218	Fussner	Describes the factors that allow a consecutive sentence to be imposed.
234	Kelly Skye	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2972. Explains that this fix is not necessary, as it has not been determined that <i>Blakely v. Washington</i> will affect consecutive sentences, and if it does, the <i>Blakely</i> work group has developed a plan.
319	Moawad	States that this bill was discussed by the <i>Blakely</i> work group.
330	Skye	Relates that she is not on the work group.
334	Berry	Reports on the discussion on HB 2972 by the <i>Blakely</i> work group.
364	Rep. Macpherson	Questions why this legislation is separate from the work group.
370	Berry	Explains the purpose of the work group, and the issues discussed.

TAPE 34, A

012	Moawad	Clarifies the purpose of the <i>Blakely</i> work group.
020	Berry	Explains that the primary function of the work group was to address sentencing guidelines, and the other possible issues were addressed separately.
027	Rep. Macpherson	Clarifies the <i>Blakely</i> fix on HB 2972, and states that he sees more being done than what is needed to clarify <i>Blakely</i> issues.
046	Berry	Explains the current method to determine consecutive sentencing.
072	Rep. Macpherson	Inquires about the <i>Blakely</i> work group bill.

- 076 Moawad Explains what is happening to the bill.
- 088 Berry Confirms that the work group bill is the preferred bill, and explains why the other two *Blakely* bills are addressing other likely issues.
- 102 Krieger States that the work group worked on Blakely issues for six or eight months, and explains what has gone into the issue.
- 128 Chair Barker Closes public hearing and opens a work session on HB 2972. Explains intent for moving the bill.

HB 2972 – WORK SESSION

- 134 Rep. Olson **MOTION: Moves HB 2972 to the full committee with a DO PASS recommendation.**

- 137 Rep. Macpherson Explains why he will be voting no.

VOTE: 3-1-0

AYE: 3 - Olson, Thatcher, Barker

NAY: 1 - Macpherson

- 142 Chair Barker **The motion CARRIES.**
REP. OLSON will lead discussion in the full committee.

- 144 Chair Barker Closes work session on HB 2972. Opens a work session on HB 2312.

HB 2312 – WORK SESSION

- 145 Heidi Moawad Counsel. Provides background on HB 2312 and explains -1 amendments (**EXHIBIT A**).

- 167 Rep. Thatcher **MOTION: Moves to ADOPT HB 2312-1 amendments dated 3/11/05.**

VOTE: 4-0-0

- 169 Chair Barker Hearing no objection, declares the motion **CARRIED**.
- 170 Rep. Thatcher **MOTION: Moves HB 2312 to the full committee with a DO
PASS AS AMENDED recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 174 Chair Barker The motion **CARRIES**.
- REP. THATCHER will lead discussion in the full committee.**
- 176 Chair Barker Closes work session on HB 2312. Adjourns the meeting at 9:20 a.m.

EXHIBIT SUMMARY

- A. **HB 2312, -1 amendments, staff, 1 p**