

SENATE COMMITTEE ON JUDICIARY

June 15, 2005
1:00 P.M.

Hearing Room 343
Tapes 169 - 170

MEMBERS PRESENT: Sen. Ginny Burdick, Chair
Sen. Roger Beyer
Sen. Floyd Prozanski
Sen. Charlie Ringo
Sen. Vicki Walker
Sen. Doug Whitsett

MEMBER EXCUSED: Sen. Charles Starr, Vice-Chair

STAFF PRESENT: Heidi Moawad, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2361A – Work Session
HB 2297 – Work Session
HB 2299 – Work Session
HB 2144 – Work Session
HB 2312A – Work Session
HB 2142A – Work Session
HB 2224A – 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 169, A		
003	Chair Burdick	Calls the meeting to order at 1:27 p.m. and opens a work session on HB 2361A.
<u>HB 2361A – WORK SESSION</u>		
006	Heidi Moawad	Counsel. Describes HB 2361A relating to requiring the revocation of driving privileges of persons convicted of a misdemeanor while driving under the influence of intoxicants for a third or subsequent time.
020	Sen. Walker	MOTION: Moves HB 2361A to the floor with a DO PASS recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Starr
023	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. PROZANSKI will lead discussion on the floor.
026	Chair Burdick	Closes the work session on HB 2361A and opens a work session on HB 2297.
<u>HB 2297 – WORK SESSION</u>		
028	Heidi Moawad	Counsel. Describes HB 2297 relating to expanding the circumstances under which public indecency is a felony.

038	Sen. Walker	Introduces a fiscal analysis of HB 2297 (EXHIBIT D). MOTION: Moves HB 2297 to the floor with a DO PASS recommendation. VOTE: 5-0-2
040	Chair Burdick	EXCUSED: 2 - Ringo, Starr Hearing no objection, declares the motion CARRIED. SEN. WHITSETT will lead discussion on the floor.
042	Chair Burdick	Closes the work session on HB 2297 and opens a work session on HB 2299.
<u>HB 2299 – WORK SESSION</u>		
043	Heidi Moawad	Counsel. Describes HB 2299 relating to requiring a person relieved of the duty to report as a sex offender to provide to the Department of State Police a copy of the court order relieving the person of duty. Introduces and describes the -1 amendment (EXHIBIT A).
056	Sen. Prozanski	Asks if the community colleges and universities would be covered under this bill.
060	Moawad	States that she followed up on that point with representatives from the community colleges.
065	Sen. Walker	MOTION: Moves to ADOPT HB 2299-1 amendments dated 5/12/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Starr
068	Chair Burdick	Hearing no objection, declares the motion CARRIED.
071	Sen. Walker	MOTION: Moves HB 2299 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Starr
073	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.
075	Chair Burdick	Closes the work session on HB 2299 and opens a work session on HB 2144.
<u>HB 2144 – WORK SESSION</u>		
077	Heidi Moawad	Counsel. Describes HB 2144 relating to modifying the conditions of probation for persons previously convicted of a sex offense. Introduces and describes the -1 and -2 amendments (EXHIBITS B & C).
095	Chair Burdick	Asks if they need to adopt the -1 amendment.
110	Scott Taylor	Chief of Community Corrections, Oregon Department of Corrections. Describes the reasoning behind the drafting of the bill.
132	Pat Schreiner	Marion County Sheriff's Office, Parole and Probation Division. Testifies in support of HB 2144. Talks about SB 267 in the 2003 Legislative session dealing with evidence based practices.
156	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to the juvenile adjudication issue within the bill.
172	Sen. Prozanski	Asks if she is supportive of the -1 amendment, which would remove the juvenile issue she has a conflict with.
174	Skye	Replies affirmatively. Continues discussion on juvenile offenses having a larger than intended impact on an individuals' future record.
192	Sen. Whitsett	Comments on the issue of statutory rape (perhaps consensual between two age-varied individuals) falling under the effects of this bill.

200	Skye	Talks about the statutory rape issue being classified as a sex offense which would fall under this broadly encompassing bill.
218	Sen. Whitsett	Wonders about the numbers of individuals who have been convicted of sex crimes who develop behavior as a teenager who might repeat later in life.
222	Schreiner	Stresses that the most heinous sex offenders tend to start young.
234	Sen. Ringo	Talks about a drafting conflict on line 9 of the -1 amendment.
251	Sen. Walker	Discusses her stance on the bill. States that there are currently over 3000 sex offenders in the Oregon Department of Corrections.
288	Sen. Ringo	Declares his support for the -1 amendment.
291	Sen. Prozanski	Comments on the methods used in other states. Talks about the broad nature of the bill.
316	Sen. Walker	Brings up the issue of static-99: a tool used to determine the threat level of sex offenders.
331	Taylor	Discusses the static-99 assessment method tool that analyzes sex offender danger levels.
355	Chair Burdick	Wonders about the circumstances that would call for such screenings.
363	Schreiner	Stresses that these individuals are not the type who go thirty years without a repeat offense; generally the offenders are young (early 20s) with juvenile issues before repeat offending.
398	Sen. Prozanski	Inquires about the assessment process used by the parole officers (static-99).
416	Schreiner	Discusses why this bill was brought before the committee: several officers requested sex offender treatment for individuals under their care who were not given the treatment they needed.
443	Sen. Whitsett	Declares his hesitance to support the bill; the letter of the statute may be too broad.
TAPE 170, A		
022	Sen. Walker	MOTION: Moves to ADOPT HB 2144-1 amendments dated 5/31/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Starr
025	Chair Burdick	Hearing no objection, declares the motion CARRIED.
026	Sen. Beyer	Discusses the -2 amendment dealing with certain sex offender information available on specific websites.
042	Sen. Prozanski	Stresses that a fiscal may be needed for this amendment (which has another bill as the body of the amendment).
058	Sen. Walker	Talks about a sex offender internet program started across the United States by the federal government.
065	Sen. Beyer	Addresses section 3 of the -2 amendment dealing with government websites.
084	Sen. Ringo	States that he is new to the issue and needs to be caught up.
086	Sen. Prozanski	Brings up the issue of this amendment possibly becoming an unfunded mandate for smaller counties and areas that cannot afford such responsibility.
117	Schreiner	Comments on the problems they have with the -2 amendment. Talks about the lack of consistency, statewide, with sex offender notifications (website, etc.).
158	Sen. Walker	MOTION: Moves HB 2144 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Starr

161 Chair Burdick

162 Chair Burdick

166 Chair Burdick

HB 2312A – WORK SESSION

174 Heidi Moawad

185 Brad Berry

207 Sen. Walker

210 Sen. Beyer

216 Chair Burdick

234 Sen. Whitsett

243

249 Chair Burdick

250 Sen. Walker

255 Chair Burdick

261 Sen. Beyer

262 Chair Burdick

266 Moawad

277 Chair Burdick

HB 2142A – WORK SESSION

279 Heidi Moawad

289 Chair Burdick

299 Sen. Prozanski

305 Sen. Prozanski

343 Sen. Walker

Hearing no objection, declares the motion CARRIED.

SEN. BURDICK will lead discussion on the floor.

Closes the work session on HB 2144 and calls the meeting to recess at 2:07 p.m.

Calls the meeting to order at 2:35 p.m. and opens a work session on HB 2312A.

Counsel. Describes HB 2312A relating to extending the time that a motion requesting the performance of DNA testing must be filed. Introduces and describes the –A3 amendment (**EXHIBIT E**).

Yamhill County District Attorney, Oregon District Attorneys Association. Testifies in support of HB 2312A.

MOTION: Moves to ADOPT HB 2312A-A3 amendments dated 5/12/05.

Declares his opposition to this bill.

Discusses her stance on the issue where sometimes people may feel pressured into pleading guilty even if they are not.

Stresses his hesitant support for the bill with the amendment.

VOTE: 5-1-1

AYE: 5 - Prozanski, Ringo, Walker, Whitsett, Burdick

NAY: 1 - Beyer

EXCUSED: 1 - Starr C.

The motion CARRIES.

MOTION: Moves HB 2312A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 5-1-1

AYE: 5 - Prozanski, Ringo, Walker, Whitsett, Burdick

NAY: 1 - Beyer

EXCUSED: 1 - Starr C.

The motion CARRIES.

SEN. BURDICK will lead discussion on the floor.

Asks about a fiscal for the amendment.

Replies that there is no fiscal.

Stresses that there is no memo regarding a fiscal that she is aware of: Oregon State Police declared that this bill might create a fiscal but they are not certain.

Closes the work session on HB 2312A and opens a work session on HB 2142A.

Counsel. Describes HB 2142A relating to specifying the circumstances under which corrections officers or other officials employed by the Oregon Department of Corrections may and may not use deadly physical force. Introduces and describes the –A2 amendment (**EXHIBIT F**).

Declares her support for the bill without the –A2 amendment.

Offers his support for the bill with the –A2 amendment, but states that use of force issues, and the training involved, will be analyzed by experts whenever such action is taken.

Raises another issue with the –A3 amendments.

MOTION: Moves HB 2142A to the floor with a DO PASS recommendation.

VOTE: 5-0-2

EXCUSED: 2 - Ringo, Starr

Hearing no objection, declares the motion CARRIED.

SEN. PROZANSKI will lead discussion on the floor.

Closes the work session on HB 2142A and opens a work session on HB 2224A.

349 Chair Burdick

361 Chair Burdick

HB 2224A – WORK SESSION

364 Heidi Moawad

Counsel. Describes HB 2224A relating to requiring the appellate court, after reversing any count but not all counts on appeal to remand the case to a trial court for resentencing on the remaining count or counts. Introduces and describes the –A2 amendment (**EXHIBIT G**).

389 Jonathan Fussner

Oregon Department of Justice. Testifies in support of HB 2224A and talks about the –A2 amendment.

408 Chair Burdick

Asks about situations where someone has a combination of concurrent and consecutive sentences.

424 Fussner

Talks about the scenario raised by Chair Burdick.

460 Fussner

Stresses that the trial judge has discretion on what to do in these instances of multiple offenses.

TAPE 169, B

021 Sen. Beyer

Wonders about upward departures issues with the *Blakely* decision and the relation with this bill.

031 Fussner

Comments on cases on remand where *Blakely* was decided during the process.

052 Chair Burdick

Asks what would happen if we don't pass this bill.

054 Fussner

States that not much would occur if this bill wasn't passed. Talks about what might happen.

073 Chair Burdick

Places this bill onto the agenda for Thursday, June 17, 2005. Adjourns the meeting at 2: 58 p.m.

EXHIBIT SUMMARY

- A. HB 2299, -1 amendment, staff, 26 pp
- B. HB 2144, -1 amendment, staff, 1 p
- C. HB 2144, -2 amendment, staff, 3 pp
- D. HB 2297, fiscal analysis, staff, 1 p
- E. HB 2312, -A3 amendment, Sen. Burdick, 4 pp
- F. HB 2142, -A2 amendment, staff, 1 p
- G. HB 2224, -A2 amendment, staff, 3 pp