

HOUSE COMMITTEE ON JUDICIARY

April 03, 2003 Hearing Room 357

1:00 pm Tapes 121 - 124

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Jeff Barker
 Rep. Bob Jenson
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

MEMBER EXCUSED: Rep. Gordon Anderson, Vice-Chair

STAFF PRESENT: William Taylor , Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2414 Public Hearing**
 HB 3559 Public Hearing and Work Session
 HB 2802 Public Hearing
 HB 2865 Public Hearing
 HB 2885 Public Hearing and Work Session
 HB 2092 Work Session
 HB 2877 Public Hearing

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 121, A		
030	Chair Williams	Opens meeting at 1:10 p.m. Opens public hearing on HB 2414.
<u>HB 2414 PUBLIC HEARING</u>		
035	Bert Geiger	Portland Police Reserves. Explains HB 2414 which expands authority of reserve officers. Describes the work of the police reserves. Testifies in support of HB 2414
060	Denney Kelley	Portland Police Bureau. Explains legislative intent of the bill. Clarifies authority for reserve officers.
098	Geiger	Says City of Portland supports HB 2414.
099	Kelley	Mentions other supporters of HB 2414.
100	Rep. Barker	Asks if this clarifies the authority of reserve officers.
150	Brian Delashmutt	Oregon Council of Police Associations. Testifies in opposition to HB 2414. Explains the concern is between certified reserve officer and reserve officer. Concern is with the level of training. Concern is with the expansion of authority and especially the ability to carry a concealed handgun.
162	Rep. Jenson	Asks about the meaning of "reserve officer," and if they are allowed to carry a handgun if they are not concealed.
186	Chair Williams	Asks Mr. DeLashmutt to work on concerns with the bill. Asks Oregon Police Bureau to speak with chiefs and sheriffs

190	Chair Williams	associations. Closes public hearing on HB 2414. Opens public hearing on HB 3559.
<u>HB 3559 PUBLIC HEARING</u>		
229	Steve Doell	Crime Victims United of Oregon. HB 3559 directs Attorney General to produce and broadcast radio and television advertisements, and to prepare videotape program, to urge prevention of violent crime and inform individuals of sentences for Measure 11 crimes. Testifies in support of HB 3559 which would promote radio and television announcements on Measure 11.
272	Hardy Myers	Attorney General. Testifies in support of HB 3559. Supports public service announcements to educate young people.
305	Judge Sid Galton	Multnomah County Circuit Court Judge. Testifies in support of HB 3559. Describes his experience of sentencing 15, 16 and 17 year-olds. Describes attempts to go out to high schools and present programs to prevent young people from perpetrating crime. Notes this form of advertising would be of little cost.
347	Rep. Prozanski	Comments this is an excellent program. Asks about the costs.
372	Doell	Refers to the -1 amendments to HB 3559 (EXHIBIT A). Comments on appropriation of \$75,000 for the program.
382	Myers	States that donated funds will be sought.
386	Rep. Krummel	Asks difference between juveniles and 12 to 18 year olds.
390	Doell	Describes difference between video tapes and advertisements.
421	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 3559. Tells of her experience with students who do not understand consequences of Measure 11.
TAPE 122, A		
040	Chair Williams	Closes public hearing on HB 3559. Opens work session on HB 3559.
<u>HB 3559 WORK SESSION</u>		
042	Rep. Prozanski	MOTION: Moves to ADOPT HB 3559-1 amendments dated 3/20/03.
		VOTE: 8-0-1
		EXCUSED: 1 – Anderson
043	Chair Williams	Hearing no objection, declares the motion CARRIED.
045	Rep. Prozanski	MOTION: Moves HB 3559 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means BY PRIOR REFERENCE.
		VOTE: 8-0-1
		EXCUSED: 1 – Anderson
046	Chair Williams	Hearing no objection, declares the motion CARRIED.
070	Chair Williams	Closes work session on HB 3559. Opens public hearing on HB 2802.

HB 2802 PUBLIC HEARING

075	Bill Taylor	Committee Counsel. Explains HB 2802 which expands the crime of arson in the first degree.
103	Ken Armstrong	Oregon Fire Chiefs Association, Tualatin Valley Fire and Rescue, and Oregon Volunteer Firefighters Association. Testifies in support of HB 2802 and explains the need for it. Reviews legislative history of HB 2802.
115	Tim Birr	Tualatin Valley Fire and Rescue. Testifies in support of HB 2802. Describes arsonist behaviors studied in relation to acts of arson.
200	Courtland Greyer	Marion County District Attorneys Office, Oregon District Attorneys Association. Describes serious cases of arson.
230	Bob Livingston	Oregon State Firefighters Council. Testifies in support of HB 2802. Describes personal experience of arson fires that he has fought.
270	Vice Chair Ackerman	Comments on terminology in bill. Wants to clearly define the criminal statutes. Suggests wording should not leave open “reasonable doubt” in juror’s minds. Asks about “property of another.”
343	Greyer	Explains a situation where a person sets fire to his own property. Explains how somebody else may have equitable interest.
360	Vice Chair Ackerman	Refers to Section 1, subsection C, page 1 of HB 2802. Asks about proving “reckless.”
400	Greyer	Discusses holding someone accountable and proving “reckless” behavior.
440	Taylor	Discusses taking out “recklessly.”Submits written testimony by Seth Karpinski for the City of Eugene (EXHIBIT B).
TAPE 121, B		
044	Chair Williams	Comments on language changes in HB 2802. Asks about rationale on the \$50,000 threshold.
048	Greyer	Answers the threshold is consistent with present law on property crimes.
067	Chair Williams	Asks about Arson I and II charges.
077	Rep. Macpherson	Asks the difference in presumptive sentence.
093	Greyer	Explains the basis for determining sentencing depends on the seriousness of the offense and the offender’s criminal history.
123	Rep. Prozanski	Discusses possible higher thresholds to keep the fiscal impact down.
130	Chair Williams	Discussing sentencing.
140	Armstrong	Says there is no problem on changing the threshold.
150	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to HB 2802 and submits testimony (EXHIBIT C). States HB 2802 is too broad. Describes numerous acts that could be interpreted as arson by this bill.
210	Russell	Continues presentation. Talks about 5 new crimes created by HB 2802. Describes relatively inconsequential acts resulting in fires.
387	Taylor	Describes a newspaper fire where an apartment building burned down and people were killed.
387	Russell	Answers the bill does not address this issue. It was based on property.
414	Chair Williams	Asks for further analysis of the bill to be heard later.
440	Chair Williams	Closes public hearing on HB 2802. Opens public hearing on HB

2865.

HB 2865 PUBLIC HEARING

463 John Bradley

Multnomah County District Attorney's Office. Explains HB 2865 which allows district attorney to treat certain felonies as Class A misdemeanors. Testifies in support of HB 2865. Summarizes sections of the bill. Tells how this bill came to be.

TAPE 122, B

040 Bradley

Discusses how HB 2865 will reduce costs. Discusses possible amendments.

094 Harclerod

Testifies in support of HB 2865 which will save money. Suggests line 9, page 1, be changed to "orally or in writing."

100 Chuck French

Multnomah County District Attorney's Office. Explains the cuts in deputies in the office and describes costs to the office.

155 Bradley

Points out the many cases of people charged or convicted and who are known by the DA's office to be innocent because of false identification. HB 2865 states the legal name must be used. HB 2865 also gives the victim the right to go back and correct the name.

200 French

Agrees that false identification is a huge problem in law enforcement.

220 Chair Williams

Suggests more work on this bill.

230 Rep. Shetterly

States a definition of true name is necessary to make this work. Supports these ideas.

258 Ann Christian

Public Defense Services Commission. Testifies in support of HB 2865. Offers potential savings for indigent defense that this bill could provide as \$3.6 million. Refers to section 7, line 27, page 4 and suggests clarification.

299 Susan Russell

Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to parts of HB 2865.

TAPE 123, A

017 Russell

Continues discussing HB 2865 with objections.

028 Chair Williams

Asks for further clarification on "true name." Mentions constitutional issues. Closes public hearing on HB 2865. Opens public hearing on HB 2885.

HB 2885 PUBLIC HEARING

050 Rep. Barker

House District 28. Testifies in support of HB 2885 which provides that person convicted of driving while under the influence of intoxicants for third time is subject to revocation of driving privileges.

088 Anne Pratt

Crime Victims United, Mothers Against Drunk Driving, and Parents of Murdered Children. Presents testimony in support of HB 2885 and submits **(EXHIBIT D)**. Gives statistics on drunk drivers.

118 Bruce Pratt

Crime Victims United. Points out that U.S. is too lenient with Driving Under the Influence of Intoxicants (DUI) drivers. Describes how Europeans treat DUI drivers. Laws need to be tougher on driving while drinking. Education needs to be improved.

150 Doug Harclerod

Oregon District Attorneys Association. Testifies in support of HB 2885.

155 Staff

Submits written testimony by Seth Karpinski for the City of Eugene in support of HB 2885 **(EXHIBIT E)** and written testimony by Gretchen McKenzie for the Governor's Advisory Committee in support of HB 2885 **(EXHIBIT F)**.

156 Chair Williams Closes public hearing on HB 2885. Opens work session on HB 2885.

HB 2885 WORK SESSION

158 Rep. Barker **MOTION: Moves HB 2885 to the floor with a DO PASS recommendation.**

VOTE: 7-0-2

EXCUSED: 2 - Anderson, Macpherson

159 Chair Williams **Hearing no objection, declares the motion CARRIED.**

REP. BARKER will lead discussion on the floor.

160 Chair Williams Closes work session on HB 2885. Opens work session on HB 2092.

HB 2092 WORK SESSION

161 Chair Williams **MOTION: Moves HB 2092 to the floor without recommendation and BE REFERRED to the committee on Ways and Means.**

VOTE: 7-0-2

EXCUSED: 2 - Anderson, Macpherson

162 Chair Williams **Hearing no objection, declares the motion CARRIED.**

164 Chair Williams Closes work session on HB 2092. Opens public hearing on HB 2877.

HB 2877 PUBLIC HEARING

199 Doug Harcleroad Oregon District Attorneys Association. HB 2877 requires that early disposition programs allow district attorney to make resolution offer to offenders before arraignment.

206 Rep. Prozanski Supports HB 2877. Does not believe this bill limits a prosecutor to make offers to a defendant prior to, or at the time of arraignment.

210 Chuck French Asks for an emergency clause in HB 2877 because this bill will save money.

220 John Bradley Multnomah County District Attorney's Office. Testifies in support of HB 2877. Says savings will be in indigent defense.

250 Harcleroad Testifies that the Oregon District Attorneys Association supports this bill. Describes Lane County programs.

273 Susan Russell Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 2877 and provides testimony (**EXHIBIT G**). States the bill changes current statute so that there is no longer the requirement to have an assigned counsel.

303 David Fidanque American Civil Liberties Union (ACLU) of Oregon. Testifies in opposition to HB 2877. Discusses the controversy in trial court procedures to save costs of indigent defense. Speaks of the danger of trying to dispose of criminal cases without defense counsel.

TAPE 124, A

025 Fidanque Continues presentation opposing HB 2877. Supports the present process.

040 Rep. Barker Asks if defendants always get an attorney if they ask for one.

050 Fidanque Explains how defendants do not know how the defense procedure works.

070 Chair Williams Asks if this would be a constitutional flaw because defendants are not advised of their rights. Asks about knowing waivers.

073 Fidanque Answers that is correct. Discusses knowing waivers.

114 Russell Describes defendants waiving counsel.

120 Chair Williams Asks for Legislative Counsel to issue an opinion.

130 Rep. Krummel Asks what kind of cases the DA would use this in.

EXHIBIT SUMMARY

A – HB 3559-1 amendments, staff, 1 p

B – HB 2802, written testimony of Seth Karpinski, City of Eugene, submitted by staff, 1 p

C – HB 2802, written testimony, Susan Russell, 4 pp

D – HB 2885, written testimony, Anne Pratt, 8 pp

E – HB 2885, written testimony of Seth Karpinski, City of Eugene, 1 p

**F – HB 2885, written testimony of Gretchen McKenzie, Governors Advisory Committee on DUII,
1 p.**

G – HB 2877, written testimony, Susan Russell, 1 p