

**HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW**

**January 25, 1999 Hearing Room 357**

**8:30 a.m. Tapes 7, 8 & 9**

**MEMBERS PRESENT: Rep. Mannix, Chair**

**Rep. Bowman**

**Rep. Gianella**

**Rep. Hansen**

**Rep. Simmons**

**Rep. Sunseri**

**MEMBER EXCUSED: Rep. Prozanski, Vice-Chair**

**STAFF PRESENT: John Horton, Counsel**

**Patsy Wood, Administrative Support**

**MEASURE/ISSUES HEARD:**

**Possible Measure Introduction**

**HB 2263 Public Hearing and Possible Work Session**

**HB 2258 Public Hearing and Possible Work Session**

**HB 2259 Public Hearing and Possible Work Session**

**HB 2260 Public Hearing and Possible Work Session**

**HB 2261 Public Hearing and Possible 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 7, A		

**HB 2263 PUBLIC HEARING**

007	Chair Mannix	Calls meeting to order at 8:32 a.m.
024	Counsel Horton	Summarizes HB 2263 allowing juvenile court to waive infractions, violations and certain misdemeanors to municipal court if municipal court agrees, and redefines property damages to exclude tobacco-related offenses.
043	<b>Beth Vargas Duncan</b>	<b>League of Oregon Cities</b>  Testifies in support of HB 2263 stating the cities would welcome the opportunity to be able to hear juvenile cases in the municipal courts as long as it is by mutual consent.
048	<b>John Gervais</b>	<b>Oregon Municipal Judges Association</b>  Expressed some concern about costs that some cities could not afford. Asks about giving the court the right to enforce state law, or does the city have to pass an ordinance in order to enforce the portions you're adding in.
060	Chair Mannix	Asks if the Juvenile Department Directors Association representatives can address this issue when they testify.
063	Gervais	States he'd like to reserve the right to comment further if concerns arise.
069	<b>Larry Oglesby</b>	<b>Director, Marion County Juvenile Department representing the Oregon Juvenile Department Directors Association</b>  Explains that HB 2263 allows the possible waiver of juvenile offenses to municipal court subject to acceptance by the municipal courts. Talks briefly about the current law. Uses the City of Silverton as an example of why HB 2263 is a good bill. <b>(EXHIBIT A)</b>
111	Rep. Sunseri	Asks if there is ever a case where violations are not expunged, or is it automatic?
113	Oglesby	States most of these cases are expungable and gives instances of expungement.
119	Chair Mannix	Asks Mr. Oglesby who bears the impact of implementation.
121	Oglesby	Explains that would be worked out between the parties entering into these agreements.
131	Chair Mannix	States the municipal courts entering into this arrangement will need to be aware of that.

137	Oglesby	Yes. States if a county has the capacity to assist, they can certainly do that.
142	Chair Mannix	States that it is really left up to the participants in the arrangement.
147	Rep. Bowman	Asks if the record is still a juvenile record after going through municipal court or is that a remand to an adult proceeding so the sentences are different.
150	Oglesby	Believes it is still a juvenile record with the juvenile expunction law still in place. Explains the record would be in both places.
157	Rep. Bowman	Would the juvenile have an adult record if they go before a municipal court judge for sentencing?
160	Chair Mannix	No. Further explains the municipal court proceeding will be within the juvenile court proceeding that was waived over. Isn't that correct?
162	Oglesby	Yes.
163	Rep. Bowman	Having the file in two places is confusing.
164	Oglesby	States the information would be in two places ñ at the juvenile department and with the city at the municipal court , but the jurisdiction ultimately comes back to the juvenile court and that's where expunction would occur.
168	Chair Mannix	Asks if the confidentiality requirements that apply to juvenile court proceedings would apply to the municipal court record.
170	Oglesby	Yes.
170	Chair Mannix	States that he believes Rep. Bowman was concerned about juvenile rights being lost in the transfer to municipal court.
174	Chair Mannix	Asks for clarification that that will not happen.
174	Oglesby	Yes.
181	<b>Kevin Campbell</b>	<p><b>Oregon Police Chiefs Association</b></p> <p>Testifies in support of HB 2263 indicating the Chiefs of Police have made this bill their top priority for the 1999 session. States there is a shift in emphasis within the Association (and law enforcement in general) towards more of a community-policing model to reach juveniles in a preventative sense.</p>

240	<b>Rick Lewis</b>	<p><b>Chief of Police, Silverton Police Department</b></p> <p>Gives testimony in support of HB 2263. Discusses what is happening currently in regards to juvenile offenders. States that when first-time offenders come before a judge rather than just a written reprimand or a phone call, very few offenders repeat. Gives examples of the sanctions they are using. Further states that this bill gives options ñ it is not something the cities or counties have to do, but they can pick up these minor violations or misdemeanors and deal with them at the local level. <b>(EXHIBIT B)</b> Further states, under this proposal, that there is no possibility of a jail sanction at the municipal court level.</p>
326	<b>H. Marc Adams</b>	<p><b>Chief of Police, Keizer Police Department</b></p> <p>Testifies in support of HB 2263. States this bill would help bring accountability back to juvenile justice and help prevent juveniles from getting into bigger trouble. States this is a "Pro-Kid" bill ñ not getting tough on kids, but helping them not to end up in a system that is tough. <b>(EXHIBIT C)</b></p>
<b>Tape 8, A</b>		
004	Chair Mannix	Asks about the use or possession of tobacco products under ORS 431.840 ñ would a minor attempting to buy tobacco be covered?
017	Oglesby	Answers tobacco would be one of the infractions covered under this bill so juveniles can continue to be covered in the municipal court.
022	Chair Mannix	Wants to be sure this issue is covered under the final measure summary.
028	Oglesby	Explains the expungement question brought up earlier; the records in the Juvenile Department fall under the rules of the expunction law. Since the waiver is to a municipal court, it doesn't create a criminal record because it is a municipal court and not an adult circuit court.
038	Chair Mannix	Clarification is needed on two issues: 1) that tobacco-related violations are covered by this language modification, and 2) to make sure that Juvenile Court standards still apply.
051	Counsel Horton	Asks Mr. Oglesby for clarification if certain other misdemeanors would be included in the language.
068	<b>Kathie Osborn</b>	<p><b>Juvenile Rights Project</b></p> <p>Testifies in opposition to HB 2263 because it takes juveniles out of the juvenile court system where programs and resources are already in place to handle these offenders. If the cities want to be responsible, the entry-level juvenile offenders can be referred to programs that community has in place.</p>

106	Chair Mannix	Asks, if the waiver is to municipal court and thereís no possibility of imposing jail time, if the juvenile has a right to an attorney in municipal court?
108	Osborn	States, on most of these offenses, juveniles donít have a right to an attorney whether in juvenile court or municipal court.
111	Chair Mannix	Asks for assurance that there wonít be any real change in that situation.
111	Osborn	States her belief that this law would not have any change in that situation.
113	Rep. Bowman	Asks for the difference between sanctions at the different court levels (peer or community court vs. municipal).
117	Osborn	States that it would depend upon the county and what type of courts they had, but generally the sanctions would be the same in those courts. Her concern is more with allowing the Juvenile Department to stop working with these low-end kids and their families and push this responsibility off to the municipal courts.
132	Rep. Bowman	What is your response when the Police Chief Association says because it is a first-time offense only a letter is sent saying we wonít call you anymore?
136	Osborn	States the problem shouldnít be pushed off on the municipal court.
148	Rep. Gianella	Asks whether it is possible for the Juvenile Department and the municipal court to work together.
150	Osborn	Yes. States there is not always good coordination between the courts in getting the appropriate information back and forth.
174	<b>Ken Hector</b>	<b>Mayor, City of Silverton</b>  Testifies in support of HB 2263. Discusses Silvertonís Parental Responsibility Law. States resources arenít there to deal with every juvenile offense. States because juveniles in Silverton are aware of immediate consequences for criminal behavior, there has been a reduction in juvenile crime. <b>(EXHIBIT D)</b>
242	Hector	Discusses Silvertonís working agreement with Marion County. States this bill would help reduce crime.
268	Chair Mannix	Asks if this assists the Governorís Juvenile Crime Bill.
273	Hector	States that this should fit nicely with what is intended in the Governorís program.

279	Rep. Bowman	Asks what the current workload is in municipal courts and what is expected of them under this agreement?
287	Chair Mannix	Explains that it is a voluntary agreement and therefore assumes the municipal court will not take on the agreement unless they can assume the workload.
291	Hector	Waiving juvenile violations to municipal court is a negotiated agreement between two parties, the city and the county, and structured as such knowing what their resources are.
313	Rep. Bowman	Asks if one city does use this and one doesn't, and if this is equitable in providing justice services statewide.
337	Hector	States his hope that there would be no difference in the law no matter what city.
372	Chair Mannix	Gives example of Lane County's receiving grant money for domestic violence when other counties haven't received those monies. States the goal is not to hold anyone back, but to move everyone forward.
390	Rep. Gianella	States a concern about the increased workload for the county.
396	Hector	States the more we reduce crime, the less workload we have.
408	Chair Mannix	Asks if the City of Portland still has a prohibition which prevents it from having its own municipal court?
411	Rep. Bowman	Yes. States there is community court or peer court ñ there is a sanction.
<b>Tape 7, B</b>		
003	Rep. Hansen	Gives examples of first-time sanctions.
023	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyer's Association</b>  States the best place to deal with these juveniles is in the juvenile department. Asks if there should be an age limitation with respect to this waiver to municipal court. Asks if only certain offenses should be sent to municipal court.
094	Rep. Hansen	States that perhaps a sunset clause could be inserted.
100	Chair Mannix	Asks the Juvenile Directors (through Mr. Oglesby, Kevin Campbell and the police chiefs) to look at that

115	Rep. Sunseri	States the committee might want to look at the issue of age.
<b><u>HB 2258, 2259, 2260 and 2261 CONSOLIDATED PUBLIC HEARING</u></b>		
143	Counsel Horton	Gives background on HB 2258 which extends the period of time in which victims of child abuse may receive crime victims assistance; HB 2259 which excludes life insurance proceeds and community contributions in calculating crime victims compensation; HB 2260 which excludes consideration of crime victims conduct contributing to crime victims death in determining compensation; and HB 2261 modifying required information in crime victims compensation order.
195	<b>Mary Ellen Johnson</b>	<b>Director, Crime Victims Assistance Section, Department of Justice</b>  Testifies in support of HB 2258 discussing why the three-year limit on compensation should be changed. <b>(EXHIBIT E)</b> An additional amendment is offered making this bill retroactive to August 4, 1991. <b>(EXHIBIT F)</b>
236	<b>Jeanette Thayer</b>	<b>Mother of a victim of child abuse</b>  Gives background information on her son, David, a victim of sexual child abuse and how problems manifested themselves. States the problems of child abuse do not go away in three years. <b>(EXHIBIT G)</b>
321	<b>Valerie Lake</b>	<b>Licensed Professional Counselor</b>  Reads a letter she wrote to Crime Victims Compensation detailing her work with three individuals, all victims of early sexual child abuse. Gives symptoms that are likely to occur at puberty following early sexual abuse. Asks that the three-year limit policy be changed for victims of abuse occurring before the age of 6.
403	Chair Mannix	Explains that HB 2258 allows compensation for counseling for three years or until they reach 18 years of age. Discusses age appropriateness.
412	Johnson	States this same issue of age has been debated in her office.
424	Lake	Explains that if abuse occurred in mid-teens and was immediately disclosed, that a person might need counseling beyond the age of 18.
431	Chair Mannix	Discusses the possibility that a person abused at age 14 might need counseling beyond 18, but that person would be eliminated from receiving compensation by this bill.
437	Lake	States it is likely that a person who was a victim of child sexual abuse at any age might have some problems with their first serious, adult relationship.
<b>Tape 8, B</b>		

003	Thayer	States that any extension of the compensation would be beneficial.
009	Lake	Agrees that extended compensation would be beneficial to persons who have been sexually abused.
010	Rep. Bowman	States that sometimes knowledge of abuse comes later in life, and, if abused, a person should be able to get as much counseling as they need to get on with their life.
<b><u>HB 2258 WORK SESSION</u></b>		
028	Chair Mannix	Notes a proposed amendment from the Department of Justice ( <b>EXHIBIT F</b> ) making HB 2258 retroactive to August 4, 1991. Asks if that is when the Crime Victims' Compensation Program came into effect.
033	Johnson	The Crime Victims' Compensation Program came into effect in 1977. Explains the 1991 Legislative Session imposed the three-year limit on all the claims with no prior limit.
045	Rep. Bowman	Asks if victims above the age of 18 would be considered adults and have to apply for an adult claim?
047	Johnson	Explains the 3 years starts at the time the Crime Victims' Compensation Program accepts an application (based upon date of disclosure, not date of crime).
065	Rep. Sunseri	Asks for fiscal impact first.
070	Chair Mannix	Asks for formal amendments to be drawn on the conceptual amendments so the fiscal impact can be looked at.
089	Rep. Bowman	Asks if the committee gets a fiscal impact that is unworkable, is the witness panel agreeable to keeping the age at 18?
097	Johnson	Explains how they decided upon the age of 18.
101	Chair Mannix	Discusses what ages would be acceptable.
103	Thayer	Asks that age 16 not be included.
105	Chair Mannix	Ways & Means should only change the fiscal part, not the substantive parts of the bill.



113	Rep. Hansen	Asks if there is any evidence that the 3-year limit kept people in therapy for a longer continuous period of time rather than being able to break it up and have therapy one year at a time over several years.
128	Johnson	States she knows that has been true in some cases.
142	Chair Mannix	Asks if this bill will reduce this problem.
143	Johnson	Yes.
152	Lake	Explains what is happening today with treatment under managed care.
166	Thayer	States there is a cap to the benefits. This bill could potentially save a lot of money in the future because the children will get help when it is needed and not get into more trouble.
182	Chair Mannix	Closes work session on HB 2258.
<b><u>HB 2259, 2260, 2261 CONSOLIDATED PUBLIC HEARING</u></b> -		
196	<b>Mary Ellen Johnson</b>	<b>Director, Crime Victims Assistance Section, Department of Justice</b>  Explains HB 2259 and why the Department of Justice initiated it. <b>(EXHIBIT H)</b> Explains HB 2260 and gives some typical case examples. <b>(EXHIBIT I)</b>
258	Chair Mannix	Asks if there isn't there already a requirement that the victim not have engaged in criminal misconduct at the time they are a victim?
249	Johnson	Yes. We are not asking to do away with a reduction in compensation if the victim lives ñ just do away with this judgment call if the victim dies.
270	Johnson	Explains how HB 2261 would allow the Department of Justice to act more efficiently. <b>(EXHIBIT J)</b>
283	Chair Mannix	Closes consolidated public hearing on HB 2259, HB 2260 & HB 2261.

**HB 2259 WORK SESSION**

292	Chair Mannix	Explains life insurance and community donations would be eliminated from the calculation of the Crime Victims' Compensation.
298	Rep. Bowman	Questions if it is appropriate to take life insurance and community contributions out of the compensation calculation when the funds in the program are so limited.
323	Johnson	States some of the things people may be thinking of when they donate money to a community fund for the victim(s) of a crime.
337	Chair Mannix	States there may be some misunderstanding about where the money goes. Declares a potential conflict of interest as he is representing two boys involved in the Thurston High School shooting incident who may be possible recipients of Crime Victims' Compensation. Discusses the fund set up by the community for Thurston victims.
377	Rep. Bowman	States that some people think that the money that is donated is being used to deal with present issues.
392	Rep. Bowman	<b>MOTION: Moves HB 2259 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Rep. Prozanski</b>
		<b>Chair Mannix</b> <b>Hearing no objection, declares the motion CARRIED.</b>  <b>REP. BOWMAN will lead discussion on the floor.</b>

**HB 2260 WORK SESSION**

417	Chair Mannix	Explains that HB 2260 will not look at a victim's conduct in connection with his/her injuries or death.
424	Rep. Bowman	Understands the fund is for the survivors, but states a concern that a victim's family could benefit from a fight he caused and in which he was eventually killed.

**Tape 9, A**

010	Chair Mannix	Clarifies that a person guilty of a crime cannot receive benefits from Crime Victims' Compensation.
035	Johnson	Explains that if the deceased was involved in a wrongful act, or substantially provoked the assailant, the application would be denied.
044	Rep. Sunseri	Asks for an illustration of when there would be compensation to a victim's family.
048	Johnson	Gives examples of such instances.
055	Chair Mannix	Asks if the contributing factors to the death of an individual, under current law, would be determined on whether or not they were engaged in a crime.
057	Johnson	Yes, under current law we would. Gives a slightly different change in the scenario.
067	Chair Mannix	Asks if it is really important to look at contributing factors when the person has died.
069	Johnson	States it is one of the main issues for the Parents Of Murdered Children group and for the Crime Victims United. Gives examples of cases for compensation.
100	Rep. Hansen	States we may be talking about a small amount of money. States it is easier to identify with the relatives of the deceased, and talking about money may be insensitive towards the healing process.
126	Johnson	Discusses the self-blame felt by many victims' parents.
140	Rep. Bowman	Asks about funding services of the Crime Victims' Compensation Program.
146	Johnson	Explains what expenses and amounts are paid in compensating a victim's family. <b>(EXHIBIT K)</b>
158	Chair Mannix	Closes work session on HB 2260.
<b><u>HB 2261 WORK SESSION</u></b>		
174	Rep. Sunseri	<b>MOTION: Moves HB 2261 to the floor with a DO PASS</b>

		<b>recommendation.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Rep. Prozanski</b>
	<b>Chair</b>	<b>Hearing no objection declares the motion CARRIED.</b>  <b>REP. HANSEN will lead discussion on the floor.</b>
203	Chair Mannix	Closes meeting at 10:37 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Manager

#### **EXHIBIT SUMMARY**

**A ñ HB 2263, written Testimony, Larry Oglesby, 5 pgs**

**B ñ HB 2263, written Testimony, Rick Lewis, 2 pgs**

**C ñ HB 2263, written Testimony, Marc Adams, 3 pgs**

**D ñ HB 2263, written Testimony, Ken Hector, 3 pgs**

**E ñ HB 2258, written Testimony, Mary Ellen Johnson, 1 pg**

**F ñ HB 2258, proposed amendment, Mary Ellen Johnson, 1 pg**

**G ñ HB 2258, written Testimony, Jeanette Thayer, 5 pgs**

**H ñ HB 2259, written Testimony, Mary Ellen Johnson, 2 pgs**

**I ñ HB 2260, written Testimony, Mary Ellen Johnson, 2 pgs**

**J ñ HB 2261, written Testimony, Mary Ellen Johnson, 1 pg**

**K ñ HB 2261, Brochure "Help for Crime Victims", Mary Ellen Johnson, 2 pgs**