

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

April 2, 1999 Hearing Room 357

8:30 a.m. Tapes 117

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Gianella

Rep. Simmons

Rep. Sunseri

MEMBER EXCUSED: Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Hansen

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

HB 2398 Public Hearing and Possible Work Session

HB 2325 Public Hearing and Possible Work Session

HB 2436 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 117, A		

005	Chair Mannix	Calls the meeting to order at 8:32 a.m.
<u>HB 2398 PUBLIC HEARING</u>		
011	Counsel Horton	HB 2398 establishes that the implied consent law doesn't prohibit the introduction of evidence of blood alcohol content in prosecution for DUII if blood is drawn in a hospital or the test results are obtained pursuant to a search warrant. The bill amendments specify that the blood draw could occur while the defendant was hospitalized or receiving medical care (EXHIBIT A).
026	Dale Penn	Oregon District Attorney's Association Testifies in support of HB 2398. This is an admissibility evidence law issue and will have no impact on physicians or hospitals and the way that they operate now. Discusses how blood drawn in a drunk driving case is used as evidence in a prosecution. The Hospital Association had no opposition to HB 2398.
057	Chair Mannix	Closes the public hearing on HB 2398.
<u>HB 2398 WORK SESSION</u>		
058	Rep. Sunseri	MOTION: Moves to ADOPT HB 2398-1 amendments dated 03/26/99.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
		Chair Mannix Hearing no objection, declares the motion CARRIED.
061	Rep. Sunseri	MOTION: Moves HB 2398 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
		Chair Mannix Hearing no objection, declares the motion CARRIED. REP. SUNSERI will lead discussion on the floor.

065	Chair Mannix	Closes the work session on HB 2398.
<u>HB 2325 PUBLIC HEARING</u>		
067	Counsel Horton	HB 2325 conforms provisions relating to enforcement of foreign restraining orders to the requirements of the federal Violence Against Women Act. Discusses the ñ1 amendments and ñ2 amendments (EXHIBITS B & C).
094	Chair Mannix	Closes the public hearing on HB 2325.
<u>HB 2325 WORK SESSION</u>		
096	Rep. Simmons	MOTION: Moves to ADOPT HB 2325-1 amendments dated 03/16/99.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
099	Rep. Simmons	MOTION: Moves to ADOPT HB 2325-2 amendments dated 03/16/99.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
102	Rep. Simmons	MOTION: Moves HB 2325 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski

	Chair Mannix	<p>Hearing no objection, declares the motion CARRIED.</p> <p>REP. SIMMONS will lead discussion on the floor.</p>
107	Chair Mannix	Closes the work session on HB 2325.
<u>HB 2436 PUBLIC HEARING</u>		
109	Counsel Horton	HB 2436 requires the defendant to be transported to a state hospital within 72 hours after the court determines that the defendant lacks fitness to proceed and commits the defendant to custody of the state hospital. Describes the ñ1 through ñ6 amendments (EXHIBITS D-I).
149	Stan Mazur-Hart	<p>Superintendent, Oregon State Hospital</p> <p>Testifies that the ñ1 amendments, being technical and legal, are not within his range of expertise. The ñ2 & the ñ3 amendments cover our concerns with overcrowding at the State Hospital and allow us an opportunity to work with the court on when the admission would occur.</p>
172	Chair Mannix	Discusses that delays could occur when sending the defendant to the hospital or receiving the defendant at the hospital. The court could extend the 72 hours for "good cause shown" in the ñ2 amendments (EXHIBIT E).
187	Rep. Simmons	It should be left up to the judge to determine if "good cause" was shown to extend the time.
196	Chair Mannix	Expresses a concern with the 72-hour extensions piling up if the ñ3 amendments (EXHIBIT F) are adopted.
214	Mazur-Hart	Discusses the difficulty with the ñ6 amendments (EXHIBIT I) which state the superintendent "shall accept custody" of the defendant when the defendant arrives at the hospital.
223	Chair Mannix	Do we need the ñ6 amendments?
225	Mazur-Hart	No.
233	Rep. Simmons	How will a judge interpret "good cause shown"?
236	Chair Mannix	The judge would look at all the circumstances, including weather conditions and

		if there is room at the hospital for the defendant.
267	Counsel Horton	A limit could be set that the 72-hour extensions not go beyond 7 days.
279	Mazur-Hart	The time frame could be a problem when there is a court order on Friday and the court cannot transport until Monday.
287	Chair Mannix	Then perhaps we should avoid caps and assume that people will act in good faith to transport in a timely manner.
295	James Rice	Oregon Criminal Defense Lawyer's Association Testifies as neutral to HB 2436. My main concern occurs when a person is taken into custody for transport to the state hospital, who at the hospital may be released to allow space for this new person?
326	Chair Mannix	Discusses "fitness to proceed" and how a determination is made if a person should be sent to the state hospital.
344	Chair Mannix	Closes the public hearing on HB 2436.
<u>HB 2436 WORK SESSION</u>		
346	Rep. Mannix	MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment to HB 2436.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
		Chair Mannix Hearing no objection, declares the motion CARRIED.
373	Rep. Sunseri	MOTION: Moves to ADOPT HB 2436-1, -2, and - 3 amendments dated 03/16/99 and that the ñ3 amendments be FURTHER AMENDED on page 1, line 2, by changing "72-hour period" to "time authorized by the court".
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski

	Chair Mannix	Hearing no objection, declares the motion CARRIED.
377	Rep. Sunseri	MOTION: Moves HB 2436 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Rep. Bowman, Rep. Hansen, Rep. Prozanski
	Chair Mannix	Hearing no objection, declares the motion CARRIED. REP. GIANELLA will lead discussion on the floor.
384	Chair Mannix	Adjourns the meeting at 8:55 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2398, -1 amendments (LC 440), dated 3/26/99, staff, 1 pg.

B ñ HB 2325, -1 amendments (LC 406), dated 2/22/99, staff, 1 pg.

C ñ HB 2325, -2 amendments (LC 406), dated 2/22/99, staff, 1 pg.

D -- HB 2436, -1 amendments (LC 1889), dated 3/16/99, staff, 1 pg.

E -- HB 2436, -2 amendments (LC 1889), dated 3/16/99, staff, 1 pg.

F -- HB 2436, -3 amendments (LC 1889), dated 3/16/99, staff, 1 pg.

G -- HB 2436, -4 amendments (LC 1889), dated 3/16/99, staff, 1 pg.

H -- HB 2436, -5 amendments (LC 1889), dated 3/16/99, staff, 1 pg.

I -- HB 2436, -6 amendments (LC 1889), dated 3/16/99, staff, 1 pg.