

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

April 26, 1999 Hearing Room 357

8:00 a.m. Tapes 159 - 160

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

Measure Introduction

HB 2297 Work Session

HB 2273 Work Session

HB 2307 Work Session

HB 2394 Work Session

HB 2494 Work Session

HB 2500 Work Session

TAPE/#	Speaker	Comments
TAPE 159, A		
007	Chair Mannix	Calls meeting to order at 8:15 a.m.
<u>MEASURE INTRODUCTION</u>		
012	Chair Mannix	All of the bills on the agenda are scheduled for work session only; no public testimony will be heard. Introduces drafts of LC 4236 through LC 4243 (EXHIBITS A - H) dividing HJR 7 into different measures.
042	Rep. Prozanski	Are these proposed measures subject to the April 30 th deadline for the committee to finish working on House bills?
048	Chair Mannix	No. The speaker gave permission to have the drafts prepared and filed if the committee introduces them. We also have permission to hold public hearings on them starting Thursday.
056	Rep. Prozanski	Do we also have permission to keep working on the firearmís bills after the April 30 th deadline?
060	Chair Mannix	I do not have special permission to move beyond Friday on the firearmís bills, but amendments are expected and will be circulated.
075	Rep. Prozanski	Moves to adopt draft LC 4236 through LC 4243.
075	Rep. Prozanski	MOTION: Moves LC's: 4236, 4237, 4238, 4239, 4240, 4241, 4242, 4243 BE INTRODUCED as committee bills.
		VOTE: 5-0-2 EXCUSED: 2 - Bowman, Simmons
Chair Mannix		Hearing no objection, declares the motion CARRIED.
<u>HB 2297 WORK SESSION</u>		
092	Counsel Horton	HB 2297 modifies provisions relating to payment of non-attorney expenses for person eligible for court-appointed counsel.

104	Rep. Prozanski	MOTION: Moves HB 2297 to the floor with a DO PASS recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Bowman, Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED. Rep. Prozanski will lead discussion on the floor.
110	Chair Mannix	Closes work session on HB 2297.
<u>HB 2273 WORK SESSION</u>		
156	Counsel Horton	HB 2273 adds certain acts committed against corrections staff to acts amounting to assault in the third degree. The ñ5 amendments (EXHIBIT I) would replace all other amendments.
168	Rep. Sunseri	MOTION: Moves to ADOPT HB 2273-5 amendments dated 4/19/99.
172	Rep. Prozanski	Asks for clarification on when harassment might become an assault.
179	Counsel Horton	Discusses how the ñ5 amendments affect HB 2273 by clarifying the definition of dangerous substance, include a volunteer as staff, and add an emergency clause. The current crime of harassment includes spitting or offensive physical contact.
192	Rep. Prozanski	By giving a definition for dangerous substances, can people who previously could only be charged with harassment now be charged with Assault 3?
197	Counsel Horton	Yes.
		VOTE: 5-0-2 EXCUSED: 2 - Bowman, Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED.

204	Rep. Sunseri	MOTION: Moves HB 2273 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways & Means.
		VOTE: 5-0-2 EXCUSED: 2 - Bowman, Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
215	Chair Mannix	Closes the work session on HB 2273.
<u>HB 2307 WORK SESSION</u>		
217	Counsel Horton	HB 2307 increases the penalty for assault when the victim is less than two years of age. The 8 amendments (EXHIBIT J) substitute "minor" for "substantial" on lines 18 and 19 of page 1.
234	Rep. Sunseri	MOTION: Moves to ADOPT HB 2307-8 amendments dated 4/6/99.
		VOTE: 5-0-2 EXCUSED: 2 - Bowman, Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
239	Rep. Sunseri	MOTION: Moves HB 2307 to the floor with a DO PASS AS AMENDED recommendation.
241	Rep. Hansen	Discusses his concern with the focus being solely on the physical injuries that can result from these assaults, but what about the psychological damage that can

		also occur? Does the punishment fit the crime when differentiating between a person intentionally harming a child and the young parent acting out of ignorance?
271	Chair Mannix	Recesses the work session on HB 2307.
<u>HB 2394 WORK SESSION</u>		
303	Counsel Horton	HB 2394 expands the felony murder statute to include deaths caused by a person fleeing or attempting to elude a police officer and driving under the influence of intoxicants. The ñ2 amendments (EXHIBIT K) address unauthorized departure when in custody, and the ñ8 amendments (EXHIBIT L) incorporate the vehicular crimes into statute.
359	Rep. Sunseri	MOTION: Moves to ADOPT HB 2394-2 amendments dated 3/4/99.
		VOTE: 6-0-1 EXCUSED: 1 - Rep. Bowman
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
365	Rep. Sunseri	MOTION: Moves to ADOPT HB 2394-8 amendments dated 4/20/99.
368	Rep. Prozanski	I am concerned with the criteria that puts someone into the felony murder status and having no statute of limitations on a previous DUII.
		VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix NAY: 3 - Bowman, Hansen, Prozanski
	Chair Mannix	The motion CARRIES.
436	Rep. Sunseri	MOTION: Moves HB 2394 to the floor with a DO PASS

		AS AMENDED recommendation.
TAPE 160, A		
001	Rep. Hansen	I'm concerned with someone barely exceeding .08 blood alcohol and possibly facing a murder conviction.
023	Rep. Sunseri	Drunken driving is one of the biggest killers in our state. We need to deal with drunk driving as harshly as we can because repeat offenders for DUII have a physical addiction that needs treatment. We need to have sanctions with an impact so people will think before they drink and drive.
		VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix NAY: 3 - Bowman, Hansen, Prozanski
Chair Mannix		The motion CARRIES. REP. SUNSERI will lead discussion on the floor.
Rep. Prozanski		Gives notice of a possible minority report on HB 2394.
055	Chair Mannix	Closes the work session on HB 2394.
<u>HB 2494 WORK SESSION</u>		
068	Counsel Horton	The ñ8 amendments (EXHIBIT M) retain and leave in the affirmative defense for the crimes of murder, manslaughter 1, manslaughter 2 and provide clarifying language to the criminally negligent statute. Removes the affirmative defense from the lesser crimes of criminal non-support and criminal mistreatment.
085	Rep. Prozanski	Asks for HB 2494 to be postponed.
095	Chair Mannix	How long have the ñ8 amendments been out and were they distributed to the committee members?
097	Counsel Horton	Yes, they were distributed.

102	Rep. Sunseri	MOTION: Moves to ADOPT HB 2494-8 amendments dated 4/16/99.
104	Rep. Sunseri	Discusses HB 2494 being one of the most difficult bills this session because of having to balance religious liberty and parental authority with the rights of a child. I do not see that it is appropriate to charge someone who believes in spiritual healing with murder, but criminally negligent homicide would apply.
135	Chair Mannix	You can prosecute for criminally negligent homicide, but it does not have a mandatory minimum sentence.
146	Counsel Horton	The maximum sentence for a person would be 3 ½ years, but with no previous criminal history there would be a downward option of probation or 18-24 months in prison.
149	Chair Mannix	The 8 amendments also give the policy statement that we are not going to accept the spiritual defense with respect to children.
158	Rep. Bowman	I am still concerned with creating a separate class of individual because if somebody is smart enough to use the religious defense, then they have limited liability for their actions. If someone isn't that smart, it is left in the hands of the district attorney.
179	Chair Mannix	Although there is not a complete elimination of the spiritual defense, the amendments let an individual know, in the very least, they will be tried for criminal negligence if a child dies due to lack of medical attention.
221	Rep. Hansen	If we are trying to send a signal that people need to get medical help for their seriously ill child, I don't know if this sentencing is harsh enough.
254		VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix NAY: 3 - Bowman, Hansen, Prozanski
	Chair Mannix	The motion CARRIES.
260	Rep. Sunseri	MOTION: Moves HB 2494 to the floor with a DO PASS AS AMENDED recommendation.
	Rep. Sunseri	VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix

		NAY: 3 - Bowman, Hansen, Prozanski
	Chair Mannix	The motion CARRIES. REP. MANNIX will lead discussion on the floor.
270	Rep. Prozanski	Gives notice of a possible minority report on HB 2494.
282	Chair Mannix	Closes the work session on HB 2494.
<u>HB 2307 RECONVENES WORK SESSION</u>		
298	Chair Mannix	The ñ8 amendments (EXHIBIT J) have been adopted and a motion was made by Rep. Sunseri to send HB 2307 to the floor DO PASS as amended.
313		VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix NAY: 3 - Bowman, Hansen, Prozanski
	Chair	The motion CARRIES. REP. MANNIX will lead discussion on the floor.
319	Rep. Prozanski	Gives notice of a possible minority report on HB 2307.
336	Chair Mannix	Closes the work session on HB 2307.
<u>HB 2500 WORK SESSION</u>		
342	Counsel Horton	The ñ1 amendments (EXHIBIT N) create a pilot treatment program for persons convicted of sex crimes.
359	Rep. Sunseri	MOTION: Moves to ADOPT HB 2500-1 amendments dated 3/26/99.
		VOTE: 5-2

		<p>AYE: 5 - Gianella, Hansen, Simmons, Sunseri, Mannix</p> <p>NAY: 2 - Bowman, Prozanski</p>
	Chair Mannix	The motion CARRIES.
375	Rep. Sunseri	MOTION: Moves HB 2500 to the floor with a DO PASS AS AMENDED recommendation.
	Rep. Sunseri	<p>VOTE: 5-2</p> <p>AYE: 5 - Gianella, Hansen, Simmons, Sunseri, Mannix</p> <p>NAY: 2 - Bowman, Prozanski</p>
	Chair Mannix	<p>The motion CARRIES.</p> <p>REP. SCHRADER will lead discussion on the floor.</p>
399	Chair Mannix	Closes the work session on HB 2500.
463	Chair Mannix	Adjourns meeting at 9:10 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

EXHIBIT SUMMARY

A - LC 4236 DRAFT, staff, dated 4/23/99, 3 pgs.

B - LC 4237 DRAFT, staff, dated 4/23/99, 2 pgs.

C - LC 4238 DRAFT, staff, dated 4/23/99, 1 pg.

D - LC 4239 DRAFT, staff, dated 4/23/99, 2 pgs.

E - LC 4240 DRAFT, staff, dated 4/23/99, 2 pgs.

F - LC 4241 DRAFT, staff, dated 4/23/99, 1 pg.

G - LC 4242 DRAFT, staff, dated 4/23/99, 2 pgs.

H - LC 4243 DRAFT, staff, dated 4/23/99, 2 pgs.

I - HB 2273, -5 amendments (LC 1736), dated 4/19/99, staff, 2 pgs.

J - HB 2307, -8 amendments (LC 1876), dated 4/6/99, staff, 2 pgs.

K - HB 2394, -2 amendments (LC 336), dated 3/4/99, staff, 1 pg.

L - HB 2394, -8 amendments (LC 336), dated 4/20/99, staff, 6 pgs.

M - HB 2494, -8 amendments (LC 1938), dated 4/16/99, staff, 2 pgs.

N - HB 2500, -1 amendments (LC 1882), dated 3/26/99, staff, 3 pgs.

O - HJR 82, written testimony submitted by State Treasurer Jim Hill, dated 4/26/99, 1 pg.

P - HB 2494, written testimony submitted by Gwendolyn Whitmore, dated 3/4/99, 3 pgs.

Q - HB 2494, written testimony submitted by Elizabeth Grazer-Lindsay, dated 3/8/99, 5 pgs.

R - HB 2494, written testimony submitted by Lyle Axelarris, 12 pgs.

S - HB 2494, written testimony submitted by Katherine Axelarris, dated 4/27/99, 14 pgs.

T - HB 2494, written testimony submitted by Tabatha Parker, 12 pgs.

U - HB 2494, written testimony submitted by Heather Alexander, 14 pgs.

V - HB 2494, written testimony submitted by Elizabeth Scotto, dated 4/26/99, 11 pgs.