

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

May 18, 1999 Hearing Room 357

8:30 a.m. Tapes 199 - 200

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Sunseri

MEMBER EXCUSED: Rep. Simmons

STAFF PRESENT: John Horton, Counsel

Rachel Short, Administrative Support

MEASURE/ISSUES HEARD:

SB 78A Work Session

SB 1071A Public Hearing

HB 2238 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 199, SIDE A		

005	Chair Mannix	Opens hearing at 8:40 a.m.
<u>PUBLIC HEARING ñ HB 2238</u>		
022	Annette Talbott	Legislative Coordinator, Employment Department Testifies and submits written testimony against HB 2238 (EXHIBIT A). Discusses the progress of HB 2238. We cannot support the amended version of the bill. The bill continues upon closer scrutiny to present a conformity problem with federal law, which would have potential grants and tax offset problems. Discusses the ñ7 amendments (EXHIBIT B).
044	Chair Mannix	What would the position of the Employment Department and the Governor be as to just passing section 6?
046	Talbott	I asked the staff that and they would still be opposed to the bill.
<u>WORK SESSION - SB 78 A</u>		
065	Counsel Horton	SB 78 A authorizes juvenile court to recall case if juvenile fails to appear as summoned in criminal or municipal court. Discusses the ñA4 and the ñA5 amendments (EXHIBITS C and D).
076	Rep. Prozanski	Discusses the idea of giving more discretion as to how youth should be viewed at the time of a tragic situation.
085	Larry Oglesby	Marion County Juvenile Department, Oregon Juvenile Directorís Association Discusses amendments to SB 78A. Testifies in support of the ñ4 and the ñ5 amendments. Discusses the idea of assessment centers.
097	Rep. Bowman	While in custody, where would the youth spend their time?
100	Counsel Horton	That provision is not in the bill, but under the law they are put under the custody of the local juvenile department.
104	Oglesby	Explains the different options that SB 78A gives as shelter for juveniles under detention.
110	Chair Mannix	Discusses situations where different kinds of security would be needed for youth incarceration.
115	Rep. Sunseri	What happens to the discretion of the officer where there is mandatory removal

		for up to seven days?
123	Oglesby	This provision would deal with the generic cases that do not involve possession of firearms or destructive devices.
126	Rep. Bowman	Is there a conflict between SB 78A and the bill that we passed about homeless youth?
128	Chair Mannix	No.
131	Rep. Prozanski	We are talking about the overall generic approach for all cases.
143	Counsel Horton	The A4 amendments deal with the same statute that was dealt with in the runaway bill, however, there is no conflict between the two. The runaway bill added a section 3.
149	Rep. Hansen	Discusses different community reactions to certain situations.
183	Rep. Prozanski	MOTION: Moves to ADOPT SB 78-A4 amendments dated 05/17/99.
168	Chair Mannix	VOTE: 4-2 AYE: 4 - Hansen, Prozanski, Sunseri, Mannix NAY: 2 - Bowman, Gianella EXCUSED: 1 - Simmons
	Chair Mannix	The motion CARRIES.
193	Rep. Prozanski	MOTION: Moves to ADOPT SB 78-A5 amendments dated 05/18/99.
		VOTE: 6-0 EXCUSED: 1 - Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
197	Rep. Prozanski	MOTION: Moves SB 78A to the floor with a DO PASS AS

		AMENDED recommendation.
199	Rep. Bowman	I'm concerned about the A4 amendments. In my county if a youth is taken into custody the only option is a correctional facility. I believe that the default position is putting kids into a locked facility. I can't support this bill.
207	Rep. Prozanski	Reviews the definition of "custody" as compared to "detention". I feel this bill will broaden the ability for the officer in the street who has immediate first contact with the youth to make some assessments of their own as to the situation.
238	Oglesby	Explains that a youth would only be taken to detention if they qualify for a crime severe enough to be detained. Multnomah County does have a screening mechanism, which is designed to screen kids out of detention rather than into detention.
248	Rep. Sunseri	The youth are not kept in a jail cell.
251	Oglesby	It is the equivalent of a jail cell, but it would not be put in the general population. They would be placed in a separate room for assessment. The community could decide to have an intake center.
260	Rep. Hansen	We don't have any protocols in place for the less secure facilities. Currently kids are not being taken into custody so there are no protocols as to what you do with a juvenile that is a danger to themselves.
289	Bob Kauffman	Central Precinct Commander, Portland Police Bureau Discusses the community's interest in helping runaway and homeless youth. At the central precinct we have a location where we take children that are taken in for status offenses or minor criminal issues. Discusses the success of a non-profit organization called "New Avenues for Youth".
376		VOTE: 6-0 EXCUSED: 1 - Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.
<u>PUBLIC HEARING - SB 1071</u>		
389	Counsel Horton	SB 1071 requires 24-hour notice prior to issuing citation to homeless person for trespassing on public property or camping on public property.

407	Sen. Frank Shields	State Senator, Senate District 9 Testifies in favor of SB 1071. Gives history of the bill. Discusses the courtesy involved with giving notice before sweeping out a homeless camp. Explains the necessity of contacting a social service agency before doing away with a homeless campsite. Cities and towns have not complained about this bill, but social services have complained. Discusses the insignificance of posing a fine on a homeless person.
TAPE 200, SIDE A		
036	Sen. Shields	Discusses the concerns of an established homeless campsite.
047	Chair Mannix	How would you feel about adding to the citation statute a statement that is an affirmative defense to a citation for unlawful camping if the citation was issued within 200 feet of and less than two hours before or after the posting of the notice?
053	Sen. Shields	I have heard of this idea. I haven't had a chance to think it through and I have not had a chance to take it to Legislative Counsel.
062	Chair Mannix	Your concern is that there should be a notice posted 24 hours before a homeless campsite is cleared.
070	Sen. Shields	The problem is that individuals have been cited on occasion with no time to pack up their belongings. Defines an established camping site.
077	Chair Mannix	Discusses the problem of posting.
092	Sen. Shields	We haven't had enough time to discuss the details. The city seems to be worried about someone using buildings such as City Hall as a campsite. The definition of what an established campsite is needs to be discussed.
118	Chair Mannix	I want to hear testimony this morning and we will focus on technical pieces later on.
126	Rep. Prozanski	Discusses a situation and the problems that arose when a campsite was set up at the precinct.
145	Sen. Shields	I am willing to negotiate and consider all of the possibilities.
154	Chuck Currie	First United Methodist Church Testifies in favor of SB 1071. We thought we had fixed the problem but local jurisdictions have been using a loophole by giving citations at the same time they sweep the campsite. We don't have enough social services in town. Discusses his feelings on citing people just because they are homeless.

195	Rep. Prozanski	Asks about specific population groups that are being discriminated against.
199	Currie	Because people are homeless they are being cited and fined simply based on their economic status.
212	Mark Landauer	City of Portland Testifies and submits written testimony against SB 1071 (EXHIBIT E). Gives statistics on the number of citations issued to campers in the southeast precinct. Discusses the problems with trespassing and drug charges that the city has had with these campers. We do not issue citations that often, but we need some type of enforcement tool to discourage prohibited behavior. Citations are often issued to encourage homeless to move into some type of rehabilitation or shelter.
249	Rep. Prozanski	Was there opposition to this bill when it was in the Senate?
252	Landauer	Yes.
254	Rep. Prozanski	What was the vote in the Senate?
255	Landauer	The vote was 19-7 in the Senate.
258	Rep. Prozanski	There are not enough social service facilities in the city of Portland. What does the city of Portland intend to do?
275	Rep. Gianella	What was the opposition in the Senate?
277	Landauer	The opposition was that the bill would render trespassing on public property virtually useless in our estimation. From an enforcement side, an officer would have to determine one's housing status before issuing a citation.
294	Rep. Bowman	If you run across an individual in a park in a sleeping bag, you could make a pretty good assumption that they are probably homeless.
303	Landauer	I think that in most cases that is a safe assumption, however, if you look at the language regarding trespassing one does not necessarily have to have a sleeping bag in order to determine whether that individual is or is not homeless.
312	Rep. Sunseri	You are not citing people because of their economic status, but because there is an abuse of alcohol or drugs, etc.
317	Commander Bob Kaufman	Central Precinct, Portland Police Bureau Testifies and submits testimony against SB 1071 (EXHIBITS F and G). Discusses problems that the central precinct has had with trespassing in the drug

		free and prostitution free zones. Discusses ways in which the city of Portland is dealing with the homeless teen population.
416	Rep. Prozanski	Discusses the idea of deleting Section C of SB 1071.
TAPE 199, SIDE B		
011	Commander Stan Grubbs	Commander South Precinct, Portland Police Chief Bureau Testifies against SB 1071. Discusses the poor communication that has taken place between them and other city officials on the issue of posting campsites for the homeless. Discusses the program called JOIN, which provides outreach. Discusses the problem with having limited shelters.
044	Chair Mannix	Do you feel this bill is too broad? How do you feel about the restricted notion of saying within two hours before posting that there shouldn't be a citation issued for unlawful camping?
048	Grubbs	I don't think it will have a significant impact on our ability to deal with the problem in cooperation with the other community services.
050	Chair Mannix	I will make some proponents of this issue understand that people are protected.
057	Rep. Bowman	What happens when you encounter people with severe mental health needs on the street?
059	Grubbs	The officers in that area try to identify what social services are available.
069	David Nebel	Oregon Law Center Testifies in favor of SB 1071. Explains that SB 1071 is an important bill for legal services clients in the city of Portland.
076	Chair Mannix	Is this an indigent defense situation or just legal aid stepping in on its own?
077	Nebel	This is legal services being contacted by people who have gotten these citations. Receiving a citation under the circumstances constitutes another barrier for these homeless to get off the street. Discusses the idea of working on amendments.
115	Rep. Prozanski	Discusses the idea of deleting line 13, Section 1. Discusses the problems with people trespassing on public property and being very disruptive.
134	Nebel	We do not want to advocate the right that people might have to sleep in the police precinct or city hall, etc. Discusses the definition of trespassing.

149	Richard Meyer	Association of Oregon Community Developed Organizations Testifies in support of SB 1071. Discusses the statistics of homeless people.
225	Rep. Prozanski	If you have someone who is homeless or not homeless in a public building, an officer would not be able to cite that person for 24 hours. What happens when that building is supposed to be closed? Do you just leave the person there overnight?
232	Meyer	If I were in a building and they were going to shut the doors, they should treat a homeless person the same as me. No one has the right to stay inside the public building after hours.
240	Rep. Prozanski	My interpretation of line 13 does not have any exceptions to citing an individual on public property.
250	Currie	There is some confusion there. Tries to establish the language of what a homeless camp is. I have never seen anyone establish a homeless camp inside City Hall.
257	Chair Mannix	Why don't social services get together and establish a facility that they can call a homeless camp?
259	Currie	That is something that has been under discussion for a long time and the Mayor's office opposes it.
261	Meyer	That is one of the solutions that organizations have brought to the legislature along with funding to build affordable housing.
271	Rep. Prozanski	I still don't understand section 1 of SB 1071 that would allow issuing a citation to a homeless person for trespassing on public property.
293	Chair Mannix	Adjourns meeting at 9:55 a.m.

Submitted By, Reviewed By,

Rachel Short, Sarah Watson,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ Letter from Annette Talbott regarding HB 2238A with A7 amendments, Annette Talbott, 2 pgs.

B ñ Hand engrossed ñA7 Amendments to HB 2238, Annette Talbott, 7 pgs.

C ñ Proposed ñA5 Amendments to SB 78A, Counsel, 1 pg.

D ñ Testimony by Mark Landauer, Mark Landauser, 3 pgs.

E ñ Illegal Camping-Notification and Enforcement; Property and Referral Procedures, Commander Grubbs, 12 pgs.

F ñ "Beach Camping North of Seaside Banned", Commander Grubbs, 1 pg.