

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

May 7, 1999 Hearing Room 357

8:00 a.m. Tapes 187 - 188

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:

SB 740A Public Hearing HB 2807 Work Session

HJR 87 Work Session HB 2808 Work Session

HJR 88 Work Session HB 3374 Work Session

HJR 89 Work Session HB 2350 Work Session

HJR 90 Work Session HJR 93 Work Session

HJR 91 Work Session HJR 94 Work Session

HJR 92 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 187, A		
008	Chair Mannix	Calls the meeting to order at 8:12 a.m.
<u>SB 740A PUBLIC HEARING</u>		
011	Counsel Horton	SB 740A expands group of persons required to report as sex offenders.
036	Sgt. Kent Zwicker	Supervisor, Sex Offender Registration Program, Oregon State Police (OSP) Testifies and submits written testimony in support of SB 740A (EXHIBIT A). Discusses what the Oregon State Police and their criminal justice partners have been doing to update the sex offender registration system and bring Oregon into compliance with federal laws. Describes the process used by citizens to learn if a person is a convicted sex offender.
087	Rep. Sunseri	Can an inquiry of that type be made by anyone?
088	Sgt. Zwicker	Yes. All relevant information regarding registered sex offenders would be available to the public under SB 740A. Describes a chart showing the Central Repository Database through the OSP and subsequent information that is available on the Internet.
135	Rep. Gianella	When an offender is notified that an inquiry is being made about them, are they notified who is making that request?
139	Sgt. Zwicker	Yes. Discusses other provisions of SB 740A including lifetime registration for most offenders, registration of non-resident students and workers, and address verification of predatory or dangerous sex offenders.
163	Rep. Prozanski	Is the change in SB 740A as to who can petition for release from sex offender registration required under federal guidelines or has the State of Oregon decided to adopt that as a policy decision?
169	Sgt. Zwicker	It is tied closely to what is in the federal mandate.
176	Pamela Wood	Department of Justice (DOJ) Testifies in support of SB 740A. Discusses how Oregon is trying to comply with the federal laws concerning sex offender registration.
184	Sgt. Zwicker	Describes the new registration offenses to be listed in statute. Discusses provisions that include contributing to the sexual delinquency of a minor and sexual misconduct.

213	Rep. Prozanski	Was adding the charge of Kidnapping 2 of a person under 18, except by a parent to the sex offender registration required by the federal government?
223	Wood	One of the offenses required by the federal law is kidnapping of a minor except by a parent.
233	Rep. Bowman	What does kidnapping have to do with sex crimes?
235	Sgt. Zwicker	The federal mandate was trying to get to sexual offenses and crimes against children so the kidnapping was included as crimes against children.
239	Rep. Bowman	Does this legislation cover just kidnapping of someone under 18 or is all kidnapping covered?
244	Sgt. Zwicker	It is Kidnapping 1 of a person under 18 and Kidnapping 2 would be excluded from registration if it was a parent who did the kidnapping.
259	Rep. Bowman	What if the kidnapper is 17 years old?
264	Wood	Kidnapping in the first degree involves compulsion and physical injury or terrorizing the victim and the more egregious levels of conduct. The federal law requires that kidnapping of a minor be included in sex offender registration no matter what the age of the kidnapper. Discusses Kidnapping 2 that involves a confinement of the person or moving them from one place to another and the less egregious levels of conduct.
305	Rep. Bowman	If I stood in front of someone and did not allow that person to move, would that be considered kidnapping in Oregon?
319	Chair Mannix	According to ORS 163.225 your description would not be kidnapping.
334	Wood	I think that is right, and in SB 740A the victim must be a minor.
344	Rep. Sunseri	Would a 21 year old boyfriend taking his 17 year old girlfriend to California without authority be kidnapping?
350	Wood	Yes.
354	Rep. Sunseri	Even if she agreed to go with the boy, the boy did not have the parentis authority to take the girl. Could the parents charge him with kidnapping under SB 740A?
391	Rep. Prozanski	Do we need some kind of defense when kids are just being bullies moving someone from one room to another and not allowing them out?

413	Rep. Sunseri	I agree with the intent, but there are some situations that may not be prudent to have someone register for the rest of their lives.
422	Wood	Speaks to the federal law requirements as to registerable offenses.
TAPE 188, A		
002	Chair Mannix	Asks for a handout showing what the federal government requires to get Byrne funds (federal grants for law enforcement) and what the State of Oregon is doing to comply with those regulations.
018	Sgt. Zwicker	Discusses the fee provision in SB 740A for the unsupervised offenders. Notifications made to the community require agreements between agencies on how those notifications are done.
032	Rep. Sunseri	Page 18, line 17 of SB 740A talks about burglary. Are burglars also considered to register for lifetime?
041	Sgt. Zwicker	That is a burglary if the underlying crime was a sex offense.
049	Wood	Page 3, lines 16 & 17 shows burglary with the intent to commit sex crimes has been in law, but this new language is to include the new registerable offenses.
055	Rep. Sunseri	If a burglary is committed and a sex crime takes place, the person would have to register as a sex offender even if they are only convicted of burglary?
058	Sgt. Zwicker	Yes.
060	Rep. Gianella	How does "solicitation of a minor to engage in sexual conduct" fit into this legislation?
065	Wood	That is a category of crime identified by Congress to be included for registration of sex offenses.
091	Rep. Bowman	How does the public access this sex offender registration information?
097	Sgt. Zwicker	Describes the Central Repository Database and how the public accesses that information.
104	Rep. Bowman	Can a person go to any law enforcement agency, not just the State Police for that information?
105	Sgt. Zwicker	Yes. Discusses linking the database with all law enforcement agencies statewide

		and on the Internet.
139	Rep. Bowman	If I only have the city and zip code, how do I find out if a sex offender is living in my neighborhood?
148	Sgt. Zwicker	For non-supervised offenders you could access their address just from the city or zip code, or contact any local law enforcement agency.
158	Rep. Hansen	Is there a procedure to waive the \$70 fee for indigent cases?
164	Sgt. Zwicker	That fee is not tied into the registration so there wouldn't be a criminal penalty associated with failure to pay.
173	Rep. Hansen	Is there any opt-out when the person is old and incapacitated but still required to fill out a form every 90 days?
190	Sgt. Zwicker	There are no provisions for these unsupervised offenders unless their order is vacated or they petition for relief from the requirement.
197	Rep. Hansen	Discusses his concern that the group that is most dangerous will abscond. Do we have data to compare with the current system to see if this new legislation is working?
210	Sgt. Zwicker	We do track the compliance rate. As a part of national policy there is a single-source central repository for each state.
230	Chair Mannix	Expresses concern about the broad net that is being cast and all the individuals that may be caught up in the national tracking.
295	Chair Mannix	We want to make sure that HB 2807 that relates to offender notification and HB 2808 that relates to offender registration are not contradictory.
308	Chair Mannix	Closes the public hearing on SB 740A.
<u>HB 2807 WORK SESSION</u>		
312	Chair Mannix	Discusses the 2 amendments to HB 2807 that removes discretion and requires sexual predator notification in certain cases (EXHIBIT B).
325	Tom Bessonette	Aid to Rep. Leslie Lewis, State Representative, House District 29 Testifies in support of HB 2807 and the 2 amendments.

352	Sgt. Kent Zwicker	Supervisor, Sex Offender Registration Program, Oregon State Police (OSP) Testifies and submits written testimony in support of HB 2807 (EXHIBIT C).
360	Bessonette	Addresses an amendment Rep. Lewis would like made to HB 2807 on page 2, line 21, changing the word "may" to "shall".
369	Chair Mannix	What is the State Police position on that change?
370	Sgt. Zwicker	Discusses his concerns with changing "may" to "shall".
374	Chair Mannix	We better leave it at "may".
380	Rep. Bowman	MOTION: Moves to ADOPT HB 2807-2 amendments dated 05/05/99.
		VOTE: 7-0
Chair Mannix		Hearing no objection, declares the motion CARRIED.
384	Rep. Bowman	MOTION: Moves HB 2807 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
Chair Mannix		Hearing no objection, declares the motion CARRIED. REP. LEWIS will lead discussion on the floor.
416	Chair Mannix	Closes the work session on HB 2807.
<u>HB 2808 WORK SESSION</u>		
TAPE 187, B		
010	Chair Mannix	Discusses the 3 amendments to HB 2808 that requires registration by persons

		convicted of specified crimes (EXHIBIT D) .
013	Rep. Prozanski	Discusses "chronic neighborhood crime" as presented on line 5, page 1 of the ñ3 amendments.
019	Chair Mannix	This phrase was designed to get at the most common, predatory, neighborhood crimes such as burglary, stealing cars, robbery and drug dealing, and a repetition of those crimes would pull the offender into the registration network.
043	Counsel Horton	Discusses why robbery is included in a "chronic neighborhood crime".
056	Chair Mannix	A fiscal impact cannot be avoided.
076	Rep. Bowman	One issue is the fiscal consideration, but I have this fear we will be creating chaos in communities rather than making them feel safer by releasing this information.
097	Rep. Sunseri	My concern is the fiscal impact.
100	Rep. Prozanski	I am concerned about Oregon creating a national registry for the federal government.
108	Rep. Hansen	One problem is the fiscal impact and the other is how much fear we are accomplishing without meaning to.
154	Chair Mannix	My recommendation is sending the bill to Ways and Means with no recommendation.
162	Rep. Bowman	Can we send this to the interim Judiciary committee and have them come back next session with a recommendation?
165	Chair Mannix	Yes.
167	Rep. Sunseri	However, that doesn't resolve the fiscal problem.
181	Rep. Hansen	There could be some ways to address this without a huge price tag by retaining public information laws and making current information more accessible.
195	Rep. Sunseri	MOTION: Moves HB 2808 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means by prior reference.

		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
202	Chair Mannix	Closes the work session on HB 2808.
<u>HJR 87-94 COMBINED WORK SESSION</u>		
206	Chair Mannix	Introduces the ñ1 amendments to HJR 87, HJR 88, HJR 89, HJR90, HJR 92 and HJR 94, (EXHIBITS E ñH, J & L) and the ñ2 amendments to HJR 91 and HJR 93 (EXHIBITS I & K) that all pertain to the rights of crime victims.
256	Norm Frink	Multnomah County District Attorney's Office Testifies in support of HJR 87 through HJR94.
266	Chair Mannix	Do you recommend any language changes?
267	Frink	No.
276	James Rice	Oregon Criminal Defense Lawyers Association Testifies in opposition to HJR 89 stressing his concern about constitutional questions that might need to be addressed by the Supreme Court.
312	Chair Mannix	What if we added "all grand juries, and in" to line 12 of the ñ1 amendments to HJR 89 to make sure grand juries are covered by this legislation? The proponents of Ballot Measure 70 thought grand juries were covered under that legislation.
331	Frink	They were not.
332	Chair Mannix	Were they intended to be included?
332	Frink	No.
33	Chair Mannix	How about under SB 936 last session?
334	Frink	The bill that addressed that issue was a different bill last session, but I don't remember the bill number.

341	Chair Mannix	I wanted grand juries to be included so felons would not be serving on grand juries. Would you object to having that included for clarification?
375	Frink	We ought to not go beyond the mandate of Measure 40. I would disagree with including grand jurors in the measure unless you could not maintain the measure's constitutionality.
TAPE 188, B		
029	Paul Snider	Association of Oregon Counties Discusses possible changes to the 11 amendments to HJR 90 (EXHIBIT H) and the 11 amendments to HJR 94 (EXHIBIT L).
081	Frink	Both of these issues presented by Mr. Snider are not a problem and would not have an impact on bed space.
110	Rep. Prozanski	Was SB 936 last session made to conform to Ballot Measure 40?
113	Frink	Yes.
135	Chair Mannix	Closes the work session on HJR 87- HJR 94
<u>HB 3374 WORK SESSION</u>		
140	Chair Mannix	Discusses the 8 amendments to HB 3374 that creates the crime of harassment in the first degree (EXHIBIT M). Dropping the offense from a Class A to a Class C misdemeanor will have a sentencing impact.
146	Rep. Simmons	MOTION: Moves to RECONSIDER the vote by which "HB 3374 was sent to the floor DO PASS as amended".
		VOTE: 7-0
		Chair Mannix
		Hearing no objection, declares the motion CARRIED.
154	Rep. Mannix	MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment.
		VOTE: 7-0

	Chair Mannix	Hearing no objection, declares the motion CARRIED.
155	Rep. Simmons	MOTION: Moves that the ñ8 amendments to HB 3374 be FURTHER AMENDED on page 1, line 15, by changing "Class C" to "Class A".
196	Chair Mannix	VOTE: 4-3 AYE: 4 - Gianella, Simmons, Sunseri, Mannix NAY: 3 - Bowman, Hansen, Prozanski
	Chair Mannix	The motion CARRIES.
203	Chair Mannix	Discusses the ñ14 amendments to HB 3374 (EXHIBIT N).
228	Rep. Sunseri	MOTION: Moves to ADOPT HB 3374-14 amendments dated 05/05/99.
245	Rep. Prozanski	Were these the Department of Justice changes to bring the definition of handgun up to date?
248	Chair Mannix	Yes.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
256	Rep. Sunseri	MOTION: Moves HB 3374 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.
272	Rep. Prozanski	Gives notice of a possible minority report.
272	Rep. Bowman	Gives notice of a possible minority report.
273	Chair Mannix	Closes the work session on HB 3374.
<u>HB 2350 WORK SESSION</u>		
279	Counsel Horton	The ñ2 amendments were adopted yesterday (EXHIBIT O), but it was not sent to the floor. There is no fiscal impact so it does not need to go to Ways and Means.
297	Chair Mannix	MOTION: Moves HB 2350 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
		Chair Mannix Hearing no objection, declares the motion CARRIED. REP. BOWMAN will lead discussion on the floor.
302	Chair Mannix	Closes the work session on HB 2350.
303	Chair Mannix	Adjourns the meeting at 10:03 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson

Administrative Support Office Administrator

EXHIBIT SUMMARY

A - SB 740A, written testimony submitted by Sgt. Kent Zwicker, Oregon State Police, dated 5/7/99, 31 pgs.

B - HB 2807, -2 amendments (LC 1397), dated 5/5/99, staff, 3 pgs.

C - HB 2807, written testimony submitted by Sgt. Ken Zwicker, Oregon State Police, 2 pgs.

D - HB 2808, -3 amendments (LC 1398), dated 5/5/99, staff 8 pgs.

E - HJR 87, -1 amendments (LC 4236), dated 5/6/99, staff, 3 pgs.

F - HJR 88, -1 amendments (LC 4237), dated 5/6/99, staff, 2 pgs.

G - HJR 89, -1 amendments (LC 4238), dated 5/6/99, staff, 2 pgs.

H - HJR 90, -1 amendments (LC 4239), dated 5/6/99, staff, 2 pgs.

I - HJR 91, -2 amendments (LC 4240), dated 5/6/99, staff, 2 pgs.

J - HJR 92, -1 amendments (LC 4241), dated 5/6/99, staff, 1 pg.

K - HJR 93, -2 amendments (LC 4242), dated 5/6/99, staff, 2 pgs.

L - HJR 94, -1 amendments (LC 4243), dated 5/6/99, staff, 2 pgs.

M - HB 3374, -8 amendments (LC 3461), dated 5/4/99, staff, 1 pg.

N - HB 3374, -14 amendments (LC 3461), dated 5/5/99, staff, 6 pgs.

O - HB 2350, -2 amendments (LC 1540-1), dated 5/4/99, staff, 1 pg.