

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

June 18, 1999 Hearing Room 357

9:00 a.m. Tapes 216 - 217

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:

SB 686A Work Session

SB 685A Work Session

SB 392 Public Hearing and 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 216, A		

004	Chair Mannix	Calls meeting to order at 9:08 a.m.
<u>SB 686A WORK SESSION</u>		
012	Rep. Jerry Krummel	State Representative, House District 27 Encourages the move of SB 686A to the House Rules committee.
022	Rep. Bowman	MOTION: Moves that SB 686A BE REFERRED to the committee on Rules, Elections & Public Affairs.
024	Rep. Hansen	Do you know what will happen to this bill once it is in the Rules Committee?
025	Chair Mannix	Some of the issues dealing with the "corrections" relating clause could be left in SB 686A or the bill could be completely changed..
		VOTE: 5-0-2 EXCUSED: 2 - Rep. Prozanski, Rep. Simmons
		Chair Mannix Hearing no objection, declares the motion CARRIED.
038	Chair Mannix	Closes the work session on SB 686A.
<u>SB 685A WORK SESSION</u>		
040	Counsel Horton	Discusses the ñA4 and the ñA5 amendments to SB 685A that redefines parole and probation officer to include part-time officer who performs certain duties and is employed by the Department of Corrections, county or court (EXHIBITS A & B).
052	Mary Botkin	American Federation of State County and Municipal Employees (AFSCME) Discusses a work group's attempt to delineate job responsibilities for individuals in the field of corrections. We have not come up with a solution to answer everyone's concerns at the present time. I dislike lists in law because as duties change in the public safety arena, whatever is not on the list is eliminated. I would be happy if we did nothing at this point.
080	Chair Mannix	Do you support SB 685A with the ñ4A amendments?

081	Botkin	We support the ñA4 amendments, but do not favor the ñA5 amendments.
087	Reed Ritchey	Assistant Director, Washington County Community Corrections Testifies in support of SB 685A and the ñA4 amendments.
100	Rep. Bowman	I thought the ñA5 amendments are what the work group agreed to except for one issue brought forth by the Multnomah County Sheriff.
106	Botkin	The sheriff's issue is a significant sticking point.
109	Chair Mannix	The problem is that a person not certified as a parole and probation officer cannot conduct searches and seizures. Suggests that the committee might want to talk about what a non-certified person "may" do rather than what they "may not" do.
124	Brian DeLashmutt	Federation of Oregon Parole & Probation Officers Testifies in support of SB 685A and the ñA4 amendments. Discusses the issue of overlapping responsibilities between parole and probation officers and corrections officers.
149	Chair Mannix	There are bills in Ways & Means that have relating clauses that could be used to help with unresolved issues.
160	Botkin	Redefining these job descriptions becomes very confusing and making lists only complicates things more.
175	Rep. Hansen	What is the downside if we do nothing this session on redefining these roles and wait until the interim?
180	Botkin	Business will go on as usual. More time will allow us to look at what type of corrections facility Multnomah County intends to build and operate and what the population mix will look like.
194	Rep. Bowman	I thought Multnomah County and the sheriff's office had resolved the issue of the type of facility.
204	Ritchey	Discusses the ñA5 amendments to SB 685A.
220	Rep. Gianella	MOTION: Moves to ADOPT SB 685A-4 amendments dated 06/10/99.
		VOTE: 5-0-2

		EXCUSED: 2 - Rep. Prozanski, Rep. Simmons
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
224	Rep. Gianella	MOTION: Moves SB 685A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Rep. Prozanski, Rep. Simmons
		Chair Mannix Hearing no objection, declares the motion CARRIED. REP. MANNIX will lead discussion on the floor.
232	Chair Mannix	Closes the work session on SB 685A.
<u>SB 392 PUBLIC HEARING</u>		
248	Bob Rocklin	Department of Justice Testifies and submits written testimony in support of HB 392 which revises the procedure for issuance of a death warrant (EXHIBIT C). Discusses and testifies in support of the ñ1, ñ2, and ñ3 amendments to SB 392 (EXHIBITS D ñ F). Suggests that page 1, line 6, of the ñ3 amendments should read the court "shall" instead of "may" hold a hearing.
TAPE 217, A		
001	Rocklin	Continues discussing the ñ2 amendments that eliminate undue delay in post-conviction cases involving death-row inmates. Gives examples of inmates on death row who have filed petition for post-conviction relief.
021	Chair Mannix	A defense attorney tries to keep his client alive as long as possible by delaying the process. Are you trying to put an end time to these delays?
029	Rocklin	Yes.

056	Rep. Bowman	How will inmates know what their rights are, and how the review process works?
061	Rocklin	The inmate will file an informal petition to review his case. Counsel is then appointed and talks to the inmate and a formal petition is filed.
076	Chair Mannix	An inmate should want this review done expeditiously in case a necessary witness has died or moved.
079	Rocklin	That is correct because the burden of proof is on the petitioner. Continues to discuss the ñ2 amendments pointing out the "escape clauses" in those amendments.
102	John Bradley	Multnomah County District Attorney's Office Testifies in support of HB 392. Discusses the ñ2 and the ñ3 amendments and the importance of a standard procedure throughout the state for filing petitions. Discusses the importance of the burden of proof being on the defendant. Since the burden of proof is on the defendant, it won't do him any good not to cooperate.
138	Chair Mannix	Is there anyone currently on death row who has not been represented by counsel at previous judicial proceedings?
142	Rocklin	All 8 inmates on death row have been represented by counsel.
151	Bradley	Discusses the importance of expediting post conviction relief because with the passage of time, people forget what happens in a proceeding.
177	Rep. Bowman	How often does a court rule that a defendant's counsel was not adequate?
187	John Hoover	Multnomah County District Attorney's Office Testifies in support of SB 392 stating that a trial lawyer is found to be incompetent very seldom.
213	Clarence Pugh	Oregon Coalition to Abolish the Death Penalty Testifies and submits written testimony as neutral to SB 392 (EXHIBIT G). We realize this legislation is needed to clarify current law, but we ask that you leave the timelines for post conviction relief as they are. Discusses the number of death-row inmates around the country, including Oregon, who have been released from prison because they were found innocent.
294	Rep. Gianella	You mentioned that 5 death-row inmates had been released in Oregon because they were found innocent. What is the time frame for those 5 releases?

312	Kathleen Pugh	Oregon Coalition to Abolish the Death Penalty All 5 have been released since 1991.
320	Ann Christian	State Court Administrator's Office Testifies as neutral to SB 392 and the ñ1, ñ2, and ñ3 amendments. Discusses the timelines for filing petitions for post conviction relief within the ñ2 amendments (EXHIBIT E). Suggests that the State Public Defender represent the petitioner on post prison relief to streamline the process.
382	Chair Mannix	Suggests making that change in a bill relating to indigent defense that is pending before the Ways and Means Committee.
423	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to SB 392. States that there has been very little time to study these significant amendments to SB 392.
TAPE 216, B		
019	Chair Mannix	I offered to send SB 392 to the Rules Committee if you felt you did not have adequate time to evaluate these amendments. Do you need more time?
024	Swenson	We have testimony that could possibly cause significant amendments. Discusses concerns with the ñ1 amendments (EXHIBIT D) and the ñ3 amendments (EXHIBIT F).
091	Ingrid MacFarlane	State Public Defender's Office Testifies in opposition to SB 392.
126	Bob Castagna	Oregon Catholic Conference Testifies in opposition to SB 392. Discusses his philosophical and procedural opposition to the death penalty.
187	Chair Mannix	Closes the public hearing on SB 392.
<u>SB 392 WORK SESSION</u>		
190	Rep. Simmons	MOTION: Moves SB 392 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Rules, Elections & Public Affairs.

		VOTE: 5-1-1 AYE: 5 - Bowman, Gianella, Simmons, Sunseri, Mannix NAY: 1 - Hansen EXCUSED: 1 - Prozanski
Chair Mannix		The motion CARRIES.
199	Chair Mannix	Closes the work session on SB 392.
200	Chair Mannix	Adjourns the meeting at 10:18 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

EXHIBIT SUMMARY

A - SB 685A, A4 amendments (LC 2228), dated 6/10/99, staff, 1 pg.

B - SB 685A, A5 amendments (LC 2228), dated 6/17/99, staff, 2 pgs.

C - SB 392, written testimony submitted by Bob Rocklin, DOJ, dated 6/18/99, 17 pgs.

D - SB 392, 1 amendments (LC 491), dated 5/25/99, staff, 2 pgs.

E - SB 392, 2 amendments (LC 491), dated 5/27/99, staff, 4 pgs.

F - SB 392, 3 amendments (LC 491), dated 6/7/99, staff, 1 pg.

G - SB 392, written testimony submitted by Clarence Pugh, dated 6/18/99, 2 pgs.