

SENATE COMMITTEE ON JUDICIARY

June 14, 1999 Hearing Room C

3:00 PM Tapes 231 - 234

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Duncan

Sen. Nelson

Sen. Tarno

STAFF PRESENT: Bill Taylor, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: HJR 87A ñ 94A

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 |
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| TAPE 231, SIDE A | | |
| 004 | Chair Bryant | Calls meeting to order at 3:08 PM. |
| 025 | Rep. Floyd Prozanski | State Representative, House District 40 Testifies and submits written testimony in opposition to HJR 92A which allows a non-unanimous verdict for murder, HJR 93A relating to compelled testimony, HJR 94A which lifts the age limit on boot camp, and HJR 88A which grants Oregon residents the right to a jury trial. (EXHIBIT A) Asserts that HJR 87A is the only victims' rights legislation which reflects the intent of Measure 40, the former victims' rights initiative. Contends that the victims' rights preamble of the HJRs is inappropriate. |
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| 214 | Sen. Burdick | Are 8 repetitive statements as a preamble relating to any subject found elsewhere in the Oregon Constitution? |
| 215 | Rep. Prozanski | No. Explains that 1997 legislation did not include the preamble statement. |
| 231 | Sen. Burdick | What is your position regarding the single subject ruling? |
| 235 | Rep. Prozanski | I agree. Asserts that HJR 7, the precursor to the 8 HJRs, was a pre-packaged, multiple issue document. |
| 269 | Chair Bryant | Do you support the Attorney General's proposed changes to the HJRs? |
| 275 | Rep. Prozanski | I disagree with the Attorney General's approach, but the changes are better than the original HJRs. |
| 302 | | |
| | Rep. Lane Shetterly | State Representative, House District 34 Reads a Statesman Journal advertisement which criticizes his perceived position on the HJRs. (EXHIBIT B) Asserts that the name-calling of the advertisements seek to silence and intimidate legislative members. Encourages legislators to produce sound resolutions and not be intimidated. |
| 383 | Chair Bryant | Discusses similar attacks in radio advertisements. |
| TAPE 232, SIDE A | | |
| 028 | Sen. Burdick | Ballot measure 40 passed by 59 percent of the vote. How many referrals do we "owe" the voters on "victim's rights?" |
| 038 | Rep. Shetterly | We "owe" the voters something, but I hesitate to say what, how many or which ones. |
| 050 | Sen. Duncan | Who ran the demeaning advertisements? |
| 051 | Chair Bryant | The Parks Foundation sponsored the ads. |
| 073 | | |
| | Rep. Jo Ann Bowman | State Representative, House District 19 Testifies and submits written testimony in opposition to HJR 88A which ensures the State a right to a jury trial and HJR 89A which excludes non-registered voters from the jury pool. (EXHIBITS C and D) Asserts that HJR 88A presents an inherent conflict of interest in creating the State as victim, judge and jury. Explains that 70 percent of registered voters do not vote. Voter registration status |

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| | | does not reflect active participation in the political arena or inherent ability to serve on a jury. Asserts that HJR 88A would limit the participation of religious, ethnic, racial and other minority groups in the criminal justice system. Discusses the confusion about victims' rights legislation in the public arena. |
| 229 | Dale Penn | Oregon District Attorneys Association Testifies in support of HJR 87A ñ 94A. Contends that only constitutional rights are enforceable. Compares statutory rights and constitutional rights. Discusses opposition to the right to refuse a deposition. |
| 354 | Chair Bryant | The district attorney has the right to subpoena books, records, and documents. Shouldn't victims have the right to refuse interrogation? |
| 364 | Penn | No. Discusses statutory requirements relating to discovery of facts. |
| 379 | Chair Bryant | Would you allow a defendant to view your information in breadth and depth as you seek to view the defendant's information? |
| 385 | Penn | No, but district attorneys have no obligation to provide unlimited search. |
| TAPE 231, SIDE B | | |
| 005 | Chair Bryant | Discusses the necessity to preserve defendant's rights while endorsing victim's rights. |
| 014 | Penn | Discusses the impropriety of allowing subpoena of criminal records. Discusses search and seizure statutes relating to automobiles. |
| 114 | Chair Bryant | What do you think is our responsibility on the HJRs? |
| 117 | Penn | Stresses the necessity for the public to vote on all of the HJRs. |
| 155 | Sen. Duncan | What is the District Attorneys Association's position on the recent advertisements relating to the HJR legislation? |
| 156 | Penn | We do not endorse name-calling, but opponents should feel free to make a stand. |
| 174 | Sen. Burdick | I agree with Rep. Prozanski's admonition to be direct with the voters and clearly state what the current provision is and how it will be changed. |
| 178 | Penn | The wording of the initiatives in the Voters' Pamphlet is not essential. People will complain regardless of how an initiative is stated. |
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| 198 | Sen. Burdick | What is your position on the HJR's if we amend them to clearly state the resulting constitutional changes of each measure? |
| 204 | Penn | In general, the Oregon District Attorneys Association supports the policies of ballot measure 40. |
| 222 | Tom Cropper | Concerned Citizen, Cable Television Program Producer Testifies and submits written testimony in opposition to HJR 87A, 90A and 94A. (EXHIBIT E) Discusses the intricate balance between defendant and victim rights. |
| 271 | Bradley Holliday | Concerned Citizen, Brother of Murder Victim Testifies and submits written testimony in support of HJR 90A. (EXHIBIT F) Discusses the murder of his brother, Robert Allen Holliday. |
| TAPE 232, SIDE B | | |
| 002 | Holliday | Continues discussion about the murder of his brother. Explains that releasing violent criminals on bail carries substantial risk to victims. |
| 045? | Paul Levy | Metropolitan (Portland) Public Defender, Attorney at Law Testifies in opposition to HHR 90A. Explains that statutory changes are sufficient to address victims' rights. Discusses how victims' rights are upheld or ignored by the practices of local district attorney offices. |
| 160 | Ingrid Swenson | Oregon Criminal Defense Lawyers Association Testifies and submits written testimony in opposition of HJR 87A ñ 94A. (EXHIBITS G and H) Discusses statutory crime victims' rights and unintended consequences of constitutional amendments. Discusses the inefficiency and inapplicability of allowing victims to participate in all hearings related to a defendant's case. Explains why no state would grant the right to a jury trial to itself. |
| TAPE 233, SIDE A | | |
| 001 | Swenson | Continues discussion about HJR 91A which only ensures to state rights, not federal rights. |
| 018 | Sen. Tarno | Doesn't HJR 91A relate to case law? |
| 019 | Ingrid | Yes, but case law interprets the constitution. Discusses unanimous verdicts in murder cases and the broad language of the compelled testimony provision. |

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| 101 | Kathie Osborn | Oregon Juvenile Rights Project Testifies in support of HJR 87A and in opposition to HJR 88A-93A. Explains how HJR 87A, 91A and 93A would strip juvenile court of its authority. Discusses the history of the juvenile criminal justice system. The crucial difference to juvenile offenders and adult offenders is that juvenile offenders have the right to treatment. |
| 270 | Norm Frink | Multnomah County Chief Deputy District Attorney Testifies and submits written testimony in support of HJR 87A-94A. (EXHIBIT I) Discusses Rep. Prozanski's sister's murder case. Asserts that suppression of relevant evidence because of technical errors should be the last resort. |
| TAPE 234, SIDE A | | |
| 007 | Frink | Continues discussion about limiting the jury pool to registered voters and unanimous murder verdicts. |
| 036 | Steve Doell | Crime Victims United Testifies and submits written testimony in support of HJR 87A-94A. (EXHIBITS J and K) Discusses crime victim Sarah Zimmerman's case. Explains how plea bargain agreements erode the criminal justice system. Refutes Rep. Shetterly's voting record relating to the HJRs. |
| 268 | Vice Chair Courtney | Adjourns meeting at 5:43 PM. |

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

EXHIBIT SUMMARY

- A. Victim Rights Legislation will curtail your rights, Rep. Floyd Prozanski, 1p**
- B. Written testimony relating to HJR 87A-94A, Rep. Lane Shetterly, 3pp**
- C. Survivors Make the Case Against Death Row, Rep. Jo Ann Bowman, 2pp**
- D. Victims' rights state comparison chart, Rep. Jo Ann Bowman, 1p**
- E. Written testimony in opposition to HJR 87A ñ 94A, Tom Cropper, 1p**
- F. Written testimony in support of HJR 87A ñ 94A, Bradley Holliday, 3pp**

- G. Written testimony relating to HJR 87A-94A, Ingrid Swenson, 19pp**
- H. Criminal Constitution Law excerpt, Ingrid Swenson, 15pp**
- I. Written testimony relating to HJR 87A-94A, Norm Frink, 4pp**
- J. Written testimony relating to crime victims, Sarah Zimmerman, 2pp**
- K. Victims' Rights state comparison charts, Steve Doell, 2pp**