

HOUSE COMMITTEE ON FULL JUDICIARY

June 13, 1997 Hearing Room 357

1:30 P.M. Tapes 58 - 59

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Floyd Prozanski, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. George Eighmey

Rep. Lane Shetterly

Rep. Charles Starr

Rep. Judy Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

Rep. Peter Courtney

Rep. Ron Sunseri

STAFF PRESENT:

Scott Lumsden, Counsel

Nikola Jones, Counsel

Gina Cross, Administrative Support

MEASURE/ISSUES HEARD:

SB 258A Public Hearing and Work Session

SB 156A Work Session

SB 157A Work Session

SB 35A 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 |
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| Tape 58, A | | |
| 003 | Chair Minnis | Calls the meeting to order at 1: 30 p.m. |
| <u>SB 258A - PUBLIC HEARING</u> | | |
| 004 | Chair Minnis | Opens the work session on SB 258A. |
| 007 | Russ Lipetzky | Oregon State Bar >Submits testimony and testifies in support of SB 258A (EXHIBIT A). >Uniform statewide procedure for a custodial parent to get a child back from a noncustodial parent. >A writ of assistance is issued to direct the sheriff to help recover the child. |
| 022 | Chair Minnis | How is a law enforcement officer to know that this is the most current document? |
| 023 | Lipetzky | The bill requires that the court find that the document is validated as the most current. |
| 028 | Chair Minnis | If a police officer executes the writ and gets the child back, is he indemnified in any way? |
| 030 | Lipetzky | There is language which holds the officer blameless as long as he is within the scope of his job. |
| 031 | Chair Minnis | As long as he isn't violating federal civil rights laws? |
| 032 | Lipetzky | Yes. |
| 032 | Rep. Bowman | Wouldn't you call the officer to escort you to get the child? |
| 036 | Lipetzky | Yes. There may be some places around the state that would, but in my experience they won't. Officers don't want to be in the middle of these things. |
| 041 | Chair Minnis | Commonly you have several sets of documents, and you don't know which one is the most current. |
| 043 | Lipetzky | This should assist in clarifying that problem. |
| 045 | Chair Minnis | Closes the public hearing on SB 258A. |
| <u>SB 258A -</u> | | |

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| <u>WORK SESSION</u> | | |
| 046 | Chair Minnis | Opens the work session on SB 258A. |
| 048 | Rep. Eighmey | MOTION: Moves SB 258A to the floor with a DO PASS recommendation. |
| 050 | | VOTE: 10-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Courtney, Sunseri |
| 055 | Chair Minnis | The motion CARRIES. REP. EIGHMEY will lead discussion on the floor. |
| 056 | Chair Minnis | Closes the work session on SB 258A. |
| <u>SB 156A - WORK SESSION</u> | | |
| 056 | Chair Minnis | Opens the work session on SB 156A. |
| 063 | Diane Middle | Board of Parole and Post Prison Supervision >Gives background of SB 155 which is in Ways and Means. >This bill allows the most serious offenders to be sent back to the state prison. >The counties can have complete control over those offenders who are sentenced to less than 12 months. |
| 096 | Chair Minnis | This has a \$3.2 million fiscal? |
| 097 | Middle | Yes. That is the worst case scenario. We are looking at no more than 50 to 60 of these offenders being sent back. |
| 113 | Rep. Eighmey | Give me an example of someone who falls into this category. |
| 114 | Middle | Gives an example of a sex offender who attacked a female saleslady. We need to focus on individuals who can't be controlled. There will be a fiscal impact from this measure. |
| 145 | Rep. Eighmey | What would have triggered your keeping them instead of releasing them? |
| 147 | Middle | When the Department of Corrections (DOC) recognizes that the person is out of control, they alert the board to determine if there is some way to control the individuals. |

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| 161 | Chair Minnis | I'm not clear about the groundwork that is laid to determine the person's dangerousness. |
| 167 | Middle | That is actually part of the joint administrative rules. We developed a point system which looks at a number of different criteria. |
| 184 | Rep. Uherbelau | I want to be sure that the rules are specific as to what "out of control" means. This could be a very arbitrary procedure. |
| 201 | Middle | We have been working with the communities on that. We want to make sure that the offenders are really out of control. We are looking at the threat they can be as well as their actions. |
| 232 | Rep. Uherbelau | We have two different populations that this applies to: those who haven't been released, and those who have been released but can't control their actions? |
| 243 | Middle | Correct. |
| 246 | Rep. Bowman | How would your examples have changed under this bill? |
| 252 | Middle | We would have the ability to extradite someone for up to 12 months. |
| 269 | Rep. Bowman | What is the line between the parole board's responsibility and the local community's responsibility? |
| 288 | Middle | Currently, everything is coordinated together. This bill states that if the community can't control someone, the DOC can step in. |
| 314 | Chair Minnis | Can you speak to the -A4 amendments? I don't know whose they are. |
| 315 | Committee | Discusses why they don't have them. |
| 329 | Rep. Uherbelau | Was there any consultation with the Department of Justice about Constitutional issues? |
| 345 | Middle | The Attorney General's office testified. We can't apply this retroactively. At the time of the sentencing, the offenders will be notified that this is a possibility. |
| 362 | Rep. Uherbelau | Where is that provision? |
| 364 | Middle | It is in SB 155. That is why we are trying to keep these together. |
| 368 | Committee | Discussion about SB 155 and SB 156. |
| 377 | Rep. Eighmey | This is a significant direction that we are going in. We should look at this in 4 years. I was thinking about a sunset clause. |
| 388 | | I have no objection to that. It will have to be farther out than that. I don't think that we'll see anything for six to eight years. |
| 405 | Chair Minnis | It seems that the Ways and Means process can put that in if they see fit. |
| 409 | Rep. Eighmey | If it's going to be ten years, why do it? |
| 412 | Chair Minnis | Is everyone okay with this bill? |

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| 417 | Rep. Starr | MOTION: Moves SB 156A to the floor with a DO PASS recommendation. |
| 422 | | VOTE: 7-0-4 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 4 - Bowman, Courtney, Sunseri, Prozanski |
| 431 | Chair Minnis | The motion CARRIES. REP. STARR will lead discussion on the floor. |
| 433 | Chair Minnis | Closes the work session on SB 156A. |
| <u>SB 157A - WORK SESSION</u> | | |
| 434 | Chair Minnis | Opens the work session on SB 157A. |
| 435 | Chair Minnis | This bill allows for the payment of restitution. |
| 447 | Rep. Shetterly | This allows for the enforcement of the restitution order as a civil judgment? |
| 453 | Diane Middle | Board of Parole and Post Prison Supervision >It allows the board to require the restitution as part of the supervision. |
| Tape 59, A | | |
| 001 | Rep. Uherbelau | This doesn't discuss the ability to pay. |
| 007 | Rep. Eighmey | Isn't the ability to pay in here? |
| 008 | Middle | This is going into the statute. This allows us to collect the payment as long as we are supervising the individual. If they don't have the ability to pay, we can't enforce it. |
| 022 | Rep. Shetterly | Is there some continuing evaluation to make sure the offender can pay? |
| 026 | Middle | Yes. The second finding is when the offender is released. |
| 032 | Rep. Eighmey | MOTION: Moves SB 157A to the floor with a DO PASS recommendation. |
| 034 | | VOTE: 7-0-4 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 4 - Bowman, Courtney, Sunseri, Prozanski |
| | | The motion CARRIES. |

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| 037 | Chair Minnis | REP. BEYER will lead discussion on the floor. |
| 038 | Chair Minnis | Closes the work session on SB 157A. |
| 041 | Chair Minnis | Recesses the meeting at 2:11 p.m. |
| 042 | Chair Minnis | Reopens the meeting at 2:21 p.m. |
| <u>SB 35A - WORK SESSION</u> | | |
| 042 | Chair Minnis | Opens the work session on SB 35A. |
| 043 | Rep. Prozanski | Discusses other bills relating to SB 35A. >Discusses the -A4, -A5, -A6, -A7 amendments (EXHIBIT B). >HB 2984 is the content of the -A4 amendments. |
| 062 | Rep. Shetterly | MOTION: Moves to ADOPT SB 35A-4 amendments dated 6/13/97. |
| 064 | Rep. Beyer | I would like to find out how I voted on HB 2984 before I vote on putting it into another bill. |
| 066 | Chair Minnis | We can have staff look that up. |
| 067 | Scott Lumsden | As long as we are doing that, I should get all the bill numbers. |
| 069 | Rep. Prozanski | On HB 2984, it came out of the full committee 11 - 0. |
| | | VOTE: 9-0-2 EXCUSED: 2 - Courtney, Sunseri |
| 074 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
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| 074 | Rep. Prozanski | Discusses the -A5 amendments which clarifies what would be included in resisting arrest. This came from HB 2992. The full committee vote was 9 - 1 - 1 with Rep. Bowman voting "no" and Rep. Starr "excused." All of these bill are in the same format that was passed on the floor. |
| 087 | Rep. Uherbelau | MOTION: Moves to ADOPT SB 35A-5 amendments dated 6/13/97. |
| | | VOTE: 8-1-2 AYE: 8 - Beyer, Eighmey, Prozanski, Shetterly, Starr, Uherbelau, |

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| | | <p>Wells, Minnis</p> <p>NAY: 1 - Bowman</p> <p>EXCUSED: 2 - Courtney, Sunseri</p> |
| 089 | Chair Minnis | The motion CARRIES. |
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| 090 | Rep. Prozanski | The -A6 amendments come from HB 2994. It passed out of the full committee with a 10 - 0 - 1 with Rep. Starr "excused." It will allow for an individual who has been charged in more than one venue to agree to be prosecuted in one location. |
| 106 | Rep. Prozanski | MOTION: Moves to ADOPT SB 35A-6 amendments dated 6/13/97. |
| | | <p>VOTE: 10-0-1</p> <p>EXCUSED: 2 - Courtney, Sunseri</p> |
| 108 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
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| 109 | Rep. Prozanski | The -A7 amendments are HB 3000 as it was passed out of the floor. The full committee passed it 11 - 0. The bill talks about diversion for driving under the influence. |
| 138 | Rep. Uherbelau | MOTION: Moves to ADOPT SB 35A-7 amendments dated 6/13/97. |
| | | <p>VOTE: 10-0-2</p> <p>EXCUSED: 2 - Courtney, Sunseri</p> |
| 140 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
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| 142 | Chair Minnis | I am concerned that SB 1224 will go to a dead committee at some point. This was recreated in the Senate, but it was brought back over here. I would like to put this bill into SB 35A. |
| 151 | Rep. Uherbelau | This was relating to firearms and the other is relating to crime. |
| 152 | Chair Minnis | There isn't a problem, because this person commits a crime of unlawful possession of a firearm. |
| 156 | Rep. Eighmey | MOTION: Moves to AMEND SB 35A by inserting SB 1224 into SB 35A. |
| 159 | | <p>VOTE: 10-0-2</p> <p>EXCUSED: 2 - Courtney, Sunseri</p> |

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| 159 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
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| 160 | Chair Minnis | There is a technical issue on line 13. |
| 164 | Scott Lumsden | Committee Counsel >We need to change "appears" with "reasonably appears." |
| 176 | Rep. Shetterly | This gets back to the testimony about the suitcase left in front of the capitol. |
| 184 | Rep. Shetterly | MOTION: Moves to AMEND SB 35A on page 1, in line 13, change "'appears' to 'reasonably appears'". |
| | | VOTE: 10-0-2 EXCUSED: 2 - Courtney, Sunseri |
| 186 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
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| 188 | Rep. Shetterly | MOTION: Moves SB 35A to the floor with a DO PASS AS AMENDED recommendation. |
| 194 | | VOTE: 8-1-2 AYE: 8 - Beyer, Eighmey, Prozanski, Shetterly, Starr, Uherbelau, Wells, Minnis NAY: 1 - Bowman EXCUSED: 2 - Courtney, Sunseri |
| 198 | Chair | The motion CARRIES. REP. PROZANSKI will lead discussion on the floor. |
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| 199 | Chair Minnis | Closes the work session on SB 35A. |
| 214 | Chair Minnis | Adjourns the meeting at 2:35 p.m. |

Submitted By, Reviewed By,

Sarah Watson for Gina Cross, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 258A, written testimony, Russ Lipetzky, 1 p.

B - SB 35A, -A4, -A5, -A6, -A7 proposed amendments (dated 6/13/97), Rep. Floyd Prozanski, 10 pp.