

HOUSE COMMITTEE ON JUDICIARY COMMITTEE

SUBCOMMITTEE ON CRIMINAL LAW

January 21, 1997 Hearing Room 357

1:00 pm Tapes 4-6

MEMBERS PRESENT:

Rep. JOHN MINNIS, Chair

Rep. JOANN BOWMAN, Vice-Chair

Rep. PETER COURTNEY

Rep. FLOYD PROZANSKI

Rep. LANE SHETTERLY

Rep. RON SUNSERI

Rep. LARRY WELLS

MEMBER EXCUSED:

STAFF PRESENT:

SCOTT LUMSDEN, Counsel

BRIAN HIGGINS, Administrative Support

MEASURE/ISSUES HEARD:

Public Hearing HB 2091

HB 2168

HB 2226

HB 2240

HB 2242

HB 2263

HB 2276

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 4, A		
<u>HB 2091 - PUBLIC HEARING OPENED</u>		
009	Janis Eliot	Administrator for the Childcare Division of the Oregon Employment Department Submits written testimony in favor of HB 2091 [EXHIBIT A]. Discusses issue of childcare personnel working in various agencies and that applications will be from individual, not from employer.
090	Chair Minnis	Asks for clarification of "three year issue."
102	Eliot	Responds, defining the three year issue.
108	Rep. Prozanski	Asks for clarification of employee request of verifications.
111	Eliot	Responds.
128	Rep. Prozanski	Inquires about the cost entailed to agency or employer.
131	Eliot	Explains that a fee of \$3.00 would be imposed for those in certified facilities, presumably paid by the employee, although the employer could volunteer to pay, but the difference is that the responsibility for getting the work done necessary to have the clearance would be the employee's.
144	Eliot	Discusses the problem that if employee's history is revealed, employer is notified of problem without details.
153	Rep. Prozanski	Asks if employee would have to obtain verification more than once if continuously employed. Inquires on how one can verify if someone has left the state.
		Responds and comments that they currently operate on the

155	Eliot	employee's word concerning whether or not they have left the state.
163	Rep. Bowman	Asks why the provider (company) should not pay the fee due to level of wages for employee.
165	Eliot	Responds and comments on the need to better coordinate fee schedules, even though she believes the current fee is not a burden.
196	Rep. Bowman	Asks why the burden should not be on the provider.
200	Eliot	Responds and comments on the need to separate fees from the philosophy of childcare as a profession.
230	Chair Minnis	Asks for clarification on the problem that is being addressed.
234	Eliot	Responds that there is a public concern for safety of children and there is a lack of regulation in the field of childcare. Feels the base for childcare should not simply be a criminal background check.
242	Chair Minnis	Clarifies that the reasoning for doing background checks is to eliminate people who would be harmful to children.
252	Rep. Shetterly	Asks if the commencement of employment may not coincide with verification.
256	Eliot	Responds and notes that they have not yet figured out the most efficient way to handle the problem.
291	Rep. Wells	Relays example of constituent about time required to complete all of the necessities.
310	Eliot	Responds and comments that last summer was affected by SB 1078, but they have gotten through the problem. This bill will reduce workload.
381	Chair Minnis	Asks how the agency relate to SCF.

383	Eliot	Responds
395	Chair Minnis	Asks why there would be a need to renew the registry every two years.
TAPE 5, A		
010	Eliot	Responds and discussion follows.
019	Chair Minnis	Asks why this needs to be done over and over, becoming redundant.
022	Rep. Shetterly	Asks if out-of-state information would be collected and expresses concern over the period of time someone may be out of work while waiting for renewal.
025	Eliot	Responds and discussion follows
054	Rep. Prozanski	Asks what the criteria would be that would cause someone to be ineligible for employment.
056	Eliot	Comments that she would like to come back to do informational presentation.
067	Tom Barrows	Represents Oregon YMCAs Expresses concern with specific portions of the bill that deal with the probationary period.
090	Chair Minnis	Comments that he would like to see clearer language within the bill.
<u>HB 2091 - PUBLIC HEARING CLOSED</u>		
<u>HB 2276 - PUBLIC HEARING</u>		

OPENED		
115	Rep. Corcoran and John Holleman from Oregon Independent Miners	Would like to see a class C felony. There is a lot of mining in his district. Would like, at some point, to submit testimony from an officer from fish and game.
165	Holleman	Submits written testimony in support of HB 2276 [EXHIBIT B] .
195	Rep. Wells	Asks whether current trespass laws are strong enough or if this simply addresses loss of minerals.
198	Holleman	Responds.
237	Rep. Corcoran	Comments on the need for specific mining laws.
256	Rep. Sunseri	Asks if any claims are on real property and whether property rights laws cover such.
258	Holleman	Responds and explains that there are no mineral trespass laws though damage to equipment would be covered under existing law.
264	Rep. Shetterly	Comments on the sense that this should be covered by existing law but would like to refer to legislative counsel first.
279	Rep. Prozanski	Suggests focus on three areas: criminal mischief, criminal trespass and theft.
283	Holleman	Comments that in 1971, Oregon's mineral trespass laws were repealed.
288	Rep. Shetterly	Comments that in 1971 substantial adoptions on criminal code were made.
306	Chair Minnis	States that he would like to have counsel do some research on why this was changed and to obtain information from Trooper Hageford to see what his opinion is.

<u>HB 2276 - PUBLIC HEARING CLOSED</u>		
<u>HB 2168 - PUBLIC HEARING OPENED</u>		
370	Barry S. Kast	Administrator of the Mental Health and Developmental Disabilities Service Division Submits written testimony in support of HB 2168 [EXHIBIT C] .
377	Rep. Courtney	Asks who can obtain a patient, who has committed "multiple murders," once they have escaped.
392	Stabley F. Mazur Hart, Ph.D	Superintendant Responds.
<u>TAPE 4, B</u>		
013	Rep. Courtney	Asks on what basis someone is out of state.
015	Mazur Hart	Responds and cites an example of an incident in Arizona.
022	Rep. Prozanski	Expresses difficulty understanding need for this legislation. Questions the need to set up a separate process which takes away from the current check and balances.
026	Kast	Responds and comments that the purpose is for timeliness and the need to get people back into custody.
046	Rep. Prozanski	Questions why something can't be worked out to accomplish the same thing under current law.
048	Mazur Hart	Responds
067	Chair Minnis	Comments on probable cause and differences in state

		jurisdictions.
081	Rep. Prozanski	Inquires about the duty to go through same process.
084	Kast	Responds and comments that the Youth Authority Chapter 4.2915 has authority to issue warrants.
090	Rep. Courtney	Asks if the justice department requested this be done.
092	Mazur Hart	Responds and comments that the reasoning came from working with the State Police and trying to return people in a timely manner.
113	Kast	Comments that the PSRB has the authority to issue warrants only for released patients, rather than those who have escaped.
121	Rep. Courtney	Comments that he introduced legislation in 1983.
132	Rep. Sunseri	Expresses that he is reluctant to pass around police powers and asks how long it has taken to obtain a warrant to return a patient.
143	Mazur Hart	Responds that one instance took 3-4 days.
149	Rep. Shetterly	Comments that this would be handing over judicial powers.
159	Rep. Courtney	Asks if at the moment of the escape if they have the authority to "jump on it" immediately.
162	Kast	Responds with regard to procedure and discussion continues.
		Comments on the straddling of 2 principles: public safety and obligation to the patients.
180	Rep. Courtney	Expresses desire for counsel to accompany testifiers in order to help clarify technicalities.
		OCDLA Comments that the members have already raised many of the issues she planned on raising. Would like to

222	Ingrid Swensen	discuss standards such as probable cause. Clarification of escapes vs. non-escapes
268	Chair Minnis	Asks if probable cause is relevant and discussion follows.
	<u>HB 2168 - PUBLIC HEARING CLOSED</u>	
	<u>HB 2226 - PUBLIC HEARING OPENED</u>	
273	Beverlee Venell	Grant Manager for the Criminal Justice Service Division of the Oregon State Police Submits written testimony for HB 2226 [EXHIBIT D].
318	Chair Minnis	Asks why the bill is being heard.
320	Venell	Responds and comments that she is unclear, as it entails day-to-day operations.
326	Rep. Prozanski	Asks if someone requested Venell to testify?
327	Venell	Responds, "no."
329	Rep. Shetterly	Asks why legislative authority is needed.
333	Chair Minnis	Asks if Ways and Means would have a problem.
342	Rep. Prozanski	Comments that he is fearful of precedent setting.
348	Rep. Wells	Comments on the need for matching funds and questions whether or not matching funds apply here.
356	Venell	Responds and notes that very few situations do not require matching funds.

372	Rep. Bowman	Asks if approving this request to will get 25% matching funds needed for the application.
380	Venell	Responds.
388	Chair Minnis	Comments that he believes the Department of State Police does not have a strong stance on this bill.
402	Major Lee Erickson	Operations Bureau Commander of the Oregon State Police Comments on the strong partnership between the department and the legislature when conducting such applications.
<u>HB 2226 - PUBLIC HEARING CLOSED</u>		
<u>HB 2240 - PUBLIC HEARING OPENED</u>		
Tape 5, B		
009	Kelly Taylor	Department of Transportation Written testimony submitted by Sandy Wood, Department of Transportation for HB 2240 [EXHIBIT E].
035	Ingrid Swensen	Oregon Criminal Defense Lawyer's Association in support of bill and disusses the purpose of the bill: to allow a person who has been arrested for but not convicted of a traffic offense to have the fact of that arrest expunged.
057	Rep. Shetterly	Asks how a DUII diversion is reflected on the record now.
058	Swensen	Responds.
062	Taylor	Answers that part of the entry on the driving record is the date they entered diversion and the date of arrest.
		Asks if the record shows if they went into the diversion

222	Bray	Comments that the language was taken from current procedures and that he agrees circumstances are different for parking infractions.
233	Rep. Bowman	Asks for clarification of inter-county processes.
239	Bray	Responds that she would still need to go through the process.
245	Rep. Bowman	Asks when the process kicks in.
248	Bray	Answers that the fine does double once only, and the notice would kick in within 15 days of citation giving you options to appear. After 60 days, the court could enter judgement against the owner.
266	Rep. Bowman	Asks why just Multnomah county.
268	Bray	Responds that it has the only state court involved with parking tickets.
273	Rep. Shetterly	Speculates that judgment could be transcribed to another county.
280	Bray	Comments that the court can take any collection action desired.
299	Rep. Sunseri	Asks for clarification between money judgment vs. lien.
303	Bray	Responds that the lien only applies if it is a money judgment.
322	Chair Minnis	Asks for clarification on history of pilot program and if there is a sunset.
325	Bray	Responds that there is no sunset on program.
333	Chair Minnis	Asks if it is profitable.

335	Bray	Responds that he is not sure but comments that this legislation is a key piece.
340	Chair Minnis	Asks what the population is in Marion Co.
342	Rep. Courtney	Comments that "parking fines is dangerous stuff."
367	Bray	Responds that this bill would do less towing. Comments that towing is a very intrusive process.
383	Chair Minnis	Asks if the bill changes any procedures on noted legislation.
390	Bray	Responds that it does not change existing procedures but compliments them.
400	Frank Brawner	Oregon Banker's Association Expresses concerns: nothing in bill limits it to automobiles and feels it could start going against real property.
TAPE 6, A		
018	Chair Minnis	Comments that Bray should consult the Oregon Banker's Association.
<u>HB 2263 - PUBLIC HEARING CLOSED</u>		
<u>MEETING ADJOURNED AT 2:55 P.M.</u>		

Transcribed By, Reviewed By,

LISA FRITZ, SCOTT LUMSDEN,

Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 2091, Letter to Representatives and Background Information, Janis Eliot, 7 pp.

B - HB 2276, Written testimony and Support Letters, John Holleman, 5 pp.

C - HB 2168, Written testimony, Barry S. Kast, 1 p.

D - HB 2226, Written testimony, Beverlee Venell, 2 pp.

E - HB 2240, Written testimony, Sandy Wood, 1 p.

F - HB 2263, Written testimony, Douglas M. Bray, 3 pp.