

HOUSE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 9

MEMBERS PRESENT:

Rep. Del Parks, Chair
Rep. Kate Brown, Vice-Chair
Rep. Chuck Carpenter
Rep. Peter Courtney
Rep. Jerry Grisham
Rep. Bryan Johnston
Rep. Leslie Lewis
Rep. Lisa Naito
Rep. Floyd Prozanski
Rep. Veral Tarno
Rep. Bob Tiernan

MEMBERS EXCUSED: Rep. Eileen Qutub

STAFF PRESENT:

Holly Robinson, Committee Counsel
Milt Jones, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD:

Work session HB 2493
Work session HB 2692
Work session HB 2806
Work session HB 2807
Work session HB 2809
Work session HB 2811
Work session HB 2813

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE , A

004 CHAIR TARNO: Convenes meeting at 10:05 A.M.

OPENS the WORK SESSION on HB 2692

014 JONES: Gives overview of HB 2692. [EXHIBIT A].

022 MOTION: REP. BROWN: Moves -3 amendments to
HB 2692.

027 REP. BROWN: Discusses page 2, line 3 of [EXHIBIT A] that should read
"fails to be aware".

030 JONES: The "fails to be aware" standard is the negligence standard
for a class A.

042 CHAIR PARKS: Hearing no objections the -3
amendments are adopted.

044 MOTION: REP. BROWN: Moves HB 2692 to the
pass recommendation.

050 VOTE: In a roll call vote all members present vote
AYE. REPS. CARPENTER, QUTUB and

056 CHAIR PARKS: The motion CARRIES.

058 REP. PARKS will lead discussion on the Floor.

OPENS the WORK SESSION on HB 2493

060 JONES: Gives brief overview of HB 2493. [EXHIBIT B].

064 MOTION: CHAIR PARKS: Moves the -6

068 CHAIR PARKS: Hearing no objections the motion
CARRIES.

070 REP. LEWIS: Discusses amendments the insurance industry submitted to
the subcommittee.

070 CHAIR PARKS: They are contained in the list.

071 MOTION: REP. BROWN: Moves HB 2493 as
recommendation.

075 VOTE: In a roll call vote all members present vote
AYE. REPS. CARPENTER and QUTUB are
EXCUSED.

080 CHAIR PARKS: The motion CARRIES.

082 REP. PARKS will lead discussion on the Floor.

OPENS the WORK SESSION on HB 2806

086 ROBINSON: Gives overview of HB 2806. [EXHIBIT C].

110 CHAIR PARKS: Where does this fit in with the right of the defendant to
present a defense?

111 REP. PROZANSKI: What this does is to basically take the burden off of
the victim from requesting that their name and address be excluded from the
defendant individually.

118 CHAIR PARKS: I don't see how that is possible to do constitutionally.

120 ROBINSON: The address and the ability to contact the victim remains
with the defense counsel.

127 CHAIR PARKS: What's the name of the case in Maryland where the state
has the affirmative
duty to provide the defendant with all exculpatory information?

136 REP. BROWN: Current statute provides that if a victim requests we
currently don't have to provide an address if good cause is shown.

140 ROBINSON: The defendant's council has the right to that information,
so all of the constitutional requirements are met.

142 REP. JOHNSTON: What about the pro se defendant, does he also get this
information?

143 REP. PROZANSKI: Yes, he does.

146 MOTION: REP. TARNO: Moves
recommendation.

149 VOTE: In a roll call vote all members
present vote AYE. REPS. CARPENTER
and QUTUB are EXCUSED.

153 CHAIR PARKS: The motion carries.

155 REP. PROZANSKI will lead

OPENS the WORK SESSION on HB 2807

158 ROBINSON: Gives brief overview of HB 2807.

169 CHAIR PARKS: So it just removes the state from paying the filing fee?

171 ROBINSON: Yes, the state or a local district attorney's office or law
enforcement agency if
they are the entities.

174 REP. JOHNSTON: How many are successful?

177 REP. PROZANSKI: I can't tell you how many are successful. Explains
concerns.

192 REP. JOHNSTON: Is filing the only way to get these things back, must
they go to court to
get the firearm returned?

198 REP. PROZANSKI: There are two ways that the statute provides. Gives
example.

202 MOTION: REP. PROZANSKI: Moves HB 2807 to
recommendation.

211 VOTE: In a roll call vote all members present vote
AYE. REPS. CARPENTER and QUTUB are

213 CHAIR PARKS: The motion CARRIES.

215 REP. PROZANSKI will lead discussion on the Floor.

OPENS the WORK SESSION on HB 2809

217 ROBINSON: Gives overview of HB 2809. [EXHIBIT D & E].

231 CHAIR PARKS: How are you going to maintain the sanctity of the grand
jury proceedings?

237 REP. PROZANSKI: The intent would be that they would be set up in a
room with the remote
and it would be exclusive.

243 CHAIR PARKS: Should it be in the bill?

246 REP. BROWN: Explains arraignment procedure in Multnomah county.

249 CHAIR PARKS: But arraignments are a public hearing and grand jury proceedings are not.

251 REP. BROWN: An attorney needs to be afforded the opportunity to speak with their client without everyone hearing them.

257 CHAIR PARKS: Would you like to take it back to the crime subcommittee?

262 MOTION: REP. PROZANSKI: Moves HB 2809 back

265 CHAIR PARKS: Hearing no objections the motion

CARRIES.

CLOSES the WORK SESSION on HB 2809
OPENS the WORK SESSION on HB 2811

269 ROBINSON: Gives brief overview of HB 2811.

290 REP. NAITO: Refers to fiscal impact statement.

295 REP. TIERNAN: What acts would this cover that's not covered now?

304 REP. PROZANSKI: Gives examples.

319 REP. TIERNAN: So if someone was in my car ransacking it, and we caught them going through the car trying to remove the radio and they didn't get it out?

323 REP. PROZANSKI: If there is no damage to the vehicle at the time there would be nothing except for an attempt for criminal mischief or theft.

330 REP. TIERNAN: If they completed the crime what would be the level?

332 REP. PROZANSKI: It would depend on what the amount of the damage would be.

336 MOTION: REP. TARNO: Moves HB 2811 to the floor with a do pass recommendation.

342 VOTE: In a roll call vote all members present vote AYE. REP. QUTUB is EXCUSED.

346 CHAIR PARKS: The motion CARRIES.

348 REP. PROZANSKI will lead discussion on the Floor.

OPENS the WORK SESSION on HB 2813

355 ROBINSON: Gives brief overview of HB 2813.

365 CHAIR PARKS: Does the district attorney authorize the deputy to perform this task for a case or just in general?

372 REP. PROZANSKI: The testimony we heard from Doug Harclerod, the Lane county district attorney, was that his preference is on a case by case basis.

391 CHAIR PARKS: That means you could do what the district attorney might do?

396 REP. PROZANSKI: I think you could. The question the district attorney will have to decide is how much responsibility do they want to give an individual knowing, that as an elected official, they will be held accountable.

400 CHAIR PARKS: Did you discuss how often this is done, for example in Lane county?

405 REP. PROZANSKI: We're looking at somewhere in the range of half a dozen times per year.

407 REP. JOHNSTON: My concern with HB 2813, I wish it were more stringent in it's delegation of that duty. Gives example.

420 REP. TARNO: One of the examples they gave us in subcommittee was that Mr. Harclerod was in Bend and they had an immediate need to use this tool, and they had to fly the paper work to Bend in order to expedite the matter.

437 CHAIR PARKS: This bill really says there is no limit, the district

attorney could authorize anyone in the office.

TAPE 9, A

028 REP. PROZANSKI: That's the example we got from Lane county also.

040 REP. BROWN: In terms of the language in that does the deputy district attorney have the authority granted by the district attorney for one particular instance or if the district attorney is out of the country for a month can just give the authority to issue that

order while he/she is gone?

045 REP. PROZANSKI: Based on the way it is written I think it could be either/or.

055 MOTION: REP. PROZANSKI: Moves HB 2813 to recommendation.

058 VOTE: In a roll call vote REPS. BROWN, NAITO PROZANSKI, TARNO, TIERNAN and PARKS vote AYE. REP. JOHNSTON votes NAY. REPS. LEWIS and QUTUB are EXCUSED.

062 CHAIR PARKS: The motion CARRIES.

066 REP. PROZANSKI will lead discussion on the Floor.

070 CHAIR PARKS: With nothing further from the committee the meeting is adjourned at 10:40 A.M.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Clerk Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments to HB 2692 - Staff - 2 pages

B - Proposed amendments to HB 2493 - Staff - 3 pages

C - Letter from LC HB 2806 - Staff - 1 page

D - Proposed amendments to HB 2809 - Staff - 1 page

E - Testimony on HB 2809 - William Johnson - 2 pages