

HOUSE COMMITTEE ON
JUDICIARY

Hearing Room 357
Tapes

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. Eileen Qutub
Rep. Veral Tarno

MEMBER EXCUSED:

Rep. Bob Tiernan

STAFF PRESENT:

Holly Robinson, Committee Counsel
Milt Jones, Committee Counsel
Sarah May, Committee Assistant

MEASURES HEARD:

HB 2031 - Work Session
HB 2161 - Work Session
HB 2573 - Work Session
HB 2784 - Work Session
HB 3098 - Work Session
HB 3104 - Work Session
HB 3304 - Work Session
HJR - 32 - Work Session
SB 851 - Work Session

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 , SIDE A

001 CHAIR PARKS: Calls the meeting to order at 10:11 am.

WORK SESSION ON HB 2031

002 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2031 establishes Board of
Trustees of Children's Trust Fund to replace advisory committee on
prevention of child abuse and neglect.

007 MOTION: REP. BROWN: Moves HB 2031 TO THE WAYS AND MEANS COMMITTEE with a

DO PASS recommendation.

VOTE: 11-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito,
Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Tiernan

WORK SESSION ON HB 2161

022 MOTION: REP. BROWN: Moves HB 2161 be RE-REFERRED TO THE CIVIL
SUBCOMMITTEE.

VOTE: Hearing no objection the HB 2161 is RE-REFERRED TO THE CIVIL
SUBCOMMITTEE.

WORK SESSION ON HB 2573

031 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2573 provides that defendant
charged with crime has right to appointed only if defendant will be
incarcerated if convicted. (EXHIBIT A)

036 MOTION: REP. BROWN: Moves to ADOPT HB 2573 -1 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED.

038 MOTION: REP. COURTNEY: Moves HB 2573 AS AMENDED TO THE FLOOR with a DO
PASS recommendation.

040 REP. JOHNSTON: What happens in the event of no incarceration but some probation and the individual fails the terms of the probation?

043 CHAIR PARKS: They would be entitled to a trial on the underlying defense.

044 REP. NAITO: Does this effect the issue of court appointed attorneys for children in dependency?

047 CHAIR PARKS: No. There are a lot of cases where the court appoints an indigent defense lawyer and yet the court will not incarcerate the person.

Under our constitution, we have to appoint a lawyer, but it is a waist of money.

058 REP. PROZANSKI: Discusses bill and views that were discussed during the subcommittee meeting. Going into the proceeding prior to any formal proceeding, there should be on the record "incarceration would not be sought".

070 CHAIR PARKS: That would be up to the judge. If incarceration was sought without an attorney it would be prohibited under the federal constitution.

074 REP. PROZANSKI: If a person was going to be incarcerated during the first proceeding, they would still have access to an attorney.

076 CHAIR PARKS: They would be appointed an attorney.

077 REP. PROZANSKI: If there was a violation of probation, would the court or state have to give notice if they were going to seek incarceration or a sentence at that time?

081 CHAIR PARKS: The defendant has a right, under those cases, that says they cannot use an uncounseled conviction for an enhancement. They would have a right to a trial on the underlying defense and an attorney, explains.

088 REP. PROZANSKI: We are going to streamline the system, but for the people that are probation violation candidates, then we are going to go back to the underlying defense and retry the case?

093 HOLLY ROBINSON, COMMITTEE COUNSEL: Yes.

095 REP. PROZANSKI: If someone is placed on probation for two or three year period, isn't that going to be putting the state at a disadvantage in potentially being able to bring the witnesses forward?

097 CHAIR PARKS: It may, but it is such a remote possibility because there are not very many people that would be on probation for that long. Most people, who would then be a candidate for revocation, would have committed a new offense, which would be easier to try them on. Gives example of court case. These are minor offenders who never go to jail for the underlying defense until they have committed several crimes. I don't want to continue to spend eight million dollars to do nothing with these people.

119 REP. PROZANSKI: I would ask that it be limited to misdemeanor crimes.

121 REP. BROWN: Can we direct those financial savings toward another source, i.e. mandatory appointments for attorney for children in dependency cases?

127 CHAIR PARKS: That is an ongoing discussion in the Ways and Means committee.

137 VOTE: 11-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Tiernan

WORK SESSION ON HB 2784

148 MILT JONES, COMMITTEE COUNSEL: HB 2784 vest exclusive authority to regulate sale, acquisition, transfer, ownership, possession, transportation and use of firearms in Legislative Assembly. (EXHIBIT B)

154 MOTION: REP. BROWN: Moves HB 2784 AS AMENDED TO THE FLOOR with a recommendation. DO PASS

159 REP. COURTNEY: Is this a gun control bill?

160 CHAIR PARKS: Yes it gives gun control regulation to the state of Oregon rather than local jurisdictions.

161 REP. PROZANSKI: It is my understanding that this bill would prohibit local regulation such as zoning for firearms?

166 MILT JONES, COMMITTEE COUNSEL: To a limited extent, that is correct.

167 REP. PROZANSKI: Can you explain when a city would be able to regulate

or not regulate the citing, such as in a shooting gallery or a firing range?

169 MILT JONES, COMMITTEE COUNSEL: It does allow the city to regulate the discharge of firearms, but not the citing of ranges.

172 REP. PROZANSKI: A firing range could be opened up to someone's house in a residential area?

175 MILT JONES, COMMITTEE COUNSEL: Yes.

176 REP. PROZANSKI: There is no definition of what a shooting range is?

177 MILT JONES, COMMITTEE COUNSEL: Other than what is on the face of the bill, no.

178 REP. PROZANSKI: The intent of the bill is to preempt cities from having any say as to where a shooting range can be located?

183 CHAIR PARKS: The intent of the bill is to recognize the constitutional rights of lawful owners of firearms and to regulate them in a uniform manner throughout the state.

185 REP. PROZANSKI: Is the state going to have some sort of citing criteria for when a range can or can't be opened?

190 REP. JOHNSTON: Cites section 3 of page 9 language as to Rep. Prozanski's concern.

208 VOTE: 9-2 MOTION PASSES
Parks AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Qutub, Tarno,
NO: Naito, Prozanski
EXCUSED: Tiernan

WORK SESSION ON HB 3098

217 MILT JONES, COMMITTEE COUNSEL: HB 3098 Expands medical data privileged under evidence code. (EXHIBIT C)

228 MOTION: REP. BROWN: Moves HB 3098 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 11-0 MOTION PASSES
Prozanski, Qutub, Tarno, Parks AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito,
NO: None
EXCUSED: Tiernan

WORK SESSION ON HB 3104

240 MILT JONES, COMMITTEE COUNSEL: HB 3104 allows parent to file petition to appoint person to act as standby caretaker for children of parent. (EXHIBIT D)

248 MOTION: REP. NAITO: Moves HB 3104 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 11-0 MOTION PASSES
Prozanski, Qutub, Tarno, Parks AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito,
NO: None
EXCUSED: Tiernan

WORK SESSION ON HB 3304

259 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3304 enhances penalties for harassment if contact is with sexual or intimate parts.

265 MOTION: REP. BROWN: Moves HB 3304 TO THE FLOOR with a DO PASS recommendation.

266 REP. BROWN: Explains what and how HB 3304 will work, who it would apply to and why.

275 REP. PROZANSKI: This will fill a hole in the criminal code between harassment and sexual abuse in the third degree that is needed.

283 VOTE: 11-0 MOTION PASSES
Prozanski, Qutub, Tarno, Parks AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito,
NO: None
EXCUSED: Tiernan

WORK SESSION ON HJR 32

291 HOLLY ROBINSON, COMMITTEE COUNSEL: HJR 32 proposes amendment to Oregon Constitution to limit right to counsel of person accused of crime to those situations where right to counsel is required under Constitution of United States.

296 MOTION: REP. BROWN: Moves HJR 32 TO THE FLOOR with a DO PASS recommendation.

VOTE: 11-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Tiernan

WORK SESSION ON SB 851

309 MILT JONES, COMMITTEE COUNSEL: SB 851 makes technical changes in Oregon Statutes.

315 MOTION: REP. NAITO: Moves SB 851 TO THE FLOOR with a DO PASS recommendation.

VOTE: 11-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Parks
NO: None
EXCUSED: Tiernan

335 CHAIR PARKS: Introduces LC 3866 to the committee with no objections.

346 CHAIR PARKS: Adjourns the hearing at 10:31 am.

Submitted by, Reviewed by,

Sarah May Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments to HB 2573 - Staff - 1 page
- B. Proposed Amendments to HB 2784 - Staff - 2 pages
- C. Proposed Amendments to HB 3098 - Staff - 1 page
- D. Proposed Amendments to HB 3104 - Staff - 1 page