

HOUSE COMMITTEE ON
JUDICIARY

Hearing Room 357
Tapes - 18

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
Rep. Bob Tiernan

STAFF PRESENT:

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

MEASURES HEARD:

HB 2682 - Work Session
HB 2683 - Work Session
HB 2684 - Work Session
HB 2685 - Work Session
HB 2316 - Work Session
HB 3052 - Work Session
HB 3288 - Work Session
HB 3379 - 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

CHAIR PARKS: Calls the meeting to order at 10:05 AM.

WORK SESSION ON HB 2682

009 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2682 provides that felony sex offenses may not be treated as misdemeanors.

012 MOTION: REP. COURTNEY: Moves HB 2682 TO THE FLOOR with a DO PASS recommendation.

VOTE: 10-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Prozanski,
Tarno, Tiernan, Parks
NO: None
EXCUSED: Naito, Qutub

026 CHAIR PARKS: REP. BROWN will CARRY the bill to the Floor.

WORK SESSION ON HB 2683

029 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2683 provides that presentence report need not be prepared for person convicted of sex offenses when person is also convicted of aggravated murder. Explains the effects this bill will have on the current law. The dash -1 amendments need to be adopted. (EXHIBIT A)

035 MOTION: REP. BROWN: Moves to ADOPT HB 2683 -1 AMENDMENTS.

038 REP. PROZANSKI: Cites lines 5 and 6 and the concerns that there will be some impact on parole and probation. Discusses getting the sex offender report done if the person is still awaiting to be taken to prison; as compared to having the report implemented and performed in the prison. Explains the objection to specific wording from parole and probation officers.

080 CHAIR PARKS: This only effects people of aggravated murder?

082 HOLLY ROBINSON, COMMITTEE COUNSEL: No. The add-on amendment would relieve the Department of Corrections from the responsibility of doing PSI's prior to sentencing when in those cases there was a presumptive prison sentence for which probation is not an option. This would move those awaiting to go to state facility out of the county jail sooner.

102 REP. BROWN: Questions intake; testing as appropriate as part of

treatment plan?

113 MOTION: REP. TARNO: Moves HB 2683 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

121 REP. TARNO: Withdraws the motion to move the bill.

125 MOTION: REP. BROWN: Moves to ADOPT HB 2683 -1 AMENDMENTS.

VOTE: Hearing no objection the amendments are ADOPTED. All members are present.

130 MOTION: REP. TARNO: Moves HB 2683 AS AMENDED TO THE FLOOR with a recommendation.

DO PASS

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

140 CHAIR PARKS: REP. TARNO will CARRY the bill to the Floor.

WORK SESSION HB 2684

142 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2684 increases penalty for public indecency when conduct consists of masturbating in presence of child. Cites the -2 amendments (EXHIBIT B).

MOTION: REP. COURTNEY: Moves to ADOPT HB 2684 -2 AMENDMENTS.

162 REP. LEWIS: Crime of bestiality is a worse crime than having sexual relations with a developmentally disabled person. Perhaps we should give some consideration to making this a lessor crime.

175 REP. TIERNAN: Public indecency is not now a persons crime under the guidelines. There is no real value to make it a Class B felony without making it a person crime. Under the guidelines an offender would get less for a Class C felony, than if the crime remained a misdemeanor.

186 REP. PROZANSKI: Yes that is correct. Discusses the "trade-off" which Rep. Tiernan alluded to.

195 REP. TIERNAN: Suggests keeping the offense a misdemeanor, or making it a person crime so that the penalty is increased.

201 REP. COURTNEY: Withdraws motion on the dash two amendments.

204 MOTION: REP. COURTNEY: Moves HB 2684 BE REFERRED BACK TO THE CORRECTIONS SUBCOMMITTEE.

CRIME AND

218 REP. PROZANSKI: Comments on the general provision statute for sex offenses and the automatic three year defense.

227 REP. BROWN: Gives her support for the minority leaders motion.

233 CHAIR PARKS: Wants to know how much of a problem bestiality has become.

VOTE: Hearing no objection HB 2684 IS REFERRED BACK TO THE CRIME AND CORRECTIONS SUBCOMMITTEE. All members present.

WORK SESSION ON HB 2685

250 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2685 adds court appointed special advocates to list of persons required to report child abuse. (EXHIBITS C, D).

257 CHAIR PARKS: Requests commentary from committee members regarding the Whitehead case and where it fits in to this bill.

263 HOLLY ROBINSON, COMMITTEE COUNSEL: Gives example scenario of a police officer having the power to remove the perpetrator from the home.

295 REP. NAITO: Questions the parallel between HB 3180 and HB 2685.

300 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains the differences between HB 3180 and HB 2685.

390 CHAIR PARKS: Discusses the ability of the legislators to interject the court between government agencies....Avoiding cases such as the Whitehead case.

410 REP. TIERNAN: Discusses the Whitehead case, the bill at hand and actions which can be taken by the officer.

454 REP. TARNO: Discusses the benefits of the child remaining in the home while the perpetrator is removed.

461 REP. PROZANSKI: This bill allows the officer, under those circumstances, to petition the court to have a judicial review. It will only be for a certain period of time to remove the alleged perpetrator out

of the scene.

TAPE 18, SIDE A

038 MOTION: REP. BROWN: Moves HB 2685 TO THE FLOOR with a DO PASS recommendation.

VOTE: 12-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Tiernan, Parks
NO: None

049 CHAIR PARKS: REP. LEWIS will CARRY the bill to the Floor.

WORK SESSION HB 2316

052 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains that HB 2316 modifies Oregon's Stalking Statute. (EXHIBIT E)

054 REP. TIERNAN: What does Rep. Mannix think of this bill? Is this the Stalking bill clean up language?

057 REP. TARNO: The subcommittee passed this bill to the Floor and there had been no testimony at the time it was passed out by Rep. Mannix.

061 MOTION: REP. BROWN: Moves HB 2316 AS AMENDED TO THE FLOOR with a PASS recommendation. DO

VOTE: 12-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Tiernan, Parks
NO: None

073 CHAIR PARKS: REP. PROZANSKI will CARRY the bill to the Floor.

WORK SESSION HB 3052

075 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3052 expands crime of third degree assault to include causing physical injury to emergency medical technician while technician is performing official duties.

077 MOTION: REP. COURTNEY: Moves HB 3052 TO THE FLOOR with a DO PASS recommendation.

VOTE: 12-0 the MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Tiernan, Parks
NO: None

088 CHAIR PARKS: REP. TARNO will CARRY the bill to the Floor.

WORK SESSION ON HB 3288

090 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains that HB 3288 creates a new crime of improper use of 911 reporting system to cover situations where other than making false reports, people are calling 911 for abusive reasons. (EXHIBIT F)

098 MOTION: REP. PROZANSKI: Moves to ADOPT HB 3288 -1 AMENDMENTS.

VOTE: Hearing no objection the amendments are ADOPTED. All members are present.

102 REP. JOHNSTON: I have a philosophical problem with the creation of new offenses that require considerable discretion on the officers part. A relatively innocent but stupid call to 911 could position someone for prosecution under this bill.

113 REP. TARNO: This bill is not designed for those youngsters who pick up a phone and make a prank call to 911. Its designed to target those individuals who repeatedly harass the staff on the 911 system and public service answering points throughout the state. It allows one to take the complaint to the District Attorneys office.

122 REP. PROZANSKI: The habitual offender will be the offender who is targeted with this bill.

129 CHAIR PARKS: Recalls a circumstance of a developmentally disabled person who repeatedly called 911. Committee discusses developmentally disabled persons.

143 REP. LEWIS: The kind of testimony we received in the sub-committee was that from those callers who were abusive callers.

157 REP. TARNO: Discusses criminal law statutes

161 HOLLY ROBINSON, COMMITTEE COUNSEL: We do not have Telephone Arrest Statutes, however, we do have false reports. But these are not considered false reports. All of these calls are tape recorded and this provides a balance to 911 decisions.

165 MOTION: REP. TARNO: Moves HB 3288 TO THE FLOOR with a DO PASS recommendation.

VOTE: 11-1 MOTION PASSES
AYE: Representatives Carpenter, Courtney, Grisham, Johnston, Lewis, Naito,

Prozanski, Qutub, Tarno, Tiernan, Parks.
NO: Rep. Brown

182 CHAIR PARKS: REP. FEDERICI will CARRY the bill to the Floor.

WORK SESSION ON HB 3379

183 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3379 requires, on application for pardon, commutation or remission, submittal to governor of statements of victim or victim's survivors, statement of district attorney of county where conviction was had and autopsy photos and autopsy report. (EXHIBIT F)

189 MOTION: REP. PROZANSKI: Moves to ADOPT HB 3379-1 AMENDMENTS.

VOTE: Hearing no objection the amendments are ADOPTED. All members are present.

193 MOTION: REP. BROWN: Moves HB 3379 AS AMENDED TO THE FLOOR with a DO PASS recommendation.

VOTE: 12-0 MOTION PASSES
AYE: Brown, Carpenter, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Tiernan, Parks
NO: None

207 CHAIR PARKS: REP. GRISHAM will CARRY the bill to the Floor.

208 CHAIR PARKS: Adjourns the meeting at 10:59 AM.

Submitted by, Reviewed by,

Sarah Myers Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A. Proposed Amendments to HB 2683 - Staff - 1 page
B. Proposed Amendments to HB 2684 - Staff - 1 page
C. Proposed Amendments to HB 2685 - Staff - 1 page
D. Proposed Amendments to HB 2684 - Oregon Judicial Department - 1 page
E. Proposed Amendments to HB 2316 - Staff - 14 pages
F. Proposed Amendments to HB 3288 - Staff - 1 page
G. Proposed Amendments to HB 3379 - Staff - 1 page