

HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room
Tapes - 20

MEMBERS PRESENT:

Rep. Veral Tarno, Chair
Rep. Floyd Prozanski, Vice-Chair
Rep. Peter Courtney
Rep. Jerry Grisham
Rep. Leslie Lewis

STAFF PRESENT:

Holly Robinson, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD: HB 2137 - Relating to crime
 HB 2334 - Relating to crime
 HB 2123 - Relating to criminal identification data

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

OPENS WORK SESSION on HB 2137

002 CHAIR TARNO : Convenes meeting at 8:40 A.M.

008 ROBINSON: Gives committee members brief overview of HB 2137. Submits [EXHIBITS A&B].

022 ROBINSON: Discusses -1 amendments.

036 CHAIR TARNO: Juvenile facility, does that mean a juvenile detention facility?

038 ROBINSON: The way the juvenile facility is defined in the statutes, the answer is yes.

040 MOTION: REP. COURTNEY: Moves - 1 amendments.

045 CHAIR TARNO: Hearing no objections, the motion CARRIES.

050 MOTION: REP. COURTNEY: Moves HB 2137 to full committee with a DO PASS recommendation.

055 REP. GRISHAM: Does the term employee of a juvenile facility extend to other employees who are there but are not actually employed by the juvenile facility?

057 CHAIR TARNO: I could be wrong, but I don't think it applies to them.

059 ROBINSON: If the person was a DOE employee who was in fact assigned to MacLaren, they would be covered.

061 VOTE: In a roll call vote REPS. COURTNEY, GRISHAM, LEWIS,

PROZANSKI and CHAIR TARNO all vote AYE. HB 2137 moved to full committee with a DO PASS recommendation.

CLOSES WORK SESSION on HB 2137
OPENS WORK SESSION on HB 2334

072 ROBINSON: Gives brief overview of HB 2334. Submits [EXHIBIT C].

098 MOTION: REP. COURTNEY: Moves -1 amendments on HB 2334.

100 CHAIR TARNO: Hearing no objections the motion CARRIES.

102 CHAIR TARNO: Looking at line 4 of the bill, where it says "after assaulting a peace officer", I would like to add "or corrections officer" as additional language.

105 ROBINSON: In addition, on line 29 you will have to delete the phrase "corrections officer".

107 MOTION: CHAIR TARNO: Moves to add amendments to the -1 amendments.

132 CHAIR TARNO: Any objections to adding the language "or corrections officer"?

134 REP. COURTNEY: What is the definition of a corrections officer? Does it include parole and probation officers?

142 ROBINSON: According to the head shakings in the audience the answer is no there is a separate definition.

144 REP. PROZANSKI: We need to include parole and probation officers.

149 CHAIR TARNO: One of the issues we talked about last year is the ability to carry firearms.
Can parole and probation officers carry firearms?

153 REP. PROZANSKI: Yes, they can.

156 MARY BOTKIN, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME): Two sessions ago we gave parole and probation officers the right to carry concealed weapons.

162 REP. COURTNEY: I want to know what we meant by a correctional officer.

165 ROBINSON: They are employees of correctional facilities which include jails.

167 BOTKIN: A peace officer is under 163 of the statutes, it is broad enough to cover everyone your talking about.

169 CHAIR TARNO: Is the definition of peace officer broad enough to cover corrections officers?

172 BOTKIN: I don't believe so. The way the statutes are written they're excluded by silence.

173 CHAIR TARNO: Are their training standards different?

175 BOTKIN: Yes.

176 CHAIR TARNO: In the corrections training, are staff trained in the use of a tear agent?

177 BOTKIN: I believe so.

178 CHAIR TARNO: It would be my intent to limit this to a corrections officer in a correctional institution.

182 ROBINSON: Parole and probation officers are definitely not included in

correctional officers.

190 REP. PROZANSKI: We should include all individuals that could be in the same or likely position, which includes not only peace officers and corrections officers but parole and probation officers who are separately defined.

212 ROBINSON: I would suggest an amendment that would add them in and I will work with legislative counsel for the actual words.

216 CHAIR TARNO: Is the committee comfortable with adding parole and probation officers?

220 CHAIR TARNO: Hearing no objections, motion CARRIES.

225 MOTION: REP. COURTNEY: Moves HB 2334 as amended to the full committee with a DO PASS recommendation.

227 CHAIR TARNO: Hearing no objections, motion CARRIES.

CLOSES WORK SESSION on HB 2334
OPENS WORK SESSION on HB 2123

230 ROBINSON: Gives brief overview of HB 2123. Submits [EXHIBITS D&F].

258 GINGER GORHAM, VICE CHAIR of the OREGON EARLY INTERVENTION INTERAGENCY COORDINATING COUNCIL: Testimony in favor of HB 2123. Submits [EXHIBIT E].

287 REP. LEWIS: What programs would this cover? In your letter you stated this does not apply to headstart and pre-kindergarten programs which were already included in the fingerprinting program.

291 GORHAM: Children ages 3 to 5 in private preschools. This is one aspect that has been overlooked.

206 KAREN BRAZEAU, ASSOCIATE SUPERINTENDENT, DEPARTMENT OF EDUCATION: Discusses fingerprinting programs.

325 REP. COURTNEY: The operative language on the -4 amendments is lines 14 through 16 on page 3, is that correct?

327 ROBINSON: That is correct. Discusses -4 amendments.

335 REP. COURTNEY: So the -4 amendments speak only to the early intervention services?

338 ROBINSON: That is correct.

344 MOTION: REP. COURTNEY: Moves the -4 amendments to HB 2123.

355 CHAIR TARNO: Hearing no objections, the motion CARRIES.

360 ROBINSON: Gives brief overview of -5 amendments. Submits [EXHIBIT G]. Refers to David Myton and submits [EXHIBIT I].

414 REP. COURTNEY: Once the person being renewed has been fingerprinted and reinstated, they do not go through the process again, right?

422 ROBINSON: When their license comes up for renewal again, in however many years, they would be tested again.

436 KATHY WIPER, TEACHERS STANDARDS AND PRACTICES COMMISSION (TSPC):
Testimony HB 2123.

453 ROBINSON: Part of the plan was as all of these new people go on line it would reduce the potential repeat of license checks.

TAPE 20, A

037 REP. PROZANSKI: The Oregon Student Lobby approached me with their concerns, and it appears the -5 amendments do address one of their concerns about being forced to be retested within a short period of time at substantial costs for students.

048 ROBINSON: Discusses the -6 amendments [EXHIBIT H].

055 CHAIR TARNO: Are we going to come back to the -5 amendments and adjust these at a later time?

057 ROBINSON: I think it depends upon the committee's response to the -6 amendments and issues regarding classified employees.

060 ROBINSON: Gives brief overview of -6 amendments [EXHIBIT H]. Submits [EXHIBIT J].

100 ED EDWARDS, DIRECTOR OF GOVERNMENT RELATIONS: Submits and discusses amendments [EXHIBIT K & L].

150 EDWARDS: Discusses fingerprinting of newly hired teachers.

219 EDWARDS: Right now the way the current law is written, a person comes in and makes out their application for the fingerprint check, and if they forget to put down a conviction that they may have had sometime in their life, or they thought the conviction had been expunged, they then must be terminated.

234 CHAIR TARNO: How many folks do you have that have forgotten they were arrested for drunk driving?

240 EDWARDS: I do not have the statistics on that, but I'm sure Al Shannon from the Department of Education can give you some information on that. I have had 10, maybe 15 calls on the issue. Discusses list of crimes.

321 REP. COURTNEY: What are the crimes listed that you do not think relate to employment in the school district?

333 EDWARDS: Gives example.

355 CHAIR TARNO: Was this person going to be terminated because he did not list this conviction on his application?

358 EDWARDS: No, he did list it.

370 REP. COURTNEY: Are teachers aides role models to students?

373 EDWARDS: I think anyone who works in the school is a role model.

385 REP. COURTNEY: Your right when you say it is a judgment call. Would

you consider
someone who is drunk and killed someone a role model in terms of younger
people?

390 EDWARDS: I think situations like this need to be looked at in a
hearings situation.

401 REP. COURTNEY: Was this a new hire?

402 EDWARDS: Yes.

403 CHAIR TARNO: How old was this person at the time of his conviction?

405 EDWARDS: I'm not sure. It's a difficult area to say the least.

429 CHAIR TARNO: The new section 4 your proposing [EXHIBIT H], would that
give an individual that you've described an opportunity for a hearing?

437 EDWARDS: It would only give the person an opportunity for a hearing if
they appealed.

440 CHAIR TARNO: If they make an actual appeal to the hearing commission.
That would give them an avenue for relief or some kind of help?

443 EDWARDS: Right.

444 REP. PROZANSKI: I would assume they would get the appeal, and the
hearings officer would have the discretion unless the statutes provide for that discretion on a
case by case basis.

TAPE 19, B

033 ROBINSON: You could parallel it to the situation that is now set up
for teachers.

041 CHAIR TARNO: This person was hired having that as part of his record.

042 EDWARDS: That is correct.

043 CHAIR TARNO: Then we have a set of rules some place else that's made
applicable to the hiring of this particular employee.

045 EDWARDS: That is correct, that would be the process.

048 ROBINSON: The way this is set up is school districts may hire and may
make an offer of employment without having the information of the background check in front
of them.

051 CHAIR TARNO: In this case the record was right there. The applicant
admitted the crime and yet he was considered acceptable to be hired. Is that a hiring policy
that permitted him to be hired in the first place?

056 EDWARDS: What you have are two different processes going on. In this
particular instance the district involved is fighting to keep this employee.

066 REP. LEWIS: If on the application a person applying for employment
wrote down one of the felonies that is listed in your administrative rules, the school district,
no matter what, should not have hired that person.

073 EDWARDS: Contained in the law there is still the requirement for a
relationship to be created on any crime listed in the administrative rules.

103 AL SHANNON, MANAGER, FINGERPRINTS & CRIMINAL HISTORY CHECKS for the
DEPARTMENT OF EDUCATION: Testimony in favor of HB 2123.

150 SHANNON: Discussion on obtaining a method to establish a list of
crimes.

163 CHAIR TARNO: If we are going to get to a situation in terms of
rehabilitation of prisoners
then we have to give them a break to go along with that. If you're being
told you can't look
beyond that conviction, that makes it definite doesn't it?

172 SHANNON: Yes, it does. If you're suggesting we should look beyond a
conviction and to create
a subjective review of their criminal records, we currently do
not have the resources in our
budget to accomplish that.

182 JOHN DANIELSON, OREGON EDUCATION ASSOCIATION: Testimony in opposition
of HB 2123.

200 REP. PROZANSKI: Introduces Jane Lesser.

216 JANE LESSER, OREGON STUDENT LOBBY: Testimony on HB 2123.

246 ROBINSON: Another issue we need to look at is you're going to create a
conflict between
districts like Salem and Keizer who require all of their interns, whether
they are registered or
not, to be fingerprinted with the wording of this bill.

260 CHAIR TARNO: With nothing further from the committee, the meeting is
adjourned at
9:49 A.M.

Submitted by,

Reviewed by,

Janet Ellingsworth
Committee Assistant

Debra Johnson
Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments HB 2137 - Staff - 1 page
B - Testimony (OPEU) HB 2137 - Peppers - 2 pages
C - Proposed amendments HB 2334 - Staff - 1 page
D - Amendments HB 2123 - Staff - 1 page
E - Testimony HB 2123 - Gorham - 1 page
F - Proposed amendments -4 - Staff - 3 pages
G - Proposed amendments -5 -Staff - 4 pages
H - Proposed amendments -6 -Staff - 3 pages
I - Testimony HB 2123 - Myton - 1 page
J - OAR definitions HB 2123 - Staff - 6 pages
K - Amendments HB 2123 - Edwards - 3 pages
L - Amendments HB 2123 - Edwards - 4 pages