

HOUSE JUDICIARY  
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room  
Tapes - 42

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:           Public Hearing and Work Session on HB 2806  
                          Public Hearing on HB 2807  
                          Public Hearing on HB 2809  
                          Public Hearing on HB 2811  
                          Public Hearing on 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 8:40 A.M.

OPENS the PUBLIC HEARING on HB 2806

006     REP. PROZANSKI:  Testimony on HB 2806. [EXHIBIT A].

024     DOUG HARCLEROAD, DISTRICT ATTORNEY for LANE COUNTY:  Testimony on HB 2806.

037     CHAIR TARNO:    I agree with you.

039     REP. PROZANSKI:  I believe we have some testimony in opposition to HB 2806.

044     HARCLEROAD:    Perhaps I should comment on Mr. Arneson's proposed change to this bill.  
                      Refers to [EXHIBIT A].

060     JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYER'S ASSOCIATION:  Testimony on HB 2806. [EXHIBIT A]

093     CHAIR TARNO:    One of the reasons I see the need for not revealing the home phone number and an address of a victim is in cases of stalking.

106     REP. LEWIS:     Would a person accused of burglary know the name of the person they are burglarizing?

111     ARNESON:        No they would not generally know the name. I'm not talking in favor of giving the address of the victims.

CLOSES the PUBLIC HEARING on HB 2806  
OPENS the WORK SESSION on HB 2806

139     REP. PROZANSKI:  One of the reasons I introduced this legislation is seeing the reaction of victims when we tell them they have to seek an order from the court to keep that information excluded from an individual.

155     REP. COURTNEY:   I'm looking at the summary of the bill. It requires that the address and phone number of the victim not be given to a defendant. The word "may", am I misreading something here?

168     REP. PROZANSKI:  I believe the appropriate word should be "shall".

172     REP. COURTNEY:   When I got disciplined as a child my father would say "you may not Peter, do this".

177     ROBINSON:        There is such a difference between "mays" and "shalls", but because of the "except by order", it modifies it.

183 CHAIR TARNO: What line are we talking about?

185 REP. PROZANSKI: Line 6. I would have no objection to that modification.

184 REP. LEWIS: I would feel more comfortable if we put "shall" in there.

I do not think we should make any attempt to look at just person crimes.

196 CHAIR TARNO: I will entertain a motion to substitute the language on line 6 from "may" to "shall".

199 MOTION: REP. LEWIS: Moves to substitute the word "may" to "shall".

201 CHAIR TARNO: Hearing no objections the motion CARRIES. All members are present.

203 MOTION: REP. PROZANSKI: Moves HB 2806 as amended to the full committee with do pass recommendation.

206 CHAIR TARNO: Hearing no objections from the committee, the motion CARRIES. All members are present.

CLOSES the WORK SESSION on HB 2806  
OPENS the PUBLIC HEARING on HB 2807

212 REP. PROZANSKI: Gives brief overview of HB 2807.

276 DOUG HARCELROAD, LANE COUNTY DISTRICT ATTORNEY: Testimony on HB 2807.

287 REP. LEWIS: If a person can petition once a year, do they pay the filing fee every time?

296 HARCLEROAD: Yes, it is a new petition.

300 REP. LEWIS: So they are already paying filing fees except in the case where they do ultimately have these rights granted back to them, and then the respondent has to pay?

302 HARCLEROAD: Theoretically yes. I'm not aware of multiple filings in our jurisdiction.

307 ROBINSON: How many of these petitions actually get filed?

312 REP. PROZANSKI: I tried to get a number state wide and was unable to do so. The State Court Administrator's office does not keep records on this, it would be done on county to county basis.

319 CHAIR TARNO: I would be surprised if it were less than 1 percent statewide.

324 GREG TERHUNE: Testimony on HB 2807.

343 CHAIR TARNO: Have you had a chance to look at HB 2807? I think we're talking about those individuals convicted of crimes.

347 TERHUNE: I listened to one item mentioned about a gentleman that twenty years ago had a conviction with marijuana.

CLOSES the PUBLIC HEARING on HB 2807  
OPENS the WORK SESSION on HB 2807

377 REP. LEWIS: This is not something where a person who is convicted of a felony can just go to the sheriff and ask for a permit.

385 REP. PROZANSKI: This requires that a person who's been convicted, after serving their time on their probated sentence could then petition the court each and every year if you are an adult.

415 CHAIR TARNO: Discusses expungment.

420 REP. LEWIS: This is not a bill that deals with a law abiding citizen who wants to go and get a concealed weapons permit, this is strictly for those person's convicted of crimes?

423 CHAIR TARNO: That is correct.

426 MOTION: REP PROZANSKI: Moves HB 2807 to the full committee with a do pass recommendation.

430 CHAIR TARNO: Hearing no objections the motion CARRIES. All members are present.

CLOSES the WORK SESSION on HB 2807  
OPEN the PUBLIC HEARING on HB 2809

TAPE 42, A

030 REP. PROZANSKI: Gives brief overview of HB 2809. Submits [EXHIBIT B].

040 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testimony on HB 2809. [EXHIBIT C]. We believe it would provide some added protection to provide a record of that transmission.

047 CHAIR TARNO: How long would you want those recordings to be on file?

049 ARNESON: I would think that if a true bill is not returned that they would be destroyed in a reasonable amount of time.

051 CHAIR TARNO: Or erased?

053 ARNESON: Erased, yes. If one was returned, then I think it should be kept at least through trial.

055 REP. PROZANSKI: It may be easier to have all the witnesses come up at the same time.

069 DOUG HARCLEROAD, DISTRICT ATTORNEY for LANE COUNTY: Testimony on HB 2809.

102 CHRIS MATHIESON, CHIEF OF POLICE, FLORENCE OREGON: Testimony on HB 2809.

120 LIEUTENANT BILL JOHNSON, PATROL SERVICES, OREGON STATE POLICE: Testimony on HB 2809.

126 REP. PROZANSKI: Discusses [EXHIBIT B].

134 LIEUTENANT MIKE RENECKE, STATE POLICE, FLORENCE: Testimony on HB 2809. Submits [EXHIBIT E].

155 REP. COURTNEY: Can I assume from reading the bill that this applies statewide?

157 RENECKE: Yes, it would.

160 REP. PROZANSKI: It would apply statewide if another county or agency wanted to use that procedure.

166 REP. COURTNEY: Florence is in Lane county?

169 REP. PROZANSKI: Yes.

172 REP. COURTNEY: Your witnesses were in Baker city, even though the grand jury was to convene in Lane county, does it work there to?

178 REP. PROZANSKI: Yes, if you have the technology.

180 REP. COURTNEY: I'm reminded of a public hearing in front of the Public Safety committee by the head of the trial division of the Department of Justice, about post conviction relief cases filed by inmates in our different prisons.

188 REP. PROZANSKI: Discusses the relating clause as to grand jury proceedings. I would ask Mr. Harcleroad to elaborate as to the amendments that have been proposed by Mr. Arneson.

190 HARCLEROAD: Mr. Arneson's bill would require the recording of the testimony. Currently grand jury is not recorded. It is extremely expensive to record grand jury.

232 CHAIR TARNO: Is any portion of grand jury subjected to discovery?

236 HARCLEROAD: Generally, no. There are some provisions that allow for a court reporter to be in the grand jury if it is requested on the motion of the district attorney.

240 PROZANSKI: Mr. Harcleroad, do you want to address the -1 amendments. [EXHIBIT B].

246 HARCLEROAD: I'm not opposed to that amendment because it's limited to police officers and that one particular crime.

CLOSES the PUBLIC HEARING on HB 2809  
OPENS the WORK SESSION on HB 2809

266 CHAIR TARNO: Rep. Prozanski, will you address your -1 amendments?

272 REP. PROZANSKI: Discusses the HB 2809 -1 amendment. [EXHIBIT B]

306 REP. LEWIS: Do we have any information that this is the most common thing in other jurisdictions?

312 REP. PROZANSKI: No, we do not. I can tell you what happens in one of these proceedings.

330 CHAIR TARNO: Who would authorize an affidavit in place of physical presence?

341 REP. PROZANSKI: The grand jury can require anyone to appear to appear  
in front of them. I invasion that the district attorney's office would  
make the determination as to whether or not they wanted to present the  
testimony of a peace officer by affidavit.

348 CHAIR TARNO: (Inaudible)

353 REP. PROZANSKI: This would be number 4, on page 1. I would submit  
that it would start up after line 19.

363 CHAIR TARNO: As I read this sentence in section 4 of the bill, it  
makes it mandatory.

368 REP. PROZANSKI: I would say it's permissible. It's just a means for it  
to be accomplished.

380- CHAIR TARNO: Counsel, are you satisfied that this could slide in here  
as a new 4?

385 ROBINSON: I am, when you look at the way subsection 1 is written, it  
sets forth the options of doing this.

389 REP. LEWIS: I'm comfortable with this amendment.

397 REP. PROZANSKI: The problem when you say "unable to appear" for what  
purpose, we are then going to have to go into defining the appearance.

410 MOTION: REP. PROZANSKI: Moves -1 amendments to  
HB 2809

417 ROBINSON: Do we need additional amendments to include the testimony by  
affidavit?

428 CHAIR TARNO: Section 2, on line 31?

434 REP. PROZANSKI: In looking at that and the current law under sub  
paragraph 3, it does not require that.

437 ROBINSON: You have nothing else with this affidavit.

445 REP. PROZANSKI: It should be noted that on line 31, where it has the 4  
within parentheses, would then become number 5.

448 REP. LEWIS: Up above on line 5 where it says subsection 2 to 4, would  
also become a 5.

451 REP. PROZANSKI: That is correct.

453 CHAIR TARNO: Were talking about the -1 amendments and other conceptual  
amendments as well.

456 ROBINSON: If the committee understands them there is no reason we  
can't do it conceptually.

460 REP. COURTNEY: By the time it reaches full committee, we may do some  
more changes.

462 ROBINSON: We can conform the section numbers.

467 CHAIR TARNO: Hearing no objections the motion  
present.

TAPE 41, B

035 REP. PROZANSKI: I assume that based on the conceptual amendments, that  
will take in Mr. Arenson's line 3, page 2 insertion?

042 REP. LEWIS: On page 2, line 3, does the language "file the report"  
cover the situation of giving an affidavit?

047 ROBINSON: No. (Inaudible)

049 REP. PROZANSKI: The only one were looking at that is being included in  
the -1 amendments with the other conceptual, was the second portion of the  
suggested line 3, page 2 of Mr. Arneson's proposed amendments.

054 MOTION: REP. PROZANSKI: Moves HB 2809 as amended  
with a do pass recommendation.

060 CHAIR TARNO: Hearing no objections the motion  
present.

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

062 REP. PROZANSKI: Gives brief overview of HB 2811.

081 DOUG HARCLEROAD, DISTRICT ATTORNEY, LANE COUNTY : Testimony on HB 2811.

099 CHAIR TARNO: If I were to park my car at one of the parks and came

to

CAR

back and the hood or trunk was popped up by use of a tire iron, would this apply?

101 HARCLEROAD: The trunk, yes. That is entry into a sealed part of a vehicle. It's a harder question as I think about the hood, but my reaction is yes.

110 REP. PROZANSKI: On line 5 it does say "any part of a motor vehicle".

113 ROBINSON: What if you opened the cap on the gas tank and stole gas?

119 HARCLEROAD: I would tell our lawyers not to file that. I would charge them with theft of the gas.

123 REP. GRISHAM: Does it make any sense to go through the exercise of passing new laws that aren't going to do anything about removing criminals from the streets?

130 HARCLEROAD: It does not make much sense to do it for Portland, but we have a whole State of Oregon and in some places the laws are enforced a little bit better.

145 REP. COURTNEY: You're talking about a motor vehicle, right? Any part of a motor vehicle?

155 REP. PROZANSKI: Yes. This is actually lifted from the Texas statutes.

162 REP. COURTNEY: We are talking human body's then?

164 REP. PROZANSKI: That is right.

167 REP. LEWIS: Should we say a person's body?

CLOSES the PUBLIC HEARING on HB 2811  
OPENS the WORK SESSION on HB 2811

182 MOTION: REP. PROZANSKI: Moves to full committee with a do pass recommendation.

190 CHAIR TARNO: Hearing no objections the motion CARRIES.

CLOSES the WORK SESSION on HB 2811  
OPENS the PUBLIC HEARING on HB 2813

196 REP. PROZANSKI: Overview of HB 2813.

202 DOUG HARCLEROAD, DISTRICT ATTORNEY, LANE COUNTY: Testimony on HB 2813.

244 REP. COURTNEY: Are you sure the language here does not undo the very thing you're trying to do?

246 HARCLEROAD: I was sure until you asked the question.

250 REP. COURTNEY: A deputy district attorney is "authorized" by the district attorney, the word "authorize" is a dangerous word.

257 HARCLEROAD: I think an oral authorization is sufficient.

266 CHAIR TARNO: Suppose you're gone and your deputy in charge tries to go to the magistrate and the judge says "I don't see anything in writing that gives you authorization to come to me for a wire tap"?

274 HARCLEROAD: The statute does not require written authorization.

281 REP. LEWIS: Do you think you need the authorization language in there, or could it say the district attorney or the deputy district attorney?

283 HARCLEROAD: You don't need the authorization language in there. What this does is it keeps more control over it.

CLOSES the PUBLIC HEARING on HB 2813  
OPENS the WORK SESSION on HB 2813

303 MOTION: REP. PROZANSKI: Moves HB 2813 to pass recommendation.

306 CHAIR TARNO: Hearing no objection the motion CARRIES. All members are present.

308 CHAIR TARNO: With nothing further from the committee the meeting is adjourned at 10:00 A.M.

Submitted by,      Reviewed by,

Janet Ellingsworth      Debra Johnson  
Committee Assistant      Committee Coordinator

EXHIBIT SUMMARY:

- A - Amendment to HB 2806 - Areneson - 1 page
- B - Amendment to HB 2809 - Prozanski - 1 page
- C - Amendment to HB 2809 - Arenson - 1 page
- D - Testimony to HB 2809 - Hackett - 1 page
- E - Testimony to HB 2809 - Reinecke - 2 pages
- F - Testimony to HB 2731 - Johnson - 3 pages