

HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room
Tapes - 45

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 on HB 2771
Work Session on HB 2161, HB 2162, HB 2031
Public Hearing and Work Session on HB 2357

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 8:33 A.M.

OPENS the PUBLIC HEARING on HB 2771

006 REPRESENTATIVE DENNY JONES, DISTRICT 60: Testimony on HB 2771.

024 JOHN NICOLS, OREGON GUN OWNERS INC.: Testimony in favor of HB 2771.

031 REP. PROZANSKI: What do we know about these individual states as far as requirements for obtaining a gun permit?

037 NICOLS: Most of the states that have passed permit laws have been based on the Florida statute which is the same as the Oregon statute.

045 REP. PROZANSKI: In Oregon I know you have to go through the safety course and be instructed in the classroom as well as field awareness of being on the range. I'm concerned whether or not other states are more liberal in allowing permits without instruction or guidelines.

050 NICOLS: I am not competent to answer that but I can find out.

CLOSES the PUBLIC HEARING on HB 2771

OPENS the WORK SESSION on HB 2161, HB 2162, HB 2031

064 ROBINSON: Gives brief overview of HB 2031.

094 CHAIR TARNO: The question we have to ask ourselves is do we want to raise unitary assessment fees? [EXHIBIT A]

130 ROBINSON: Your proposing the agencies that would be facing potential cuts would be the Mental Health DUII fund, and 20 percent to the transportation fund out of ODOT and a 20 percent cut in one of the OSP programs?

138 CHAIR TARNO: That is correct.

140 ROBINSON: Refers to [EXHIBIT A].

148 CHAIR TARNO: What I propose to do if the committee is interested in funding HB 2031 and HB 2161 is to make this a referral to ways and means.

152 REP. PROZANSKI: Regarding HB 2162, are we discussing that at this point?

154 CHAIR TARNO: I think they are lumped in together. That is an issue that Ways and Means really should hammer that out for us.

156 ROBINSON: The difference between HB 2161 and HB 2162 is the types of staff that would be in the crime lab.

162 CHAIR TARNO: The subcommittee can look at what percentage the crime lab should have out of unitary assessments.

168 REP. COURTNEY: On HB 2161, the issue is whether or not we should vote to increase the unitary assessment, are we going to decide what amounts go to what area?

173 CHAIR TARNO: It is a suggestion.

175 REP. COURTNEY: That is an interesting suggestion given the jurisdiction of this committee in the past, are we now being told by the leadership that the House Judiciary Committee can act in effect as a Ways and Means committee?

179 CHAIR TARNO: That charge was given to us in the form of both bills, HB 2031 and HB 2161 because both of them deal with budgets.

182 REP. COURTNEY: I'm concerned about the State Marine Board in terms of cuts in that area.

185 CHAIR TARNO: In talking to the director of the State Marine Board, the budget package is primarily for training programs.

194 REP. COURTNEY: The only concerns I have in terms of input is that we have not heard from the State Marine Board, have we?

196 ROBINSON: We didn't.

198 REP. COURTNEY: I'm confused about what is going on here.

200 ROBINSON: One of the options the committee has is to make a decision up or down about an increase, and what programs you want specifically added and then delete the percentages in the bill and let Ways and Means decide how to balance the budgets.

205 REP. COURTNEY: The discussion that caused us problems last time was concerns by some members that we increase the assessment.

215 REP. PROZANSKI: I thought one of the things we would decide when it came back from the full committee was whether or not we were going to continue use of unitary assessments.

223 CHAIR TARNO: This memo I passed out was for thought purposes. The first question I have to ask is does this committee want to increase the unitary assessment fee? I for one do not. The next question is do we want to pass HB 2031 on to the Ways and Means subcommittee?

240 REP. LEWIS: If I understand your memo [EXHIBIT A], this does not reflect any increase in the unitary assessment, correct?

243 CHAIR TARNO: Correct.

245 REP. LEWIS: That would be my preference, I think it's wrong to increase the unitary assessment. I do feel it's a policy issue whether or not we add things such as the crime lab.

263 CHAIR TARNO: Are we better off looking at HB 2031 as a single issue without additional unitary assessment fees?

270 ROBINSON: This committee, it sounds like, is taking the position that there will be no increase in the unitary assessment. Makes recommendations to the committee.

299 REP. COURTNEY: Does HB 2161 contain an increase in the unitary assessment?

303 ROBINSON: Both HB 2161 and HB 2162 contained increases. Describes the difference in terms of increases.

311 REP. COURTNEY: So if the committee doesn't support the increases the bills die?

315 ROBINSON: They need the vehicle in Ways and Means if they want to attempt to use unitary assessments to supplement part of the crime lab.

320 REP. COURTNEY: I'm for expanding and also increasing the assessment, but I have a feeling it's three to two on both issues.

330 CHAIR TARNO: We can't ship it to Ways and Means without an increase in assessment.

336 REP. COURTNEY: The original motion was to send it down without a recommendation, and we brought that back because this committee wants to send a message "we don't want the assessments increased, and we don't want it expanded", is that right?

339 CHAIR TARNO: Correct.

342 REP. PROZANSKI: I don't agree. Either we look at additional general revenue money or we're talking about cutting out central programs to the crime lab.

375 MOTION: REP. COURTNEY: Moves HB 2161 to the full Ways and Means

committee a do pass recommendation.

380 VOTE: In a roll call vote REPS. COURTNEY, PROZANSKI vote AYE.
REPS. GRISHAM and LEWIS and CHAIR TARNO vote NAY.

388 CHAIR TARNO: The motion FAILS.

390 MOTION: REP. COURTNEY: Moves HB 2161 be moved to Ways and
Means committee without recommendation.

393 VOTE: In a roll call vote REPS. COURTNEY, PROZANSKI and CHAIR TARNO
vote AYE. REPS. GRISHAM and LEWIS vote NAY.

398 CHAIR TARNO: The motion CARRIES.

400 MOTION: REP. COURTNEY: Moves HB 2162 to the full committee with a
subsequent referral to Ways and Means without recommendation.

403 VOTE: In a roll call vote REPS. COURTNEY and PROZANSKI vote AYE.
REPS. GRISHAM, LEWIS and CHAIR TARNO vote NAY.

406 CHAIR TARNO: The motion FAILS.

420 REP. GRISHAM: Perhaps it would be more productive if we table this
until we have a chance to get more information.

423 CHAIR TARNO: I don't think so. I think we should deal with these
issues and get them down to Ways and Means.

430 MOTION: REP. COURTNEY: Moves HB 2031 to the Ways and Means
without recommendation. committee

433 CHAIR TARNO: I would like to recommend funding for HB 2031 without an
increase in assessment fees.

436 REP. COURTNEY: So what motion would you entertain?

440 CHAIR TARNO: Can we make a recommendation that the Ways and Means
funds this?

442 MOTION: REP. COURTNEY: Moves HB 2031 to the full committee
with a subsequent referral to Ways and Means with a do pass
recommendation.

450 REP. LEWIS: Doesn't HB 2931 specify that the money be transferred out
of the DOT portion of the unitary assessment?

453 CHAIR TARNO: Yes.

455 REP. LEWIS: So in HB 2031 there is no increase in the unitary
assessment?

458 CHAIR TARNO: Yes, and that would be Ways and Means charge when they see
the bill.

TAPE 44, A

032 VOTE: In a roll call vote REPS. COURTNEY, PROZANSKI and
vote AYE. REPS. GRISHAM and LEWIS vote NAY. CHAIR TARNO

035 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2161, HB 2162, HB 2031
OPENS the PUBLIC HEARING on HB 2357

050 REPRESENTATIVE LISA NAITO, DISTRICT 15: Testimony in support of HB
2357.
[EXHIBITS C, D & E]

104 REP. PROZANSKI: I have some reservations because of my position as an
assistant district attorney, knowing how little an impact suspending
licenses has.

117 REP. NAITO: There will always be people who will drive while suspended.

I don't believe they are the same people who would fall into these
categories.

127 REP. PROZANSKI: Do I understand that the Department of Justice (DOJ)
would be required to do the screening process?

131 REP. NAITO: John Ellis is here from the Department of Justice and he
would be able to answer that.

134 REP. PROZANSKI: Regarding the Maine program, does that include not only
the threat of suspension of driving privileges but also the occupational
ones that we are going to consider expanding to?

135 REP. NAITO: Yes, their legislation included all types of licenses.

141 REP. GRISHAM: Is it possible to arrest people who are behind on child
support payments?

147 REP. NAITO: I don't believe so. There is a criminal statute of non payment of support.

150 REP. GRISHAM: If we take their license away and they can't drive to work isn't that counter productive?

153 REP. NAITO: The DOJ can work out a payment schedule.

161 REP. GRISHAM: You have a letter from Robin Jacobson dated January 24 [EXHIBIT D], that states her difficulties, is she here today to testify?

164 REP. NAITO: She is here.

168 REP. LEWIS: I am aware of a case where a person was found in contempt for non payment of child support and a warrant was issued for that individual's arrest.

173 JOHN ELLIS, DEPARTMENT OF JUSTICE: Testimony in support of HB 2357. [EXHIBIT F] The purpose of this bill is to collect child support.

202 REP. PROZANSKI: What level are they suspended?

206 ELLIS: I don't know the answer to that. I believe it is a standard suspension.

212 REP. LEWIS: Do you have any numbers on how much you have collected on your occupational license suspension pilot program verses the cost of staff?

217 ELLIS: I don't have the statistics with me, but I estimate we will collect about \$1 million dollars in back child support.

230 CHAIR TARNO: What percentage of the fees are used for administration?

234 ELLIS: This program is going to cost about \$1.2 million dollars, the collections are going to be about \$4.4 million dollars, so there is roughly a 1 to 4 ratio there.

250 REP. LEWIS: Refers to [EXHIBIT F].

255 ELLIS: It will offset the need for general fund appropriations.

258 REP. LEWIS: And \$3 million will be collected for families, so I don't understand.

260 ELLIS: The reset of the money goes to the federal government. On my fiscal impact statement it's broken down.

294 REP. LEWIS: If I am a mother on welfare, and through threatening to suspend the license of the father he then starts paying me \$200 per month, I only actually get \$50 and the other \$150 goes to the federal government?

302 ELLIS: That is correct.

305 REP. PROZANSKI: Regarding your breakdown, I wonder what the difference is between
Support Enforcement Division (SED) private collections verses the district attorney's?

307 ELLIS: The child support program in Oregon is delivered through three agencies, Department of Human Resources (DHR), Support Enforcement Division (SED) and Department of Justice (DOJ).

330 BARBARA HANSEN, EXECUTIVE DIRECTOR, CHILD SUPPORT FOR CHILDREN: Testimony in support of HB 2357. [EXHIBIT G]

399 REP. LEWIS: This would apply to people who have children in another state?

412 HANSEN: Yes, it is possible for that to happen. The point is it would help the children.

426 PATRICIA CRAIG, PRESIDENT, CHILD SUPPORT FOR CHILDREN: Testimony in support of HB 2357. [EXHIBIT H].

TAPE 43, B

034 AMY CLARE, RESEARCH and EDUCATION DIRECTOR, AFL-CIO: Testimony in support of HB 2357. [EXHIBIT I]

054 MARCIA MARTIN, EXECUTIVE OFFICER, OREGON COMMISSION FOR CHILD CARE: Testimony in support of HB 2357. [EXHIBIT J]

079 ROBIN JACOBSON: Testimony on HB 2357 [EXHIBITS K & L]

152 REP. GRISHAM: You've been receiving support for 7 months. The person ordered to pay the support has withheld it?

157 JACOBSON: Yes, they have refused to pay.

159 REP. GRISHAM: Is that the last 2 months or the first 2 months?

161 JACOBSON: No, it's a month here or a month there depending upon the interaction between the two parents.

163 REP. GRISHAM: In the last six months did they not pay what was ordered in September?

170 JACOBSON: If I recall she refused to pay September and January.

177 REP. GRISHAM: Did she offer any reason?

179 JACOBSON: She's mad at him.

180 REP. GRISHAM: She didn't offer the high Nordstrom bill?

182 JACOBSON: She tried that with the judge, he didn't buy it.

184 REP. GRISHAM: You state that she does not own any property, she rents her home. Attaching her bank accounts is not an option, do you know that to be a fact or do you just presume that?

186 JACOBSON: What I do know is that she moves money around frequently. She has told us many times we just won't get the money.

188 REP. GRISHAM: I'm just concerned that it not become a tool for you to use against her. It seems like some of your statements are based on presumptions.

190 JACOBSON: We have been receiving child support for several years, it's just been in the last seven months that it has been court ordered.

192 REP. GRISHAM: What makes you think that she will pay you if she no longer drives?

197 JACOBSON: She feels people are out to get her and I think she would be afraid a police officer would stop her.

203 REP. GRISHAM: If your successful and her license is revoked, you believe that will cause her to pay up?

207 JACOBSON: I think the threat will get her to do it.

209 REP. GRISHAM: If it's not the threat, if it is actually revoked don't you believe, given the circumstances of her behavior that she will continue to drive anyway?

211 JACOBSON: I don't think so.

212 REP. PROZANSKI: Regarding the bank accounts I know from experience that once you get a hit you can only receive the money owed at that point. They can in fact use the "shell game" and move their money around.

215 RICHARD KANIG: Testimony on HB 2357.

308 CHAIR TARNO: Where are you going with your testimony?

314 KANIG: I'm projecting long term ramifications.

358 REP. LEWIS: I'm sympathetic to non custodial parents who have trouble getting visitation. Did I understand you to say that after your divorce, you never went back to work "on the books"?

368 KANIG: That is true.

369 REP. LEWIS: And you did this because you couldn't get visitation?

373 KANIG: No, I didn't say that, although that also did occur. You want to know why I didn't go to work on the books?

375 REP. LEWIS: Yes, I guess I would ask if you did it deliberately to avoid paying child support?

378 KANIG: I did pay child support. Gives explanation.

391 LAYNE BARLOW: Testimony in opposition of HB 2357. [EXHIBIT M].

TAPE 44, B

050 BARLOW: Approximately 14 percent of dead beat dads are just that "they are dead". There is another 66 percent in which when the mothers were asked why the fathers were not paying support, 66 percent of the mothers said "he's unable to pay.

121 BARLOW: I have been active in father's rights movements for about two years, and you are creating criminals here.

138 REP. LEWIS: Did you put any of this in writing?

140 BARLOW: I will be happy to draw up a summary and fax it to you.

144 ROY NOLAND, STATE COORDINATOR for the CHILDREN'S RIGHTS COUNCIL of OREGON: Testimony in opposition to HB 2357.

200 NOLAND: It seems all anyone talks about is money at this point and they have forgotten what we feel is a more important issue, and that is emotional support.

215 REP. PROZANSKI: If a judge has already made a determination as to who should receive custody, your not asking this committee to second guess that and put something in there to change it, are you?

221 NOLAND: Basically, we feel there are a number of problems in the system which are not addressed in this bill. I think there are other areas far more important.

225 REP. PROZANSKI: Do you believe we should re write the law? My concern is that if we have a court decide through a judicial proceeding, an amount that is supposed to be paid based on the knowledge they have received, then the moral obligation is one thing, another thing is a court order that is being violated.

232 NOLAND: We support child support payments nationwide. We encourage people to pay them.

245 KELLY ISGRIG, CHILDREN FIRST for OREGON: Testimony in support of HB 2357. [EXHIBIT N]

337 REP. GRISHAM: On page 1 of your testimony, third paragraph [EXHIBIT N], you said that 70 percent of Oregon families entitled to child support payments do not receive them, then on page 2, third paragraph you state 70 percent of those entitled to child support payments do receive them.

347 ISGRIG: That is a typing mistake on the second page, 70 percent do not pay.

350 REP. GRISHAM: Your ex-huSB ands parents who are helping him in this, do they have any sort of visitation rights or interest in their grandchildren?

353 ISGRIG: The grandparents have not requested any visitations with the child. They send packages and letters to him.

369 MAUREEN MCKNIGHT, ATTORNEY, OREGON LEGAL SERVICES: Testimony on HB 2357. [EXHIBIT O]

CLOSES the PUBLIC HEARING on HB 2357
OPENS the WORK SESSION on HB 2357

415 CHAIR TARNO: I heard a lady suggest an amendment to this bill.

418 ROBINSON: We have -2 amendments that were presented by Rep. Naito that need to be adopted. [EXHIBIT P]

420 REP. GRISHAM: Discusses the -2 amendments.

432 REP. NAITO: These amendments were submitted at the request of the Department of Motor Vehicles (DMV) so that the proposed suspensions would fit within their existing scheme.

435 CHAIR TARNO: (Inaudible)

442 REP. GRISHAM: It covers vehicular homicide, manslaughter, murder, criminally negligent homicide and failure to perform duties.

452 KRISTEN FUNK-TRACY, SENIOR LEGISLATIVE ASSISTANT: Testimony on HB 2357.

I worked with Kelly Taylor at DMV on these amendments. The DMV already has a process to suspend commercial licenses.

TAPE 45, A

035 ROBINSON : Sections 1 and 2 are part of the ORS statutes.

049 REP. PROZANSKI: If we're taking the complete section 3 out, that does not seem right.

067 KELLY TAYLOR, DRIVER AND MOTOR VEHICLE SERVICES, OREGON DEPARTMENT OF TRANSPORTATION (ODOT): Testimony on HB 2357.

072 REP. PROZANSKI: By doing away with 809, are we still retaining the suspension process? How will the process work?

078 TAYLOR: These amendments were suggestive to be aligned with the senate bill from last session and that is that commercial drivers license suspensions are listed under chapter 25.

085 REP. PROZANSKI: DMV would be determining or setting up suspensions as compared to the existing means?

090 TAYLOR: What the amendments are trying to do is make this bill be with current practice, how commercial driver licenses are suspended.

096 REP. PROZANSKI: You'll be taking the lead from the Department of Justice?

099 TAYLOR: No, they do the up front work, the screening, make the determination and simply tell us "send this person a letter telling them they are suspended".

100 ROBINSON: Discusses page 1, line 24.

106 MOTION: REP. PROZANSKI: Moves to adopt the -2 amendments.

108 CHAIR TARNO: Hearing no objections the motion CARRIES.

116 MOTION: REP. PROZANSKI: Moves HB 2357 as amended to the full committee with a do pass recommendation.

118 REP. GRISHAM: In that process is there a warning that is sent out?

119 ELLIS: The process that is contemplated is the same one that is now in place for the suspension of certain professional licenses. You have 30 days to make a payment agreement with us.

153 REP. GRISHAM: Is this at the end of everything you do or is this at the beginning?

155 ELLIS: You mean license suspension?

156 REP. GRISHAM: Yes.

157 ELLIS: This is at the end of everything else we do.

160 VOTE: In a roll call vote all member vote AYE. REP. LEWIS is EXCUSED.

168 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2357

170 CHAIR TARNO: The Chair has advised me that the Full Committee will begin meeting on Thursdays at 10:00 A.M. With nothing further the meeting is adjourned at 10:40 A.M.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A - Testimony to HB 2031- Tarno - 2 pages
B- Testimony to HB 2031- Meisenheimer - 2 pages
C - Testimony to HB 2357 - Naito - 4 pages
D - Testimony to HB 2357 - Naito - 22 pages
E - Proposed Amendments to HB 2357 - Naito - 1 page
F - Testimony to HB 2357 - Ellis - 2 pages
G - Testimony to HB 2357 - Hansen - 2 pages
H - Testimony to HB 2357 - Craig - 1 page
I - Testimony to HB 2357 - Fletcher - 1 page
J - Testimony to HB 2357 - Martin - 1 page
K - Testimony to HB 2357 - Jacobson - 2 pages
L - Testimony to HB 2357 - Jacobson - 1 page
M - Testimony to HB 2357 - Barlow - 4 pages
N - Testimony to HB 2357 - Isgrig - 3 pages
O - Testimony to HB 2357 - McKnight - 1 page
P - Proposed Amendments to HB 2357 - Staff
Q - Testimony to HB 2357 - Nunnenkamp - 1 page