

HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room
Tapes - 69

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:

Work session on HB 3377
Public hearing and work session on HB 2645
Public hearing and work session on HB 2208
Public hearing on HB 2214
Public hearing on HB 3246
Public hearing on HB 2492

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 WORK SESSION on HB 3377

006 ROBINSON: Gives brief overview of HB 3377. [EXHIBIT A]

028 MOTION: REP. COURTNEY: Moves the -3 amendments to HB 3377.

029 CHAIR TARNO: The motion CARRIES.

030 MOTION: REP. PROZANSKI: Moves HB 3377 as amended to the Full
Committee with a do pass recommendation.

033 REP. GRISHAM: Have the people who testified in opposition to this bill
helped to create this?

034 CHAIR TARNO: I have consulted with many of those folks and they have
no opposition to this.

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

038 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 3377

OPENS the PUBLIC HEARING on HB 2645

042 REPRESENTATIVE ANITRA RASMUSSEN, DISTRICT 11: Testimony in support of
HB 2645.

050 CAROL BONNONO, REGISTERED NURSE: Testimony in support of HB 2645.
[EXHIBIT B]

076 DR. LEW SAYER, M.D.: Testimony in support of HB 2645.

102 REPRESENTATIVE BILL MARKHAM, DISTRICT 46: Testimony in support of HB
2645.
[EXHIBIT C]

143 DEBRA WILEY, REGISTERED NURSE: Testimony in support of HB 2645.
[EXHIBIT D]

180 REP. GRISHAM: Once we start doing this procedure, will patients avoid
health care because
they are concerned about being reported?

185 BONNONO: The patients we're speaking of have high alcohol blood levels
and they are brought to the emergency room by ambulance.

201 REP. GRISHAM: Would it be a good idea to report drug usage for people

who are admitted for overdoses and for usage of drugs?

206 BONNONO: We are following the recommendations of the Surgeon Generals work shop on drunk driving.

211 REP. GRISHAM: If it's a good idea to report people who are driving with a high alcohol content, wouldn't it also be a good idea if they are in the same medical system due to other types of intoxicants, to report them?

217 DR. SAYER: That would be a good idea, however, we do not have hard factual data to back up the other drugs.

221 REP. PROZANSKI: How often do you have occasions where you deal with people in this situation that have been involved as a bicyclist, which would be covered under the definition of a vehicle?

230 DR. SAYER: That is very rare.

233 REP. PROZANSKI: It wouldn't be necessary in your opinion to broaden this portion of the amendments?

235 DR. SAYER: Correct.

239 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testimony in opposition to HB 2645.

277 CHAIR TARNO: Doesn't probable cause only pertain to a law enforcement or an investigatory agency as opposed to a private citizen?

279 ARNESON: Yes, that is correct. My concern would be the situation where a police officer may not have probable cause.

285 REP. PROZANSKI: I assisted in drafting amendments and reviewing this with Representative Rassmussen. In no way are we trying to circumvent what's going to be required.

321 ARENSON: It would be your intent by this legislation to require the police officer to seek a search warrant to take the blood draw?

324 REP. PROZANSKI: If they are going to proceed in the investigation of the charge of DUII, they will have to go forward in there investigation as they would any other DUII investigation.

335 ARNESON: Would the information provided by the hospital be allowed to be used in the affidavit in support of the search warrant.

340 REP. PROZANSKI: Yes.

344 ARNESON: Our concern would be the same. I'm not certain about what kinds of cases these apply to where the police officer would not have some knowledge or information that would lead a person to believe that alcohol use has been involved.

363 REP. PROZANSKI: I disagree with you. Refers to the -1 amendments.

417 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION of OREGON (ACLU): Testimony in opposition to HB 2645.

TAPE 69, A

025 FIDANQUE: The other concern we have is the interplay this would have with the implied consent law.

079 FRED LENSER, MULTNOMAH DISTRICT ATTORNEY'S OFFICE: Testimony in favor of HB 2645,

091 CHAIR TARNO: Do you see a potential conflict with the implied consent laws?

100 LENZER: I don't see a conflict with this particular provision.

110 CHAIR TARNO: I would like to ask the two other district attorney's here if they have any concerns with this.

112 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY: Testimony in support of HB 2645.

120 DALE PENN, MARION COUNTY DISTRICT ATTORNEY: Testimony in support of HB 2645.

CLOSES the PUBLIC HEARING on HB 2645
OPENS the WORK SESSION on HB 2645

130 REP. PROZANSKI: Discusses the -1 amendments. [EXHIBIT E]

146 MOTION: REP. PROZANSKI: Moves the -1 amendments to HB 2645.

148 CHAIR TARNO: The motion CARRIES.

154 MOTION: REP. PROZANSKI: Moves HB 2645 as amended to the full committee
with a do pass recommendation.

156 VOTE: In a roll call vote all members present vote AYE. REP. LEWIS
is EXCUSED.

159 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2645
OPENS the PUBLIC HEARING on HB 2208

170 MIKE DINGEMAN, OREGON STATE POLICE: Testimony in support of HB 2208.
[EXHIBIT F]

240 PETER HIGGINS, OREGON DEPARTMENT OF JUSTICE: Testimony in support of HB
2208.

248 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY: Testimony in support of HB
2208.

269 CHAIR TARNO: You have had this on line for two years?

271 DINGEMAN: Yes we have.

273 CHAIR TARNO: What areas of the state has this been in operation in?

275 DINGEMAN: Currently it is a statewide system.

279 CHAIR TARNO: As a result have you had any wrongful breath alcohol
tests taken?

282 DINGEMAN: No we have not.

285 CHAIR TARNO: Do you back it up with the old fashioned system?

287 DINGEMAN: Yes.

290 JIM ARENSON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testimony on
HB 2208. We oppose the -1 amendments.

355 CHAIR TARNO: Is the only challenge to date been in the certification
aspect?

361 ARNESON: My knowledge of these machines is so limited that I can't
say.

366 REP. PROZANSKI: The machines we're talking about are the 5000's and
there have been challenges that have been raised unsuccessfully at the
trial level.

CLOSES the PUBLIC HEARING on HB 2208
OPENS the WORK SESSION on HB 2208

384 MOTION: REP PROZANSKI: Moves to adopt the -4 amendments.
[EXHIBIT G]

386 CHAIR TARNO: The motion CARRIES.

393 MOTION: REP. PROZANSKI: Moves HB 2208 as amended to the Full
Committee with a do pass recommendation.

397 VOTE: In a roll call vote all members present vote AYE. REP. LEWIS is
EXCUSED.

400 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2208
OPENS the PUBLIC HEARING on HB 2214

422 STEVE MARKS, POLICY ADVISOR to the GOVERNOR: Testimony in favor of HB
2214.

TAPE 68, B

032 DENNIS O'DONNELL, DEPARTMENT OF CORRECTIONS: Testimony in support of HB
2214.

060 SALLEY ANDERSON, DEPARTMENT OF CORRECTIONS: Testimony in support of HB
2214.

061 CHAIR TARNO: Does the Governor have a break down on what type of
facilities he will be looking for, are they hard beds, minimum security or
boot camps?

064 O'DONNELL: Currently, we have in the budget for 3000 beds over the next biennium. The majority of those beds will be built at Snake River, those will be medium level beds.

072 REP. COURTNEY: We have 2200 bed capacity at Snake River. Are we talking about siting one prison, two prisons or regional prisons? Is this a comprehensive bill that says what ever you want to do you can do?

087 O'DONNELL: We have not planned or identified what we would do beyond Snake River. We are waiting for the forecast.

092 REP. COURTNEY: Obviously we are going to have to super site somewhere, someplace. I feel we are facing a special session over this issue.

CLOSES the PUBLIC HEARING on HB 2214
OPENS the PUBLIC HEARING on HB 3246

CLOSES the PUBLIC HEARING on HB 3246
OPENS the PUBLIC HEARING on HB 2492

122 ROBINSON: Gives brief overview of HB 2492. [EXHIBIT I]

130 DALE PENN, DISTRICT ATTORNEY, MARION COUNTY: Testimony in support of HB 2492.

193 CHAIR TARNO: Why use 14 years of age?

195 PENN: That has been in the original bill, murder by abuse, which we've had for about 5 years.

213 CHAIR TARNO: Why not say "a child who is unable to properly care for themselves"? Couldn't that mean a 23 year old who is mentally retarded and still living at home?

216 PENN: The way it's in the present statute it talks about a child under the age of 14 years of age or a dependent person.

221 REP. PROZANSKI: Do you believe age 14 years is a reasonable cut off age, or do you think it should be expanded to 16 or 18 years of age?

231 PENN: I'd certainly have no objection to that, there may be a basis to say that 16 is a reasonable age. The intent was to focus on those who do not have the ability to extricate themselves.

241 WALT BEGLAU, DEPUTY DISTRICT ATTORNEY, MARION COUNTY: Testimony in support of HB 2492.

266 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION of OREGON (ACLU): Testimony in opposition to HB 2492.

303 JIM ARNESON, CRIMINAL DEFENSE LAWYERS ASSOCIATION: If we are limited to section 17, I have nothing to say.

CLOSES the PUBLIC HEARING on HB 2492

325 CHAIR TARNO: With nothing further from the committee the meeting is adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments to HB 3377 - Staff - 3 pages
B - Testimony to HB 2645 - Bonnono - 1 page
C - Testimony to HB 2645 - Rep. Markham - 1 page
D - Testimony to HB 2645 - Wiley - 3 pages
E - Proposed amendments to HB 2645 - Staff - 1 page
F - Testimony to HB 2208 - Dingeman - 5 pages
G - Proposed amendments to HB 2208 - Staff - 3 pages
H - Proposed amendments to HB 2214 - Staff - 8 pages
I - Proposed amendments to HB 2492 - Staff - 17 pages
J - Testimony to HB 2645 - Unknown - 1 page
K - Testimony to HB 2645 - Goodell - 1 page
L - Testimony to HB 2645 - Inaba - 1 page

