

HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room
Tapes - 73

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 2508
Work session on HB 2123
Work session on HB 2903

Work session on HB 2167
Work session on HB 2689
Work session on HJR 39

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

003 CHAIR TARNO: Opens meeting at 8:33 A.M.

OPENS the PUBLIC HEARING on HB 2508

004 REPRESENTATIVE GAIL SHIBLEY, DISTRICT 12: Testimony in support of HB 2508.

041 BILL BOYD, LEGISLATIVE COUNSEL: Testimony in support of HB 2508.

125 CHAIR TARNO: On page 4, lines 16 and 17, how is that going to read, wouldn't incest be rape?

130 BOYD: Incest is a separate crime.

132 CHAIR TARNO: Can't incest also be rape?

134 BOYD: Incest cannot be rape. Explains the crime of incest.

158 BRENDA ROCKLIKE, DEPARTMENT OF JUSTICE, OREGON DISTRICT ATTORNEY'S ASSOCIATION: Testimony on HB 2508. Expresses concerns by the Department of Justice. [EXHIBIT B]

227 REP. SHIBLEY: Discusses -1 amendments. [EXHIBIT A]

237 REP. PROZANSKI: The intent of the law is not to change how an individual can be convicted for different sexual acts, so are we saying that if a person commits the crime of sodomy as well as the crime of rape that they would be charged with two counts of rape?

245 ROCKLIN: It would be the intent that if an individual, under the terms of this bill, committed what we now know as rape, sexual intercourse, committed the crime of sodomy and as a third act committed unlawful sexual penetration, that person would still be subjected to three counts of rape in the first degree and three sentences for rape in the first degree.

260 REP. SHIBLEY: That is mentioned in sections 25, and 26 of the bill, as amended in the -1 amendments, starting on line 9.

265 BOB ELLIOTT, DIRECTOR, PUBLIC DEFENDANT'S OFFICE, HILLSBORO: Testimony in support of HB 2508.

346 CHAIR TARNO: I'm having a hard time understanding why we need this bill.

353 REP. SHIBLEY: Gives overview of HB 2508.

395 ELLIOTT: I think that the gravamen of these offenses is in the violence that is perpetrated from one individual against another person.

440 REP. SHIBLEY: I need to leave at this time and I want to express my appreciation for their work and understanding of this issue.

TAPE 73, A

027 REP. LEWIS: Have you seen the -1 amendments? [EXHIBIT A]

030 ROCKLIN: Yes, I have.

032 REP. LEWIS: I have looked these over and I don't see that they address your concerns on page 4, lines 41 to 45, so if they do address your concerns could you please explain that?

034 ROCKLIN: You are correct that the -1 amendments do not address any of those concerns that the district attorney's and the Department of Justice has in terms of changing the law in those procedural areas.

041 INGRID SWENSON, OREGON CRIMINAL DEFENSE LAWYER'S ASSOCIATION: Testimony in opposition to HB 2508.

080 LAURIE WIMMER, EXECUTIVE DIRECTOR, OREGON COMMISSION FOR WOMEN: Testimony in support of HB 2508. [EXHIBIT C]

CLOSES the PUBLIC HEARING on HB 2508
OPENS the WORK SESSION on HB 2123

A small portion of TAPE 73, A was damaged and in some places not audible.

140 ROBINSON: Gives brief overview -10 amendments. [EXHIBIT D & G]

166 CHAIR TARNO: Address's the -9 amendments.

174 JIM GREEN, LEGISLATIVE ADVOCATE, OREGON SCHOOL BOARDS ASSOCIATION: [EXHIBIT'S E & F] Discusses and submits conceptual amendments.

283 STEPHANIE HOLMES, OREGON SCHOOL EMPLOYEES ASSOCIATION: Submits and discusses conceptual amendments. [EXHIBIT H]

317 CHAIR TARNO: Are you suggesting that we change the word from "may" to "shall"?

321 HOLMES: Yes.

344 CHAIR TARNO: Is that the only thing in section 2, subsection 1?

347 HOLMES: Section 2, we're changing in line 24 the "may" to "shall", and in line 28 again, the "may" to "shall", and on line 31, insert the word "history" between "criminal" and "records".

386 CHAIR TARNO: Mr. Myton, are you following along with this?

388 DAVID MYTON, OREGON TEACHER STANDARD AND PRACTICES COMMISSION: I'm trying to follow along. [EXHIBIT I]

390 CHAIR TARNO: Have you been privy to those suggested changes?

392 MYTON: I have not reviewed the -10 amendments, but I have reviewed the -9 amendments.

391 HOLMES: Continues testimony.

TAPE 72, B

030 CHAIR TARNO: We're trying to figure out if there's a more simple, direct way of getting to where we want to be.

032 REP. COURTNEY: What we're up against is there is too many disagreements.

034 ROBINSON: Describes the two major differences the committee has to deal with.

056 REP. LEWIS: I would like to ask Mr. Green what the school board association's position is on volunteers on the LED's check?

058 GREEN: We are in opposition to mandatory checks on volunteers.

066 AL SHANNON, DEPARTMENT OF EDUCATION: I would like to propose that we expand that not just to volunteers, but also to pre-employment screening.

I can give Holly some language on how to reference the definition of "school district" so the School for the Deaf and School for the Blind and the Juvenile Correction programs will come under that.

087 ROBINSON: It already does because the school district language was already incorporated to deal with the State School for Deaf and the Blind.

090 SHANNON: In section 1 it says "as used in this section".

092 ROBINSON: I think it would apply through out but I will double check that.

094 CHAIR TARNO: Isn't this volunteer issue a link in the chain?

096 REP. PROZANSKI: I guess we're going to have that debate as to do we force it upon the districts in the sense of potentially causing whatever problems it's going to cause.

099 CHAIR TARNO: I have a hard time charging a \$5 fee for a records check when you can call a local law enforcement agency for nothing.

103 HOLMES: The information that a school can obtain from a LED's check is different than what an individual can obtain on themselves from a law enforcement agency.

114 ROBINSON: I don't believe that it's that readily available through a local law enforcement agency.

118 SHANNON: We were directed by budget note last session to charge a fee for that. Not all local law enforcement agency's cooperate. Explains \$5 fee.

128 HOLMES: We would also make that \$5 charge mandatory to the volunteer.

130 MOTION: REP. LEWIS: Moves Mr. Greens amendments as conceptual amendments to -9 amendments, and to adopt the -9 amendments as amended by Mr. Green.

138 REP. GRISHAM: Does that include the deferral until 1999?

140 ROBINSON: No, the -9 amendments have a "rolling" process over the next 5 years based on birth dates.

142 REP. LEWIS: I have not included any of the amendments from the Oregon School Employees Association, only the Oregon School Board's Association.

150 HOLMES: I do know there are other individuals who are planning to testify who are offering amendments which are in line of technical amendments.

153 ROBINSON: We are aware of those.

155 CHAIR TARNO: The motion CARRIES.

159 ROBINSON: You have a memo from the Oregon Service Council [EXHIBIT J], with some perceived technical amendments.

166 MOTION: REP. LEWIS: Moves conceptual amendments to HB 2123. [EXHIBIT J].

172 CHAIR TARNO: The motion CARRIES.

174 REP. LEWIS: Discusses the -10 amendments.

176 ROBINSON: You've also been provided with a memo from David Myton from Teachers Standard and Practice Commission (TSPC). [EXHIBIT I]

190 MOTION: REP. LEWIS: Moves conceptual amendments to HB 2123. [EXHIBIT I]

193 MYTON: Mr. Green's amendment number 7 does the same thing.

197 CHAIR TARNO: The motion CARRIES.

206 ROBINSON: Discusses the -10 amendments.

226 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION, (ACLU): We do not believe it is necessary to delete all of the current language in the statute. Makes conceptual amendments.

261 ROBINSON: I think that will satisfy the State Police.

266 FIDANQUE: There is a change between the -9 and the -10 amendments in how the list of offenses which require denial of a teaching or administrative licensee is dealt with, the -10 language we believe is better.

273 ROBINSON: Legislative council requested a change in what that list looks like

280 MOTION: REP. LEWIS: Moves the -10 amendments as conceptually amended by David Fidanque.

289 CHAIR TARNO: The motion CARRIES.

292 REP. LEWIS: I want to ask legal counsel to make sure Mr. Shannons concerns about the definitions of school districts are addressed.

299 ROBINSON: The definition is in there, what he was concerned about was whether or not the definitions regarding exemptions from collective bargaining pick up that same definition.

309 REP. LEWIS: I think we should discuss that on page 3, section 2, where we discuss volunteers, we might also want to expand that to include pre-employment screening.

317 ROBINSON: I think they can do that now.

320 GREG MACMURDO: We are doing that for districts now. The reason we are seeking to have pre-employment put in there is so we can charge the fee we're charging now and have it a statutory fee.

328 CHAIR TARNO: (Inaudible)

331 MOTION: REP. LEWIS: Moves conceptual amendment to the -9 amendments regarding pre-employment screening.

337 CHAIR TARNO: The motion CARRIES.

340 MOTION: REP. LEWIS: Moves HB 2123 as amended to the full committee with a do pass recommendation.

343 VOTE: In a roll call vote all members are present and vote AYE.

345 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2123
OPENS the WORK SESSION on HB 2903

363 ROBINSON: Gives brief overview of HB 2903. [EXHIBIT L]

390 CHAIR TARNO: Is the committee satisfied with the -2 amendments?

393 REP. COURTNEY: Is this a "good time" issue?

394 ROBINSON: No.

396 REP. COURTNEY: Has the board been dramatically altered?

398 ROBINSON: Perhaps someone from the department can answer that.

405 JEF VANVALKENBERG, LEGAL COUNCEL, DEPARTMENT OF CORRECTIONS for the DEPARTMENT OF JUSTICE: Testimony on HB 2903.

413 ROBINSON: There was originally the Prison Industries Board which was a statutory provision.
I think Rep. Courtney's question was how does the advisory committee that's being created under HB 2903 compare to the old Prison Industries Board.

420 REP. COURTNEY: That is correct.

431 BRIAN BEAMUS, DEPARTMENT OF CORRECTIONS: The differences are minimal.
The current Unigroup Advisory Board is comprised of members from labor, business, and other industry.

TAPE 73, B

025 REP. COURTNEY: Is there any thing in these amendments about ballot measure 11 people working outside the walls?

027 BEAMUS: No, as far as working outside the wall the department requires an inmate to be minimum custody and meet administrative rule requirements to be working outside of an institution.

032 MOTION: REP. COURTNEY: Moves the -2 amendments to HB 2903.

034 CHAIR TARNO: The motion CARRIES.

035 REP. COURTNEY: Is there any kind of Ways and Means referral in regard to this particular part of prison industries?

037 ROBINSON: I don't believe so. I will check but it came to the committee as nearly setting up an advisory committee.

043 MOTION: REP. LEWIS: Moves HB 2903 to the full committee with a do pass recommendation.

045 VOTE: In a roll call vote all members are present and vote AYE.

047 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2903
OPENS the WORK SESSION on HB 2167

050 ROBINSON: Gives brief overview of HB 2167.

068 CHAIR TARNO: The actual impact of the bill extends the period of time from 6 months to 8 months that they are in the hospital.

074 REP. COURTNEY: I don't have a problem with it.

075 REP. PROZANSKI: From looking at previous testimony, it says there is only a small number requesting 8 months.

080 MOTION: REP. PROZANSKI: Moves HB 2167 to the full committee with a do pass recommendation.

082 VOTE: REPS. COURTNEY, LEWIS, PROZANSKI and CHAIR TARNO vote AYE. REP.
GRISHAM votes NAY.

084 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2167
OPENS the WORK SESSION on HB 2689

090 ROBINSON: Gives brief overview of HB 2689. [EXHIBIT N]

113 MOTION: REP. PROZANSKI: Moves the -2 amendments to HB 2689.

114 CHAIR TARNO: The motion CARRIES.

116 REP. PROZANSKI: There was a point that was brought to my attention
this morning regarding some language regarding permanent guardianship.

124 MOTION: REP. PROZANSKI: Moves HB 2689 to the full committee with at
a do pass recommendation.

126 VOTE: In a roll call vote all members are present and vote AYE.

129 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on HB 2689
OPENS the WORK SESSION on HJR 39

135 ROBINSON: Gives brief overview of HJR 39. [EXHIBIT P]

155 CHAIR TARNO: Does it have a subsequent referral to Ways and Means?

156 ROBINSON: No. This fiscal impact statement is a surprise to me.

157 CHAIR TARNO: With these kind of figures, doesn't it have to go to Ways
and Means?

159 ROBINSON: I'm not willing to accept this fiscal impact statement.

161 REP. PROZANSKI: Discusses concerns about how this will be perceived by
individuals in the community about what reasonable means are.

176 MOTION: REP. GRISHAM: Moves the -2 amendments to HJR 39.

180 CHAIR TARNO: The motion CARRIES.

182 MOTION: REP. GRISHAM: Moves HJR 39 as amended to the full
committee with a do pass recommendation.

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

TAPE NOT AUDIBLE DURING THE VOTE

186 CHAIR TARNO: The motion CARRIES.

190 REP. GRISHAM: Formally express displeasure with the chairman of the
Judiciary Committee,
Rep. Parks.

213 CHAIR TARNO: With nothing further from the committee the meeting is
adjourned at 10:25
A.M.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments to HB 2508 - Staff - 1 page
B - Testimony to HB 2508 - Rocklin - 2 pages
C - Testimony to HB 2508 - Wimmer - 1 page
D - Proposed amendments to HB 2123 - Staff - 10 pages
E - Proposed amendments to HB 2123 - Green - 2 pages
F - Proposed amendments to HB 2123 - Green - 3 pages
G - Proposed amendments to HB 2123 - Staff - 9 pages

H - Testimony to HB 2123 - Holmes - 2 pages
I - Testimony to HB 2123 - Myton - 1 page
J - Proposed amendments to HB 2123 - Oregon Service Council - 1 page
K - Testimony to HB 2123 - Deimler - 1 page
L - Proposed amendments to HB 2903 - Staff 18 pages
M - Testimony to HB 2903 - Fletcher - 1 page
N - Proposed amendments to HB 2689 - 1 page
O - Testimony to HB 2943 - Barlow - 5 pages
P - Proposed amendments to HJR 39