

HOUSE JUDICIARY
SUBCOMMITTEE ON CRIME AND CORRECTIONS

Hearing Room
Tapes - 77

MEMBERS PRESENT:

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

STAFF PRESENT:

Aaron Felton, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD:

Public hearing and work session on SB 320 A
Public hearing and work session on SB 343 A
Public hearing and work session on SB 376 A
Public hearing and work session on SB 504 A
Public hearing and work session on SB 736

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: Convenes meeting at 8:33 A.M.

OPENS the PUBLIC HEARING on SB 320 A

004 SENATOR NEIL BRYANT, DISTRICT 27: Testimony in support of SB 320 A.

037 REP. COURTNEY: I support the bill. You made a statement that seems to be in opposition to our records here. You said fifteen years from the date of conviction, we're lead to believe that it's fifteen years from the termination of imprisonment, parole or probation.

041 SEN. BRYANT: That is correct.

CLOSES the PUBLIC HEARING on SB 320 A
OPENS the PUBLIC HEARING on SB 343 A

045 SENATOR JOHN LIM, DISTRICT 11: Testimony in support of SB 343-A.

082 REP. PROZANSKI: Regarding implements on line 7, page 1 of the bill, you've noted that one of the agents would be chalk. Do you intend to have chalk in there since it's not permanent, such as paint or ink?

100 SEN. LIM: I don't have a strong feeling on chalk.

105 REP. COURTNEY: In the graffiti world, making this a crime will help but what's important is that all people involved paint over the graffiti within 24 hours.

118 SEN. LIM: I agree with you. I have property in Portland when I see graffiti on my property I ask my staff to paint over it right away.

132 OFFICER WALTER SLUSARCZYK, GRESHAM CITY POLICE DEPARTMENT: Testimony in support of SB 343 A.

160 MICHELLE TANEY, COMMUNITY RESOURCE SPECIALIST, GRESHAM POLICE DEPARTMENT: Testimony in support of SB 343 A.

185 CLAUDETT LAVERT, CITY COUNCIL, CITY OF GRESHAM: Testimony on SB 343 A.

191 REP. PROZANSKI: Mr. Slusarczyk, you said there is nothing you can do in the way of charging a person, why wouldn't you be able to charge them with criminal mischief?

197 SLUSARCZYK: Criminal mischief is going to require me being able to associate the act with that person. A lot of times you will find kids with these graffiti implements, but you can't tie them to the act so therefore you cannot charge them with criminal mischief.

203 REP. PROZANSKI: Your statements are basically to the possession of the implements. There are two stages, section 2 goes to the act of the graffiti, section 3 goes to having possession of those implements.

207 SLUSARCZYK: What's important with the graffiti act itself, is that

it's specific and that may
make the court's realize that this is a specific crime.

218 KEN HECTOR, MAYOR, CITY OF SILVERTON: Testimony in support of SB 343-A.

260 SARAH HACKETT, SENIOR STAFF ASSOCIATE, LEAGUE of OREGON CITIES:
Testimony in support of SB 343 A. [EXHIBIT G]

276 JODI SHERWOOD, COMMUNITY COORDINATOR, KEIZER POLICE DEPARTMENT:
Testimony in support of SB 343 A.

332 REP. PROZANSKI: Your ordinance in Keizer, does that restrict a
business from allowing individuals to paint their walls if they want to in
the sense of some type of a design that might be
considered graffiti?

337 SHERWOOD: I'm not sure what you mean.

340 REP. PROZANSKI: In Eugene there is an area that's been donated by the
owner's of the business to allow young people to express themselves, does
your ordinance allow that type of conduct not to occur?

347 SHERWOOD: Yes, it would prohibit that type of activity.

353 HACKETT: Regarding chalk, in listening to the Senate discussion on
this, I don't think there would be any disagreement about removing chalk,
but I think the concept was that chalk can be used for graffiti, and
although it's more easily cleaned up it could be a distance in the air,
more
difficult to get at and could also require painting over.

CLOSES the PUBLIC HEARING on SB 343 A
OPENS the WORK SESSION on SB 343 A

373 CHAIR TARNO: You raised concerns about chalk, one of the reason's I'm
inclined to leave it in here for is regardless of the material used,
[Inaudible].

381 REP. PROZANSKI: We have a lot of young folks who go out routinely and
use chalk that is sold in dime stores and use it on sidewalks. In reading
this bill they could in fact be held accountable and their parents could be
held accountable for that conduct. Do we want to have it so broad that
playing hopscotch could be interpreted as graffiti?

400 CHAIR TARNO: I think that would be a judgment call on the part of law
enforcement.

411 REP. GRISHAM: The only problem I have is section 2, subsection 3, if
the court orders community service, community service must be completed
within six months after the entry of the order, unless the person shows
good cause. I'm wondering if that's something we're putting in there that
sounds great but is not doing any good.

436 REP. PROZANSKI: If we're trying to combat the act of graffiti, making
the perpetrators
participate in the clean up is important.

TAPE 77,A

025 CHAIR TARNO: Are you suggesting a conceptual amendment?

026 REP. GRISHAM: I would propose a conceptual amendment but I am
struggling with what it might be.

030 REP. LEWIS: Discusses page 2, section 6, subsection 2.

037 REP. PROZANSKI: Would you entertain an amendment that if the court does
require community service of a minimum 8 hours that would be considered a
full day?

040 REP. LEWIS: But still leave it a "may" that the court can do it, but
if the court does impose that then it needs to be a minimum of 8 hours?

043 REP. PROZANSKI: There are times where a court may determine for
whatever reason either the person's not physically able to do it or that
they think it's going to be more detrimental to the community to have
someone out there doing something their not really going to be doing
anyway.

047 REP. GRISHAM: What about section 5, page 2?

054 REP. PROZANSKI: We're talking about including some mandatory language
regarding a minimum amount of community service. Rep. Grisham has located
section 5, line 13 on page 2,
maybe we could ask counsel to come back with appropriate language that
would be inserted.

062 CHAIR TARNO: Counsel, do you understand where we're going?

063 FELTON: Yes, I do.

064 REP. LEWIS: The three different sections deal with different crimes.
Describes each section.

073 REP. PROZANSKI: Responds to Rep. Lewis's concerns.

075 CHAIR TARNO: Counsel, how soon can you get these amendments back to the committee?

077 FELTON: I can have them back by the next meeting.

080 MOTION: REP. GRISHAM: Moves conceptual amendment to sections 5, 3 and 2, which would impose a minimum of 8 hours community service to SB 343 A.

084 REP. LEWIS: You put that in section 5 and that only deals with the criminal mischief, it does not deal with the other two issues.

087 REP. GRISHAM: I would like to see it in all three but I am not sure other members are. I'm willing to defer to the committee.

089 CHAIR TARNO: Eight hours of community service in all three areas?

091 CHAIR TARNO: The motion CARRIES.

097 MOTION: REP. COURTNEY: Moves SB 343 A to the full committee as conceptually amended with a do pass recommendation.

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

103 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 343 A
OPENS the PUBLIC HEARING on SB 320 A

106 JASON CARLILE, LINN COUNTY DISTRICT ATTORNEY'S OFFICE: Testimony in support of SB 320 A.

118 REP. PROZANSKI: We have one amendment. You remember HB 2807, which is one that I suggested we strike the language as to the state being on the hook for the petition fee. On page 2, lines 42 through 44, I would make an amendment by deleting starting where it says "if the petitioner prevails" to the conclusion of that paragraph.

CLOSES the PUBLIC HEARING on SB 320 A
OPENS the WORK SESSION on SB 320 A

133 DAVID FACTOR, OREGON CRIMINAL JUSTICE COUNCIL: Submits and discusses [EXHIBIT A].

138 MOTION: REP. PROZANSKI: Moves conceptual amendment to SB 320 A in section 2, subsection 9, deleting the sentence "if the petitioner prevails amount of the filing fee shall be paid by the respondent to the petitioner and may be incorporated into the court order".

143 CHAIR TARNO: The motion CARRIES.

148 FACTOR: Discusses the amendment to SB 320 A. [EXHIBIT A]

163 REP. COURTNEY: (Inaudible)

165 FACTOR: It is not, it's a friendly amendment.

170 REP. COURTNEY: Did you have a bill in to this effect somewhere?

168 FACTOR: Yes, SB 852 which was introduced in the Senate Judiciary but did not receive a hearing.

170 REP. COURTNEY: The Chair of that committee says now that even though that bill did not receive a hearing in his committee it is now all right to take that bill and stuff it in his bill?

172 FACTOR: He does not object to these two sections from that bill being inserted in this bill.

172 REP. GRISHAM: Regarding section 4, I am in favor of, section 3 raised a question. Condition of release in a domestic violence case would mean that someone is being returned to the home?

176 FACTOR: It means someone who's on a pre trial release status.

178 REP. GRISHAM: If that person possessed firearms such as shotguns, hunting rifles or whatever, would he then have to return and remove those firearms, or dispose of them?

182 FACTOR: The way this is drafted, it could be read to be that broad.

186 REP. GRISHAM: If you carry it through, the condition of release, the perpetrator, before he could be released would have to remove and sell all of those weapons?

188 FACTOR: Not necessarily sell but could not possess those weapons.

189 REP. GRISHAM: So then "remove from his or her immediate possession"?

190 FACTOR: That would be correct.

191 REP. GRISHAM: Based on that I would have to oppose that portion of the amendment.

193 CHAIR TARNO: I'm not privy to any of the language in this amendment, and I don't believe any of the other members of this committee,

195 FACTOR: The amendment in section 4 is relatively minor.

200 CHAIR TARNO: Let me suggest to the committee we carry this over for a day.

206 REP. LEWIS: I have problems with section 3.

212 REP. COURTNEY: I have recommended we set it over, they may be good amendments and I'm not adverse to doing stuff like this.

220 FACTOR: What happened in SB 852, it was a bill introduced by the Criminal Justice Council which resulted from some work we did in our Victim's of Crime Committee.

228 REP. COURTNEY: You could have taken all of that out of the bill and just had these two sections and then sent that bill out.

230 REP. PROZANSKI: In defense of the Criminal Justice Council, they came up and asked me if I would look at that bill and consider that. I did take one part out of there which deals with hit and run victims who can't get restitution.

CLOSES the PUBLIC HEARING and WORK SESSION on SB 320 A
OPENS the PUBLIC HEARING on SB 376 A

267 SENATOR MAE YIH, DISTRICT 19: Testimony in support of SB 367 A.
[EXHIBITS B & C]

318 REP. LEWIS: I had a couple gentlemen in my office from the Oregon State Police. They suggested an amendment. They don't like the 25 year rolling date.

330 SEN. YIH: In the western region, 29 states have the uniform law of saying 25 years or older.

362 REP. COURTNEY: Have individuals been cited for violations of law for having these machines?

365 SEN. YIH: I'm not aware of that, but under current law, if they are manufactured before 1968 and not used for illegal gambling, it's legal for them to have it.

371 REP. COURTNEY: How many machines are there in John Day?

374 SEN. YIH: There are two.

375 REP. COURTNEY: Has there been any police activity regarding those machines?

383 SEN. YIH: There are no gambling activities, but they are illegal because they are kept in the Elks club and not in homes.

397 SERGEANT TIM STEINER, OREGON STATE POLICE: Testimony in opposition to SB 367 A. [EXHIBIT D & E]

TAPE 76, B

030 STEINER: The Oregon State Police is strongly opposed to changing the time limitation for defense to the charge of a gambling devise.

060 REP. LEWIS: We were provided information that 29 other states use the 25 year rolling date, why should Oregon be different than our western states?

064 STEINER: Because we are different and we should take the lead in the gaming industry.

067 CHAIR TARNO: Did you present the same amendments to the Senate side?

068 GREG WILLEFORD, OREGON STATE POLICE: The same amendments were not presented on the Senate side. Testimony in opposition to SB 367-A.

086 CHAIR TARNO: Why wasn't this issue addressed in the Senate?

087 WILLEFORD: The issue was addressed in testimony, however, there were no formal amendments presented.

091 CHAIR TARNO: Is your concern that these machines will be used outside a person's private residence?

093 WILLEFORD: The concern with the currant measure as drafted is the difficulty it will present for regulation and also for enforcement when there is a revolving 25 years, whether it's in a residence or elsewhere.

097 CHAIR TARNO: Is it your contention that any computerized machine should not reach a person's private dwelling, even as an antique?

108 STEINER: Part of the problem is there is no definition for "antique". A definition in the statute would be very helpful.

110 WILLEFORD: We have no problem with collections or people who collect slot machines.

116 CHAIR TARNO: Is it your contention that these machines should not have the same status as the mechanical machines?

118 WILLEFORD: That is correct.

130 REP. LEWIS: As we discussed in my office yesterday, just because a machine has an "E prom" is really meaningless because "E proms" have changed dramatically from the 70's to today.

140 WILLEFORD: I don't argue with you, the machine that is here is a 1983.

The "E prom's" I brought with me are nearly identical to the "E prom" that is in that machine, and these are 1995.

145 REP. LEWIS: I can assure you that you cannot put in today's "E prom" in those old boards.

150 REP. GRISHAM: The amendments you proposed, [EXHIBIT E], it states manufactured prior to 1958, would you have any objections to including "or displayed in a museum", which would seem to take care of the John Day proposal?

153 WILLEFORD: We would not object to that. The current language in there that has the prior to 1900, that would also take care of the John Day situation.

CLOSES the PUBLIC HEARING on SB 367 A

OPENS the WORK SESSION on SB 367 A

160 MOTION: REP. COURTNEY: Moves the -A3 amendments to SB 367 A.

166 REP. GRISHAM: Your saying that simply because it was manufactured prior to 1900, that the John Day machines could be displayed someplace other than a private home?

171 WILLEFORD: Under the current statutes, it could only be in a private residence. Under the proposed measure as written, it would be a prior 1900, I believe, therefore it would not be restricted to a residence.

173 REP. GRISHAM: And we have not deleted anything in your amendments that would change that?

174 WILLEFORD: The amendments would have removed the 1900 language.

178 REP. LEWIS: I object to the A-3 amendments and will vote against them.

In view of the fact that 29 states already have the 25 year date, and three other states use a 30 year date, I don't accept the fact that Oregon should be different.

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

PROZANSKI v

214 CHAIR TARNO: The motion CARRIES.

224 MOTION: REP. COURTNEY: Moves SB 367 A to the full committee as amended with a do pass recommendation.

228 REP. GRISHAM: Can we display the machines in John Day or not under these amendments?
[EXHIBIT E]

229 WILLEFORD: I believe the statutes were restricting being displayed in a public setting because of the first statute.

238 REP. GRISHAM: Rep. Courtney, would you consider withdrawing your motion so I may insert the words "or displayed in a museum"?

240 REP. COURTNEY: Withdraws motion to send SB 367 A to the full committee.

242 MOTION: REP. GRISHAM: Moves to insert "or displayed in a museum"

after

line 4 in the -A3 amendments.

250 REP. LEWIS: These devices over in John Day were in an Elks club, that's not a museum.

256 SEN. YIH: That is not a museum, so this amendment is not going to help the John Day machines. I have not seen the -A3 amendments prior to today's hearing. I think the police should have had the courtesy of showing me

their amendment.

267 CHAIR TARNO: You indicated a desire to amend to 30 years as opposed to
25 years?

279 SEN. YIH: Yes, in the spirit of cooperation.

268 REP. GRISHAM: Removes conceptual amendment to SB 367 A.

269 MOTION: REP. COURTNEY: Moves conceptual amendment to the -A3
amendments to extend the 25 years to 30 years.

280 REP. PROZANSKI: I think if we're going to go into the electronic age
of machines, I think we need to have some other safe guards.

299 REP. COURTNEY: I recommend those three be asked to get together by
Friday and set this over until Friday.

303 SEN. YIH: If you want to have them register, I have no objections to
that.

304 CHAIR TARNO: Perhaps you and these gentlemen could meet by Friday and
they can bring back some adjustments.

312 WILLEFORD: Prior to last session, the language in the statute to
restrict it to a private residence was not there.

324 CHAIR TARNO: I'm going to "Table" this bill until Friday.

CLOSES the WORK SESSION on SB 367 A

OPENS the PUBLIC HEARING on SB 504 A

340 MELINDA GRIER, DIRECTOR of LEGAL SERVICES, STATE SYSTEM of HIGHER
EDUCATION: Testimony in support of SB 504 A. [EXHIBIT F]

381 CHAIR TARNO: What's caused this bill to be before us today?

384 GRIER: Because our security officer's are in the position of being
able to arrest people with probably cause but not being able to stop so
they can only arrest those people who stop voluntarily.

389 CHAIR TARNO: Initially, their legal authority is that of a private
citizen?

391 REP. PROZANSKI: It's a combination. In Eugene for the University of
Oregon, they contract with Eugene Police Department to have police
officer's on campus.

393 GRIER: I'd be happy to answer any questions.

396 REP. PROZANSKI: In your presentation your talking about the
limitations that would be placed or continued on the campus security
officers. Is it not the intent of this legislation to give them peace
officer status?

408 GRIER: It is more limited than peace officer status.

413 REP. PROZANSKI: Can they carry firearms?

417 GRIER: No, they will not have the authority. The statute as currently
written expressly prohibits that.

421 REP. PROZANSKI: You would continue to have local police departments
contracted as necessary to provide whatever additional services are needed?

427 GRIER: We have no desire to change our relationships with the local
police officers.

443 GRIER: I want to emphasize these officers are BPSST trained.

TAPE 77, B

024 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION OF OREGON, (ACLU):
Testimony in support of SB 504-A.

042 RICH BERNSTEIN, STUDENT, UNIVERSITY OF OREGON: Testimony in opposition
to SB 504-A.

105 REP. COURTNEY: Do you support this general police authority off the
campus?

106 BERNSTEIN: Off the campus the Eugene Police Department deal with
incidences that are not on the campus but around the campus.

108 REP. COURTNEY: (Inaudible)

110 BERNSTEIN: That is correct. I don't support officials who are not as
adequate trained having this power.

114 REP. COURTNEY: Do you support a different standard being applied to
general members of the public coming on to campus?

116 BERNSTEIN: It's a large university and is very intertwined with the
community. It's only natural that you have people who are not students on
your campus.

119 REP. COURTNEY: You implied in Portland State it might be OK because
it's an urban center.
The University of Oregon is somewhat an urban school, correct.

122 BERNSTEIN: University of Oregon is somewhat of an urban school, not to
the extent of Portland State University, but then again it is not immune to
the surrounding area.

125 REP. COURTNEY: Let me tell you how "non immune" it is. Gives
examples.

140 BERNSTEIN: I appreciate your response. I would support even
contracting out more with the Eugene Police Department.

154 JANE LESSOR, LEGISLATIVE DIRECTOR, OREGON STUDENT LOBBY: Testimony in
opposition SB 504 A.

CLOSES the PUBLIC HEARING on SB 504 A
OPENS the WORK SESSION on SB 504 A

191 MOTION: REP. COURTNEY: Moves SB 504 A to the full committee with a
do pass recommendation.

195 REP. GRISHAM: It authorizes special campus security officer's have
access to the LEDS system, is that a good idea?

197 CHAIR TARNO: That is a good idea.

199 REP. PROZANSKI: I think it's very important that we have the
"reporting back" so we can see
where things are going.

204 CHAIR TARNO: Section 2, brings it back January 1999 for review.

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

210 CHAIR TARNO: The motion CARRIES.

CLOSES the WORK SESSION on SB 504 A
OPENS the PUBLIC HEARING on SB 736

214 REPRESENTATIVE CHUCK NORRIS, DISTRICT 57: Testimony in support of SB
736.
[EXHIBIT H]

CLOSES the PUBLIC HEARING on SB 736
OPENS the WORK SESSION on SB 736

232 MOTION: REP. LEWIS: Moves SB 736 to the full committee with a do
pass recommendation.

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

237 CHAIR TARNO: The motion CARRIES.

240 CHAIR TARNO: We will be adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A - Proposed amendments to SB 320 - Factor - 3 pages
B - Testimony to SB 376 A - Sen. Yih - 4 pages
C - Testimony to SB 376 A - Sen. Yih - 3 pages
D - Testimony to SB 367 A - Steiner - 4 pages
E - Proposed amendments to SB 367 A - Steiner - 1 page
F - Testimony to SB 504 A - Grier - 1 page
G - Testimony to SB 343 A - Hackett - 2 pages
H - Testimony to SB 736 - Rep. Norris - 2 pages