

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

June 15, 1993 Hearing Room 357 3:00 p.m. Tapes 132 - 133

MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter Courtney Rep. Veral Tarno

STAFF PRESENT: Holly Robinson, Committee Counsel Julie Nolta, Committee Clerk

MEASURES CONSIDERED: SB 813 - Relating to peace officers HB 3319 - Relating to knives SB 735 - Relating to representation of children in judicial system SB 1115 - Relating to mediation

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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. [--- Unable To Translate Graphic ---]

TAPE 132, SIDE A

006 CHAIR TIERNAN: Calls meeting to order at 3:05 p.m.

SB 1115 - WORK SESSION

Witnesses: Alice Phalan, Dispute Resolution Commission

009 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1115 deletes requirement that civil disputes may not be referred to mediation until 30 days after an

appearance by all parties in any action. Explains the -6 amendments.

(EXHIBIT A)

027 ALICE PHALAN, EXECUTIVE DIRECTOR, DISPUTE RESOLUTION COMMISSION: Explains existing provisions in SB 1115.

051 MOTION: REP. BROWN: Moves to ADOPT SB 1115-6 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

056 MOTION: REP. TARNO: Moves SB 1115 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 4-0 MOTION PASSES AYE: Brown, Courtney, Tarno, Tiernan NO:
None

HB 3319 - WORK SESSION

Witnesses: Jackie Bloom, City of Portland Fred Avera, Oregon
District Attorneys Association John Nichols, Oregon Shooting Association

HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3319 prohibits carrying concealed ballistic and push knives. Explains -2 amendments submitted by the Portland Police Bureau. (EXHIBIT B)

087 REP. TARNO: Discusses the addition of "offensive" to the description of a weapon.

REP. BROWN: Believes that by adding that element there will have to be a victim and "offensive" will have to be proved. Bill will be too narrow to be effective.

098 CHAIR TIERNAN: How can you tell a concealed knife will be meant to be used as a weapon?

107 JACKIE BLOOM, CITY OF PORTLAND: Tried to address issue of innocent carriers of knives for self defense purposes. Eliminated large knives

in -2 amendments. Amendment only includes fixed bladed instruments that are longer than 3 1/2 inches.

128 FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION: Still have to prove intent.

CHAIR TIERNAN: Asks Mr. Nichols if he has problems with the -2 amendments.

143 JOHN NICHOLS, OREGON SHOOTING ASSOCIATION: Closer to what we would like to see.

164 REP. BROWN: According to current law, if someone carried an ice pick, they could be prosecuted under this statute. Bill is very broad.

NICHOLS: Less likely to be enforced. Would like the bill to include language referring to "intent to use unlawfully."

182 CHAIR TIERNAN: Can we narrow the bill to use "unlawfully against another?"

HOLLY ROBINSON, COMMITTEE COUNSEL: Issues don't compare. City of Portland amendments attempt to make the issue solely illegally carrying depending on how it is concealed. Mr. Nichols's issue is the frame of mind of the person who is carrying the weapon. The committee's question is what can you carry concealed and what can't you carry concealed?

218 CHAIR TIERNAN: Are you satisfied with the existing language in the -2 amendments?

HOLLY ROBINSON, COMMITTEE COUNSEL: Can narrow it by requiring the injury to be more severe.

237 AVERA: Under ORS 166.220, it is a felony to carry any deadly or dangerous weapon with intent to use it unlawfully. Could import that language into HB 3319.

260 CHAIR TIERNAN: How does existing language differ from the proposed -2 amendments?

AVERA: Must carry weapon with intent to use unlawfully and it must be a deadly or dangerous weapon. Any knife would qualify. Amendments say knife carried concealed meant to be used as a lawful or unlawful weapon.

276 HOLLY ROBINSON, COMMITTEE COUNSEL: Restates current statute and -2 amendments.

301 BLOOM: If we didn't prohibit carrying of those knives concealed, people couldn't carry knives to protect themselves from others carrying knives who might want to hurt them.

313 CHAIR TIERNAN: How would you use -2 amendments to get at something you can't with the way the law is written now?

BLOOM: Current law requires evidence that an aggressive act has taken place.

NICHOLS: Discusses current statute relating to knives. Feels there should be some element of intent to use unlawfully.

345 CHAIR TIERNAN: Discusses options for action on the bill.

REP. BROWN: Preference is to include the -2 amendments and pass the bill out.

REP. TARNO: Agrees with Rep. Brown.

REP. COURTNEY: Agrees.

379 MOTION: REP. TARNO: Moves to ADOPT HB 3319-2 AMENDMENTS.

VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

391 REP. BROWN: Original draft of the amendments said "locking blade is longer than 3 1/2 inches."

HOLLY ROBINSON, COMMITTEE COUNSEL: -2 amendments say "3 1/2 inches or more."

BLOOM: "Greater than 3 1/2 inches" is the language we submitted.

418 MOTION: REP. BROWN: Moves to AMEND HB 3319-2 AMENDMENTS to read "that the blade be longer than 3 1/2 inches" on line 7.

432 REP. TARNO: The locking blade has to be longer than 3 1/2 inches.

REP. BROWN: Concerned about running into court decision.

CHAIR TIERNAN: Asks for reason for 3 1/2 inches.

BLOOM: That was language worked out with the district attorney's office. "Greater than 3 1/2 inches" would eliminate any challenge.

475 VOTE: Hearing no objections the amendments are ADOPTED. All members are present.

CHAIR TIERNAN: Asks for clarification on effects of -2 amendments.

486 HOLLY ROBINSON, COMMITTEE COUNSEL: Reviews -2 amendments.

TAPE 133, SIDE A

034 MOTION: REP. BROWN: Moves HB 3319 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 4-0 MOTION PASSES AYE: Brown, Courtney, Tarno, Tiernan NO: None

SB 813 - PUBLIC HEARING

041 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 813 creates new offenses of unlawful impersonation of a peace officer if the person uses false identification in the commission of an offense, a Class C felony; and unlawful possession of a false law enforcement identification card, a Class A misdemeanor.

SB 813 - WORK SESSION 057 MOTION: REP. TARNO: Moves SB 813 TO FULL COMMITTEE with a DO PASS recommendation.

REP. BROWN: Wants to know why Senate Judiciary did not move Rep. Tarno's bill.

HOLLY ROBINSON, COMMITTEE COUNSEL: SB 813 was amended in the Senate to be consistent with Rep. Tarno's bill.

VOTE: 4-0 MOTION PASSES AYE: Brown, Courtney, Tarno, Tiernan NO: None

SB 735 - WORK SESSION

086 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 735 requires the Oregon Community Children and Youth Services commission to study and make recommendations regarding the most efficient and economical way of implementing the American Bar Association's resolution concerning the appointment of a guardian ad litem for every child who is the subject of an abuse or neglect proceeding.

098 MOTION: REP. TARNO: Moves SB 735 TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 4-0 MOTION PASSES AYE: Brown, Courtney, Tarno, Tiernan NO:

None

111 CHAIR TIERNAN: Adjourns meeting at 3:45 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to SB 1115 - 1 page B - Proposed amendments to
HB 3319 - Portland Police Bureau - 1 page