

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

June 22, 1993 Hearing Room 357 3:00 p.m. Tapes 134 - 135

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: HB 3598 - Relating to crime reporting SB 732 - Relating to trial procedures for violations SB 640 - Relating to death penalty for persons with mental retardation

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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 134, SIDE A

001 CHAIR TIERNAN: Calls meeting to order at 3:10 p.m.

SB 640 - WORK SESSION

006 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 640 B adds a procedure after the jury verdict but prior to the pronouncement of the death penalty, establishing at the time of sentencing whether the defendant is mentally retarded and due to the retardation understands the nature of the death penalty and why it was imposed by the jury. There are -3 amendments to be adopted. (EXHIBIT A)

023 MOTION: REP. COURTNEY: Moves to ADOPT SB 640 -3 AMENDMENTS.

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

027 MOTION: REP. COURTNEY: Moves SB 640 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation. VOTE: 4-0 MOTION PASSES
AYE: Brown, Courtney, Tarno, Tiernan NO: None

HB 3598 - PUBLIC HEARING

Witnesses: Rep. Avel Gordly, District 19 Major Dean Renfrow, Oregon State Police Luis Caraballo, Office of Immigration Donna Redwing, Lesbian Community Project Gary Wilson, Metropolitan Community Churches Tom Burrows, Oregon YMCA's Laurel Blanchard, Westside Family YMCA Helen Wodka, Westside Family YMCA Thomas Klein, Oregon Headstart Association

036 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3598 establishes a confidential bias crime reporting system and bias crime information data bank. There are -1 amendments (EXHIBIT B) and fiscal impact statements from the Oregon State Police (EXHIBIT C).

071 CHAIR TIERNAN: HB 3598 is being used as a vehicle for amendments to enact other legislation.

079 REP. AVEL GORDLY, DISTRICT 19: Submits and reviews written testimony in favor of HB 3598. (EXHIBITS D and E)

122 CHAIR TIERNAN: Asks if the purpose is for information only or if there will be follow up.

REP. GORDLY: It is for information but there will be follow up also.

CHAIR TIERNAN: Asks what the fiscal impact statement covers.

REP. GORDLY: It provides for staffing of the hotline and assumes that it includes investigation.

137 CHAIR TIERNAN: But the intent of the bill is to gather information and also to investigate validity of that information?

REP. GORDLY: Defers to the Oregon State Police.

142 MAJOR DEAN RENFROW, OREGON STATE POLICE: Submits and reviews written

testimony in favor of HB 3598. (EXHIBIT F)

161 REP. GORDLY: Refers to and reads from Exhibit D.

CHAIR TIERNAN: Asks what kinds of crimes are bias crimes. 180

RENFROW: Describes bias crimes.

192 REP. BROWN: Gives example of a bias crime.

REP. GORDLY: Discusses Bias Crimes Report from Oregon Executive Department Criminal Justice Services Division in December of 1992.

CHAIR TIERNAN: Asks about examples of bias crimes.

212 RENFROW: Further describes bias crimes. The motivation on the part of the perpetrator makes it a bias crime.

CHAIR TIERNAN: Determining motivation is not easy. Concerned that there be some investigation after reporting to verify figures and information.

RENFROW: Agrees there would have to be some form of investigation and

classification.

253 REP. TARNO: Asks if HB 3598 adds language to SB 606 from the 1991 session to make it a better bill.

REP. GORDLY: This is an enhancement of the earlier bill.

REP. TARNO: Are other agencies or jurisdictions reporting information pursuant to SB 606?

266 RENFROW: That is reported to Law Enforcement Data System (LEDS) who prepare reports. There are incidents that are going unreported.

CHAIR TIERNAN: Asks why the crime is going unreported.

RENFROW: Some are going unreported because the victims are not reporting for some reason.

287 REP. TARNO: Asks how the information gathered in SB 606 can be combined with HB 3598.

RENFROW: This is an added or enhanced method of capturing additional information.

REP. TARNO: Would you pass information gathered from the hotline to LEDS for compilation?

RENFROW: That would be our desire.

308 REP. TARNO: Need accessibility to LEDS to collect data. Asks about the Driving Under the Influence of Intoxicants (DUII) hotline.

RENFROW: Describes other hotlines.

REP. TARNO: Can existing hotlines be used for the collection of this data? RENFROW: It is conceivable as long as individuals get through.

323 REP. TARNO: The problem is the cost to state government. Would like to be able to use existing hotlines.

HOLLY ROBINSON, COMMITTEE COUNSEL: Notifies Rep. Tarno that there is also a Sex Offender Victim Notification line run by the state police.

342 CHAIR TIERNAN: Have to have an underlying crime. If that crime is not reported anyway, why would they call this number to report a bias crime?

RENFROW: Describes why crimes may be unreported and why they might call this number.

381 CHAIR TIERNAN: Discusses recent crimes against Koreans by Koreans.

RENFROW: That motivation is different from prejudicial motivation. Bias crimes must be based on prejudicial behavior.

423 CHAIR TIERNAN: Why would someone not report an underlying crime but feel free to report the motivation of that crime to a toll-free

number?

GORDLY: There are others here who can testify to that.

435 CHAIR TIERNAN: Discusses need for advertising of the phone number.

RENFROW: Compares it to the other hotline numbers which had no advertising plan. Describes other ways to inform the public.

460 REP. GORDLY: Describes conference on bias crimes in Portland in 1992.

REP. BROWN: Discusses why someone may not want to report a bias crime.

TAPE 135, SIDE A

028 RENFROW: States that someone else may call the hotline for the victim.

REP. TARNO: Asks if the number of calls in 1992 was higher or lower than 1991.

RENFROW: 545 calls in 1992 which is a 12% increase over 1991.

042 REP. TARNO: What is expectation for use of information gathered from

the hotline?

REP. GORDLY: The proposal for a Human Rights Commission in the 1993 session comes out of the realization that Oregon has an escalating problem with human relations. The data will be a barometer of our efforts in this area.

REP. TARNO: Main concern is how to make the numbers go down.

REP. GORDLY: Education.

REP. TARNO: A myriad of agencies will have to be involved to challenge this problem. What kind of plans will we have to deal with the issue.

Education? Prosecution?

073 REP. GORDLY: Leadership from the top is the beginning.

REP. TARNO: How long should we gather the data before taking the next step? Is a biennium enough time?

REP. GORDLY: We are late in responding. Discusses need for leadership and resources.

097 LUIS CARABALLO, DIRECTOR, OFFICE OF IMMIGRATION: Submits and reviews

written testimony in favor of HB 3598 on behalf of Jeannette Pai. (EXHIBIT G) Discusses why people may not report a crime.

136 CHAIR TIERNAN: Will the toll free number be multi-lingual?

RENFROW: Have not dealt with that issue but will have to.

CARABALLO: Can use own community leaders to communicate with law enforcement.

RENFROW: Discusses amendment regarding placing the hotline in the Detective Division instead of the Identification Bureau of the State Police.

171 DONNA REDWING, EXECUTIVE DIRECTOR, LESB IAN COMMUNITY PROJECT: Testifies in favor of HB 3598.

234 GARY WILSON, PASTOR, METROPOLITAN COMMUNITY CHURCHES: Testifies in favor of HB 3598.

307 REP. GORDLY: Confidentiality is necessary because of fear on the part of the victims.

CHAIR TIERNAN: Asks for specifics about bias crimes against black community in Portland that are unreported because of fear.

335 REP. GORDLY: Reads from Bias Crimes Report.

371 CHAIR TIERNAN: Are they going unreported and why? What is the fear?

REP. GORDLY: Because of experiences with the police. We need to do something about the problem.

CHAIR TIERNAN: Needs to know necessity for the bill.

REP. GORDLY: It is about fear.

SB 732 - PUBLIC HEARING

(SB 732 establishes statutory provisions for trials of criminal violations.)

Witnesses: Fred Avera, Oregon District Attorneys Association

438 FRED AVERA, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in favor of SB 732.

TAPE 134, SIDE B

085 CHAIR TIERNAN: Assuming that an attorney is also a defendant and he is representing himself, would that necessitate a district attorney?

AVERA: We would file a motion suggesting that was a good cause why a citizen should not be forced to go up against a lawyer in such a process. Continues testimony.

109 CHAIR TIERNAN: Asks about figures in the fiscal impact statement. This is within the discretion of the district attorney whether he wishes to

try it as an infraction?

AVERA: Yes. Currently a lot of district attorneys don't reduce any cases. Gives reasons.

125 REP. TARNO: Confirms the figures would be a savings to the state.

SB 732 - WORK SESSION

132 HOLLY ROBINSON, COMMITTEE COUNSEL: Oregon Criminal Defense Lawyers Association have also submitted a statement. (EXHIBIT H)

135 MOTION: REP. TARNO: Moves SB 732 TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 3-0 MOTION PASSES AYE: Courtney, Tarno, Tiernan NO: None EXCUSED: Brown

HB 3598 - PUBLIC HEARING

Witnesses: Elsie Ford Leslie Brandt Rep. Peter Courtney, District 33 Heide Anderson, Oregon Alliance of Children's Programs Josephine Wright, Looking Glass Pam Patton, Morrison Center 150 ELSIE FORD: Submits and reviews written testimony in opposition to HB 3598. (EXHIBIT I)

196 REP. BROWN: Asks for suggestions for dealing with increase in hate crimes.

FORD: People need to use the system.

REP. BROWN: What if the person is afraid of the possible consequences of coming forward?

LESLIE BRANDT: There are laws that protect people from hate crimes. The bill is too open ended and could be subject to abuse of the system. There is also the problem of proving fact from fiction.

230 REP. BROWN: Asks if Ms. Brandt is opposed to other anonymous reporting hotlines.

BRANDT: Better to err on the side of the child. But parents can become victims of false reporting.

REP. BROWN: You would oppose anonymous child abuse reporting and child sex abuse reporting hotlines?

BRANDT: Not opposed as long as there are specific restrictions to protect the individual who is being reported on from becoming a victim.

247 REP. BROWN: If the bill prevented police from taking action on anonymous reporting, would that alleviate your concerns?

BRANDT: If using this for a statistical reporting, there is a huge margin of error because people will abuse the system.

259 CHAIR TIERNAN: Explains the amendments to attach another bill to HB 3598.

272 REP. PETER COURTNEY, DISTRICT 33: Submits and reviews written testimony in favor of the amendments to HB 3598. (EXHIBIT J)

328 CHAIR TIERNAN: Both bills will go on their merit or lack of merit.

358 HEIDE ANDERSON, OREGON ALLIANCE OF CHILDREN'S PROGRAMS:
Testifies in

favor of Rep. Courtney's amendments to HB 3598. Suggests amendments.

397 JOSEPHINE WRIGHT, PERSONNEL AND BENEFITS DIRECTOR, LOOKING GLASS:
Testifies in favor of Rep. Courtney's amendments to HB 3598.

443 PAM PATTON, DIRECTOR OF CONTRACTS, MORRISON CENTER: Testifies in favor of Rep. Courtney's amendments to HB 3598.

TAPE 135, SIDE B

031 CHAIR TIERNAN: Asks Ms. Patton if anyone has been discovered to be a

felon.

WRIGHT: Describes a case where a therapist was arrested on suspicion of child abuse who had been convicted for assault.

040 CHAIR TIERNAN: Will you require all employees to go through this?

WRIGHT: We already check all employees and volunteers.

CHAIR TIERNAN: The FBI check would be new?

WRIGHT: Yes.

050 CHAIR TIERNAN: You will initiate the FBI check for all current employees or just new employees?

PATTON: All employees. We hope to find none but feel we have to check everyone for the protection of the children.

058 TOM BURROWS, OREGON YMCA'S: Testifies in favor of Rep. Courtney's amendments to HB 3598.

064 LAUREL BLANCHARD, EXECUTIVE DIRECTOR, WESTSIDE FAMILY YMCA, BEAVERTON: Testifies in favor of Rep. Courtney's amendment to HB 3598. (EXHIBIT K)

112 HELEN WODKA, PROGRAM DIRECTOR, WESTSIDE FAMILY YMCA: Testifies in favor of Rep. Courtney's amendment to HB 3598.

127 CHAIR TIERNAN: What is the cost per check?

BLANCHARD: Between \$35 and \$50.

CHAIR TIERNAN: This will apply to management as well?

BLANCHARD: Applies to anyone who has contact with children.

140 THOMAS KLEIN, PUBLIC INFORMATION COMMITTEE, OREGON HEAD START ASSOCIATION: Submits and reviews written testimony in favor of Rep. Courtney's amendment to HB 3598. (EXHIBIT L)

189 CHAIR TIERNAN: Adjourns meeting at 4:50 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to SB 640 - 1 page B - Proposed amendments to HB 3598 - 5 pages C - Fiscal impact statement on HB 3598 - Oregon State Police - 4 pages D - Testimony on HB 3598 - Rep. Avel Gordly - 1 page E - Testimony on HB 3598 - Rep. Avel Gordly - 1 page F - Testimony on HB 3598 - Oregon State Police - 3 pages G - Testimony on HB 3598 - Jeannette Pai - 2 pages H - Testimony on SB 732 - Oregon Criminal Defense Lawyers Assoc. - 2 pages I - Testimony on HB 3598 - Elsie Ford - 1 page J - Testimony on HB 3598 - Rep. Peter Courtney - 2 pages K - Testimony on HB 3598 - Westside Family YMCA - 3 pages L - Testimony on HB 3598 - Headstart Assoc. - 8 pages M - Testimony on HB 3598 - 2 pages N - Court case relevant to SB 732 - Committee Counsel - 3 pages