

HOUSE COMMITTEE ON JUDICIARY CRIME AND CORRECTIONS

February 2, 1993 Hearing Room 357 3:00 p.m. Tapes 11 - 13

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

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

MEASURES CONSIDERED: HB 2254 - Relating to criminal law HB 2256 - Relating to criminal procedure HB 2477 - Relating to motor vehicle accidents HB 2478 - Relating to criminal procedure HB 2482 - Relating to sex offender registration HB 2483 - Relating to sentencing

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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 11, SIDE A

008 CHAIR TIERNAN: Called the meeting to order at 3:05 p.m.

HB 2477 - WORK SESSION

019 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains why the bill is back before the sub-committee. There are new amendments which need to be adopted.

072 MOTION: REP. COURTNEY: Moves the amendments to HB 2477 be adopted.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan

NO: None

MOTION: REP. COURTNEY: Moves HB 2477, as amended, to the full committee with a "do pass" recommendation.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: None

HB 2254 - WORK SESSION

085 HOLLY ROBINSON, COMMITTEE COUNSEL: New amendments were adopted during the last work session regarding pattern of practice. Reviews revised Staff Measure Summary and new amendments. Discusses recommendations from Legislative Counsel to add language to clarify intent.

134 CHAIR TIERNAN: Has no objections to changes recommended by Legislative Counsel.

137 MOTION: REP. BROWN: Moves to amend HB 2254 by deleting "on previous

occasions" and inserting "on at least two prior occasions."

HOLLY ROBINSON, COMMITTEE COUNSEL: Explained why the word "previous" was used and that Legislative Counsel agreed. But the change can be made.

155 VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan  
NO: None

161 MOTION: REP. BROWN: Moves HB 2254 as amended to full committee with a "do pass" recommendation.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan  
NO: None

#### HB 2256 - WORK SESSION

175 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes language changes regarding the supervision by physician.

196 CHAIR TIERNAN: The language referred to a person acting under supervision of a physician. We were going to change that to "licensed health care provider."

199 HOLLY ROBINSON, COMMITTEE COUNSEL: Correct.

REP. BROWN: Why do we need "acting under supervision of a physician?"

208 HOLLY ROBINSON, COMMITTEE COUNSEL: It deals with ultimate liability of the facility in which they are operating. There is usually a doctor in charge somewhere in the facility -- part of the risk management factor.

215 REP. TARNO: May also have to deal with the issue of privacy in record keeping -- the HIV issue.

226 REP. BROWN: Expresses concern that if a jail does not have a physician, that a nurse can't draw blood?

CHAIR TIERNAN: Interprets the bill to mean that a physician doesn't have to be present.

REP. BROWN: But they have to give the authority.

233 REP. COURTNEY: Asks if a district attorney is present to speak to the issue. Thought there was a good reason to leave it in.

244 FRED AVERA, OREGON DISTRICT ATTORNEY'S ASSOCIATION: "Physician" used to get at the same issue of a trained professional to draw blood. Believes it is implied that for a nurse to draw blood, there must be physician supervision.

REP. COURTNEY: A nurse can do it but is judgement required that a nurse or health care provider might not be able to put forward?

AVERA: The legislature or a judge in these cases have decided that blood will be drawn.

REP. COURTNEY: Would a physician make an additional interpretation because of his medical knowledge that a licensed care provider could not?

280 REP. BROWN: If we have to have a physician there to provide authorization, we might as well just say "a physician."

283 REP. COURTNEY: "Supervision" may not mean an additional presence of a doctor.

REP. TARNO: A physician can delegate that responsibility.

REP. BROWN: Do all jails have physicians available?

291 REP. TARNO: A lot of jails have physicians on contract for certain days of the week but most have nurses on duty acting on direction of the contracted physician.

298 HOLLY ROBINSON, COMMITTEE COUNSEL: The Health Division is restrictive on who can draw blood because of public health and confidentiality issues.

315 MOTION: REP. COURTNEY: Moves the amendments to HB 2256 be adopted.

318 REP. COURTNEY: Withdraws his motion so Rep. Tarno can make a comment

before voting. 322 REP. TARNO: Confirms language changes to the bill.

HOLLY ROBINSON, COMMITTEE COUNSEL: Explains words deleted and changes.

333 CHAIR TIERNAN: We've been provided information from naturopaths to suggest that "naturopathic" be added to that line.

REP. TARNO: Would not be needed with term "licensed health care provider."

333 REP. BROWN: A physician would not supervise a naturopath. A naturopath can draw blood but would not normally act under supervision of a physician.

REP. COURTNEY: Is that by choice or by the fact that the doctors don't want to have anything to do with them?

REP. BROWN: I don't know.

354 MOTION: REP. COURTNEY: Moves the amendments to HB 2256 be adopted.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: None

364 MOTION: REP. COURTNEY: Moves HB 2256 as amended be moved to the full committee with a "do pass" recommendation.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: None

HB 2482 - WORK SESSION

Witnesses Fred Avera, Oregon District Attorneys Association

376 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains persons likely to be affected by the bill. The amendment suggestions were made, aside from policy, because of accessibility issues.

416 REP. COURTNEY: The Psychiatric Security Review Board feels they are in a position to enter the information to register the individuals.

HOLLY ROBINSON, COMMITTEE COUNSEL: Correct. The bill directs the court, court does not have access to ...

428 REP. COURTNEY: The State Court Administrator felt they are in a position to enter the information. Is that correct?

430 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill directs the court to enter the information for individuals who are on bench probation. The court

as an entity does not have access to LED's so they recommended that the district attorney be the one to cause the information to be entered into the system.

448 REP. COURTNEY: It seems that we should allow the P.S.R.B. to make those entries.

453 CHAIR TIERNAN: Concerned that P.S.R.B. may enter the data in such a way that it may be difficult for others to understand.

REP. TARNO: The information form is standardized.

REP. COURTNEY: Assumed that P.S.R.B. would be aware of the kinds of information that would be required for registration. There are no official amendments before us, correct?

MOTION: REP. COURTNEY: Moves that HB 2482 be amended to read that the Psychiatric Security Review Board be the structure that enters the

registration of the individuals under its jurisdiction in the LED system.

TAPE 12, SIDE A

HOLLY ROBINSON, COMMITTEE COUNSEL: There was a preliminary fiscal done and this should not change that. They were anticipating less than \$300 per year.

VOTE: 3-1 Motion passes AYE: Courtney, Tarno, Tiernan NO: Brown

040 REP. COURTNEY: Other consideration was bench probation individuals and the district attorney being the suggested vehicle to enter individuals

into the LED system. Will this be a burden to the district attorneys?

AVERA: Doesn't imagine that there will be a burden considering the numbers. Assumes the district attorneys should have the capacity to generate the forms.

058 REP. COURTNEY: Doesn't want to be surprised down the road to find a large impact on local government.

AVERA: Should not be a burden. The intent behind the bill is good enough that the small burden is something we could absorb.

065 REP. COURTNEY: Is this going to get in the way? I want to know what

this does to you.

AVERA: It has been 10 or 15 years since there has been a case in Polk County that HB 2482 would have impacted.

REP. COURTNEY: Want to be confident that one of my D.A.'s isn't going to feel an extra burden to his office.

083 MOTION: REP. COURTNEY: Moves that HB 2482 be amended to read that individuals on bench probation successful with the insanity plea have their status entered into LED's by the respective district attorney of the county wherein the proceedings took place.

HOLLY ROBINSON, COMMITTEE COUNSEL: Clarifies deletions or additions in language.

093 REP. COURTNEY: Notes specific page and line numbers for the motion for amendment.

113 VOTE: 3-1 Motion passes AYE: Courtney, Tarno, Tiernan NO: Brown

117 MOTION: REP. COURTNEY: Moves HB 2482 as amended be moved to full committee with a "do pass" recommendation.

REP. BROWN: Opposes this bill because this is not a conviction because of mental illness. It is duplication of information, there are privacy issues, there are work load impacts. The point is that these people are not guilty because they are ill.

CHAIR TIERNAN: Criminal laws are meant to protect the public in spite of the rights of the criminal. Having those people registered so law enforcement knows where they are outweighs the burden of the individual who may have to register them.

143 REP. COURTNEY: Accepts the fact that the individuals are sick but that does not lessen the trauma on the persons who are the subjects of the acts committed by these people.

Could accept Rep. Brown's position if some or one of the following conditions were true: 1) if we could cure these individuals, 2) if it

was now accepted by the world of psychiatry that we could treat these individuals, 3) if there was a body of knowledge sufficient to understand these acts, 4) if P.S.R.B. could guarantee these individuals

would not commit these acts again, 5) if the experts were of one mind that we knew enough about this type of behavior that we were in a position to start to solve it, 6) if I thought the field of psychiatry

had done enough research that we were on the brink of a breakthrough;

If I thought one, some or all of these factors existed then maybe I would be willing to consider not taking this step. But until we are more knowledgeable as lawmakers and a society, we have to opt on the side of public safety. Therefore I ask that we take this step.

222 CHAIR TIERNAN: Supports Rep. Courtney's statement.

225 MOTION: REP. COURTNEY: Moves HB 2482 as amended to the full committee with a "do pass" recommendation.

232 VOTE: 3-1 Motion passes AYE: Courtney, Tarno, Tiernan NO: Brown

HB 2478 - WORK SESSION

Witnesses: Vern Faatz, Chairman of the Board of Parole and Post-Prison Supervision Daniel Santos, Parole Board Member

246 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes intent of the bill. The Board of Post-Prison Supervision would like language in SB 112 to appear in HB 2478.

267 CHAIR TIERNAN: Asks counsel to explain what the legislation would do and how it changes current law.

273 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains primary purpose of bill.

The current statute states that the board has the ability to consider other information regarding that particular offender. Gives examples.

The second issue has to do with whether or not the board can safely release individuals who may continue to pose a danger if a release situation can be supervised so that continued institutionalization is not necessary. The bill also allows that to be pulled back.

330 HOLLY ROBINSON, COMMITTEE COUNSEL: When an offender is sentenced under the dangerous offender statute for the first time they are given a release date based on presumptive sentence. That is the first time that the issue of dangerousness will be re-evaluated. The board wants the language from HB 2483 dealing with applicable range and variations added to HB 2478.

366 CHAIR TIERNAN: Asks Vern Faatz to explain current law, how the bill changes that and their suggested amendment.

375 VERN FAATZ, CHAIRMAN OF THE BOARD OF PAROLE: Introduces Daniel Santos, Parole Board member.

DANIEL SANTOS, PAROLE BOARD MEMBER: States all three bills, SB 112, HB 2478 and HB 2483, relate to sentencing dangerous offenders. SB 112 and HB 2478 relate to the board's ability to make decisions regarding the release of dangerous offenders. Our amendments attempt to make those two bills one and the same. HB 2483 adds additional components as to who may be found to be a dangerous offender. 435 CHAIR TIERNAN: In effect, we are tightening the ability to release somebody who could be dangerous into the community.

SANTOS: That is correct. The board should have the authority to make that decision given the array of criteria available to them instead of the psychologists evaluation only.

456 REP. BROWN: Is there any way that HB 2478 can be used to release inmates earlier? I'm concerned that it might.

TAPE 11, SIDE B

020 FAATZ: Explains parole consideration hearing and condition for possible release or continued supervision. Explains sentencing guidelines system. We are asking for a clarification of the board. Current statute is unclear.

046 HOLLY ROBINSON, COMMITTEE COUNSEL: Refers to the Staff Measure Summary for HB 2483 which explains how someone is sentenced as a dangerous offender.

REP. COURTNEY: Asks how to make a motion to insert part of HB 2483 into HB 2478.

055 HOLLY ROBINSON, COMMITTEE COUNSEL: States that the bills deal with two distinct parts of the process. It may be cleaner for HB 2478 to focus

only on the Board's ability to release offenders. HB 2483 can then remain a vehicle for dealing with the changes in the substantive body of the dangerous offender statute.

071 REP. COURTNEY: States that is what he wants to do.

073 CHAIR TIERNAN: Asks Counsel to restate the motion.

077 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains which part of HB 2483 will be inserted into HB 2478 and where.

CHAIR TIERNAN: Asks if this can be stated "and/or."

HOLLY ROBINSON, COMMITTEE COUNSEL: Explains why language in both bills is additional. Wants to know if this is how the witnesses want that language to stay.

096 SANTOS: Asks if Counsel was referring to bold language in HB 2483.

HOLLY ROBINSON, COMMITTEE COUNSEL: Correct. Asks if that is language the Parole Board wants inserted into HB 2478.

SANTOS: That is correct. States their intention was to have that language deleted and the confusion as to the meaning of the bold language in HB 2483. The additional bold language was not at our recommendation.

113 HOLLY ROBINSON, COMMITTEE COUNSEL: Asks how they want the language on p. 2 of HB 2478 to read.

115 CHAIR TIERNAN: Declares a five minute recess.

HB 2478 - WORK SESSION RE-OPENS

121 HOLLY ROBINSON, COMMITTEE COUNSEL: Refers to amendments provided by the Parole Board. They re-write the language on p. 2 of HB 2478. Also adds some additional language.

133 MOTION: REP. COURTNEY: Moves to adopt the Parole Board amendments of HB 2478, lines 1-28 and to incorporate them into the draft of HB 2478.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: No

149 REP. COURTNEY: Asks Counsel if we are ready to move the bill to the full committee or does she need more time to confer with the Parole Board.

HOLLY ROBINSON, COMMITTEE COUNSEL: States the language these bills contain is significantly similar to the language contained in the original bill. Policy decisions will not be impacted by this with one exception. The amendments are consistent with the committee's



intentions in the underlying bill.

173 MOTION: REP. COURTNEY: Moves HB 2478 as amended to the full committee with a "do pass" recommendation.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Tiernan NO: None

HB 2483 - WORK SESSION

Witnesses: Susan Tripp, Oregon District Attorney's Association Eric Wassman, Oregon Department of Justice

194 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes the bill and explains how it changes existing law. Discusses the interplay between sentencing guidelines and the dangerous offender statute. This issue should be kept separate from the primary issue of whether or not to treat certain sex offenders as dangerous offenders. Both issues should be discusses

by the committee but preliminarily as separate issues. 271 CHAIR TIERNAN: Asks Holly Robinson to restate how, under sentencing guidelines for dangerous offenders, they could be serving shorter sentences.

HOLLY ROBINSON, COMMITTEE COUNSEL: That is the segueway into the witnesses. This is the issue they will discuss.

300 SUSAN TRIPP, OREGON DISTRICT ATTORNEY'S ASSOCIATION (EXHIBIT A AND B)

310 ERIC WASSMAN, OREGON DEPT. OF JUSTICE

317 CHAIR TIERNAN: Directs the discussion toward sentencing guidelines and the dangerous offender statute. Asks what this piece of legislation will do.

331 TRIPP: Was originally involved with this bill because of a specific case of a convicted sex offender who was paroled and re-institutionalized several times.

356 CHAIR TIERNAN: With two 20-year consecutive sentences, how long was he in before he got out the first time?

TRIPP: It was about ten years.

CHAIR TIERNAN: Ten years in and now he's been let out a few times.

365 REP. BROWN: This was not under the guidelines?

TRIPP: This was pre-guidelines. The paroled offender went on to an ongoing domestic violence situation. Wanted to sentence him as a dangerous offender but he would have received more time sentences under the guidelines.

378 REP. BROWN: Assumes that the domestic situation was post- Nov. 1,

198 9.

TRIPP: Yes, it was a guidelines case. He was charged with several offenses. The judge couldn't sentence him to the maximum amount of time as a dangerous offender. Refers to Problem I and II. (EXHIBIT C and D) Explains Problem I and sentencing.

409 CHAIR TIERNAN: We have an A-10 here because of previous activity of sodomy?

TRIPP: Three time prior conviction for felonies.

416 CHAIR TIERNAN: And so he would spend a minimum of 110 years?

TRIPP: From 121 to 130 months.

CHAIR TIERNAN: Approximately ten years minus good time?

TRIPP: Twenty percent off. CHAIR TIERNAN: So you get eight years?

422 TRIPP: Basically. But under sentencing guidelines you can do a departure. Explains the "200% rule."

430 REP. BROWN: What are the findings a judge must make for a stiffer sentence?

TRIPP: There are a list of them in the sentencing guidelines and a judge can add to them if there are sufficient findings. Gives examples of what they include.

444 CHAIR TIERNAN: Isn't it generally a difficult test to meet all of the

departure guidelines?

TRIPP: Anyone who is a dangerous offender will easily meet those criteria.

450 HOLLY ROBINSON, COMMITTEE COUNSEL: It appears that 10% of cases under sentencing guidelines are departures up or down.

460 TRIPP: Continues with the Problem I example of sentencing guidelines

vs. sentencing as a dangerous offender.

483 CHAIR TIERNAN: Is there a problem with the definition of "dangerous offender?"

TAPE 12, SIDE B

025 TRIPP: It is a situation of inequality and injustice. This is the reason for the proposed changes. Discusses example in Problem I.

040 HOLLY ROBINSON, COMMITTEE COUNSEL: It is clear from current statutory language that the legislature intended dangerous offender provisions to be intact in spite of guidelines. The problem was created from the courts' interpretation.

049 TRIPP: Explains two problems involved in the 200% rule.

059 CHAIR TIERNAN: How does that happen?

060 WASSMAN: The interpretation of the dangerous offender statute came from two Court of Appeals opinions. The Court has held caps on the limits imposed on departures. Explains types of limits.

073 CHAIR TIERNAN: What was the basis for judges placing caps on them?

WASSMAN: The caps were in the rules. In spite of the way the legislature wrote the guidelines and statutes, the Court of Appeals has applied those caps to the 30 years. Gives an example of a departure sentence and how proposed changes will work.

095 CHAIR TIERNAN: Asks for explanation of sentencing matrix. 097

TRIPP: Explains how indeterminate sentence has been taken out of the sentencing guidelines as applied to the dangerous offender. Explains the extension of the review term at the discretion of the judge.

114 CHAIR TIERNAN: If the judge sentences to 260...

TRIPP: Then they sit there until 260.

CHAIR TIERNAN: That's the maximum he can sentence under dangerous offender?

TRIPP: No. That's when they come up for review. Then it is up to the parole board.

117 HOLLY ROBINSON, COMMITTEE COUNSEL: Under current statute, The review begins at the end of the presumptive sentence. This proposal sets the

presumptive sentence at the 260 months under this scenario. The point at which the review board starts to look at the case is significantly longer than it is currently.

126 CHAIR TIERNAN: But you have to take off time for good behavior?

TRIPP: No. Because dangerous offenders are not subject to good time.

128 CHAIR TIERNAN: When you are done you could have a full 260 plus.

130 TRIPP: You could go all the way up to the 30 years.

CHAIR TIERNAN: Under the guidelines, you could have 260 minus.

TRIPP: You will have 20% off the 260 months.

137 TRIPP: Discusses Problem II and caps to consecutive sentences. Explains how current consecutive sentencing can not affect a dangerous offender and how the proposal allows for this.

183 CHAIR TIERNAN: The basis for this is at the judges discretion?

TRIPP: No. The 288 months would be the maximum the judge could set for the date of review. Then it is taken over by the parole board.

188 CHAIR TIERNAN: What would happen to the individual you were describing earlier? Where is he now?

TRIPP: In the state penitentiary.

CHAIR TIERNAN: What kind of sentence is he under?

TRIPP: He received 34 years and will get 20% off for good behavior because he is not considered a dangerous offender. He also does not have the periodic review.

CHAIR TIERNAN: How old is he?

TRIPP: He is older so it is not as much of a problem as it would be with someone else.

202 CHAIR TIERNAN: Asks Ms. Tripp to explain again the dangerous offender

sentencing in Problem II.

TRIPP: Explains how current sentencing does not give the dangerous offender more jail time and that the person should come up for review at the end of the sentence instead of just being released.

228 REP. BROWN: Is the 400% cap court imposed?

TRIPP: It is a rule interpreted by the Court of Appeals to apply to the dangerous offender statute.

233 CHAIR TIERNAN: Where did the 60 years come from?

TRIPP: Explains the consecutive sentencing for dangerous offenders.

240 REP. BROWN: Our task is to deal with 400% cap and dealing with the consecutive sentencing of the dangerous offender statute?

TRIPP: That is Problem II and you also have to deal with Problem I.

259 HOLLY ROBINSON, COMMITTEE COUNSEL: Recommends that the committee adopt the amendments so that we can request a fiscal impact. This will be back for another work session and we may want to bring the witnesses back to respond to more questions.

268 CHAIR TIERNAN: Are there other witnesses that have anything more to add?

273 WASSMAN: It may be wise to request fiscal impact changes for this proposal independent of other changes because there are relatively few dangerous offenders coming through the system right now.

WASSMAN: Under the initial proposal of HB 2483 there may be a significantly larger group of people.

283 MOTION: REP. BROWN: Moves to adopt legal counsel's suggestion.

287 HOLLY ROBINSON, COMMITTEE COUNSEL: Recommends that the amendments be

moved and adopted for the purpose of getting LC drafts and fiscal impact statements for consideration at the next work session.

297 REP. COURTNEY: Realizes this bill makes a major policy statement regarding dangerous offenders and sentencing guidelines.

307 CHAIR TIERNAN: The bill will also change the dangerous offender law. 313 CHAIR TIERNAN: HB 2483 modifies the dangerous offender statutes but we will also look at the statutes as it operates with...

HOLLY ROBINSON, COMMITTEE COUNSEL: Correct. If the committee chooses to add these amendments to HB 2483, then the bill will deal with two major issues: sentencing of sex offenders as well as how dangerous offenders are sentenced.

323 CHAIR TIERNAN: So we could have two pieces of legislation that we could split apart.

HOLLY ROBINSON, COMMITTEE COUNSEL: That is correct. Explains how the committee could deal with the two bills.

329 REP. COURTNEY: The original bill originally drafted dealt with three specific sex crimes. That issue led us into this whole other issue and now we have adopted conceptual amendments.

341 HOLLY ROBINSON, COMMITTEE COUNSEL: Clarifies the action the committee

has taken on the bill and amendments and what the committee may choose to do upon receiving the fiscal impact statement.

354 CHAIR TIERNAN: Even though we all support it, it may be more difficult on the house floor.

HOLLY ROBINSON, COMMITTEE COUNSEL: We may end up with a significant piece of legislation with two interrelated but very different issues.

358 REP. BROWN: The issue is whether or not we want to make the amendments proposed by the district attorneys. It does no to good to add the sex

crimes to the dangerous offender list if the penalty is greater under the guidelines, other than making a policy statement.

375 CHAIR TIERNAN: People who engage in these crimes are the most heinous types of people and most likely to repeat the offenses. If we have to correct an imperfection in the law to lock them up for as long as possible, that is what we should do.

388 REP. BROWN: I agree.

CHAIR TIERNAN: And I don't have any problem doing that with one bill.

389 REP. COURTNEY: This situation needs to be reconciled. Making a general statement about these people as being bad puts judges in a

position of

sentencing them to less jail time. The best thing for the committee to do now is to bring back the amendments implementing our discussion and go from there as far as keeping the bills together or separating them.

406 CHAIR TIERNAN: Thinks we have two separate issues and would like to see them both pass.

412 HOLLY ROBINSON, COMMITTEE COUNSEL: The February 2 amendments as proposed by the district attorney's association. 413 WASSMAN: Explains which document they would like the committee to work off of.

423 REP. COURTNEY: Are we saying we don't need to specifically name certain crimes as we have in HB 2483 if we change the law to do as you suggested in your two examples?

WASSMAN: I think you do. What Rep. Brown is saying is if you don't make the change we're suggesting, there may be no use to doing what you intend to do.

REP. COURTNEY: Let's say we make the changes you want to make. Then do we need to specifically set out these crimes in regards to the dangerous offender statute as we have, or will these individuals be swept up into your changes?

447 WASSMAN: No. Our changes would not address who qualifies for dangerous offender treatment, only how they are treated after designated as such. Your proposals would scoop in those not now designated as dangerous offenders.

455 CHAIR TIERNAN: What is your professional opinion on adding these categories to the dangerous offender list? Do you think it is warranted?

469 WASSMAN: Doesn't feel ready to give a qualified opinion. Committee should look closely at how sex offenders are being treated under the guidelines and duration of sentences. Holds a personal opinion that sex offenders can't be treated successfully and that more should be using prison facilities if the space was available. Has a strong bias in favor of in protecting victims.

TAPE 13, SIDE A

033 TRIPP: Thinks it would give the court an option to use it, but not that all offenders must be designated as dangerous offenders. It is a good idea making the designation an easier option for the court for those types of people.

049 CHAIR TIERNAN: Would the individual you described earlier be appropriately sentenced under the proposed dangerous offender statute?

TRIPP: Yes, because of his background and psychological examination results.

059 REP. BROWN: Questions the discretionary nature of the dangerous offender sentencing.

WASSMAN: Under current case law the District Attorney must plead facts sufficient to justify a dangerous offender sentence.

REP. BROWN: Then it doesn't require the court to make a finding but it's up to the court's discretion?

072 HOLLY ROBINSON, COMMITTEE COUNSEL: It's a finding of the court. It makes it part of its other fact finding function. So in that case it's not discretionary.

CHAIR TIERNAN: You believe it's not discretionary?

HOLLY ROBINSON, COMMITTEE COUNSEL: If the facts of the case warrant the finding.

WASSMAN: What is discretionary is the amount of sentence given after that.

082 MOTION: REP. COURTNEY: Moves to amend HB 2483 to include the Oregon

District Attorneys Association's recommendations dated 2-2-93.

VOTE: 4-0 Motion passes AYE: Brown, Courtney, Tarno, Chair Tiernan NO: None

091 REP. BROWN: Request that the witnesses be asked back if the issue is discussed again.

097 CHAIR TIERNAN: Adjourns the meeting at 5:07 p.m.

Submitted by:

Reviewed by:

Julie Nolta  
Administrator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed Amendments to HB 2483 - Oregon District Attorneys Association - 1 page  
B - Proposed Amendments to HB 2483 - O.D.A.A. - 7 pages  
C - Sentencing Chart, Problem I and II - O.D.A.A. - 2 pages  
D - Sentencing Guidelines Grid - O.D.A.A. - 1 page