

HOUSE COMMITTEE ON JUDICIARY CRIME AND CORRECTIONS

February 9, 1993 Hearing Room 357 3:00 p.m. Tapes 16 - 17

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

MEMBER EXCUSED: Rep. Del Parks

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

MEASURES CONSIDERED: HB 2228 - Relating to corrections - WS HB 2483 - Relating to sentencing - WS HB 2261 - Relating to criminal law - PPW

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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 16, SIDE A

Chair Tiernan calls meeting to order at 3:10 p.m.

WORK SESSION ON HB 2228

021 HOLLY ROBINSON, LEGISLATIVE COUNSEL: Gives the committee a review of HB 2228.

042 CHAIR TIERNAN: Understands that the District Attorney will give notice to the victims as discussed in last meeting.

050 REP. BROWN: Has had discussion with Danny Santos, Department of Corrections in regards to this issue. -Due to sentencing guidelines, information regarding victims residential status, etc., is difficult to obtain. This makes automatic notice a potential problem.

059 REP. TARNO: Speaks of Victims/Witnesses programs.

REP. COURTNEY: Asks about funding for this program and allocation of monies for this bill. -Asks about magnitude of crime under jurisdiction of bill. HOLLY ROBINSON, LEGISLATIVE COUNSEL: Responds with an averages of notification per month--1500 automatic notices to victims and up to 2900 at request of victim.

096 DANNY SANTOS, DEPARTMENT OF CORRECTIONS: States that there are 287 notification per month on average. -District Attorney keeps the victims notified until convicted, thn responsibility falls on the

Board of Parole as per Ballot Measure 10.

068 REP. COURTNEY: Asks about the state requiring local government to perform task. -Funding issues--court or district attorney to absorb costs?

080 REP. COURTNEY: Magnitude of crime -- what kind and how many to warrant a notification?

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Anyone being released -Approximately 1500 sent per month, 2900 on board list.

109 CHAIR TIERNAN: Comments on role of district in these cases. FRED AVERA, DEPARTMENT OF CORRECTIONS: Notifying all victims would still be a problem. -Notification isn't needed in all cases.

CHAIR TIERNAN: Would like to see notification in the appropriate cases.

FRED AVERA, DEPARTMENT OF CORRECTIONS: Asks to have task left up to the discretion of the Department of Corrections.

CHAIR TIERNAN: Many victims stay in contact with the district attorney's office in that they are suitable notifiers.

FRED AVERA, DEPARTMENT OF CORRECTIONS: Indicates agreement.

REP. BROWN: Suggests some required notifications, some upon request.

REP. TARNO: Supports Rep. Brown's point of view.

MOTION: Rep. Brown moves to amend HB 2228 to read, "the district attorney shall receive notice" and that "the sherriff/arresting agency/court/sentencing judge/trial counsel shall receive notice upon request."

174 REP. COURTNEY: Understands no mandatory requirement to notify victim?

REP. BROWN: That is correct. HOLLY ROBINSON, LEGISLATIVE COUNSEL: Mandatory if victim requests it to be as such.

REP. COURTNEY: Does not want to dilute victim privilages.

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Position of victim remains unchanged under proposed amendments.

VOTE: Aye 4 - No 0. All members present for vote with the exception of Rep. Parks. HB 2228 is adopted as amended.

216 REP. COURTNEY: Hopes this is not end of story of notification. -Serious about the issue and future of the bill.

REP. TARNO: Would like to add section to this bill regarding dangerous offenders.

REP. COURTNEY: certain people should be notified. -Wants committee to be aware that this is a major policy statement. -Focused on who gets noticed and how they obtain notification -Concerned mostly with certain crimes--currently, crime category not dealt with.

CHAIR TIERNAN: Questions Fred Avera regarding problems with District attorney having the responsibility of notification?

FRED AVERA, DEPARTMENT OF CORRECTIONS: Replies that although it is difficult to speak for all district attorneys, he would like to see the issue left for personal discretion.

REP. BROWN: Would like to see the district attorneys go out of their way to notify victims of the offender's release.

MOTION: Rep. Brown moves HB 2228 to Full Committee with Do Pass recommendation with amendments.

VOTE: Aye 4 - No 0. All members present for vote with the exception of Rep. Parks. HB 2228 passes into Full Committee with Do Pass recommendation.

WORK SESSION ON HB 2483

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Provides Staff Measure Summary and review of bill.

TAPE 17, SIDE A

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Explains short term impact of sentencing under amendments proposed by the Oregon District Attorneys Association. Explains impact 20 years from now as well as policy, sentencing departures.

060 CHAIR TIERNAN: Asks how sentencing is done.

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Sentencing done as departure to make eligible for 200% at the heart of the questions and amendments. -Must decide at what point to you want the review to start.

CHAIR TIERNAN: Intent was to indicate a dangerous offender.

081 HOLLY ROBINSON, LEGISLATIVE COUNSEL: Discusses ability of Parole Board to retain person in custody. Question is not review process but time agency takes to make determination.

REP. TARNO: What is longest term possible to give individuals?

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Can the legislature set a ten year minimum?

ERIC WASSMAN, DEPARTMENT OF JUSTICE: The legislature has complete control in this matter.

SUSAN TRIPP, OREGON DEFENSE ATTORNEYS ASSOCIATION: Chose a 200% sentence increase to make dangerous offender equal with guidelines. -Explains guidelines--a straight departure could be serving twice the term of a dangerous offender.

178 CHAIR TIERNAN: Asks intent of Courtney in drafting the bill.

REP. COURTNEY: Comfortable with 200%. Judgment call to be made.

CHAIR TIERNAN: District Attorney has power in this matter.

ERIC WASSMAN, DEPARTMENT OF JUSTICE: Fiscal impact connected with current limit. -doubling potential of required term.

206 REP. COURTNEY: Would this be giving the judge greater discretion?

ERIC WASSMAN, DEPARTMENT OF JUSTICE: Replies that it would.

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Asks if Committee could set it at 200% instead of creating a range.

CHAIR TIERNAN: Replies that that is intent of Committee. ERIC WASSMAN, DEPARTMENT OF JUSTICE: Sets range as drafted, but presenting a limit is acceptable.

339 REP. TARNO: Asks how much latitude would judge have--bare minimum sentence of 260 months?

ERIC WASSMAN, DEPARTMENT OF JUSTICE: States minimum.

REP. COURTNEY: Proposed amendments do not mandate 200% sentence.

CHAIR TIERNAN: Asks witness which amendments he prefers.

REP. COURTNEY: Worries about the Senate's action in regards to the bill.

VERN FAATZ, BOARD OF PAROLE: Would be possible for review of dangerous offender. -Approves amendments.

TAPE 16, SIDE B

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Issue is under sentencing guidelines. Committee should be clear about policy issues.

ERIC WASSMAN, DEPARTMENT OF JUSTICE: Our position is that there is no reason to seek dangerous offender sentence. -It looks more lenient.

SUSAN TRIPP, OREGON DEFENSE ATTORNEYS ASSOCIATION: Dangerous offenders fill a relatively small amount of the prison.

REP. COURTNEY: States that dangerous offenders should receive severe sentence.

MOTION: Rep. Courtney moves the additional amendments 2-9-93 to the -1 amendments of HB 2483.

CHAIR TIERNAN: Clarifies language "twice presumptive sentence."

REP. TARNO: Agrees with the term "twice" and "mandatory."

REP. COURTNEY: Expresses concern about discretion of judge as opposed to mandatory.

CHAIR TIERNAN: Would like to see "mandatory with negotiations."

REP. BROWN: Would like "discretion at 200%."

CHAIR TIERNAN: Decides on "mandatory." -Amend language to read "outside" or "inside?"

REP. TARNO: Outside

REP. COURTNEY: Outside

REP. BROWN: Outside

MOTION: Rep. Courtney moves HB 2483 to the Full Committee as amended with Do Pass recommendation.

VOTE: HB 2483 moves to Full Committee and amended with Do Pass recommendation.

HOLLY ROBINSON, LEGISLATIVE COUNSEL: Prison impact statement could increase by 85% per year.

PUBLIC HEARING ON HB 2261

321 HOLLY ROBINSON, LEGISLATIVE COUNSEL: Provides Staff Measure Summary.

FRED AVERA, No policy stated as of yet. -Asks Committee to adopt policy. -Must specify what type of ounce--marijuana defined elsewhere.

TAPE 17, SIDE B

REP. COURTNEY: Asks if synthetic marijuana is covered under scope of the bill.

REP. TARNO: Replies that it is.

WORK SESSION ON HB 2261

REP. TARNO: changing language what happens to live plants

HOLLY ROBINSON, LEGISLATIVE COUNSEL: nods yes

REP. COURTNEY: what is so bad

kb opposed original bill

opposed law that now exists

motion tarno moving amendments

adjourned at 4:35

