

HOUSE COMMITTEE ON JUDICIARY SUB-COMMITTEE ON CRIME AND CORRECTIONS

February 10, 1993 Hearing Room 357 3:00 p.m. Tapes 18 - 21

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

VISITING MEMBER: Rep. Del Parks Rep. Ken Baker Rep. Kevin Mannix

STAFF PRESENT: Julie Nolta, Committee Clerk Holly Robinson, Committee Counsel Ian Lombard, Page

MEASURES CONSIDERED: HB 2407 - Relating to crime HB 2412 - Relating to stalking HB 2577 - Relating to crime HB 2578 - Relating to menacing HB 2579 - Relating to crime HB 2617 - Relating to crime

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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 18, SIDE A

004 CHAIR TIERNAN: Calls meeting to order at 3:07 p.m.

HB 2407, HB 2412, HB 2577, HB 2578, HB 2579, HB 2617 - PUBLIC HEARING

Witnesses: Rep. Bill Markham, District 46 Rep. John Schoon, District 34 Fred Avera, Oregon District Attorneys Association Chief Vernon Wells, City of Independence Ross Shepherd, Oregon Criminal Defense Lawyers Association Rep. Kevin Mannix, District 32 Cayce Clack Karen Madsen Cameron Suttles Sheryle Bennett Frank and Jackie Walker Janet Arenz, A.C.L.U. of Oregon Debra Downey Debbie Miller Shelly Miyahara Richard Gross Joanne (requested no last name be used) Judith Armatta, Oregon Coalition Against Domestic and Sexual Violence Vietta Helmlly, Salem-Mid Valley Women's Crisis Center Laurie Wimmer, Oregon Commission for Women Lauren Moughon, Women's Rights Coalition Captain F. Sherwood Stillman, Clackamas Co. Sheriff's Dept.

035 REP. BILL MARKHAM, DISTRICT 46: Submits and reviews written testimony in favor of HB 2407. (EXHIBIT A)

077 REP. JOHN SCHOON, DISTRICT 34: Submits and reviews written testimony in favor of HB 2407. (EXHIBIT B)

REP. SCHOON: Discusses language in HB 2579.

146 REP. PARKS: If we follow your suggestions, we might lose the crime of stalking altogether because it is so similar to the crime of harassment.

164 FRED AVERA, DISTRICT ATTORNEY, POLK COUNTY AND REPRESENTATIVE OF OREGON DISTRICT ATTORNEYS ASSOCIATION: Introduces Chief Vernon Wells.

Testifies in favor of anti-stalking legislation.

206 CHAIR TIERNAN: Would you agree that if the stalking legislation was enacted that it would it stop serious crimes from occurring?

AVERA: Yes.

217 CHAIR TIERNAN: Could it also prevent assaults, rapes and child molestations?

AVERA: Absolutely.

220 REP. PARKS: Why would we make this a felony instead of a Class A misdemeanor?

AVERA: Felony status would give more leeway in sentencing and more options for a judge. Would be classed as a person felony under the sentencing guidelines which can lead to longer terms of incarceration.

238 REP. PARKS: Asks about an individual in prison for stalking related crime who continues to correspond with the family from the penitentiary.

REP. PARKS: Why is that not telephone harassment?

AVERA: He was doing it by letter.

REP. PARKS: If we make this so close to harassment, isn't that the way the court will treat it?

AVERA: If the definition is so close to harassment which is a Class B misdemeanor but we make it a class B felony, there is disproportionate sentencing for the same conduct.

257 REP. PARKS: There is a provision in Rep. Mannix's bill known as "civil treatment at the option of the judge." How do the district attorneys

feel about that?

AVERA: Needs to be a way to distinguish, in the bill, between "love-crazed suitors" versus psychopaths. It is hard to draw a line in legislation. Supports the concept of civil treatment.

279 REP. BROWN: Concerned that attempted stalking would be treated as a lesser case of misdemeanor and it would be a work load problem.

291 AVERA: The frequency of occurrence is not that great. It would be treated seriously and not pushed aside because of a numbers issue.

307 REP. BAKER: In conjunction with stalking legislation, could the one-year restraining order for family members be extended to non-family members who come within a defined class for prevention purposes?

317 AVERA: Believes that is a good concept and may be provided for in Rep. Mannix's bill.

325 VERNON WELLS, CHIEF, INDEPENDENCE POLICE DEPARTMENT, OREGON ASSOCIATION OF CHIEFS OF POLICE AND OREGON PEACE OFFICERS ASSOCIATION: Submits and

reviews written testimony in support of anti-stalking legislation. (EXHIBIT C)

TAPE 19, SIDE A

008 ROSS SHEPHERD, LANE COUNTY PUBLIC DEFENDER, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies in favor of anti-stalking legislation.

045 REP. KEVIN MANNIX: Submits and reviews testimony in favor of and amendments to HB 2412. (EXHIBIT D)

178 CAYCE CLACK: Submits and reviews testimony in favor of anti-stalking bills. (EXHIBIT E)

220 CHAIR TIERNAN: How long has this been going on?

CLACK: July 11, 1992.

CHAIR TIERNAN: Have you contacted the police?

CLACK: Yes. Describes action police have taken. Continues with testimony. 245 CHAIR TIERNAN: Do police know who this person is yet?

CLACK: No, they don't.

REP. BROWN: How did he get your phone number?

CLACK: Father runs a business out of the home. It's easy to find out anything about anybody. Wants a law passed to stop this. Stalkers need help but victims and families need help and restitution as well.

273 CHAIR TIERNAN: You say he has threatened your family.

CLACK: My parents, niece.

277 REP. TARNO: You are not alone in this. Asks what witness is doing for self-protection.

CLACK: Describes self-protection measures.

298 REP. PARKS: Be cautious about expressing things that might assist a stalker.

CLACK: Doesn't have any idea who this person is.

327 KAREN MADSEN: Introduces huSB and, Cameron Suttles and daughter Alder Suttles. Submits and reviews written testimony in support of HB 2412.

(EXHIBIT F)

TAPE 18 SIDE B

001 MADSEN: Continues testimony in support of HB 2412.

056 REP. PARKS: Confirms with the witness that she has spoken with the father of the stalker who would like action taken also.

PARKS: Didn't you also have an unexplained shooting incident?

MADSEN: The person who shot at our house was not the stalker but he was in front of the house at the time of the shooting.

065 CHAIR TIERNAN: You know who the stalker is.

MADSEN: We know who it is.

SUTTLES: We prefer not to mention his name so as not to incite him.

MADSEN: This could happen to anybody. The mentally ill in our society do not have to be held accountable for their actions. We have no protection from him.

079 CHAIR TIERNAN: Asks no last names or addresses from victims. Would appreciate the same from the press as well. 093 SHERYLE BENNETT: Testifies in support of anti-stalking legislation.

151 CHAIR TIERNAN: Declares recess.

165 FRANK AND JACKIE WALKER: Submits and reviews testimony in favor of HB 2412. (EXHIBIT G)

407 REP. COURTNEY: Refers to the witnesses' profiling of the stalkers as having a mental illness as opposed to mental deficiency. Are these

people treatable?

421 MS. WALKER: May be treatable in some cases. Little can be done after a certain age however.

TAPE 19, SIDE B

001 REP. COURTNEY: These offenders can be treated as criminals or mentally ill but we want to keep them out of society as long as possible.

Witness' testimony has increased understanding of the personality profile of these types of offenders.

012 MR. WALKER: Has visited with psychologists who describes the stalker as a borderline personality disorder which is generally not treatable.

015 MS. WALKER: They are also considered extremely dangerous. The legal and psychological definitions of "insane" differ.

020 CHAIR TIERNAN: Is your house on the market now?

MS. WALKER: Yes, but not listed through a realtor.

023 REP. BAKER: Believes witness' story is unique because the offender seems to have a support system and social interaction and financial

assets. How does this complicate your situation?

MS. WALKER: He would not have had the resources to come to Oregon or to return to school or rent a home. He is unable to work.

034 REP. BAKER: Has his family put pressure on him to stop his activity?

MS. WALKER: No.

REP. BAKER: Could any of these bills in any way put pressure on family members or support mechanisms to say this is not appropriate behavior by identifying or labeling it?

MS. WALKER: Thinks it would help a great deal.

039 MR. WALKER: Stalking is often a family matter.

MS. WALKER: Explains how the situation is complicated regarding the family.

MR. WALKER: It wreaks havoc on a family situation. MS. WALKER: We are caught in the middle. Our first responsibility is

to protect ourselves and our children.

069 JANET ARENZ, ASSOCIATE DIRECTOR, ACLU OF OREGON: Submits and reviews written testimony in opposition to HB 2407, HB 2579, HB 2617, and HB

2412. (EXHIBIT H)

167 REP. PARKS: There may be possible constitutional problems but we will end up with tough bill that is in best interest of both parties.

184 REP. MANNIX: Discusses freedom of speech versus reasonable apprehension in regard to personal safety of the victim. HB 2412

focuses on effect

of speech and not content.

200 ARENZ: Is not an attorney but the listing of certain types of behavior in Section 1 of HB 2412 is a concern.

REP. MANNIX: We don't care about what is said, we care that something is said. There are fine lines to draw but we can come to an agreement on constitutional issues.

222 CHAIR TIERNAN: Is the ACLU's counsel of the opinion that a bill similar to HB 2412 can be written to cover and take care of these types of

cases?

ARENZ: Our opinion is that this legislative body is capable of constructing an anti-stalking bill that would have positive impact on the circumstances of the witnesses we have heard from today. However, HB 2412 may not be that vehicle.

234 CHAIR TIERNAN: Hope that ACLU attorneys can help craft legislation to cover these circumstances instead of obstruct.

246 REP. BROWN: Explains that the committee can work on other vehicles to resolve concerns of the victims and the ACLU.

254 REP. MANNIX: Explains the Family Abuse Prevention Act in relation to a protection order.

270 DEBRA DOWNEY: Submits and reviews written testimony in support of HB 2412. (EXHIBIT I)

TAPE 20 SIDE A

001 DOWNEY: Continues testimony.

022 CHAIR TIERNAN: How would Section 8 of HB 2412 apply?

REP. MANNIX: A mandatory five year minimum sentence?

026 REP. BROWN: How long did it take you to get a civil restraining order?

DOWNEY: Was not allowed to obtain one.

REP. BROWN: An injunction?

DOWNEY: Almost two years.

039 DEBBIE MILLER: Testifies in support of anti-stalking bills.

099 REP. MANNIX: Would it be of some help if we were able to say that, given a stalking protective order, that one act in violation of

that

order would be in itself a Class C felony subjecting someone to an immediate arrest?

MILLER: Yes. Explains how it would be of help.

115 REP. MANNIX: HB 2412 would also allow the court to order mental health treatment. Sounds as if witness' ex-huSB and has resources to pay for it if ordered to undergo.

MILLER: Yes. But will continue to make life miserable with his resources.

124 CHAIR TIERNAN: Declares recess.

147 SHELLY MIYAHARA: Testifies in support of anti-stalking legislation.

REP. MANNIX: Are letters received from the person harassing you un-opened?

MIYAHARA: Some were thrown away but I keep and read all of them now for safety reasons.

REP. MANNIX: Do you feel this person is exercising his freedom of speech by sending you these letters or does this have an effect on you psychologically?

MIYAHARA: Definite psychological effect. I don't send letters back because no response is the best one.

186 REP. TARNO: Is there a central theme in the letters?

MIYAHARA: Mostly "I love you, I want us to get back together." This doesn't seem harmful but it has been going on so long that I feel afraid.

REP. MANNIX: The repetition of the unwanted conduct that causes fear?

MIYAHARA: I am going to take a mugging class. "Mace doesn't cut it."

213 RICHARD GROSS: Submits and reviews written testimony in support of HB 2412. (EXHIBIT J) Relates experiences regarding a man who is stalking

his wife.

245 REP. MANNIX: Didn't this man follow your wife around carrying signs?

GROSS: There have been painted signs all over the community.

REP. MANNIX: Repeated use of unwanted signs which caused fear and apprehension on the part of your wife.

255 REP. MANNIX: Did you feel at any time that these signs were being used by this individual to express a political viewpoint or reflect his

freedom of expression? Or were you more concerned with the emotional impact on you and your wife?

GROSS: Definitely the emotional impact, for the most part. Describes other incidents of harassment.

280 REP. BROWN: How did you know signs were directed towards you or your wife?

GROSS: Our names were on them. Gives examples.

295 REP. TARNO: When did you last see this individual?

GROSS: Christmas time.

310 JOANNE: Testifies in favor of anti-stalking legislation.

320 REP. BROWN: What was the woman who was harassing you prosecuted for?

JOANNE: Forgery. Continues with testimony.

423 JUDITH ARMATTA, LEGAL COUNSEL, OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE: Introduces VIETTA HELMLY, DIRECTOR, SALEM MID-VALLEY

WOMEN'S CRISIS CENTER.

431 HELMLY: Testifies in favor of anti-stalking legislation.

TAPE 21, SIDE A

030 ARMATTA: Submits and reviews written testimony in support of anti-stalking legislation. (EXHIBIT K)

113 REP. BROWN: Asks if there are numbers available on who this applies to.

HELMLY: Estimates Women's Crisis Center hotline handled 7,000 calls in 1989. Approximately 3,500 calls were immediate crisis situations for domestic violence victims. Eight hundred of those had to call the police. Another 800 got restraining orders and 200 of those who got restraining orders had violations and I believe those violations equaled stalkers.

147 LAURIE WIMMER, EXECUTIVE DIRECTOR, OREGON COMMISSION FOR WOMEN: Submits and reviews written testimony in favor of anti-stalking legislation. (EXHIBIT L)

166 LAUREN MOUGHON, WOMEN'S RIGHTS COALITION: Submits and reviews written testimony in favor of anti-stalking legislation. (EXHIBIT M)

193 F. SHERWOOD STILLMAN, CAPTAIN, CLACKAMAS COUNTY SHERIFF'S DEPARTMENT: Submits and reviews written testimony in favor of anti-stalking

legislation. (EXHIBIT N) Wants to add "schools" to HB 2412, Sec.1, sub-section 3 (e).

217 CHAIR TIERNAN: Lists other areas that will be added to HB 2412 as amendments.

225 STILLMAN: Very much in favor of language that allows a police officer to issue a temporary restraining stalking order. Makes suggestions for

other amendments.

273 REP. TARNO: Would the association be willing to support an on site arrest for probable cause for Class C felony if HB 2412 is passed?

STILLMAN: Can check on that. Would this be in lieu of a citation?

286 REP. TARNO: In addition to.

291 CHAIR TIERNAN: Appoints Rep. Brown to gather opinions of the parties represented at the hearing regarding anti-stalking legislation.

303 CHAIR TIERNAN: Adjourns meeting at 6:00 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Assistant

Anne May Committee Clerk

EXHIBIT LOG:

A - Testimony on HB 2407 - Rep. Bill Markham, Dist. 46 - 1 page B - Testimony on HB 2407 - Rep. John Schoon, Dist. 34 - 1 page C - Testimony on stalking legislation - Chief Vernon Wells - 1 page D - Proposed amendments to HB 2412 - Rep. Kevin Mannix, Dist. 32 - 6 pages E - Testimony on HB 2412 - Cayce Clack - 6 pages F - Testimony on HB 2412 - Karen Madsen - 6 pages G - Testimony on HB 2412 - Frank and Jackie Walker - 6 pages H - Testimony on HB 2412 - A.C.L.U. of Oregon - 3 pages I - Testimony on HB 2412 - Debra Downey - 2 pages J - Testimony on HB 2412 - Richard and Carol Gross - 4 pages K - Testimony

on stalking legislation - Oregon Coalition Against Domestic and Sexual
Violence - 4 pages L - Testimony on stalking legislation - Oregon
commission for Women M - Testimony on stalking legislation - Women's
Rights Coalition - 1 page N - Testimony on stalking legislation - Capt.
F. Sherwood Stillman - 1 page O - Testimony on HB 2412 - Oregon Public
Employees Union - 3 pages P - Testimony on stalking legislation -
Oregon Dept. of State Police - 17 pages Q - Testimony on HB 2412 -
Toni Wood - 1 page R - Prison Impact Assessment, HB 2412 - Oregon
Criminal Justice Council - 1 page S - Prison Impact Assessment, HB 2577
- O.C.J.C. - 1 page T - Prison Impact Assessment, HB 2578 - O.C.J.C. -
1 page