

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

April 14, 1993 Hearing Room H-177 3:00 p.m. Tapes 74 - 77

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 3217 - Relating to sex offender therapy
HB 3219 - Relating to monetary obligations in criminal proceedings
HB 3220 - Relating to disclosure of certain student records
HB 2759 - Relating to release of offenders

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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 74, SIDE A

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

HB 2759 - WORK SESSION

Witnesses: Elyse Clawson, Department of Corrections Cindy Hanners, Clackamas County Corrections Faye Fagel, Director, Polk County Corrections

013 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2759 establishes the requirement that the State Board of Parole and Post-Prison Supervision notify each

person who owns property within an urban growth boundary and which is also within a 1400 foot radius of a sex offender's residence of the date of the offender's release and expected address. Refers to section by section summary of the bill and -1 amendments. (EXHIBIT A and B)

038 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 1.

053 REP. BROWN: Has no problem with parole and probation officer making notifications. Concerned about adding more to their heavy work load. REP. COURTNEY: Thought parole and probation officers did not object to notifying.

HOLLY ROBINSON, COMMITTEE COUNSEL: The officers are in agreement that

community notification is within their job responsibilities. How extensive it is will determine the fiscal impact.

075 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 2.

087 CHAIR TIERNAN: In reference to incest victims, the problem stays within the family so notice would not be needed.

100 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 3.

107 REP. TARNO: Is the Psychiatric Security Review Board (PSRB) an arm of State Corrections and therefore in close contact with probation and parole officers?

HOLLY ROBINSON, COMMITTEE COUNSEL: They are a separate agency. This would become effective only if the bill requiring PSRB clients to register is enacted.

114 REP. BROWN: Did not support requiring mentally ill sex offenders to register. Concerned about the safety of the community but also placing additional stigma on the mentally ill.

132 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 4. Department of Corrections would like notification to be within 30 days of release, which seems long. Original bill said 30 days prior to release. The committee has discretion to set time limit.

CHAIR TIERNAN: Do we know where the person is going upon release?

HOLLY ROBINSON, COMMITTEE COUNSEL: Yes, they should have an address.

165 CHAIR TIERNAN: Why couldn't notification be done be sooner?

HOLLY ROBINSON, COMMITTEE COUNSEL: The question is transfer time between the release and the time the officers pick up the case.

178 ELYSE CLAWSON, ASSISTANT DIRECTOR, DEPARTMENT OF CORRECTIONS:
The 30

days relates to the whole population of people on whom notification is done. Risk assessment and paperwork is done in that time period.

CHAIR TIERNAN: Could we say "as soon as possible within 30 days of release?"

CLAWSON: That would help us.

202 REP. COURTNEY: Thought 21 days was a reasonable period of time.

REP. TARNO: Don't parole boards know well in advance the day of release for prisoners? Aren't parole and probations officers notified in advance?

CLAWSON: Ideally that is correct. There are no resources for release planning. It is not as well done as it should be.

227 REP. BROWN: Supports 30 days or as soon as possible. Concerned

that

people are not stable and nothing prevents them from moving frequently. How many people on an annual basis would come under this legislation?

How frequently do they move?

244 HOLLY ROBINSON, COMMITTEE COUNSEL: The ones that register are required to notify the registry of a move.

254 CINDY HANNERS, CLACKAMAS COUNTY CORRECTIONS: If it is a subsidy parole, we do know the address.

CHAIR TIERNAN: How soon do they have to notify after moving?

HANNERS: Must notify prior to moving, no longer than 24 hours after.

269 CHAIR TIERNAN: It is your intention to renotify after every move?

HANNERS: Every time they move we update our sex offender registration.

279 REP. TARNO: Prefers 21 days if possible because it is shorter.

CHAIR TIERNAN: Prefers 21 also. The shorter the better.

285 HOLLY ROBINSON, COMMITTEE COUNSEL: Does the committee want language referring to every move if necessary?

CHAIR TIERNAN: Yes.

HANNERS: If we were notifying based upon our risk assessment tool, we would notify each and every time if it indicated that.

300 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill has created three tiers of notification. Sections 5, 6 and 8 are tiers as set forth in the bill.

Summarizes Section 5.

336 REP. BROWN: Has concerns about the criteria of notification being only when the victims are male children in light of statistics that say that more girls are abused than boys.

HANNERS: The risk tool requires supervision of an offender who has molested male children because they have been found to be more predatory. That does not exclude our intent to notify on offenders who molest female children who fall under notification based on that tool.

372 REP. BROWN: One out of four girls are sexually abused and only 1 out of 7 or 8 boys is abused.

HOLLY ROBINSON, COMMITTEE COUNSEL: The department does not use "supervised, limited or prohibited contact with children" currently as a trigger. In cases where girls have been victimized, that criteria will be there. If the committee adopts this section, most offenders will come under them which will include the girls.

REP. BROWN: If section 5, subsection (A) of the proposed amendments

includes all children, why is it necessary to include (D)?

411 CHAIR TIERNAN: If the nature of the offense was so serious that
as a

condition of parole he was "supervised, limited or prohibited contact
with children" the next standard is lower if his victims were only male
children.

REP. COURTNEY: Can we come up with gender neutral language to deal with
the word "predator" since they are the most dangerous?

441 HOLLY ROBINSON, COMMITTEE COUNSEL: Can take out of section 6 the
circumstances of predatory behavior and move it to section 5.

HANNERS: That will narrow it for us. We like to use our tool to guide
us.

HOLLY ROBINSON, COMMITTEE COUNSEL: This comes from your tool so there
shouldn't be a difference.

462 REP. COURTNEY: Are you saying this takes the tool away from you?
We

don't want to do that.

HANNERS: It complicates the tool.

480 HOLLY ROBINSON, COMMITTEE COUNSEL: This will require them to use
the

tool more.

TAPE 75, SIDE A

032 REP. COURTNEY: Apparently there is not enough in the categories
to prevent offenders from falling through the cracks. We don't want
that

mistake.

040 CLAWSON: It is difficult to put a risk assessment tool into
statute because they need to be changed periodically. Would not want to
jeopardize their ability to refine their risk assessment tool.

HOLLY ROBINSON, COMMITTEE COUNSEL: As the draft is written, the tool
will be approved by the Department of Corrections so we have given them
the discretion to approve their tool. There are limited cases where
certain things must happen and beyond that the amount of discretion
broadens.

063 CLAWSON: Confirms that the amendments override tool in some
places and in other cases allows the use of the tool which may broaden
it.

HOLLY ROBINSON, COMMITTEE COUNSEL: In some cases notification is

required before the tool is even used.

074 FAYE FAGEL, DIRECTOR, POLK COUNTY CORRECTIONS: Concerned that notification is required for a substantial part of our caseload based on Section 5.

CHAIR TIERNAN: Most of the victims are male children, according to statistics. We will try to factor that into the most effective bill we can pass, but not to exclude girls.

093 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 6. This does not address the type of notification that should be done. The criteria of

notification would be by rule and the Department of Corrections would have the discretion to determine the type of notification. Discusses

Section 8 and Section 7 which also refer to notification.

118 REP. TARNO: Section 7 doesn't include the actual address of the parolee.

HOLLY ROBINSON, COMMITTEE COUNSEL: The address is included. It was recommended to expand it to include things included in the registry and a current photograph.

127 CHAIR TIERNAN: This would not prohibit notification in the newspaper?

HOLLY ROBINSON, COMMITTEE COUNSEL: Newspaper notification is included in Section 9. Summarizes Section 9. The Legislature can only do registration for the purposes of law enforcement and crime prevention activities. Community notification is going to be the same.

Section 10 opens notification up to greater public scrutiny and pushes the boundaries of legitimate crime prevention and deterrent activities. Could be subject to challenge. Harassment could be a problem.

182 HANNERS: We encourage the offenders themselves to notify which is one of the ways we measure their progress.

196 REP. COURTNEY: Wants the bill to pass. Doesn't take much to get the

word out. This provision will be a controversial part of the bill. Certain groups see this section as a way to harass the offender which is not my position. I see it as deterrence.

245 CHAIR TIERNAN: Whatever is the most effective. Newspaper notification is easy and inexpensive and can reach by a large group of people.

HANNERS: You are right if you want to notify everyone. But experience is that it will spread quickly without that.

265 REP. COURTNEY: There is a fine line. The offender should know there is notification because of the deterrence factor. The community needs to

be notified but the entire nation doesn't need to be notified. How far do we go with notification? Punishment doesn't need to go as far as harassment.

CHAIR TIERNAN: Just wants to do the best thing.

293 REP. BROWN: How do you distinguish from a legal basis wearing a sign

versus publishing a photo in a newspaper in terms of community prevention and cruel and unusual punishment?

HOLLY ROBINSON, COMMITTEE COUNSEL: There is nothing that requires a photograph in the newspaper. Just lists name and address.

324 REP. TARNO: If we mandate monthly publication of names of offenders,

what kind of financial impact will there be?

CHAIR TIERNAN: About 1/2 of the newspapers do it as public service.

343 FAGEL: Recommends having the offender be responsible to notify the paper by court process if necessary.

358 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes Section 10. and Section 11.

367 MOTION: REP. COURTNEY: Moves to ADOPT CONCEPTUAL AMENDMENTS TO HB 2759, sections 1-8 and 10-11.

REP. TARNO: Can we revisit Section 9?

REP. COURTNEY: Intended to exclude Section 9 and to leave it open for further discussion.

405 HOLLY ROBINSON, COMMITTEE COUNSEL: Could handle this by having Section 9 in separate amendments or legislation.

REP. COURTNEY: Should have it as a separate amendment. Conceptual amendments should include new language that was discussed regarding male victims in Section 5.

FAGEL: Section 11 gives us permission to be responsive to people who come into our office for information. Do we need a notebook or is permission for us to give out information enough?

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

HB 3219 - PUBLIC HEARING

Witnesses: Chris Gardner, Task Force on Sex Offenses Against Children Emmy Sloan, C.A.R.E.S. Program, Emanuel Hospital Jackie Hull, Citizen Shelly Hood, Citizen Keith Meisenheimer, Senior Deputy District Attorney, Mult. Co. Larry Beckwith, Clackamas Col Sheriff's Dept. Doug Harclerode, District Attorney, Lane Co. Marie Bell, Task Force on Sex Offenses Against Children Gary Brink, Multidisciplinary Team, Coos Co.

466 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3219 imposes additional fees upon offenders to generate funds for Assessment and Advocacy Centers designated by a county multidisciplinary child abuse team. Includes relevant statutes. (EXHIBIT C)

TAPE 74, SIDE B

045 CHRIS GARDNER, VICE CHAIR, TASK FORCE ON SEX OFFENSES AGAINST CHILDREN: Submits and reviews written testimony in favor of HB 3219. (EXHIBIT D, E, and F)

142 REP. TARNO: Would the local jurisdictions get involved with the local juvenile services commission?

GARDNER: Our community networks with every relevant agency in the county.

REP. TARNO: Where would the funds be funneled?

GARDNER: Amendments provide for a county multidisciplinary team to come up with an intervention plan and agencies could apply for the money. The money is dedicated to the county it came from.

177 REP. TARNO: What kind of audit process would we have if the local jurisdictions weren't held accountable for the use those state funds?

GARDNER: We require that they report back annually to the administrating agency.

206 REP. TARNO: If CSD doesn't want to be the parent agency, wouldn't it be logical to have the funds distributed by local county government?

GARDNER: The real issue is getting the money back to the communities, and not the means.

241 EMMY SLOAN, PROGRAM MANAGER, C.A.R.E.S. PROGRAM, EMANUEL HOSPITAL: Testifies in support of HB 3219.

253 JACKIE HULL: Testifies in support of HB 3219.

308 SHELLY HOOD: Testifies in support of HB 3219.

TAPE 75, SIDE B

026 KEITH MEISENHEIMER, SENIOR DEPUTY DISTRICT ATTORNEY, VIOLENT

CRIMES UNIT, MULT.CO.: Testifies in favor of HB 3219.

093 LARRY BECKWITH, DETECTIVE, CLACKAMAS CO. SHERIFF'S DEPARTMENT:
Testifies in favor of HB 3219.

MEISENHEIMER: The interviewers are neutral and not part of a
prosecution team. Get swift and accurate determination when there has
not been abuse.

173 DOUG HARCLERODE, DISTRICT ATTORNEY, LANE CO.: Testifies in favor
of HB 3219.

209 MARIE BELL, CHAIR, TASK FORCE ON SEX OFFENSES AGAINST CHILDREN:
Submits and reviews written testimony in favor of HB 3219. (EXHIBIT G,
H)

302 GARY BRINK, MULTIDISCIPLINARY TEAM, COOS CO.: Testifies in favor
of HB 3219.

321 REP. COURTNEY: Refers to Mr. Meisenheimer's testimony and the
lack of knowledge and experience on the part of public officials about
sex abuse of children. Doesn't accept statistics about numbers of
children who have been abused because of our lack of knowledge on the
subject.

HB 3220 - PUBLIC HEARING

(HB 3220 provides for release of school records to the missing children
clearinghouse of the Oregon State Police.)

Witnesses: Lt. Rich Hein, Oregon State Police Paul Regimbal, Missing
Children's Clearinghouse Advisory Board Greg McMurdo, Department of
Education Jim Green, Oregon School Boards Association

396 LT. RICH HEIN, CRIMINAL INVESTIGATION DIVISION, OREGON STATE
POLICE:

Submits and reviews written testimony in support of HB 3220. (EXHIBIT

K) 433 PAUL REGIMBAL, CHAIR, MISSING CHILDREN'S CLEARINGHOUSE
ADVISORY BOARD: Testifies in favor of HB 3320.

439 REP. BROWN: Assumes this bill is for purposes of law
enforcement?

HEIN: Correct, for law enforcement agencies, school districts, state
and federal agencies and serves the general public.

450 REP. BROWN: What is purpose of the information being released?
Assumes the information goes to the Missing Children's Clearinghouse for
law enforcement purposes.

HOLLY ROBINSON, COMMITTEE COUNSEL: It cannot be disclosed further.

TAPE 76, SIDE A

023 GREG MC MURDO, DEPARTMENT OF EDUCATION: Testifies to HB 3320.

046 HOLLY ROBINSON, COMMITTEE COUNSEL: Confused in that the bill says what the school should provide. Schools cannot release any information that is not on the list included in the bill.

MC MURDO: Our purpose is to make it easier on the school district and limit it to progress records.

060 JIM GREEN, OREGON SCHOOL BOARDS ASSOCIATION: Testifies to HB 3320 regarding progress and behavioral records.

078 REP. BROWN: This information is already available through Family Education Rights and Privacy Act (FERPA) and so you feel we don't need this legislation?

MC MURDO: FERPA allows school districts to disclose this information without the statute being enacted.

085 REP. TARNO: Can the schools refuse to reveal the information?

MC MURDO: Believes they may disclose.

HB 3217 - PUBLIC HEARING

Witnesses: Virginia Newton, Children's Services Division Roxie Cooper, Task Force on Sex Offenses Against Children Daina Vitolins, Oregon District Attorneys Association Marilyn Callahan, Sex Offender Therapist Bob Roland, Youth Works Marie Bell, Task Force on Sex Offenses Against Children

097 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 3217 creates licensing program

for sex offender therapists.

115 VIRGINIA NEWTON, COORDINATOR, FAMILY SEXUAL ABUSE TREATMENT, CHILDREN'S SERVICES DIVISION: Submits and reviews written testimony in favor of

HB 3217. (EXHIBIT L)

173 ROXIE COOPER, TASK FORCE ON SEX CRIMES AGAINST CHILDREN: Submits and

reviews written testimony in favor of HB 3217. (EXHIBIT M)

208 CHAIR TIERNAN: Who licenses sex therapists?

COOPER: Believes there is licensure required.

CHAIR TIERNAN: Why set up a separate board?

COOPER: Professionals are having to be retrained to deal with deviancy. The bill calls for people with experience in the field.

231 CHAIR TIERNAN: How will the commission be funded?

COOPER: Fees will be assigned and it will be self-funded.

239 REP. BROWN: Most of the people who are treating sex offenders are clinical social workers, psychiatrists or psychologists?

COOPER: Not necessarily.

REP. BROWN: Confirms there are people who are not licensed counselors who are treating sex offenders and are allowed by judges and parole and probation officers. Wouldn't it be better to develop specialties in this area within the psychology and psychiatry and clinical social work field instead of establishing a whole new board?

COOPER: Only a few have that special knowledge and ability required to provide adequate treatment intervention.

277 REP. BROWN: What psychologists or psychiatrists served on the Task Force?

COOPER: Lists task force members.

292 DAINA VITOLINS, OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in favor of HB 3217.

332 MARILYN CALLAHAN, SEX OFFENDER THERAPIST: Testifies to HB 3217.

401 REP. BROWN: Asks Ms. Callahan for her educational background.

CALLAHAN: Has a bachelor's degree in clinical psychology and sociology and economics, a master's degree in social work, is a licensed clinical social worker, and is a board certified diplomate.

432 REP. BROWN: Do you know of anyone giving out sex offender treatment without qualification to do so?

CALLAHAN: No.

460 BOB ROLAND, DIRECTOR, OFFENDER TREATMENT SERVICES, YOUTH WORKS: Testifies to HB 3217.

TAPE 77, SIDE A

034 MARIE BELL, CHAIR, TASK FORCE ON SEX OFFENSES AGAINST CHILDREN: Testifies to HB 3217.

055 CHAIR TIERNAN: Do you think that the topic is so specialized and uniformity is important enough to justify setting up a separate board?

BELL: The board would bring the body of knowledge closer together.

063 REP. COURTNEY: There are people treating children for sex abuse who have no qualifications?

BELL: Not qualified to answer that.

067 REP. COURTNEY: Learned when serving on the first Task Force on Sex Offenses Against Children that there are more sex therapists between Seattle and Medford than any other place in the nation.

BELL: Having a body continually looking at the issue would be beneficial to Oregon.

REP. COURTNEY: There is also the question "is there such a thing as a successful treatment program?"

BELL: That is a question they need to be asking.

078 CHAIR TIERNAN: Adjourns meeting at 5:25 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Summary of issues on HB 2759 - Committee Counsel - 4 pages B - Proposed amendments to HB 2759 - 3 pages C - Statutes relating to HB 3219 - Committee Counsel - 9 pages D - Testimony on HB 3219 - Task Force on Sex Offenses Against Children (TFSOAC) - 2 pages E - Testimony on HB 3219 - TFSOAC - 1 page F - Proposed amendments to HB 3219 - TFSOAC - 1 page G - Testimony on HB 3219 - TFSOAC - 73 pages H - Testimony on HB 3219 - TFSOAC - 1 page I - Testimony on HB 3219 - Children's Services Division - 1 page J - Testimony on HB 3219 - Oregon Medical Association - 1 page K - Testimony on HB 3220 - Oregon State Police - 4 pages L - Testimony on HB 3217 - Children's Services Division - 2 pages M - Testimony on HB 3217 - TFSOAC - 1 page