

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

April 22, 1993 Hearing Room H-170 3:00 p.m. Tapes 86 - 87

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

STAFF PRESENT: Julie Nolta, Committee Clerk Carole Souvenir, Committee Counsel

MEASURES CONSIDERED: HB 2368 - Relating to abuse of corpse HB 2518 - Relating to criminal mischief

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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 86, SIDE A

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

HB 2368 - PUBLIC HEARING

(HB 2368 creates a crime for abuse of corpse in the first degree punishable by a maximum of ten years imprisonment, \$100,000 fine or both.)

Witnesses: Officer Gary Fisher, Salem Police Department Rep. Kevin Mannix, District 32 Dan Callaghan, Belcrest Memorial Park Assoc. Karylinn Huntting-Echols, Marion Co. District Attorneys Office Dale Penn, Marion Co. District Attorney Lucinda Potter, State Mortuary and Cemetery Board

016 OFFICER GARY FISHER, SALEM POLICE DEPARTMENT: Testifies in favor of HB 2368.

091 REP. KEVIN MANNIX, DISTRICT 32: Testifies in favor of HB 2368.

142 REP. TARNO: Asks Officer Fisher if sexual intercourse with a corpse is not unique.

FISHER: This is the first I have investigated.

149 REP. TARNO: Asks Rep. Mannix for the difference between second degree rape, which is a Class B felony, and sexual activity with a

corpse.

REP. MANNIX: Explains the reason for the distinction. The immediate victim has means of escape. There is a heightened emotional effect on family members of the abused dead person. Need strong community sanctions on this crime of opportunity.

195 DAN CALLAGHAN, BOARD MEMBER, BELCREST MEMORIAL PARK ASSOCIATION: Submits and reviews written testimony in favor of HB 2368. (EXHIBIT A)

220 REP. TARNO: Asks Mr. Callaghan how long the corpses had been interred.

CALLAGHAN: One was 2-4 years. One was eight months, one was several years.

237 KARYLINN HUNTTING-ECHOLS, DIRECTOR, VICTIM ASSISTANCE PROGRAM, MARION

COUNTY DISTRICT ATTORNEY'S OFFICE: Submits and reviews written testimony in favor of HB 2368. (EXHIBIT B)

373 REP. TARNO: As a victims witness assistance officer, could you use state funds to help restore the burial site?

ECHOLS: Crime Victims Compensation funds would be available for funeral expenses.

REP. TARNO: Isn't also part of your job to deal with the trauma of the family?

ECHOLS: Yes.

389 DALE PENN, MARION CO. DISTRICT ATTORNEY: Testifies in favor of HB 236 8.

465 REP. BROWN: Were the offenders prosecuted under Crime of Abuse in the first degree?

PENN: Yes. The bill creates a new first degree offense.

REP. BROWN: Were there any other charges brought against them?

PENN: Only misdemeanor charges.

491 REP. TARNO: Asks how old the suspects were and if there were any prior convictions.

PENN: Early twenties. No prior convictions along these lines, but minimal theft activity.

TAPE 87, SIDE A

036 LUCINDA POTTER, STATE MORTUARY AND CEMETERY BOARD: Submits and reviews written testimony in favor of HB 2368. (EXHIBIT C)

(HB 2518 expands the definition of "medical facility" under the criminal mischief statute to include a licensed physician's office or anywhere a licensed medical practitioner provides health care services.)

Witnesses: Rep. Kate Brown, District 13 Sgt. Dennis Cheney, Portland Police Bureau Jim Carlson, Oregon Medical Association Dr. James Cross, Oregon Medical Association Dr. Mark Nichols, Oregon Health Sciences University, Planned Parenthood Dr. Willard Brown Fred Avera, Oregon District Attorneys Association

058 REP. KATE BROWN, DISTRICT 13: Testifies in favor of HB 2518.

088 CAROLE SOUVENIR, COMMITTEE COUNSEL: Refers to ORS 18.550 (EXHIBIT D)

095 SGT. DENNIS CHENEY, PORTLAND POLICE DEPARTMENT: Testifies in favor of HB 2518.

140 REP. TARNO: Asks Sgt. Cheney what the charges would be for blockading a medical facility.

CHENEY: Criminal trespass which is a cite and release charge.

REP. TARNO: This bill would address damage done to property?

CHENEY: Doesn't know.

162 JIM CARLSON, OREGON MEDICAL ASSOCIATION: Testifies in favor of HB 251 8.

187 DR. JAMES CROSS, PRESIDENT, OREGON MEDICAL ASSOCIATION: Submits and reviews written testimony in favor of HB 2518. (EXHIBIT E)

246 DR. MARK NICHOLS, OREGON HEALTH SCIENCES UNIVERSITY, PLANNED PARENTHOOD: Submits and reviews written testimony in favor of HB 2518. (EXHIBIT F)

312 DR. WILLARD BROWN: Testifies in favor of HB 2518.

393 REP. BROWN: Asks Dr. Brown to relay incidents where people can't get in or out of his clinic. WILLARD: Describes the one blockade at his clinic.

426 FRED AVERA, POLK CO. DISTRICT ATTORNEY; OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies to HB 2518. ODAA takes no position on the bill.

494 CHAIR TIERNAN: Isn't it unlawful to block an entrance to any business or public facility?

TAPE 86, SIDE B

035 AVERA: The problem is finding the statute that covers it. It will probably be criminal trespass and disorderly conduct.

CHAIR TIERNAN: Refers to picketers and strikers who block the employers entrance. This proposal makes it more serious than Criminal Trespass II?

AVERA: Makes it a Class C felony as Criminal Mischief in the first

degree.

045 CHAIR TIERNAN: That is what the existing law is now for hospitals?

054 AVERA: Correct.

054 REP. BROWN: There are other services and utilities covered in this statute, correct?

AVERA: Currently it covers public utilities, telecommunication utilities, railroads, public transportation and medical facilities as currently defined. If you damage property or blockade or obstruct the service of those facilities, it is currently a felony.

066 REP. BROWN: Has there been an escalation of violence at grocery stores or businesses or non-public buildings within the last year in Oregon?

AVERA: Nothing in Polk Co. that would come under the bill. Is not aware of similar situations at other types of businesses other than medical facilities.

076 CHAIR TIERNAN: It does vary and there have been killings in the last

two years.

HB 2518 - WORK SESSION

083 REP. TARNO: Has no problem with this bill.

085 MOTION: REP. BROWN: Moves HB 2518 TO FULL COMMITTEE with a DO PASS recommendation.

088 CAROLE SOUVENIR, COMMITTEE COUNSEL: Refers to line 25 of the bill regarding "a licensed medical practitioner" and who would be included under that language. ORS 18.550 lists health practitioners. Does the

committee want to adopt everyone in that statute or leave it as is which is unclear?

REP. BROWN: Would make sense to adopt a definition set forth in "licensed health practitioner" as defined in ORS 18.550.

105 CHAIR TIERNAN: The list seems broad. "Licensed medical practitioner" is fairly straightforward.

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

124 CAROLE SOUVENIR, COMMITTEE COUNSEL: Page 1, line 18 of the bill uses

the word "strikes." And Rep. Courtney raised the issue of cadaver labs.

REP. COURTNEY: Discusses the cadaver lab at Western Oregon State College. Wants to make sure that those who have access to that lab aren't included in this bill.

153 CHAIR TIERNAN: Could add language excluding those situations where medical science is involved.

REP. COURTNEY: The bill now excludes them. Wants to make sure that even if they are excluded, if someone were to take advantage of that exclusion and abuse the cadaver...

164 CAROLE SOUVENIR, COMMITTEE COUNSEL: Reads definition of abuse of corpse under subsection 3, line 11, page 1 of the bill, which includes "professional capacity."

REP. COURTNEY: These kind of cadavers would be much more accessible to abuse than those in a graveyard.

204 REP. BROWN: Subsection 3 of Section 1 should apply to both Sections 1 and 2 and that having sex with a corpse is not generally accepted standards.

209 REP. TARNO: This would also include autopsies then.

225 CAROLE SOUVENIR, COMMITTEE COUNSEL: Suggests a conceptual amendment in case Legislative Counsel deems it necessary to make sure that subsection 3 of Section 1 applies to both Section 1 and 2.

230 MOTION: REP. COURTNEY: Moves to ADOPT A CONCEPTUAL AMENDMENT TO HB 2368 that subsection 3 of Section 1 applies to both Section 1 and 2.

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

241 MOTION: REP. COURTNEY: Moves HB 2368 AS CONCEPTUALLY AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

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

282 CHAIR TIERNAN: Adjourns meeting at 4:20 p.m.

Submitted by:

Reviewed by:

Julie Nolta

Anne May Committee Clerk

Committee Coordinator

EXHIBIT LOG:

A - Testimony on HB 2368 - Belcrest Memorial Park Assoc. - 1 page B -
Testimony on HB 2368 - Marion Co. District Attorney - 1 page C -
Testimony on HB 2368 - Oregon State Mortuary and Cemetery Board - 1 page
D - Current statutes relating to HB 2518 - Committee Counsel - 3 pages
E - Testimony on HB 2518 - Oregon Medical Association - 2 pages F -
Testimony on HB 2518 - Planned Parenthood - 4 pages G - Testimony on HB
2518 - Portland Police Bureau - 1 page H - Testimony on HB 2518 -
Oregon Criminal Justice Council - 1 page