

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

April 28, 1993 Hearing Room 357 3:00 p.m. Tapes 90 - 91

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

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

MEASURES CONSIDERED: HB 2224 - Relating to crime HB 2759 - Relating to release of offenders HB 3219 - Relating to monetary obligations in criminal proceedings

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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 90, SIDE A

006 CHAIR TIERNAN: Calls meeting to order at 3:15 p.m.

HB 2224 - PUBLIC HEARING

Witnesses: Rep. Veral Tarno, District 48 Russ Spencer, Oregon State Sheriffs Association Bob Keyser, Oregon Council of Police Associations Bill Cross, Oregon Association of Chiefs of Police

023 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2224 creates new offenses of unlawful impersonation of a peace officer if the person uses false law

enforcement identification in the commission of an offense and unlawful possession of a false law enforcement identification card. There are -2 amendments (EXHIBIT A) and relevant statutes provided. (EXHIBIT B)

029 REP. VERAL TARNO, DISTRICT 48: Submits and reviews written testimony in favor of HB 2224. (EXHIBIT C) 076 REP. BROWN: Concerned about people dressing up as police officers in

Halloween costumes.

REP. TARNO: No, relates to identification only. Does not address

possession of antique badges either.

094 REP. TIERNAN: Most federal government employees are provided with identification. What is the difference between those people misusing their identification and what your bill proposes?

REP. TARNO: Many of them are law enforcement.

REP. TIERNAN: Refers to federal workers who are issued identification who may be misrepresenting themselves as law enforcement.

125 REP. TARNO: This goes to false identification and the proof of the issue.

REP. TIERNAN: How many people have asked to see your identification?

REP. TARNO: Many.

136 REP. TIERNAN: What is the difference between someone with legitimate, official looking identification who is representing it to be police and your proposed bill?

139 RUSS SPENCER, OREGON STATE SHERIFFS ASSOCIATION: The bill addresses possession of false identification. The circumstances you describe are impersonation of a police officer. The crime would not pertain to the

identification per se but to the fact that the person represented himself as being a police officer.

CHAIR TIERNAN: If that is already a crime, why wouldn't it cover this bill?

SPENCER: Because if the person has in his possession false identification but has not said "I am a police officer" he has not committed the crime of impersonation. There is no current law that covers the possession of false identification.

150 REP. TARNO: It is also possession of that ID and then using it in the commission of a crime.

REP. TIERNAN: So we have possession and possession and use? Is mere possession a felony?

REP. TARNO: Class A misdemeanor. And possession and use is a Class C felony.

154 REP. TIERNAN: If I was not a police officer but took my federal ID and represented myself as a police officer that would be neither one of these but a separate crime of impersonating a police officer or attempting to.

161 BOB KEYSER, OREGON COUNCIL OF POLICE ASSOCIATIONS: Reads from Section 1 of the -2 amendments which defines false ID and explains.

181 REP. BROWN: The bill is drafted too narrowly to address the situation. You need both the fact that you're false impersonating and

carrying false ID for it to be a felony. We need to expand it so that you don't need to carry false ID but are simply impersonating in order to be considered a Class C felony.

194 REP. TIERNAN: We need to broaden it to cover a bigger problem of truthful identification in a wrong manner.

201 BILL CROSS, OREGON ASSOCIATION OF CHIEFS OF POLICE: Submits and reviews written testimony in favor of HB 2224. (EXHIBIT D)

224 REP. TIERNAN: If I use some company's official ID and impersonate a police officer, why shouldn't that be elevated to a felony?

HOLLY ROBINSON, COMMITTEE COUNSEL: Reads from the bill regarding criminal impersonation by a public servant. Sections 1 and 2 are new law. Section 3 elevates the current criminal impersonation piece.

245 REP. COURTNEY: Not sure the bill addresses the selling of police paraphernalia. Why didn't Legislative Counsel include "badge" in Section 2?

282 REP. TARNO: There were concerns about possession of antique badges.

Most agencies, when authorizing a new employee to go to a law enforcement outlet, send a letter on letterhead. Most agencies issue badges themselves.

REP. TIERNAN: Aware that you can buy anything relating to law enforcement by mail order.

SPENCER: That is somewhat true. Explains procedure for ordering by mail order.

336 REP. TIERNAN: What about off-duty officers misusing their authority?

SPENCER: Under Oregon law you are a peace officer at all times. If you abuse that authority, you are subject to criminal provisions and internal departmental discipline.

364 KEYSER: Departments have off-duty policies which can require disciplinary action.

373 HOLLY ROBINSON, COMMITTEE COUNSEL: The bill uses "law enforcement unit" which is more broad. "Agency" is the more narrow term. Which term does the committee wish to use?

REP. TARNO: Should use word "unit" because of the organizations who authorize the use of badges, etc. The intent is to prohibit anyone to use false ID.

HOLLY ROBINSON, COMMITTEE COUNSEL: The only thing that is not covered in this definition would be private security people.

421 SPENCER: We want to make sure there is no confusion about anyone impersonating any law enforcement officer who has authority to take

anyone into custody.

CROSS: The fiscal impact is limited in terms of cases involved.

479 REP. TIERNAN: Is it a crime to pull someone over if impersonating a police car?

REP. TARNO: Not other than current statute.

CROSS: That would be impersonation of a public servant under the current law. Because you aren't using false ID, it wouldn't meet the test of the higher proposed penalty.

SPENCER: Believes there is relevant traffic law.

TAPE 91, SIDE A

030 HOLLY ROBINSON, COMMITTEE COUNSEL: Disagrees with Mr. Cross because you are not necessarily obtaining a benefit, injuring or defrauding another person. There is a criminal traffic code provision that deals with the use of lights.

HB 2224 - WORK SESSION

040 REP. TARNO: Would like to pass the bill out.

042 MOTION: REP. COURTNEY: Moves to ADOPT HB 2224-2 AMENDMENTS.

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

CHAIR TIERNAN: Rep. Courtney suggested inserting "or badge" after "card" in Section 1.

REP. BROWN: Would have a problem amending it to include "badge" for the reason of the collecting of antique badges.

051 REP. TARNO: Legislative Counsel expressed that concern when drafting

the bill. But a badge stands out to kids.

REP. BROWN: This would make it a crime to carry it, not the impersonation. It is okay for the Class C felony because of the two elements of carrying and impersonating.

058 HOLLY ROBINSON, COMMITTEE COUNSEL: Can "antique badge" be defined to be excluded from the bill?

069 REP. TARNO: A normal individual would not carry an antique badge in their billfold.

HOLLY ROBINSON, COMMITTEE COUNSEL: Do antique badges have a name on them?

REP. TARNO: It would have the original owner's name.

075 HOLLY ROBINSON, COMMITTEE COUNSEL: Then it wouldn't qualify under the section.

REP. TARNO: Agrees. Thinks we should make a motion to amend.

083 SPENCER: Some agencies do identify with a number. Some don't. Some

purchase personalized badges. We agree with the intent but are not sure how to leave the innocent people out.

097 REP. TIERNAN: Asks hypothetical question regarding possession of a badge.

SPENCER: Couldn't arrest on possession alone.

REP. TIERNAN: If there was a photo with the false badge, then it would trigger the statute?

SPENCER: Yes.

111 REP. COURTNEY: If someone possesses a badge, he better not use it or he will be nailed with a Class C felony which is sufficient in Section 1.

124 KEYSER: Section 2 discusses possession of false ID cards. Possession of a badge is not a crime, but use of it is.

REP. TIERNAN: Showing a badge in a playground situation just to talk is not a crime.

REP. BROWN: That would be impersonating.

141 HOLLY ROBINSON, COMMITTEE COUNSEL: No. If you are just talking without malicious intent then you haven't broken any laws.

SPENCER: What about language "displaying a badge with the intent to convey authority?"

REP. TIERNAN: Suggests "attempting to impersonate or represent themselves as a police officer."

SPENCER: Suggests "verbally or physically identifies themselves."

163 REP. BROWN: Maybe Section 1 is too narrowly drawn and the badge doesn't necessarily want to identify that person as a member of the law enforcement unit.

REP. COURTNEY: It says "false law enforcement identification" and it doesn't say "badge."

173 HOLLY ROBINSON, COMMITTEE COUNSEL: It makes it narrow because you have to actually use the false impression as the first act in a criminal episode. REP. BROWN: The bill doesn't cover Rep. Tiernan's comment about someone who says they are a police officer and then does nothing else.

185 SPENCER: If he says he's a police officer he's crossed that line. If he shows the badge...

REP. BROWN: Then he would be impersonating a police officer?

HOLLY ROBINSON, COMMITTEE COUNSEL: No. There is no benefit, defrauding or injuring.

REP. BROWN: We don't want that to be a crime.

199 MOTION: REP. TARNO: Moves HB 2224 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

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

HB 2759 - WORK SESSION

Witnesses: Joanne Fuller, Department of Corrections

218 HOLLY ROBINSON, COMMITTEE COUNSEL: HB 2759 requires that the agency responsible for supervising sex offenders who have a prior criminal history and a history of predatory behavior notify the local community

that the offender is residing in the community. There are -3 amendments (EXHIBIT E), a section by section analysis of the bill (EXHIBIT F), -2 amendments (EXHIBIT G), and "soon to be -4 amendments" (EXHIBIT H). There is a fiscal impact.

235 REP. TIERNAN: Asks about the fiscal impact.

HOLLY ROBINSON, COMMITTEE COUNSEL: Based on the -3 amendments, the Department of Corrections has made two assumptions: 1) in the course of the biennium there would be 1500 offenders in the first run, and 2) an

average notification would be approximately 40 hours. Assumes that offenders would only move once.

272 CHAIR TIERNAN: What is the number of full time employees?

HOLLY ROBINSON, COMMITTEE COUNSEL: 1500 offenders multiplied by 40 hours equals 21 full time employees.

289 REP. TARNO: Questions the figures. How much is this per notification?

HOLLY ROBINSON, COMMITTEE COUNSEL: Whatever the hourly rate is. 295

REP. TIERNAN: Every ten employees cost a million dollars.

REP. TARNO: Questions the need for 21 employees.

302 REP. TIERNAN: The principal is notification. Some notification is better than none at all. Proposal of newspaper notification is easy and economical. There has to be a middle ground.

REP. COURTNEY: Wants the bill to pass. Notification is supported by protection of society and the deterrence factor. We have caseload ramification. Wants some kind of notification even if there is only \$500,000 appropriated.

346 REP. TARNO: Agrees. Legislation will have to be enacted to

protect society because Corrections isn't the answer.

REP. COURTNEY: Discusses State of Washington sex offender laws. Parole and probation officers are supportive of notification.

384 REP. TIERNAN: Believes this helps the officers do their job. We can

still get the job done without hiring more people.

397 REP. BROWN: The Department of Corrections is in support of this bill.

HOLLY ROBINSON, COMMITTEE COUNSEL: Twenty parole officers in the state isn't even one per county.

406 REP. BROWN: Offenders move regularly so we will have to renotify.

REP. TARNO: The offenders are already a parole client.

REP. BROWN: But the officers have to notify each time.

REP. TARNO: Why does it take additional employees to do that?

REP. BROWN: Because they already have double case loads.

425 REP. TIERNAN: If a parole officer wanted to do more notification in order to better do their job, they wouldn't be able to do it without this legislation?

HOLLY ROBINSON, COMMITTEE COUNSEL: They can do a certain amount now at their discretion. The bill requires them to do it and absolves them of liability.

449 REP. TIERNAN: Can we pass this out saying there are no full time employees added?

HOLLY ROBINSON, COMMITTEE COUNSEL: Has seen it done but it is difficult.

REP. COURTNEY: It has been done by stating "within existing revenues." Department of Corrections and Parole Board won't want to do that which will make it difficult.

TAPE 90, SIDE B

034 HOLLY ROBINSON, COMMITTEE COUNSEL: There has been discussion on whether newspaper notification is going to be less expensive. Most of the officer's time is spent responding to community concerns after the notification.

059 REP. COURTNEY: What process does Washington use to notify?

HOLLY ROBINSON, COMMITTEE COUNSEL: Very discretionary on the part of local jurisdictions. Doesn't know about the actual process.

074 REP. TIERNAN: Right now, how do I find out if there is a sex offender in my neighborhood?

FAYE FAGEL: If the person was on supervision, you could call any probation and parole office for information.

CHAIR TIERNAN: Do people know this?

FAGEL: We do get these types of calls but not sure if the general public is aware.

091 REP. TIERNAN: What about an 800 number? How do we get this streamlined?

104 JOANNE FULLER, DEPT. OF CORRECTIONS: The department supports notification. Discusses problems of notification. This is costly because of time and people involved in informing the public. The department wants something similar to Washington's discretionary notification. Would be less of a fiscal impact.

144 REP. TIERNAN: Right now there is no notification and wants to come up with something to protect the public.

FULLER: The state police are currently responsible for registration.

It does not allow them to respond to phone calls. You could change sex offender registration law so the state police could answer the public's questions.

170 REP. TARNO: Any law enforcement agency can access the sex offender registration through the Law Enforcement Data System (LEDS).

REP. BROWN: We are not notifying victims but are discussing notifying the public en masse.

HOLLY ROBINSON, COMMITTEE COUNSEL: Victims are notified under another statute and situation.

193 REP. COURTNEY: People will be opposed to the bill because it costs too much, you are harassing someone. Wants to be able to move the bill.

221 HOLLY ROBINSON, COMMITTEE COUNSEL: Comparing this issue to victim notification is unfair because they can be involved from the beginning

of the process if they choose. There are constitutional privacy problems when information is thrown up for a generic purpose. When the purpose is law enforcement and prevention within a small confine, it is constitutionally defensible.

247 REP. BROWN: Victims get notice if they take the initiative to get involved. Neighbors can get information from the probation office. There is a different public safety issue from victim notification and community notification.

265 REP. COURTNEY: Willing to look at the victim's situation. There are

3,000 registered sex offenders and 1,500 are dangerous enough to be

covered by notification.

REP. BROWN: Agrees. But should use the \$2 million to create more prison beds or to increase the number of parole and probation officers so they are more directly supervised.

CHAIR TIERNAN: Passes the chair to Rep. Courtney.

HB 3219 - WORK SESSION

Witnesses: Kingsley Click, Deputy State Court Administrator Chris Gardner, Task Force on Sex Offenses Against Children Marie Bell, Task Force on Sex Offenses Against Children

302 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. There are -1 amendments (EXHIBIT K) and amendments proposed by the State Court Administrator's office. (EXHIBIT L, M, N) Raises the issue of who is to set the fee.

334 REP. BROWN: Asks about the brackets in Section 1 of the State Court Administrator's proposed amendments.

HOLLY ROBINSON, COMMITTEE COUNSEL: Section 1 will have to be deleted and the new language in Exhibit M will be inserted.

345 REP. BROWN: If we adopt these amendments, we are not taking money away from anyone who is currently getting money, correct?

HOLLY ROBINSON, COMMITTEE COUNSEL: Correct.

REP. BROWN: We are increasing the amount of assessment.

350 REP. TARNO: This simply adds additional fines to ...

HOLLY ROBINSON, COMMITTEE COUNSEL: There will be a new amount of \$8.00 added in. Do we fill in the blank in Section 1 or does Appropriations fill in the blank?

360 CHAIR COURTNEY: We leave them blank and send it to Appropriations. We just deal with the concept.

HOLLY ROBINSON, COMMITTEE COUNSEL: The amendments provided by the State Court Administrator's Office increases the fee by \$8.00.

385 KINGSLEY CLICK, DEPUTY STATE COURT ADMINISTRATOR: We put in \$8.00 because that was the figure needed to raise a certain amount. If you want to pass conceptual amendments, you can leave blanks. You would need to add Section 15 of Exhibit M.

409 CHAIR COURTNEY: In order for us to fill in the blanks, we would have to have a fiscal impact statement.

HOLLY ROBINSON, COMMITTEE COUNSEL: If the amount of money it generates is accurate. But Legislative Fiscal will rely on the State Court

Administrator's estimates.

418 CHAIR COURTNEY: We will take the State Court Administrator's recommendation. Appropriations has their own research done. We fill in based on information provided to us.

431 CHRIS GARDNER, VICE CHAIR, TASK FORCE ON SEX OFFENSES AGAINST CHILDREN: Brought in the \$8.00 figure so the committee would have a general idea

of the amount. Minimal impact on ability to pay and willingness to levy the assessment. Recommends amendments to read in Section 3, line 21: "shall distribute monies." Add "in the counties from which they were collected" after "agencies" in Section 3, line 22.

473 HOLLY ROBINSON, COMMITTEE COUNSEL: Asks Mr. Gardner why the other language is needed about CSD.

GARDNER: Doesn't want it to go into county general funds. We also have a reporting back requirement to assess effectiveness. Would also require an amendment in Section 3, line 24 to replace "monies" with "grant."

TAPE 91, SIDE B

042 CHAIR COURTNEY: Would like to talk with a representative from CSD in

light of the witness's recommendations. Where is the Child Abuse Multidisciplinary Intervention Account now?

GARDNER: There is no account. It would be created under this legislation. CSD has been involved in the drafting of this proposal and has been selected to administer the grant.

054 REP. TARNO: ORS 418.784 alludes to the Advisory Council on Child Abuse Assessment. Would that not be the agency for disseminating the funds?

GARDNER: They just fund assessment centers. They are included in an advisory capacity.

069 REP. TARNO: Why wouldn't the two be compatible?

GARDNER: The medical assessment component is specialized. The general expertise was not available to the broader committee.

073 CHAIR COURTNEY: Wants to make sure that players are in it together.

GARDNER: Wrote in the 5% administrative cost provision in subsection 4 on the advice of CSD.

094 REP. TARNO: Has there been dialogue with Juvenile Services Commission?

097 MARIE BELL, CHAIRMAN, TASK FORCE ON SEX OFFENSES AGAINST CHILDREN: They were brought in and were willing to be the lead agency.

Collective decision was to place the fund with CSD. They are not here because they know we have covered every base and are comfortable with our recommendation.

116 REP. TARNO: Takes issue because CSD's involvement with criminal cases has been a detriment many times, not an asset. Most areas in the state have a Juvenile Services Commission.

BELL: There is a difference between local CSD units and the Family Protection Unit of CSD at the state level. They have different responsibilities and assignments and are not case workers on a local level.

141 GARDNER: The reason for multidisciplinary intervention efforts is to

level out the playing ground so we don't have to depend on any one person or agency.

REP. TARNO: Concerned with duplication of effort on the part of law enforcement and children's agencies.

BELL: The spending of the money has to be determined by the local multidisciplinary team.

165 CHAIR COURTNEY: Refers to the State Court Administrator's HB 3219-1 amendments.

HOLLY ROBINSON, COMMITTEE COUNSEL: With additional amendments, any references to "grants" will be replaced by a reference to "distributing money." Can be conceptually amended.

174 MOTION: REP. BROWN: Moves to ADOPT THE CONCEPTUAL AMENDMENTS, AS STATED ABOVE BY COMMITTEE COUNSEL, TO THE STATE COURT ADMINISTRATOR'S HB 3219-1 AMENDMENTS dated April 22, 1993.

VOTE: Hearing no objections the amendments are ADOPTED. Rep. Tiernan is excused.

184 MOTION: REP. BROWN: Moves HB 3219 AS AMENDED TO FULL COMMITTEE with a DO PASS recommendation.

VOTE: 3-0 MOTION PASSES AYE: Brown, Courtney, Tarno, NO: None
EXCUSED: Tiernan

189 CHAIR COURTNEY: Adjourns meeting at 4:50 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to HB 2224 - 2 pages B - Statutes relating to HB 2224 - Committee Counsel - 1 page C - Testimony on HB 2224 - Rep. Veral Tarno - 1 page D - Testimony on HB 2224 - Oregon Association of Chiefs of Police - 3 pages E - Proposed amendments to HB 2759 - 4 pages F - Analysis of HB 2759-3 amendments - Committee Counsel - 2 pages G - Proposed amendments to HB 2759 - 1 page H - HB 2759-2/-4 amendments - 1 page I - Testimony on HB 2759 - Anonymous - 2 pages J - Testimony on HB 2759 - ACLU - 2 pages K - Proposed amendments to HB 3219 - 2 pages L - Proposed amendments to HB 3219 - State Court Administrator - 2 pages M - Proposed amendments to HB 3219 - State Court Administrator - 3 pages N - Testimony on HB 3219 - State Court Administrator - 1 page