

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.

HOUSE COMMITTEE ON JUDICIARY FAMILY JUSTICE

April 8, 1991Hearing Room 357 3:00 p.m.Tapes 84 - 85

MEMBERS PRESENT:Rep. Kelly Clark, Chair Rep. Judy Bauman Rep. Marie Bell Rep. Jim Edmunson Rep. Kevin Mannix Rep. Tom Mason Rep. Del Parks Rep. Ron Sunseri

MEMBER EXCUSED: Rep. Bauman

STAFF PRESENT: Holly Robinson, Committee Counsel Jeff Steve, Committee Assistant Holly Blanchard, Transcriber

MEASURES HEARD:HB 3522, WS HB 3524, WS HB 3521, WS

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TAPE 84, SIDE A

004 CHAIR CLARK: Opens Subcommittee on Family Justice at 3:25 p.m.

020 MOTION: REP. SUNSERI moves to suspend the rules to reconsider HB 3521.

There being no objection, HB 3521 is back before committee for consideration.

HB 3521 - WORK SESSION

025 HOLLY ROBINSON, COMMITTEE COUNSEL: Summarizes HB 3521, HB 3522 and HB 352 4.

064 MARLA RAE, DEPARTMENT OF JUSTICE: The Department of Justice initially had those two concepts--one, prior financial obligations, and second, the ex-felons. HB 3521 as drafted has the financial obligations. The dash 1 amendments concern the ex-felons and it's the Department's intention to discontinue that whole notion altogether due to other features we've suggested to be incorporated into HB 3521.

073 ROBINSON (EXHIBIT A): The dash 1 amendments, lines 1-4, clarifies

what the Department of Justice wanted. Suggest those amendments are readopted by the committee.

081 CHAIR CLARK: Moves lines 1-4 of the HB 3521 dash 1 amendments (EXHIBIT A).

089 There being no objection, they are adopted.

097 ROBINSON (EXHIBIT B): Refers to HB 3521-2 proposed amendments, dated 4/9/91, from the Department of Justice.

115 CHAIR CLARK: Names the Department of Justice proposed amendments the HB 352 1-3 amendments (EXHIBIT C).

122 RAE: Discusses reason for the Department of Justice having its own schedule rather than the Workers' Comp schedule. The dash 3 amendments would allow us to do a fee schedule by rule and give this program additional flexibility while not being locked into Workers' Comp medical fees in the event those are changed for whatever reason.

136 CHAIR CLARK: Would one reason for your own fee schedule be to have smaller fee schedules than those under Workers' Comp?

143 RAE: Wouldn't expect the Department would deviate substantially from those of the Workers' Comp system.

147 REP. MANNIX: Someone has to pay for the difference in costs for services.

157 RAE: Our average claim is \$3,000 and only a handful of claims have reached the limit.

169 REP. MANNIX: Why not just give you the authority to negotiate reduced billing for prompt payment? That's what the medical field really wants. Don't like fee schedules.

179 RAE: Our intention with this concept was to have a set fee schedule to minimize costs in the post-determination phrase.

188 REP. MASON: Why is your Department doing this?

192 RAE: We have a serious growth problem in the Crime Victims Compensation Program. The financial resources haven't kept up with the expansions to the program. Trying to find ways to help the financial side without reducing the beneficiaries--thus the federal funds.

201 REP. MASON: How do you save your money if the exclusion of felons is not in the bill?

204 RAE: Gives example of language in HB 3521 concerning prior convictions and monies owed to the state.

221 MOTION: REP. MANNIX moves the dash 3 amendments to HB 3521.

225 REP. PARKS: Wants clarification on the dash amendments.

268 ROBINSON: Suggests how the various dash amendments might be placed in HB 3521.

277 ROBINSON: Wants to resection the dash amendments for clarity

purposes.

282 MOTION: REP. MANNIX moves to conceptually simplify the dash 3 amendments.

There being no objection, the dash 3 amendments are adopted.

293 REP. MANNIX: What is the problem with the rest of the dash 1 amendments?

295 RAE: Discusses problems with felon applications and the 6- month deadline for crime victims compensation.

327 REP. MANNIX: Seems a distinction can be made for those who are and are not in custody. Those who are incarcerated provides a rational basis for not giving them victim compensation.

335 RAE: We don't get claims for incarcerated individuals so there's no problem narrowing the language.

348 REP. MANNIX: Suggests language.

352 GERRI FITZGERALD, PROGRAM DIRECTOR, CRIME VICTIMS PROGRAMS: That wouldn't make a big difference.

359 MOTION, REP. PARKS: Moves the reinsertion of lines 5-11 of the dash 1 amendments with the change that the phrase "custody" is changed to "incarceration" and a similar change is made wherever necessary.

369 REP. MANNIX: Suggests the language, "at the time of timely application"?

379 RAE: Reviews Rep. Parks' motion.

TAPE 85, SIDE A

001 REP. BELL: Are we making this harder on the spouses and families?

005 REP. MANNIX: Probably, but there are a lot of things that make it harder.

VOTE: 4-1

AYE: Mannix, Parks, Sunseri, Clark NO: Bell EXCUSED: Bauman, Mason

Motion passes and is adopted.

017 ROBINSON (EXHIBIT B): Discusses HB 3521-2 proposed amendments.

039 REP. MANNIX: Wants a change to the conceptual amendment concerning \$10,000 maximum for crime victim counseling to allow up to \$2,000 of that money going for family counseling.

049 ROBINSON: The current law is limited to child sex abuse cases.

051 FITZGERALD: That's accurate. The language today applies to child abuse for the child and family members, if they also need treatment.

055 REP. MANNIX: Do you have a preference in how to deal with this considering limited resources? Feel a stronger priority to the victim

than the family.

057 FITZGERALD: We agree and want to preserve the majority of the benefit for the victim and one-third for family counseling.

065 REP. MANNIX: How about changing it from "child sexual abuse" to "sexual abuse"?

067 FITZGERALD: Child sex abuse we do today, so your suggestion would expand the concept.

070 REP. MANNIX: Talking about opening the door to sex abuse counseling, generally.

076 CHAIR CLARK: Suggests looking at Rep. Mannix's proposed assessment increase. Argue against opening the door on this because of funding limitations.

093 MOTION: REP. MANNIX moves HB 3521 as amended to the Full Committee with a "do pass" recommendation.

Motion passes, Rep. Mannix to carry.

HB 3524 - WORK SESSION

106 HOLLY ROBINSON (EXHIBITS D & E): Summarizes HB 3524.

134 CHAIR CLARK: Names the Department of Justice proposed amendments as HB 352 4-2.

139 ROBINSON: Reviews the dash 1 amendments dated 4/8/91.

149 CHAIR CLARK: What happens if this isn't passed into law and the legislature is adjourned?

153 ROBINSON: The fiscal year begins July 1--with or without a budget.

158 MOTION, REP. MANNIX: Moves HB 3524-1 be adopted. The point of this is to increase the money in the Victims' Compensation Fund.

168 CHAIR CLARK: What happens if a person can't pay the \$50, for example, right now?

169 RAE: The judge has the authority to waive the assessment.

171 CHAIR CLARK: Does the judge have the authority to impose partial payment?

172 RAE: I believe so.

174 REP. PARKS: Would delete "or that the penalty would impose an undue hardship" on Page 1, lines 17-18. The person is either indigent or not.

185 CHAIR CLARK: What's the difference between finding someone to be indigent, or finding the penalty would impose an undue hardship?

188 TOM EWING, DEPARTMENT OF JUSTICE: The latter gives more flexibility to the judge who can also set a payment schedule monitored by the court.

194 REP. PARKS: "I have a bill that would eliminate this concept of

imposing an undue hardship." Go back to the indigency test. Want this to confirm to that goal. Indigency can't be grounds for revocation.

207 CHAIR CLARK: Is there an objection to the dash 1 amendments, raising the fees?

212 REP. MASON: Yes. (Tape inaudible.)

213 RAE: That was from the legislature.

216 REP. MASON: (Tape inaudible). . . victim's rights.

217 REP. MANNIX: There's language having to do with their right to appear and be heard but did not set any assessment on the perpetrator's of crime to raise money for the Victims' Compensation Fund.

221 ROBINSON: Does not see anything in the statutes dealing with compensation of crime victims.

226 REP. MASON: (Tape inaudible). Would say 80 percent of the people in the criminal justice system are indigent.

239 REP. MANNIX: Is the objection to raising the assessment on a program already out there?

241 REP. MASON: Don't think it will generate more money because these people have so little.

245 CHAIR CLARK: Theoretically, this amendment won't get less money for the program--maybe just not as much as hoped for.

253 REP. MASON: Can't remember one instance where the ceiling on the assessment was ever a barrier.

264 REP. PARKS: Nobody knows how much the counties are collecting. Think in Multnomah County they know because the parole officers collect the money.

268 REP. MANNIX: Half the money that goes back to any county that has a Victims Assistance Program, so someone's paying attention. Your Department raised \$3.5 million?

273 FITZGERALD: We average about \$175,000 per month statewide--just over \$2 million a year.

276 REP. MANNIX: So this would just raise the roof.

280 REP. PARKS: Refers to HB 3524-1, Section 2(1) concerning a \$20 penalty assessment.

286 ROBINSON: Subsection (2), lines 19 and 20, applies to violation offenses as opposed to criminal offenses.

293 REP. MASON: Offers a friendly amendment to Rep. Mannix's motion to change the violation assessment from \$20 to \$50.

There being no objection, the amendments are adopted.

337 MOTION: REP. PARKS moves to delete the language in HB 3524-1, Page 1, on lines 17 and 18 for that the penalty would impose an undue

hardship.

364 REP. MASON: Irony is that of the 80 percent of the people who are indigent, 90 percent of them are paying this. If indigency is used, it will hit this fund with a vengeance. Need to go beyond indigency.

368 REP. PARKS: What is beyond indigency?

374 CHAIR CLARK: It's not just enough for the court to find that the defendant is indigent. The judge must also find imposition of the assessment would create a hardship. Suggests the word "or" be changed to "and" on line 17.

376 MOTION: REP. PARKS moves to change the word "or" to "and" on line 17 of the dash 1 amendments.

There being no objection, the amendment is adopted.

389 MOTION: REP. MANNIX moves the HB 3524-2 amendments (Department of Justice dated 4/4/91).

There being no objection, the dash 2 amendments are adopted.

397 REP. MANNIX: Discusses proposed amendments to HB 3521 which were dash 2 amendments concerning counseling expenses. Would like to blend these into HB 3524 as a conceptual amendment.

TAPE 84, SIDE B

008 ROBINSON: Proposes to follow through with "and further including . . ."

014 REP. MANNIX: Didn't put this in another bill because it's an effort to tighten up the system. Will have to go through Ways and Means.

025 ROBINSON: Family covered under current law.

031 RAE: Is it possible to consider a sunset (pilot project) for the family counseling benefits part of HB 3524? There's some concern that the family may use the money for the family rather than the child victim. Nervous about signing off on it before trying it for awhile.

037 MOTION: REP. MANNIX moves for a two-year sunset on this provision.

039 CHAIR CLARK: Calls HB 3521-2 to HB 3524-4.

There being no objection, HB 3524-4 is adopted.

043 MOTION: REP. MANNIX moves HB 3524-4 as amended to the Full Committee with a "do pass" recommendation.

VOTE: 6-0

AYE: Bell, Edmunson, Mannix, Mason, Sunseri, Clark NO: None EXCUSED: Bauman, Parks

Motion passes, Rep. Mason to carry.

056 CHAIR CLARK: Adjourns Subcommittee on Family Justice at 4:15 p.m.

Submitted by:

Reviewed by:

Holly Blanchard
Manager

David Harrell Transcriber

Office

EXHIBIT LOG:

A - Proposed Amendments, HB 3521-1, dated 4/2/91, Committee Counsel, 1 page
B - Proposed Amendments, HB 3521-2, dated 4/9/91, Committee Counsel, 2 pages
C - Proposed Amendments, HB 3521-3, dated 4/8/91, Committee Counsel, 1 page (Department of Justice)
D - Proposed Amendments, HB 3524-1, dated 4/8/91, Committee Counsel, 4 pages
E - Proposed Amendments, HB 3524-2, dated 4/8/91, Dept. of Justice, 1 page