

HOUSE COMMITTEE ON JUDICIARY

March 29, 1991 Hearing Room 357 1:00 p.m. Tapes 31 - 32 MEMBERS
PRESENT: Rep. Randy Miller, Chair Rep. Tom Mason, Vice Chair Rep. Ray
Baum Rep. Judith Bauman Rep. Marie Bell Rep. Tom Brian Rep. Kelly Clark
Rep. Jim Edmunson Rep. Rod Johnson Rep. Kevin Mannix Rep. Del Parks Rep.
Ron Sunseri

STAFF PRESENT: Greg Chaimov, Committee Counsel Holly Robinson,
Committee Counsel Kathy Neely, Committee Assistant MEASURES
CONSIDERED: HB 2586 WS (Dependency Evaluation) HB 2027 WS (Civil
Forfeiture) HB 2125 WS (Escrow Closer) HB 2733 WS (Sunset Forfeiture
Law) HB 2018 WS (Modifies 3rd Degree Assault) SB 371 WS (State Board of
Parole) HB 2200 WS (Disposal of Seized Property) HB 2623 WS
(Recriminalizes Marijuana Possession) HB 2594 WS (Vaccine Related
Injuries) HB 2662 WS (Foreign Restraining Order) SB 395 WS (Judgments)
HB 3197 WS (Extends 3rd Degree Assault) HB 3299 WS (Mobile Tracking
Device) HB 2493 WS (Prohibits use of Tobacco on School Property)

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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.

TAPE 319 SIDE A 003 CHAIR MILLER: Calls the meeting to order at 1:36
p.m. Discusses agenda. Questions 2493 WORK SESSION HB 2493

020 HOLLY ROBINSON: Prohibits use of tobacco on school property.
Education committee has requested the bill.

027 MOTION: REP. BRIAN: Moves HB 2493 be referred to the Education
Committee. CHAIR MILLER: Rep. Brian moves HB 2493 be referred to the
Education Committee. Hearing no objections, so ordered. House Committee
on Judiciary March 29, 1991 - Page 2

HB 2586 - WORK SESSION

033 GREG CHAIMOV: Recognizes that many crimes are committed by
alcohol or drug dependent people. Makes treatment mandatory and
authorizes courts to evaluate all criminals for dependence and then
subject to availability of funds provide treatment. Discusses fiscal
impact. (AMENDMENTS - EXHIBIT A) 042 REP. CLARK: Comments on the
fiscal impact. GREG CHAIMOV: Fiscal impact with the adoption of the new
amendments has not been prepared. 054 REP. BAUMAN: Comments on fiscal
responsibility of the committee. Asks why there is no referral to Ways
and Means. 062 REP. MANNIX: It is because the committee took out a
requirement in the law and simply authorized if they have the resources
the court can do it. The original bill mandated it. 070 REP. CLARK:
This would be out of existing funds. MOTION: REP. MANNIX: Moves the HB
2586-1 amendments to the bill. REP. CLARK: Rep. Mannix moves the
amendments. Hearing no objections, so adopted. MOTION: REP. MANNIX:
Moves HB 2586 as amended to the House with a do pass recommendation.
REP. CLARK: Rep. Mannix moves HB 2586 as amended to the House with a do
pass recommendation. 081 REP. BAUMAN: Realize this is not a mandate
but a recommendation, but have not heard from counties to say they have
extra money for something like this. Do courts need authorization to do
this? GREG CHAIMOV: As a term of probation, yes. REP. BRIAN: But not a
sentence other than probation? 098 GREG CHAIMOV: Yes.

HOLLY ROBINSON: Once person is incarcerated, authority to order person

into treatment shifts to the Dept. of Corrections.

105 REP. BAUMAN: This means a judge will have authority to order treatment of convicted criminals for evaluation and subsequent treatment if there is money available. Does this give judges the power to allocate money? The issue is not with the substance of treatment drug dependent criminals but with allocation of scarce resources throughout the system.

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125 REP. MANNIX: This bill puts this option in front of the judge.

144 REP. BAUMAN: This will probably be used to collect data on how inefficient the response treatment is.

154 REP. CLARK: Has no problem with giving the court that authority.

165 REP. EDMUNSON: Will vote for the bill.

CHAIR MILLER: Calls for the vote.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED:

CHAIR MILLER: HB 2586 as amended is passed to the House. Rep. Bauman will carry.

(Tape 31, Side A) HB 2027 - WORK SESSION

188 GREG CHAIMOV: This is a forfeiture bill. This bill would protect owners who tried but failed to stop drug activity on property and allows for them to get property back by proving they took reasonable steps to stop the known drug activity. Discusses the amendments (EXHIBIT B).

205 MOTION: REP. CLARK: Moves the HB 2027-1 amendments (EXHIBIT B).

CHAIR MILLER: Rep. Clark moves the amendments. Hearing no objection, they are so adopted.

209 MOTION: REP. CLARK: Moves HB 2027 as amended to the House floor with a do pass recommendation. CHAIR MILLER: Rep. Clark moves HB 2027 to the House. VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED: CHAIR MILLER: HB 2027 as amended is passed to the House. Rep. Edmunson will carry.

(Tape 31, Side A) HB - 2125 WORK SESSION 222 GREG CHAIMOV: HB 2125 is brought in the wake of two escrow company failures. This bill . 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 March 29, 1991 - Page 4

expands ability of a real estate agency to regulate the escrow industry. Discusses the amendments (EXHIBIT C).

232 MOTION: REP. BRIAN: Moves the HB 2125-2 amendments.

CHAIR MILLER: Rep. Brian moves the amendments.

236 GREG CHAIMOV: Discusses the blank space in the amendments. It appears in a form.

247 REP. BRIAN: Asks if the \$200,000 cap was restored by the amendments.

GREG CHAIMOV: Yes.

253 CHAIR MILLER: Hearing no objections to the motion, so adopted.

257 MOTION: REP. BRIAN: Moves HB 2125 as amended to the House with a do pass recommendation.

CHAIR MILLER: Rep. Brian moves HB 2125 as amended to the House with a do pass recommendation.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason? Parks, Sunseri, Miller NO: 0 EXCUSED:

CHAIR MILLER: HB 2125 as amended is passed to the House. Rep. Brian will carry.

(Tape 31, Side A) HB 2733 - WORK SESSION

270 GREG CHAIMOV: HB 2733 would have repealed the sunset on civil forfeiture law. This extends that sunset to the end of 1995. The subcommittee adopted the amendments. 300MOTION: REP. EDMUNSON: Moves HB 2733 to the House floor.

CHAIR MILLER: Rep. Edmunson moves HB 2733 to the House.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED:

(Tape 31, Side A) HB 2018 - WORK SESSION

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318 HOLLY ROBINSON: Adds to the crime of assault in the 3rd degree, a class C felony, by adding that person can be aided by another person in causing the injury. Discusses enhanced penalties. (AMENDMENTS ARE EXHIBIT D). 330 MOTION: REP. MANNIX: Moves the HB 2018-1 amendments.

CHAIR MILLER: Rep. Mannix moves the amendments. Hearing no objection, so adopted.

MOTION: REP. MANNIX: Moves HB 2018 as amended to the House floor with a do pass recommendation.

CHAIR MILLER: Rep. Mannix moves HB 2018 as amended to the House.

340 REP. BAUMAN: Comments on the degree of assault being based upon the injury and not the factors of the assailant.

371 REP. MANNIX: Disagrees and responds there are instances where looking to identity of perpetrator is factor. Offense is elevated with use of weapon. 399 REP. BAUMAN: Discusses the fiscal impact statement. There will be an additional need for prison space and an additional need placed on the indigent defense account. 416 REP. MANNIX: Believes there would be no difference in the defense cost but one in the terms of jail space. It will get plugged into the sentencing matrix.

TAPE 32, SIDE A

017 REP. JOHNSON: Primary intent were the "gangs". Comments on testimony in favor of the bill regarding gang offenses and necessary to get at the "grouping effect".

022 REP. MASON: Comments on the fact that when this is added to the matrix, an already incarcerated inmate may be pushed out of the matrix and released. *Would this class C felony come under the misdemeanor treatment?

032 HOLLY ROBINSON: In terms of subsequent sentencing, yes.

REP. BAUM: Every C felony is subject but not required. This will be a selective law enforcement tool mainly in Portland. 054 REP. SUNSERI: Calls for the question.

CHAIR MILLER: Question has been called for on HB 2018 as amended.

VOTE: 11-1 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Parks, Sunseri, Miller NO: Mason EXCUSED: ~ . }Iouse Comm ittee on Judiciary March 29, 1991 - Page 6

071 CHAIR MILLER: HB 2018 as amended is passed to the House.

(Tape 32, Side A) SB 371 - WORK SESSION

074 HOLLY ROBINSON: Discusses current ability of the Board of Parole. This bill extends the authority over people in post-prison supervision as those on parole. This has an emergency clause. 081 MOTION: REP. MANNIX: Moves SB 371 to the House floor with a do pass recommendation.

CHAIR MILLER: Rep. Mannix moves SB 371 to the House with a do pass recommendation.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED:

CHAIR MILLER: SB 371 is passed to the House floor. Rep. Miller will carry.

HB 2200 - WORK SESSION

096 HOLLY ROBINSON: The Dpt of Correction does not have the authority to dispose of property seized during search and arrest of suspected parole violator. This bill gives them the authority. The amendments need to be adopted (EXHIBIT E).

MOTION: REP. BRIAN: Moves the HB 2200-1 amendments.

CHAIR MILLER: Rep. Brian moves the amendments. Hearing no objections, so adopted.

MOTION: REP. BRIAN: Moves HB 2200 as amended to the House floor with a do pass recommendation.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED:

CHAIR MILLER: HB 2200 as amended is passed to the House floor. Rep. Brian will carry.

HB 2623 - WORK SESSION

114 GREG CHAIMOV: This bill will recriminalize marijuana to a crime instead of a violation. Discusses the changes in penalties brought by HB 2623. Discusses the amendments (EXHIBIT F).

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122 MOTION: REP. MANNIX: Moves the HB 2623-1 amendments.

CHAIR MILLER: Rep. Mannix moves the amendments. Hearing no objection, so adopted.

130 MOTION: REP. PARKS: Moves HB 2623 as amended to the Committee on Ways and Means with do pass recommendation. CHAIR MILLER: HB 2623 as amended to the Committee on Ways and Means. 137 REP. CLARK: Is the reason for the motion to Ways and Means because of the potential impact on the indigent defense? CHAIR MILLER: Yes. The fiscal impact statement is the reason. Not being sent there to die. REP. CLARK: Supports the bill. CHAIR MILLER: Rep. VanVliet, Ways and Means, recognizes this will achieve sign)ficant savings. 155REP. MASON: Would like to reserve right to make a motion. *Decided to vote against the bill. Discusses the law made in 1973. *From a tactical standpoint, like what motion does because the bill could eventually get lost in Ways and Means.

194 REP. BAUMAN: Comments on Ways and Means and the human resource commitments the state has made for them. Not one constituent has written to complain that marijuana needs to be criminalized and need to put a budget priority there. *Not right to advocate for a budget of over \$1 million for a bill that no constituent has asked for. This money will compete with programs that will be cut. *Will vote no on HB 2623.

219 REP. EDMUNSON: Points out reasons for no vote on HB 2623. *People do not abuse marijuana because it violation instead of a crime but for all the wrong reasons drugs are abused. *This will not stop the reasons why people abuse drugs or to get them to kick the habit. *Opposes for reason of hugh fiscal impact. *This is just political posturing for the press on a bill that does nothing for drug abuse in State of Oregon.

244 REP. MANNIX: Responds on promise to constituents regarding criminalizing marijuana. 283 REP. BRIAN: Comments on another reason to support the bill is what it does for search and seizure. This allows the police to facilitated a search where a violation does not.

297 REP. BAUM: Concern over sending to Ways and Means. Not willing to make determinations of crime based on monetary considerations. Too much tolerance on drug use in this country. 50% of these cases are not going to go to trial.

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337 CHAIR MILLER: Comments on discussions with the Speaker of the House and the Co-Chair of Ways and Means. Will advocate that this is good policy expenditure. In long run this is a money saver. 360 REP. MASON: Ballot Measure 5 is the one difference between last session and this session. Comments on the places that measure is impacting. Would like to see an increase tax to pay for the program and not take money away from other programs. 402 CHAIR MILLER: This may not be the only measure that has a relating clause to controlled substance. Comments on the financing and taxes. The fiscal impact statement on this bill is not in accordance with reality. 429 REP. BELL: Comments on "million dollar babies", the drug addicted babies that require a lot of treatment. If those could be prevented, that money could be put back into the "coffers". Agrees with far reaching philosophy.

Tape 31, Side B

023 REP. MANNIX: Comments on looking at each bill and their fiscal impact statements. Is the committee dealing with some unrealistic comment about expense or a realistic evaluation?

033 REP. JOHNSON: Calls for the question.

CHAIR MILLER: Rep. Johnson calls for the question.

VOTE: 9-3 Motion passes AYE: Baum, Bell, Brian, Clark, Johnson, Mannix, Parks, Sunseri, Miller NO: Bauman, Edmunson, Mason EXCUSED:

CHAIR MILLER: HB 2623 as amended is passed to the Ways and Means committee.

(Tape 31, Side B) HB 2594 - WORK SESSION

047 GREG CHAIMOV: Limits the liability of people who administer vaccines. Discusses the no fault award of the federal government. The amendments (EXHIBIT G) need to be adopted. 062 MOTION: REP. EDMUNSON: Moves the amendments. CHAIR MILLER: Rep. Edmunson moves the amendments. Hearing no objection, so adopted.

071 MOTION: REP. EDMUNSON: Moves HB 2594 as amended to the House floor with a do pass recommendation. CHAIR MILLER: Rep. Edmunson moves HB 2594 to the House with a do pass recommendation.

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VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED:

CHAIR MILLER: HB 2594 as amended is passed to the House. Rep. Edmunson will carry.

(Tape 31, Side B) HB 2662 WORK SESSION

083 GREG CHAIMOV: Makes a family abuse restraining order from another state effective in Oregon as soon a protected person arrives in state. (AMENDMENTS - EXHIBIT H) 089 MOTION: REP. MANNIX: Moves the amendments. CHAIR MILLER: Rep. Mannix moves the amendment to the HB 2662. Hearing no objection, so adopted. MOTION: REP. MANNIX: Moves HB 2662 as amended to the House floor with a do pass recommendation. CHAIR MILLER: Rep. Mannix moves HB 2662 as amended to the House. VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks Sunseri, Miller NO: EXCUSED: CHAIR MILLER: HB 2662 as amended is passed to the House. Rep. Mannix will carry.

(Tape 31, Side B) SB 395 - WORK SESSION

110 GREG CHAIMOV: This is a housekeeping bill for the State Court Administrator. It replaces obsolete language.

115 MOTION: REP. BRIAN: Moves SB 395 A-eng. to the House with a do pass recommendation.

CHAIR MILLER: Rep. Brian moves SB 395 A-eng. to the House.

VOTE: 12-0 Motion passes. AYE: Baum, Bauman, Bell, Brian, Clark, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri, Miller NO: 0 EXCUSED: . These minutes contain materials which paraphrase and/or summarize datements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceed IgS, please refer to the tapes. House Committee on Judiciary March 29, 1991 - Page 10

CHAIR MILLER: SB 396 A-eng. is passed to the House. Rep. Miller will carry. Cl ape 31, Side B) HB 3167 - WORK SESSION

138 HOLLY ROBINSON: Deals with the assault 3 statute, a class C felony and adds reckless assault of persons in charge of public transportation vehicles, if injury is caused, would be a new crime Class C Felony. (AMENDMENTS - EXHIBIT I).

142 MOTION: REP. MANNIX: Moves the amendments.

CHAIR MILLER: Rep. Mannix moves the amendments. Hearing no objection, so ordered.

MOTION: REP. MANNIX: Moves HB 3167 as amended to the House floor with a do pass recommendation.

CHAIR MILLER: Rep. Mannix moves HB 3167 as amended to the House floor with a do pass recommendation.

VOTE: 8-2 Motion passes AYE: Bauman, Bell, Brian, Edmunson, Mannix, Mason, Sunseri, Miller NO: Johnson, Parks EXCUSED: Baum

CHAIR MILLER: HB 3167 as amended is passed to the House. Rep. Bauman will carry.

(Tape 31, Side B) HB 3299 - WORK SESSION

216 HOLLY ROBINSON: This bill would expand the ability to get a warrant

to felony property crimes, burglaries and auto thefts. The amendments need to be adopted. (EXHIBIT J).

243 REP. CLARK: Under current law, can a tracking device only be used on a vehicle?

HOLLY ROBINSON: Under current law, could use for a vehicle if the underlying crime was an alleged drug offense, kidnapping, murder, or crimes that were considered dangerous to life. They currently go on a vehicle. Understands they can be put on other things.

257 REP. BRIAN: They can be affixed to a vehicle or identifiable residence under current law. REP. CLARK: The bills expands the crimes for using mobile tracking device but also expands the kinds of property they could be attached to.

HOLLY ROBINSON: Yes.

266 REP. EDMUNSON: Comments on the amendments. 281 REP. BAUMAN: This keeps the laundry list in current law and adding theft I, burglary UUMB. House Committee on Judiciary March 29, 1991 - Page 11

289 REP. EDMUNSON: The amendments clear up concern with bill.

292 REP. MANNIX: Comments on the amendments as a small improvement. Likes the idea of allowing this for any felony or conspiracy.

309 MOTION: REP. EDMUNSON: Moves the amendments.

CHAIR MILLER: Rep. Edmundson moves the amendments. Hearing no objections, so adopted.

MOTION: REP. EDMUNSON: Moves HB 3299 as amended to the House floor with a do pass recommendation.

CHAIR MILLER: Rep. Edmundson moves HB 3299 as amended to the House with a do pass recommendation.

VOTE: 9-1 Motion passes. AYE: Bauman, Bell, Brian, Edmundson, Johnson, Mannix, Mason, Parks, Sunseri,

Miller NO: Clark EXCUSED: Baum

CHAIR MILLER: HB 3299 as amended is passed to the House. Rep. Bauman will carry. Adjourns at 3:58 p.m.

Submitted by: Reviewed by: Kathy Neely, Assistant Office Manager David Harrell,

EXHIBIT LOG:

A - Amendments to HB 2586 - 2 pages B - Amendments to HB 2027 - 4 pages
C - Amendments to HB 2125 - 4 pages D - Amendments to HB 2018 - 1 page E - Amendments to HB 2200 - 1 page
F - Amendments to HB 2623 - 2 pages G - Amendments to HB 2594 - 2 pages H - Amendments to HB 2662 - 1 page I - Amendments to HB 3167 - 1 page J - Amendments to HB 3299 - 1 page

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