

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

June 4, 1991Hearing Room 357 1:00 p.m.Tape 54

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 Jim Dole, Committee Counsel Jeff Steve, Committee Assistant

MEASURES HEARD:HB 2944 - W.S. HB 2655 - W.S. SB 376 - W.S. SB 222 - W.S.

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TAPE 54, SIDE A

004 CHAIR RANDY MILLER: Opens House Committee on Judiciary at 1:40 p.m.

HB 2944 - WORK SESSION

033 HOLLY ROBINSON: Summarizes provisions of HB 2944 which creates new provisions that allow for the civil commitment of a person who is incapacitated as a result of alcoholism or drug dependency. The bill makes the person who initiates the commitment process responsible for the costs of the examination, investigation, treatment, and reasonable attorney fees. Bill also establishes new provisions regarding the transport of persons being held on a two-physician mental health hold to an appropriate treatment facility.

046 MOTION: REP. EDMUNSON: Moves adoption of the HB 2944-4 amendments (EXHIBIT A).

048 VOTE: Without objection, amendments are adopted.

058 ROBINSON: Sections 1 to 21 of the Act are repealed June 30, 1993.

061 REP. SUNSERI: Did we cut maximum internment from 120 days to 90 days?

062 ROBINSON: Yes.

065 REP. JOHNSON: Why do we need the bill?

068 REP. CLARK: Testimony received said that we do not currently have much authority to do anything with regard to late stage alcoholics who are without intervenors. HB 2944 provides a process for civil commitment of a person who is incapacitated as a result of alcoholism or drug dependency.

Intent of the bill is to provide a last option.

087 REP. JOHNSON: How does the test for commitment under this bill compare with the test for commitment under existing law?

091 REP. CLARK: Section 2 which was substantially amended sets out the standard. Reads language in the bill.

107 REP. JOHNSON: Recalls the standard being that a person is a danger to himself or others. Paragraph 1 does not mention that, other than an individual is not making good judgments and his health is deteriorating. Feels police power is being substantially expanded.

121 REP. CLARK: The concept of "danger to self or others" is in Section 2 (2).

126 REP. BAUM: Wants this bill.

128 REP. MANNIX: It has been virtually impossible to help people who are not considered a danger to themselves or others. This bill will allow a private party willing to bear the burden of providing a treatment program to get that person into treatment.

The physician review provision in the bill will protect the rights of individuals.

168 REP. MASON: Does the bill say that the attorney fees to be paid are the fees of the person appointed to defend?

179 REP. MANNIX: Yes.

180 REP. MASON: What if the person seeking commitment disagrees with the bill sent by the attorney?

182 REP. MANNIX: Court decides what is reasonable.

184 REP. CLARK: Code of professional responsibility is clear that the lawyer's duty is to the client, regardless of who is paying the bill.

185 REP. MASON: Will reasoning power be judged when the individual is sober or intoxicated?

198 REP. MANNIX: Depends on how many hours of the day he is sober.

We are trying to help people who are rarely sober.

Clear and convincing evidence has to be established before action can be taken.

220 ROBINSON: HB 2944 is similar to current civil commitment statutes due to the 1987 revisions.

227 MOTION: REP. MANNIX: Moves HB 2944, as amended, to the floor with a "do pass" recommendation.

242 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Clark, Edmunson, Mannix, Miller NAYS: Reps. Johnson, Mason, Sunseri EXCUSED: Rep. Parks

244 CHAIR MILLER: Rep. Mannix will carry the bill on the floor.

245 REP. MASON: Gives vote explanation. Mr. Linden says that due to an anomaly in the bill the state could be responsible for attorney fees for defense.

259 REP. MANNIX: The only time that the court will be responsible for attorney fees is if the court, on its own motion, notifies itself in writing. Advises courts not to do that. The whole point is that the moving party is the one responsible for costs.

280 CHAIR MILLER: Closes work session on HB 2944.

Opens work session on HB 2665.

HB 2665 - WORK SESSION

283 CHAIMOV: Summarizes provisions of HB 2665 which authorizes, but does not require, courts to suspend the driving privileges of criminals who use motor vehicles while committing their crimes. The fiscal impact is indeterminate.

Expresses DMV concerns. Under current law, DMV suspends the driving privileges of any person convicted of a felony for which operating a motor vehicle constitutes a material element. Under HB 2665 that class of crime becomes a discretionary suspension.

HB 2665 is much broader because it now covers all crimes in which a motor vehicle is used. DMV wants to make sure that the committee understands the policy choice it is making.

The bill also requires DMV to notify the driver of the suspension of driving privileges. According to the Division, their ability to give notice is effective only half the time, often because of bad addresses. Current law also requires DMV to do the suspending, although the original version of Rep. Mannix' bill required the court to give the notice of suspension.

305 MOTION: REP. MANNIX: Moves adoption of HB 2665-3 amendments (EXHIBIT B).

VOTE: Without objection, amendments are adopted.

309 MOTION: REP. MANNIX: Moves HB 2665, as amended, to the floor with a do pass recommendation.

319 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bell, Brian, Edmunson, Mannix, Mason, Sunseri, Miller NAYS: Rep. Johnson EXCUSED: Reps. Bauman, Clark, Parks

330 CHAIR MILLER: Rep. Mannix will carry the bill on the floor.

Closes work session on HB 2665.

Opens work session on SB 376.

SB 376 - WORK SESSION

332 HOLLY ROBINSON: Summarizes provisions of SB 376 which significantly revises Oregon contempt proceedings to develop two parallel tracks; one for punitive, and one for remedial sanctions.

336 MOTION: REP. MANNIX: Moves adoption of SB 376-A13 amendments (EXHIBIT C).

338 VOTE: Without objection, amendments are adopted.

339 MOTION: REP. MANNIX: Moves SB 376, as amended, to the floor with a "do pass" recommendation.

350 VOTE: On a roll call vote, motion passes. AYE: Reps. Baum, Bauman, Bell, Brian, Edmunson, Johnson, Mannix, Mason, Sunseri, Miller NAY: None EXCUSED: Reps. Clark, Parks

370 CHAIR MILLER: Rep. Mannix will carry the bill on the floor.

Closes work session on SB 376.

Opens work session on SB 222.

SB 222 - WORK SESSION

378 HOLLY ROBINSON: Summarizes provisions of SB 222 which makes housekeeping changes to the support enforcement program, clarifying that both the Department of Justice and the district attorneys represent the state in child support proceedings and are not parties. Also makes certain confidentiality provisions applicable to obligor information.

Subcommittee took the bill back last Friday to add a provision to subject workers compensation permanent disability benefits to child support obligations.

389 MOTION: REP. MANNIX: Moves adoption of SB 222-A6 amendments (EXHIBIT D).

392 VOTE: Without objection, amendments are adopted.

394 MOTION: REP. MANNIX: Moves SB 222, as amended, to the floor with a "do pass" recommendation.

405 VOTE: On a roll call vote, motion passes. AYES: Reps. Baum, Bauman, Bell, Brian, Edmunson, Johnson, Mannix, Mason, Parks, Sunseri NAY: None EXCUSED: Reps. Clark, Parks

412 CHAIR MILLER: Rep. Bauman will carry the bill on the floor.

Closes work session on SB 222.

Adjourns meeting at 1:45 pm.

Transcribed by,

Pat Zwick

EXHIBIT LOG: A:HB 2944-4 Amendment - Staff - 22 pages B:HB 2665-3
Amendment - Staff - 13 pages C:SB 376-A13 Amendment - Staff - 4 pages
D:SB 222-A6 Amendment - Staff - 2 pages