

Conference Committee on HB 2194 June 21, 1991 - Page

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.

CONFERENCE COMMITTEE ON HB 2194

June 21, 1991Hearing Room 137 3:30 p.m.Tape 1

SENATE MEMBERS PRESENT: Sen. Hamby Sen. Springer

HOUSE MEMBERS PRESENT: Rep. R. Johnson, Chair Rep. Brian

MEMBER EXCUSED: Sen. Cohen

STAFF PRESENT: Greg Chaimov, Committee Counsel Carolyn Cobb,  
Committee Assistant

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.

TAPE 1, SIDE A

003 CHAIR JOHNSON: Calls the meeting to order at 3:51 p.m.

010 CHAIR JOHNSON: Gives background of the bill, which was amended by the House. Bill came out of Senate in its original form with an emergency clause added.

017 GREG CHAIMOV, COMMITTEE COUNSEL: Explains provisions of the original bill, and amendments adopted by the House Committee.

026 REP. BRIAN: States he has no objection to the Senate restoring the original format of the bill. The House wanted to make sure where the bill stated "correctional facility" it included the grounds. The Department of Corrections wanted it made clear they have the right to pursue an escapee on Corrections Department property even though they might be outside the confines of the facility, and to continue a "hot pursuit".

040 CHAIR JOHNSON: I would concur with that. -Does not want a off-duty corrections officer to be authorized to pursue an escapee as the result of a chance meeting away from a correctional facility. -Under the

current law, if the inmate can get off the prison grounds, correction officers cannot pursue them. Wants to see corrections officers allowed to maintain reasonable pursuit, including search for an escaped convict, at least until law enforcement officers arrive on the scene and take over.

065 REP. BRIAN: The big difference is the House language says "unlawfully departed" which means it could be a week-old case and the corrections officer happens to bump into the escapee, which I do not like. Suggests clarifying for the Department of Corrections that they can pursue on the grounds and continue a "hot pursuit". Once it is not a "hot pursuit", they should get out of it and let law enforcement take over.

074 SEN. SPRINGER: I do not have a big problem with that to a point. I do not know if all corrections officers are trained in the use of firearms or are necessarily armed. Most of the officers do not carry arms. Expresses concern about how well trained or proficient with firearms a corrections officer engaged in a "hot pursuit" might be. A "hot pursuit" might also involve a vehicle where special training is needed to conduct it safely. I would be a little concerned about how much training the corrections officers might have for pursuing someone off the grounds.

085 REP. BRIAN: I agree totally. The people they send out would be specific correction officers who, in the event of an escape, are prepared to pursue until law enforcement responds.

093 SEN. SPRINGER: That record would be sufficient for my purposes. I just want to make sure it is confined to the immediate neighborhood of the correctional facility. Since it is impossible to anticipate every fact situation, I do not want to unduly restrict them.

101 CHAIMOV: Subsections 3 and 4 take care of the "hot pursuit" part. So as soon as you notify the police and they take over, that ends it. You have a terminus there, the question just becomes how do you make sure they have the authority to go farther than just the gate. Could we say correctional facility and any appurtenant grounds?

114 CHAIR JOHNSON: It is worth noting the Senate, in (b), (c) and (d) of paragraph 2, did not take out the words "pursue", "search", and "recapture", all of which indicate the escapee is outside the wall. The words "search" and "recapture" allow some reasonable pursuit outside the grounds.

119 REP. BRIAN: The Senate version, and I agree with it, limits it to "in the act of escaping", which can be defined as two or three blocks off the grounds.

123 CHAIR JOHNSON: I think the reason this language was put there was because we did not want the inmate to get off the grounds of the prison and be able to say he is not longer in the act of escaping because he has escaped. Someday someone might bring a court case based upon that distinction.

130 REP. BRIAN: I think there is quite a bit of case law on situations where "hot pursuit" turns cold. You are not going to pin it down totally. If the next day the corrections officer sees the escapee, he should call the police and maintain surveillance until they arrive.

139 CHAIR JOHNSON: Cites definition of escape in ORS 162.135.

142 CHAIMOV: There is a statutory definition of correctional facility which is word for word what was in the bill.

144 REP. BRIAN: Could we use correctional facility and adjacent property or contiguous property?

146 CHAIR JOHNSON: What do you think about the phrase "hot pursuit"? Can that be used in the statute?

149 CHAIMOV: I am not sure that is currently in the statute, but I think subsections 3 and 4 take care of that because it requires the Department of Corrections to inform a regular law enforcement agency of an escape, and then the police take over. When the police take over, the Department of Corrections has to stop.

154 CHAIR JOHNSON: In paragraph 3 it talks about the authority terminating when the regular police get there. Couldn't we add to that paragraph, a phrase to the effect "even if the inmate has escaped from the property owned by the correctional facility". That would make it clear the authority extends beyond the prison grounds. Then we could leave out what the Senate took out.

193 CHAIR JOHNSON: Recesses the meeting at 4:07 p.m.

-Resumes the meeting at 4:17 p.m.

198 CHAIMOV: The proposal before the committee is to have the House concur with the Senate amendments dated June 11, 1991 and that the bill be amended as follows: -On line 9 after the word "from", insert "the grounds of" so a corrections officer could prevent an escape from the grounds of a correctional facility. -Following line 9, insert a new subsection (b) with the words "Go beyond the grounds of a correctional facility to:"; and then change what are currently subsections (b), (c) and (d), lines 10 through 12, to subsets of that section so that a corrections officer could go beyond the grounds to pursue, search and recapture an inmate. The limit on that is in subsections 3 and 4 which require the Department of Corrections to promptly notify law enforcement agencies, and stop pursuing as soon as the law enforcement agency takes over the search.

218 CHAIR JOHNSON: I think it captures our concern that we not have people be able to come upon cold escapees two or three weeks later, but on the other hand we do want them to be able to chase them into the woods if that is necessary.

224 MOTION:REP. BRIAN moves to adopt the amendments presented by Committee Counsel to HB 2194.

VOTE:In a roll call vote, the motion carried, with Sen. Hamby, Sen. Springer, Rep. R. Johnson and Rep. Brian voting AYE. Sen. Cohen was excused.

233 CHAIR JOHNSON: Adjourns the meeting at 4:24 p.m.

Submitted by: Reviewed by:

Carolyn Cobb      Greg Chaimov Assistant      Counsel