June 28, 1991 Hearing Room E 6:30 p.m. Tapes 1

SENATE MEMBERS PRESENT: Sen. J Hill Sen. Shoemaker

HOUSE MEMBERS PRESENT: Rep. Sunseri Rep. Naito MEMBER
EXCUSED: Sen. Hamby STAFF PRESENT: Holly Robinson, Committee
Administrator Andy Sloop, Committee Assistant

These minutes contain materials which paraphrase and/or summarlze 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

- 001 REP. SUNSERI: Opens Committee at 6:43 p.m.
- 005 HOLLY ROBINSON, COUNSEL: Summarizes differences.
- MOTION: REP. NAITO moves to amend HB 2932B by deleting, page 1, line 22, after the word "fire" through the end of the line, delete line 23. On page, delete lines 7 and 8, and lines 20 to 41. 32 REP. NAITO: Understand that the Fire Marshal has worked with the Women's Rights Coalition, and that all parties agree to this. 45 SEN. SHOEMAKER: The intent is to get at those who are in institutions who have an arson habit, or tend to be starting fires, so we thought it would best for this to be restricted to those people. 56 ROBINSON: As the bill was brought to the House there were two very separate provisions.
- > Institutional fires.
- > Fires started where there may not be significant damange, but where the risk to people is great.
- > Senate version of the bill merged these two ideas, but those ideas did come to the House as separate concerns raised by the proponents of the bill.
- > Because arson statutes affect the value of the property, so proponents didn't feel the act of Conference Committee on HB 2932 June 28, 1991 Page 2

arson should be tied to the value of the property that is damaged. That's why there have been questions about extending the criminal mischief statutes by adding "by starting a fire" instead of the arson statutes. The House committee was concerned that the language it reviewed would have focused on property damage not the arson act, so arson in the ghetto would be less serious than arson in the Portland West Hills.

80 REP. JOHNSON: Questions his voting status because his name isn't on the conference committee letter head. 85 ROBINSON: Will look into it. 97 RAMEY STROUD, STATE FIRE MARSHAL OFFICE: The intent to damage property would be the first part of the criminal test. The second part

- would be having no right nor reasonable belief of right to start a f~re. And the third part would be the actual starting of the fire. Starting a fire in a personal fireplace wouldn't be subject to penalties under these three tests. 106 REP. SUNSERI: So a fire that meets these three tests would be criminal mischief? 108 STROUD: In the first degree.
- 109 SEN. SHOEMAKER: And that's regardless of the extent of the damage caused?
- 110 STROUD: Yes. Arson in the first and second degree are on one end of the criminal spectrum and wreckless burning on the other. We do not have penalty options in the middle of the spectrum. Arson conviction rates now are less than five percent. Having criminal mischief in the first degree based on these criteria will provide this middle option to increase deference for offenders in that middle ground.
- 132 SEN. SHOEMAKER: You could have nominal damage, but if you meet these test, it would be a class C felony. "That's kind of overkill. And they told us at our hearing that they were really trying to get the people who were institutionalized because they're out there starting fires in the institutions, on the grounds . . . That was the whole tenor of this, and we went along with it, and now here we are going back so that anybody who starts a fire mischieviously, intending to damage somebody, some property, even if it's minor, is suddenly a felon. I mean, that's getting a little heavy, it seems to me."
- 149 ROBINSON: Notes that the property damage in the relevant statute is only \$500.
- 153 STROUD: The institutional aspect is an amendment proposed by the Oregon District Attorney's Association. The original bill, as submitted pre-session, had this language in it. The theory behind it is that starting is not a finite, controllable act, because once a fire is started, it has a life of its own that is governed by the laws of chemistry and physics, so it is the initiation of the event that this law is intended to address.
- 170 REP. SUNSERI: Are you satisified with this language, Mr. Stroud?
- 174 STROUD: Yes. Conference Committee on HB 2932 June 28, 1991 Page 3
- 224 REP. SUNSERI: Mr. Straud, did you talk to Sen. Cohen about this? 227 STROUD: No. "This is a really important bill to the fire service. It's a make-or-break issue." 237 MOTION: REP. NAITO withdraws her earlier motion. 240 REP. SUNSERI: Recesses at 7:00 p.m.

Submitted by, Reviewed by: Andy Sloop
Holly Robinson Committee Assistant Committee Counsel