

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.

Measures Heard HB 2586 HB 3051 HB 3222 HB 3448 HB 3299 HB 2193 HB
3317 HB 2395 HB 2411 HB 2412 HB 2544 HB 2415 HB 3449

SENATE COMMITTEE ON JUDICIARY

June 10, 1991Hearing Room C 1:00 p.m.Tapes 220 - 222

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Jim Bunn Sen. Jeannette Hamby Sen. Bob
Shoemaker Sen. Dick Springer

STAFF PRESENT: Ingrid Swenson, Committee Counsel Bill Taylor,
Committee Counsel Shannon Gossack, Committee Assistant

WITNESSES: Representative Marie Bell Rosanna
Creighton, Citizens For A Drug Free Oregon Jeff Vanvalkenburgh, Dept. of
Justice Dennis Dowd, Dept. of Corrections Eva Cootash, Mental Health
Services Division Erik Wasmann, Attorney General Office Ross Shepard,
Oregon Criminal Defense Lawyer's Assoc. Chris Gardener, ODAA Deborah
Wilson, Dept. of Justice Ken Chapman, Juvenile Probation Officer,
Jackson County Steve O'Neil, Citizen Lynn Travis, Juvenile Rights
Project of Portland Mark McDonnell, ODAA

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TAPE 220, SIDE A

002 CHAIR COHEN: Calls hearing to order at 1:28 p.m.

OVERVIEW OF SEXUAL ABUSE BILLS

004 REPRESENTATIVE MARIE BELL: Gives brief overview of the bills that relate to sex abuse against children that are on the agenda.

WORK SESSION ON HB 2586

085 INGRID SWENSON, COMMITTEE COUNSEL: Explains the intent of HB 2586. There are not amendments to this bill. -In section 1 of the bill it refers to the definition of an "alcoholic" in ORS 430.306 and the definition of a "drug dependent" person in ORS 430-450. I would suggest using those sections to define these two terms in the bill. -In line 6, page 1 of HB 2586 replace the ORS number with ORS 430.306.

MOTION: CHAIR COHEN MOVES TO DELETE ORS 430.450 ON LINE 6 PAGE 1 OF HB 2586 AND INSERT ORS 430.306.

VOTE: MOTION ADOPTED.

111 SEN. BUNN: What is the period of probation for a C misdemeanor? If they fail the probation can the sanction be any longer?

114 SWENSON: Explains current law. The period of probation is the same regardless of the class of misdemeanor. Currently it is five years probation. Thirty days is the maximum confinement.

118 SEN. SPRINGER: In section 2, HB 2586 there is language regarding the burden. It looks like we are increasing a sanction based on a judicial finding without the opportunity to have a jury decide that. I think this will get challenged and be thrown out.

132 SWENSON: The court makes a determination at this point as to who is in need of alcohol and drug treatment assuming there is some indication in connection with the offense. It does amount to a determination that a person fits a certain classification but that is the only respect in which it differs from what the court is currently doing.

140 SEN. SPRINGER: Discusses the current conditions of probation.

150 CHAIR COHEN: The bill states very clearly the intent in section 3 of HB 258 6. I don't know how we can fix it right now.

158 SEN. SHOEMAKER: The probation situation in the bill does not require the court to make a finding. It simply says that if the evaluation finds the defendant to be alcohol or a drug dependent person the court shall order the defendant to enroll in a program. It skips the finding part. Could they do it on the sentencing part of the finding?

173 SWENSON: Even with respect to probation on page 4 lines 2 & 3 it indicates that if an evaluation isn't required or if court has already made that determination.

179 SEN. SPRINGER: I suppose the court makes findings through restitution. We may have problems with this.

184 SEN. BUNN: Is the alcoholism related to the case? So if a person has a C misdemeanor totally unrelated to alcoholism the judge may still find that the person is an alcoholic and require them to enter a program.

196 CHAIR COHEN: The language in the bill says "any evidence before the court including, but not limited to the facts of the case". I guess that could happen.

200 SEN. SHOEMAKER: It doesn't say the findings can go outside the evidence of the court.

205 SWENSON: A defendant's history and other information of that type is usually before the court on a misdemeanor, but with sentencing guidelines maybe not anymore. That kind of information is known to the court.

214 SEN. BUNN: Expresses concern about the loop holes in this bill.

220 ROSANNA CREIGHTON, CITIZENS FOR A DRUG FREE OREGON: Over 70-80% of cases are related to substance abuse of some kind. For those that have these types of problems was the group we were trying to target.

239 SEN. BUNN: The net is so large that it catches other people.

240 CREIGHTON: What would be an example of that?

243 SEN. BUNN: Gives example of what types of cases might be caught in this type of legislation.

253 CREIGHTON: That is not what we wanted the bill to do. We wanted more people in to treatment so they could be rehabilitated. Funding was the problem we had with this.

262 SEN. HAMBY: Should we redefine "finding" in lines 16-18 so that they must be based upon the facts of the case.

270 CREIGHTON: I have no problem with that suggestion.

271 SEN. SPRINGER: How many of the 100 cases through Multnomah County might be effected by this type of legislation?

290 CREIGHTON: The first part of the bill talks about formal evaluations.

310 SEN. SHOEMAKER: Present law seems to permit all kinds of conditions of probation not necessarily tied in with the case.

333 SEN. BUNN: I am concerned that we won't be looking for solutions that are tied into whatever caused the problem.

350 SEN. HAMBY: Tying the "findings" to the case. (inaudible comment)

MOTION: CHAIR COHEN MOVES HB 2586-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL THE MOTION CARRIES WITH SENATORS BUNN, HAMBY, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATOR BROCKMAN EXCUSED.

WORK SESSION ON HB 3051

383 CHAIR COHEN: The HB 30551-A2 amendments have taken care of the direct parts that deal with physical self and direct menacing and endangering others.

393 SWENSON: Submits and reviews HB 3051-A2 amendments. (EXHIBIT A)

TAPE 221, SIDE A

MOTION: CHAIR COHEN MOVES TO ADD THE "ASSAULT 3" LANGUAGE TO HB 305 1-A2 AMENDMENTS. (legislative counsel to determine where) AND MOVES THE AMENDED HB 3051-A2 AMENDMENTS TO HB 3051-A.

VOTE: MOTION ADOPTED.

MOTION: CHAIR COHEN MOVES HB 3051-A AS AMENDED TO THE FLOOR WITH A "DO

PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS HAMBY, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATOR BUNN VOTING NAY WITH SENATOR BROCKMAN EXCUSED.

TAPE 221, SIDE A

WORK SESSION HB 3222

052 BILL TAYLOR, COMMITTEE COUNSEL: Explains HB 3222-A5 amendments.
(EXHIBIT

C) Submits informational handout. (EXHIBIT B)

060 CHAIR COHEN: As it stands now what kinds of settlements would be private?

062 TAYLOR: An individual as opposed to a private.

MOTION: SENATOR SPRINGER MOVES HB 3222-A5 AMENDMENTS TO HB 3222.

VOTE: MOTION ADOPTED.

MOTION: SENATOR SPRINGER MOVES HB 3222-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, HAMBY, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATOR BROCKMAN EXCUSED.

WORK SESSION ON HB 3299

095 SWENSON: Submits and reviews HB 3299-A2 amendments. (EXHIBIT D) -The sponsors would like to extend the use of mobile tracking devices to the offenses of burglary and unauthorized use of a motor vehicle.

105 SEN. SHOEMAKER: What is any crime punishable as a felony arising under ORS 475.992?

114 SWENSON: Drugs.

MOTION: SENATOR BUNN MOVES HB 3299-A2 AMENDMENTS TO HB 3299-A.

VOTE: MOTION ADOPTED.

117 SEN. HAMBY: What was the need for bribery?

123 CHAIR COHEN: It isn't new.

MOTION: SENATOR BUNN MOVES HB 3299-A AS AMENDED TO THE FLOOR WITH "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BROCKMAN, BUNN, HAMBY SHOEMAKER, HILL AND COHEN VOTING AYE AND SPRINGER VOTING NAY.

WORK SESSION ON HB 2193

140 JEFF VANVALKENBURGH, DEPT. OF JUSTICE: Submits and reviews written testimony. (EXHIBIT E)

180 SWENSON: There are basically two subsections here; one deals with the department of corrections inmates and one that deals with clients of the Mental Health Division. There are different provisions for the release of the records. Is there a reason for that?

215 VANVALKENBURGH: There is really very little distinction between how they will be treated. Subsection B page 3 of HB 3299 relates to disclosure in an action or suit that has been filed. The provision was added at the request of patient advocacy groups. It was the concern of the bill sponsors that the state has a different relationship with the two type of groups. It is important that the AG office have an opportunity to review records to determine what is relevant.

220 SEN. SPRINGER: I am not sure the state has a problem right now. If a person is incarcerated their choice of medical care is restricted. To limit their rights and create another category in terms of what kind of protection we have for other litigates... I am not comfortable with this.

234 VANVALKENBURGH: This does nothing but codify what is out in the private sector. -Your record would be treated the same way as the inmates record would be out in the private sector.

243 CHAIR COHEN: On the correction side your looking for defense information.

247 VANVALKENBURGH: As well as early information to evaluate claims.

255 SEN. HILL: Give me an idea of actual difficulties you have encountered.

258 VANVALKENBURGH: Explains personal experience with some cases in relation to this issue.

284 DENNIS DOWD, DEPT. OF CORRECTIONS: Submits and reviews written testimony. (EXHIBIT F) -This bill has been amended, not by us, and now allows some things that weren't requested by the sponsors. We do support the bill as amended.

317 EVA COOTASH, PATIENT ADVOCATE, MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES SERVICES DIVISION: Our office is responsible for reporting abuses. There is a problem with patient's that can't consent to the use of patient records.

WORK SESSION ON HB 3317

357 SWENSON: Submits HB 3317-A6 amendments. (EXHIBIT G) -The amendments would require that the person providing this information be either a juvenile case worker, detention worker or CSD worker.

398 CHAIR COHEN: Because we have put "shall" in there do we need the "or chooses not to disclose"?

397 SEN. SPRINGER: I have a problem with the liability. On page 2 of HB 3317 it says "an agency or person who discloses information shall have immunity from any liability that might otherwise be incurred or imposed", that liability may not have a thing to do with disclosure.

TAPE 220, SIDE B

010 CHAIR COHEN: I agree with you. Lets bring this back again.

018 SEN. BUNN: Are the provisions on page 2 line 12 of HB 3317 just dealing with juvenile workers and not apply to public school teacher or counselor? The original bill was not limited but under the amendments this would be very limited.

025 SWENSON: The bill deals with juvenile court records.

030 SEN. BUNN: Is a McClaren teacher a juvenile court case worker? I don't think we need these amendments. It is too narrow and I oppose them. We don't need such a narrow definition that only covers two people.

047 CHAIR COHEN: Then maybe we don't need the bill. Right now they have a duty to report. They are trying to get away from reporting situations they feel are frivolous. So Senator Bunn feels that they should report everything even if they think it is an empty threat.

059 SEN. BUNN: We do say "in the professional judgement of the person", and that clarifies it enough. A blanket liability exclusion is unreasonable and that is what the HB 3317-A5 amendments would do. I would rather see no bill than the adoption of the amendments.

064 SEN. HAMBY: Is everyone comfortable with the language on line 15, "shall be disclosed to the appropriate authority".

067 SWENSON: That is the same language used in the medical records statute.

080 SEN. SHOEMAKER: Would it make any sense to put in something about "absent gross negligence" or "potential misconduct".

088 CHAIR COHEN: We could set this aside.

089 SEN. SPRINGER: Asks question about negligence and gives brief example.

101 CHAIR COHEN: We need to narrow the liability.

WORK SESSION ON HB 3448

113 SWENSON: Submits HB 3448-A2 amendments with attached hand-engrossed bill. (EXHIBIT H)

151 CHAIR COHEN: What can a police officer seize?

153 SWENSON: If this bill were to become law and an officer were asked to locate a missing person and entered property for that person and upon enter saw contraband they could seize that property. It would not permit further search of other parts of the premises or seizure of additional evidence without a warrant. It would be the "plain sight" provision.

MOTION: SENATOR SPRINGER MOVES HB 3448-A2 AMENDMENTS TO HB 3448-A.

VOTE: MOTION ADOPTED.

174 SEN. SHOEMAKER: If an officer suspects there is contraband could he

enter the premises to prevent serious harm because he believes something is in there?

193 SEN. BUNN: Didn't removing lines 24-26 eliminate that question.

194 SEN. SHOEMAKER: No because it says "contraband in plain sight".

195 SEN. BUNN: Have we done something here that we can't do right now?

199 SWENSON: Basically if an officer goes on to someone's property to aide an injured person they do so as an ordinary citizen not as a officer subsequently not authorized by statute to make any seizures.

210 ERIK WASMANN, ASSISTANT, ATTORNEY GENERAL OFFICE: The case law currently

would say no. The officer is on the premises in an emergency capacity not in a law enforcement capacity. They would not have official authority to be there and any evidence they see is not usable for law enforcement purposes.

232 ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Agrees with Mr. Wasmann. Refers to the Bridewell case.

247 SEN. SHOEMAKER: Even contraband in plain sight.

247 WASMANN: Discusses cases under Bridewell case. -Usually this is an emergency situation or an on the scene situation.

MOTION: SENATOR SPRINGER MOVES HB 3448-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

275 SHEPARD: This bill might be interpreted to all DUII road blocks and that is not the intention.

278 SEN. SHOEMAKER: What about the hypothetical that I raise about perceiving the danger to be the very thing your trying to find and seize. Do you see the bill permitting that?

295 SHEPARD: No.

VOTE: MOTION CARRIES WITH SENATORS BUNN, HAMBY, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATOR BROCKMAN EXCUSED.

WORK SESSION ON HB 2395

298 SWENSON: Submits HB 2395-A4 amendments. (EXHIBIT I)

339 CHAIR COHEN: I requested the amendments because it was too broad and we as a Committee had rejected something like that last session.

352 SWENSON: Continues explaining HB 2395-A4 amendments.

374 CHAIR COHEN: We had testimony last time from a young woman who felt it was inappropriate to have a mother in court since she was involved with the aiding and abetting. This would allow for another person more suitable for the child.

383 SEN. BUNN: Would it be presence of attorney, legal guardian or any

other suitable adult?

370 SWENSON: Concludes with reviews of HB 2395-A4 amendments. -The video recorded testimony would be out.

407 CHAIR COHEN: We had testimony to the fact that it is important for the victim to be in the court room to get the sense of support and vindication.

007 CHRIS GARDENER, ODAA: We have no objection to any of these issues. -We also have discussed raising the age to under 13 and we would not object to the Committee changing that either. -The video tape testimony part refers to a list of people, currently listed in statute, "may be present". It doesn't say that any of the listed people "shall" be present. I don't see how the change that was done by the House changes existing law. I do think it could be interpreted by a judge to exclude a party.

MOTION: SENATOR HAMBY MOVES HB 2395-A4 AMENDMENTS TO HB 2395-A.

VOTE: MOTION ADOPTED.

TAPE 221, SIDE B

023 SEN. SHOEMAKER: On line 35 page 4 of HB 2395-A refers back to the 10 years of age language and we have changed the age to 13.

044 CHAIR COHEN: There is a question about upping that age.

047 GARDENER: It is usually a very helpful and therapeutic experience for the victim to confront their abuser, but in some situations it isn't always a good idea. -I recommended that the age be under 12 years old so it conforms with the A felony statutes.

MOTION: SENATOR HILL MOVES TO USE "UNDER 12 YEARS OF AGE" THROUGHOUT HB 2395-A.

VOTE: MOTION ADOPTED.

057 GARDENER: There may be other acts of sexual misconduct at issue other than the one charged.

060 SEN. SHOEMAKER: I had a question about extension of these privileges to civil proceedings.

065 GARDENER: Discusses a civil custody proceeding relating to the issue of extending privileges.

077 SEN. SHOEMAKER: A suit for damages is a little different than custody.

083 GARDENER: I am not sure about Oregon civil law.

MOTION: SENATOR BUNN MOVES HB 2395-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, HAMBY, SPRINGER, HILL AND COHEN VOTING AYE AND SENATOR SHOEMAKER VOTING NAY WITH SENATOR BROCKMAN EXCUSED.

WORK SESSION ON HB 2411

104 SWENSON: Submits HB 2411-A2 amendments. (EXHIBIT J)

130 CHAIR COHEN: This is not out of line. Some states have no statute on limitations regarding abuse to children.

139 SEN. SHOEMAKER: The HB 2411-A-2 amendments don't limit that the reporting be limited by the victim.

MOTION: SENATOR HILL MOVES HB 2411-A2 AMENDMENTS TO HB 2411-A.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HILL MOVES HB 2411-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATORS BROCKMAN AND HAMBY EXCUSED.

WORK SESSION ON HB 2412

180 DEBORAH WILSON, DEPARTMENT OF JUSTICE: The sponsors of HB 2412 are in support of HB 2412-A2 amendments. (EXHIBIT K)

MOTION: SENATOR HILL MOVES HB 2412-A2 AMENDMENTS TO HB 2412-A.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HILL MOVES HB 2412-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATORS BROCKMAN AND BUNN EXCUSED.

WORK SESSION ON HB 2544

199 CHAIR COHEN: We have had discussions about trying to move ahead to do gender neutral throughout the sex abuse statutes.

MOTION: SENATOR BUNN MOVES HB 2544 TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATORS BROCKMAN AND HAMBY EXCUSED.

WORK SESSION ON HB 2415

223 SWENSON: Explains intent of HB 2415-A2 amendments. (EXHIBIT L)
-There is an issue on page 2 of HB 2415-A, section 4 in lines 6 & 7. The House added an amendment to this child abuse statute but it technically does not fit within the relating clause.

252 CHAIR COHEN: Didn't we amend that?

260 SEN. BUNN: Asks about ORS 163.412 relating to the exception dealing with medical workers?

265 SWENSON: Clarifies the exception in regard to medical treatment.

MOTION: SENATOR HILL MOVES HB 2415-A2 AMENDMENTS TO HB 2415-A.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HILL MOVES HB 2415-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: MOTION CARRIES WITH SENATORS BUNN, SHOEMAKER, SPRINGER, HILL AND COHEN VOTING AYE AND SENATORS BROCKMAN AND HAMBY EXCUSED.

PUBLIC HEARING ON HB 3449

311 SWENSON: Submits and reviews HB 3449-A5 amendments. (EXHIBIT M)

350 KEN CHAPMAN, JUVENILE PROBATION OFFICER, JACKSON COUNTY: Submits and reviews written testimony. (EXHIBIT N)

TAPE 222, SIDE A

051 STEVE O'NEIL, CITIZEN: Submits and reads written testimony. (EXHIBIT O)

057 CHAIR COHEN: Either one of the proposals before us will take care of that for you.

060 LYNN TRAVIS, JUVENILE RIGHTS PROJECT OF PORTLAND: We feel these are an improvement over current standards. Suggests amending the bill further to put all enumerated offenses into the discretionary category. -In section 4, page 3 lines 38 of HB 3449 allowing the DA to appear on behalf of the state in any proceedings. I can't think of any Counties where the DA's are not entitled to appear in juvenile court at hearings. I think the purpose is to give DA's the authority to override prosecution on a delinquency proceeding when the juvenile court counselor has a recommendation for an informal disposition.

110 MARK MCDONNELL, OREGON DISTRICT ATTORNEY'S ASSOCIATION, MULTNOMAH COUNTY DISTRICT ATTORNEY OFFICE: It has been my experience that

if there is discretion left in regard to expungement and whether they should be granted that it will be virtually allowed in all cases.

141 CHAIR COHEN: Asks Mr. McDonald to review comments made by Mr. Chapman of Jackson County.

146 MCDONNELL: I haven't had a chance to look at that very closely. -Discusses the right of the District Attorney to appear in court. -Talks about informal dispositions. -There is not a group designated to represent victims in juvenile court.

189 CHAIR COHEN: We are in the process of rewriting the juvenile code.

203 CHAIR COHEN: Discusses the evening hearing and what bills will be carried over. -Adjourns hearing at 3:15 p.m.

Submitted by, Reviewed by,

Shannon Gossack
Ingrid Swenson Assistant Counsel

EXHIBIT LOG: A - Staff, HB 3051-A2 amendments, 1 pg. B - Staff, HB 3222-A informational hand-out, 1 pg. C - Staff, HB 3222-A5 amendments, 1 pg. D - Staff, HB 3299-A2 amendments, 15 pgs. E - Jeff VanValkenburgh, HB 2193, 4 pgs. F - Dennis Dowd, HB 2193, 2 pgs. G - Staff, HB 3317-A6 amendments, 2 pgs. H - Staff, HB 3448-A2 amendments, 2 pgs. I - Staff, HB 2395-A4 amendments, 3 pgs. J - Staff, HB 2411-A2 amendments, 15 pgs. K - Staff, HB 2412-A2 amendments, 1 pg. L - Staff, HB 2415-A2 amendments, 1 pg. M - Staff, HB 3449-A5 amendments, 11 pgs. N - Ken Chapman, HB 3449-A, 4 pgs. O - Steve O'Neil, HB 3449-A, 1 pg.

Senate Committee on Judiciary June 10, 1991 - Page

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Measures Heard HB 2542 HB 2407 HB 2391 HB 2932 HB 2543

SENATE COMMITTEE ON JUDICIARY

June 10, 1991Hearing Room C 7:00 p.m.Tapes 223 & 224

MEMBERS PRESENT: Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Jeannette Hamby Sen. Bob Shoemaker Sen. Dick
Springer

MEMBER EXCUSED: Sen. Jim Bunn

STAFF PRESENT: Ingrid Swenson, Committee Counsel Shannon Gossack,
Committee Assistant

WITNESSES: Kate Brown, Women's Rights Coalition Vern
Faatz, Parole Board Russ Spencer, Oregon State Police Mary Hoyt, Task
Force on Child Abuse

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TAPE 223, SIDE A

005 CHAIR COHEN: Calls hearing to order at 7:05 p.m.

WORK SESSION HB 2932

012 INGRID SWENSON, COMMITTEE COUNSEL: Submits and reviews SB 2932-A2
hand engrossed amendments.(EXHIBIT A)

015 KATE BROWN, WOMEN'S RIGHTS COALITION: Reviews HB 2932-A2.(EXHIBIT A)
-The amendments would include medical facility with regard to the arson.
-This would give law enforcement officials another tool against persons
for blockading or impeding access or destroying the function of a
clinic.

028 SEN. BROCKMAN: Is this the same animal rights group that was on
television in regard to vandalism?

036 CHAIR COHEN: We have a bill in committee that would deal with that.

043 BROWN: HB 2786 deals with the issue of animal facilities.

MOTION: SENATOR HAMBY MOVES HB 2932-A2 AMENDMENTS WITH HAND- ENGROSSED ADDITIONS TO HB 2932-A.

VOTE: MOTION IS ADOPTED.

058 SWENSON: Clarifies revised sections of HB 2932-A hand-engrossed bill. (EXHIBIT A)

096 SEN. BROCKMAN: What about line 24V on page 2 dealing with labor disputes?

104 SWENSON: In line 24P it refers to "action as not including any form of speech". Picketing would be a form of speech as long as it did not physically interfere with access to a facility.

115 SEN. BROCKMAN: I would object to the amendments.

MOTION: SENATOR HAMBY MOVES HB 2932-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES WITH SENATORS HAMBY, SHOEMAKER, SPRINGER AND COHEN VOTING AYE AND SENATOR BROCKMAN VOTING NAY WITH SENATORS BUNN AND HILL EXCUSED.

WORK SESSION ON HB 2391

138 SWENSON: Submits and reviews HB 2391-A1 amendments. (EXHIBIT B) -Submits HB 2391-A hand-engrossed bill. (EXHIBIT C)

169 CHAIR COHEN: The Attorney General and the Chief Justice came in and testified on this bill. We do have agreement on this.

MOTION: SENATOR SHOEMAKER MOVES HB 2391-A1 TO HB 2391-A.

VOTE: HEARING NO OBJECTION THE MOTION IS ADOPTED.

MOTION: SENATOR SHOEMAKER MOVES HB 2391-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES WITH SENATORS BUNN AND HILL EXCUSED.

WORK SESSION ON HB 2407

220 SWENSON: Reviews HB 2407-A2 amendments. (EXHIBIT D) -The amendments would require that the person in charge of supervising a person on active parole or other supervised release enter into LEDS system any change of address of the parolee or person being supervised. The obligation of the offender to report would not arise until that person was released from active supervision.

280 CHAIR COHEN: I need to know the real intent behind this bill.

285 VERN FOTZ, PAROLE BOARD: A person who leaves the institution after being convicted of a sex crime will be registered at the time they return to the community, that will be done by a parole officer. After the period of active supervision, when they are on their own they are required to report according to the mechanism that is set up by the State Police.

304 RUSS SPENCER, OREGON STATE POLICE: My only addition to that would be that there be a mechanism for a criminal penalty beyond simple violation

of parole.

310 FAATZ: This would be a technical violation and the rules of the state indicate 90 days.

314 CHAIR COHEN: Do you want to take them back to court if they don't report to whom?

317 FAATZ: It would be impossible for them not to report to their parole officer. It is required that they report.

322 SPENCER: If there is an assurance that there will be swift and just action then we would have no problem with this.

336 SWENSON: Elisa Clawson wanted me to express her support for the amendments.

340 CHAIR COHEN: So Mr. Fotz supports the A-2 amendments.

MOTION: SENATOR HAMBY MOVES HB 2407-A2 AMENDMENTS TO HB 2407-A.

VOTE: MOTION ADOPTED.

357 CHAIR COHEN: On line 2 of HB 2407-A page 3 there was a problem regarding the 10 years after conviction language.

MOTION: CHAIR COHEN MOVES TO ADD THE LANGUAGE "TERMINATION OF ACTIVE SUPERVISION" ON LINE 7 PAGE 3 OF HB 2407 AND TO ADD WORDS "AND THE IDENTIFICATION OF THE JUVENILE DEPARTMENT" ON LINE 5 PAGE 3 OF HB 2407-A.

390 CHAIR COHEN: I was going to raise the issue about the registration of juveniles.

398 SEN. SHOEMAKER: We move from 5 years on rape, sodomy, penetration and sexual abuse to lifetime for those plus more serious offenses.

401 CHAIR COHEN: My concern is the issue of pornography here and that this are really not active against personal crimes.

405 FAATZ: That would support the industry and that is abuse of a child.

TAPE 224, SIDE A

008 CHAIR COHEN: Lets move to the juvenile issue. I am concerned about section 5 in regard to adjudication of juveniles. I would almost like to delete that section. I am not opposed to having them registered until we sort out this issue I don't think we should make a decision.

026 FAATZ: I wouldn't want to lose the registration for adults. Those people should be held accountable across the different counties.

034 MARY HOYT, TASK FORCE: Explains how the registration issue came about.

044 CHAIR COHEN: I hate to give up this piece because there are some dangerous juveniles out there. We need to resolve this issue.

056 HOYT: We don't want to lose the adult registration.

058 CHAIR COHEN: No one is suggesting that you lose the adult registration we are just suggesting that section 5 be deleted right now and then deal with it once the juvenile code issue is resolved.

060 SPENCER: We would support that.

MOTION: CHAIR COHEN MOVES TO DELETE SECTION 5 FROM HB 2407-A.

063 SEN. SPRINGER: Is there still a fiscal with this?

068 SWENSON: Yes but there isn't a subsequent referral to Ways & Means.

071 HOYT: On the House side when the State Police testified they said that there might be a fiscal but that they would absorb that.

076 SEN. SPRINGER: You brought up the issue of people coming back is that a commission of new crimes or violations of probation? I would like to know down the road what we are going to get for this.

085 FAATZ: That is why there is a sunset on this bill. Any condition that feeds into their sex offending behavior then they come back. They require constant supervision. We are going to track that and have more understanding of the offender and how they behave in the community two years from now than we have today.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HAMBY MOVES HB 2407-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY WITH SENATORS BUNN, BROCKMAN AND HILL EXCUSED.

WORK SESSION ON HB 2542

140 SWENSON: Reviews HB 2542-A2 amendments. (EXHIBIT E) -Submits and reviews HB 2542-A3 amendments. (EXHIBIT F)

162 SPENCER: We have no problems with the amendments.

170 CHAIR COHEN: We also deleted section 4 which deals with the guidelines grid and leaving that up to the guidelines board.

MOTION: CHAIR COHEN MOVES HB 2542-A2 AMENDMENTS AND HB 2542-A3 AMENDMENTS TO HB 2542-A.

VOTE: MOTION ADOPTED.

200 SWENSON: There is a further amendment which relates to a bill that was passed by the Committee this afternoon HB 2415 on sexual penetration which now does not require that it be by a foreign object. They would be conforming amendments and if it is alright, in this bill I will simply add the language from HB 2415 into HB 2542.

MOTION: CHAIR COHEN MOVES TO INSERT LANGUAGE FROM HB 2415 TO BE INSERTED IN HB 2542. (CONFORMING AMENDMENT)

205 SWENSON: Legislative Counsel alerts us ahead of time in regard to conflicting amendments so I think this will speed up the process.

206 SPENCER: Section 11 is also added which is an emergency clause.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HAMBY MOVES HB 2542-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES WITH SENATORS HAMBY,

SHOEMAKER, SPRINGER, AND COHEN VOTING AYE AND SENATORS BUNN, BROCKMAN AND HILL EXCUSED.

WORK SESSION ON HB 2543

234 SWENSON: Submits and reviews HB 2543-A2 amendments. (EXHIBIT G)
-This bill has a delayed fiscal impact. Basically it would be \$177,000 in ten years, but 1.75 million in 20 years.

MOTION: CHAIR COHEN MOVES HB 2543-A2 AMENDMENTS TO HB 2543-A.

VOTE: MOTION ADOPTED.

MOTION: SENATOR HAMBY MOVES HB 2543-A AS AMENDED TO THE FLOOR WITH A "DO PASS" RECOMMENDATION.

300 CHAIR COHEN: Adjourns hearing at 8:10 p.m.

Submitted by, Reviewed by,

Shannon Gossack Ingrid Swenson Assistant Counsel

EXHIBIT LOG: A - Staff, HB 2932-A2 amendments with hand-engrossed additions, 5 pgs. B - Staff, HB 2391-A1 amendments, 2 pgs. C - Staff, HB 2391 hand-engrossed bill, 5 pgs. D - Staff, HB 2407-A2 amendments, 1 pg. E - Staff, HB 2542-A2 amendments, 1 pg. F - Staff, HB 2542-A3 amendments, 1 pg. G - Staff, HB 2543-A2 amendments, 1 pg.