

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 2416, PH & WS HB 2260, PH & WS HB 3437, PH & WS HB 3455, PH & WS HB 3520, PH & WS HB 3103, PH & WS

SENATE COMMITTEE ON JUDICIARY

June 21, 1991Hearing Room C 1:00 p.m.Tapes 239 - 241

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 Kate Wrightson, Committee Assistant

WITNESSES: Fred Pearce Stephen Scherr Lavernis
Coleman William Linden, State Court Administrator Rep. Tom Brian Bob
Oleson, Oregon State Bar Ross Shepard, Oregon Criminal Defense Lawyers
Association Jack Landau, Deputy Attorney General Charles Williamson,
Oregon Trial Lawyers Association David Fidanque, American Civil
Liberties Union Major Dean Renfrow, Oregon State Police Sen. Peg Jolin
John Nichols, Oregon State Shooting Association

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TAPE 239, SIDE A

002 CHAIR COHEN: Calls hearing to order at 1:36 p.m.

EXECUTIVE APPOINTMENT, DIRECTOR OF CORRECTIONS DEPT., FRED PEARCE

017 PEARCE: Reviews his past term as Director of Dept. of Corrections.

037 SEN. HILL: Could you review the Diane Downs situation for us?

042 PEARCE: Reviews status of Downs case. She will be returned to an out-of-state facility when her post-conviction relief hearing is completed.

057 SEN. HILL: What do you see in the future for the Department?

061 PEARCE: We are experiencing a plateau in prison population. -We will need a new women's facility soon.

095 CHAIR COHEN: We have committed large amounts of money to drug related crimes; why hasn't there been a decrease in drug crime?

098 PEARCE: I agree. We have begun to see a decline in youth drug usage.

116 SEN. HAMBY: Our committee has been concerned with denial of inmate access to the mails; we have amended HB 2198 to show our concern. What is your opinion?

142 PEARCE: Access to mails is a serious issue, but so is facility security.

187 CHAIR COHEN: Moves to recommend the Governor's reappointment of Fred Pearce as Director of the Dept. of Corrections.

190 CHAIR COHEN: What is the effect of the Dept.'s phasing out of the ombudsperson's office?

201 PEARCE: The Inspector General is performing that function, and it appears to be working well.

250 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

EXECUTIVE APPOINTMENT, PSYCHIATRIC SECURITY REVIEW BOARD, STEPHEN SCHERR

263 SCHERR: Reviews contributions that he feels he can make to the PSRB.

326 SEN. HILL: Why are you interested in accepting this challenge?

328 SCHERR: I believe in public service, and in fulfilling my duty to the community.

369 SEN. SHOEMAKER: Moves to recommend the Governor's appointment of Stephen Scherr to the Psychiatric Security Review Board.

372 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

EXECUTIVE APPOINTMENT, BOARD OF PAROLE & POST-PRISON SUPERVISION, LAVERNIS COLEMAN

387 COLEMAN: Explains contributions she feels she would make to the Board of Parole & Post- Prison Supervision.

416 SEN. HILL: How do you feel that people of color are treated in our criminal justice system?

422 COLEMAN: I think that there is a disproportionate number of people of color in the system, for a variety of reasons. Once within the system, though, everyone convicted of a crime should be treated equally.

TAPE 240, SIDE A

012 CHAIR COHEN: The role of the Board is changing. What is your

feeling about that?

028 COLEMAN: I have talked with Vern Faatz about the changes. Community solutions will be a major concern of mine.

045 SEN. HAMBY: Moves to recommend the Governor's appointment of Lavernis Coleman to the Board on Parole and Post-Prison Supervision.

051 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

HB 2416, LIMITS CIRCUIT OR DISTRICT COURTS TO APPOINTING PUBLIC DEFENDER TO CASES INVOLVING CRIMINAL APPEALS, PUBLIC HEARING & WORK SESSION

075 WILLIAM LINDEN, STATE COURT ADMINISTRATOR: Submits and reviews written testimony (Exhibit A).

111 SEN. HILL: How will this affect the workload at the Public Defender's office?

118 LINDEN: Funding and staffing levels are better than they have ever been.

141 SEN. SPRINGER: Is there anything to the argument that the office which handles the trial is better prepared to handle the appeal?

148 LINDEN: We intend to explore our new authority to contract for appellate services. I have heard both sides of the argument, and I don't think it is settled yet.

166 SEN. HILL: Moves HB 2416 to the floor with a "do pass" recommendation.

172 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BUNN EXCUSED.

HB 2260, RELATING TO INTERPRETERS IN CIVIL CASES, CRIMINAL CASES, AND CONTESTED CASE HEARINGS, PUBLIC HEARING & WORK SESSION

173 LINDEN: Submits and summarizes written testimony (Exhibit B). -Reviews intended purpose of -A2 amendments (Exhibit C).

202 CHAIR COHEN: Moves to adopt the -A2 amendments to HB 2260.

203 HEARING NO OBJECTION, CHAIR COHEN SO ORDERS.

205 SEN. HILL: Moves HB 2260, as amended, to the floor with a "do pass" recommendation.

211 SEN. HAMBY: Does this affect interpreter services for non-English speaking persons?

217 LINDEN: We are required to provide interpreters for those who cannot participate in the process without them.

255 MOTION CARRIES UNANIMOUSLY.

HB 3437, MODIFIES DUTIES AND AUTHORITY OF ADMINISTRATOR OF CORRECTIONAL EDUCATION, PUBLIC HEARING & WORK SESSION

265 REP. TOM BRIAN: Reviews intended purpose of bill.

382 SEN. SHOEMAKER: Would this program be available to those with life sentences, though they are excluded from the bill?

387 REP. BRIAN: It will be available but not required.

397 SEN. HILL: Will participation lead to sentence reduction?

399 REP. BRIAN: The program strictly matches sentencing guidelines.
-You should ask the President to rescind the subsequent referral to the Committee on Ways & Means.

TAPE 239, SIDE B

039 SEN. SHOEMAKER: Moves to amend line 21 on page 3, by adding "or participation in the functional literacy program" after "appropriate institutional behavior".

049 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

066 SEN. HILL: Moves HB 3437, as amended, to the floor with a "do pass" recommendation, with a letter to the President requesting that the subsequent referral to Ways & Means be rescinded.

073 MOTION CARRIES UNANIMOUSLY, WITH SENATOR BROCKMAN EXCUSED.

HB 3455, INCLUDES COPIES REPRODUCED BY FACSIMILE MACHINES FOR PURPOSES OF EVIDENCE CODE, PUBLIC HEARING & WORK SESSION

077 BOB OLESON, OREGON STATE BAR: Reviews intended purpose of bill.

089 ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION & OREGON DISTRICT ATTORNEYS ASSOCIATION: We wanted to ensure that documents were printed on paper which would withstand the test of time.

151 SEN. SPRINGER: Moves HB 3455 to the floor with a "do pass" recommendation.

160 MOTION CARRIES UNANIMOUSLY.

HB 3520, PROVIDES THAT ACTION UNDER SPECIFIED STATUTORY PROVISIONS IS SOLE & EXCLUSIVE REMEDY OF PERSON WITH TORT CLAIM AGAINST OFFICER, EMPLOYEE OR AGENT OF PUBLIC BODY, PUBLIC HEARING & WORK SESSION

167 TAYLOR: Submits and reviews hand-engrossed version of bill (Exhibit D).

222 JACK LANDAU, DEPUTY ATTORNEY GENERAL: Reviews intended purpose of bill.

282 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: We support the bill.

300 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION: It has been a concern of ours that there is no statutory remedy for violation of people's state constitutional rights. We support the amendments.

329 LANDAU: Any new torts created by the Legislature will not be affected by this bill.

337 CHAIR COHEN: Moves to adopt the -A3 amendments to HB 3520.

342 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

343 SEN. HAMBY: Moves HB 3520, as amended, to the floor with a "do pass" recommendation.

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

HB 3103, ALLOWS SUBMISSION OF FINGERPRINT FILES OF CHILD TO DEPARTMENT OF STATE POLICE, PUBLIC HEARING & WORK SESSION

367 SWENSON: Reviews history and intended purpose of bill.

379 MAJOR DEAN RENFROW, OREGON STATE POLICE: Reviews intended purpose of bill. -Submits and summarizes written testimony (Exhibit E).

TAPE 240, SIDE B

002 SEN. BUNN: You would put juvenile files into the APHIS system, instead of keeping them separate as is currently required?

006 RENFROW: Only if the parent or guardian asked for that to be done. The prints remain with the parents. -Continues review.

100 SEN. BUNN: Section 3 proposes an additional fee for fingerprinting gun purchasers. It seems expensive.

104 RENFROW: It could be reduced, but it takes 14 times longer to conduct a search based only on thumbprints than it does to search a complete set of prints.

107 SEN. BUNN: Does that information become a permanent record?

109 RENFROW: No. -Continues testimony.

153 SEN. SHOEMAKER: Why can't you just require a complete set of prints, instead of giving the option for just thumbprints?

156 RENFROW: That was a major point of contention during negotiation for this bill. Some people feel it is excessively restrictive to require a full set.

174 SWENSON: Under current law, if a child is not adjudicated or is determined not responsible, any prints taken are destroyed. What would happen to prints taken under this measure?

182 RENFROW: Current law would still be in effect.

189 SWENSON: If the prints had been provided to federal authorities, how would you get them back to destroy them?

191 RENFROW: We would not provide them to federal authorities. They would remain in the state repository.

250 SEN. BUNN: What prevents you from taking prints, with parental consent, entering them in APHIS, and then another state accessing those files? In practice, these files will not be limited to Oregon law enforcement's use.

260 RENFROW: While that is not our intent, that situation may occur.

282 FIDANQUE: This is an area of great concern to the ACLU. We have a national policy on fingerprinting juveniles.

310 SEN. BUNN: Doesn't this bill allow prints to be put into the federal system?

315 FIDANQUE: I don't know, but I have that concern.

382 SEN. BUNN: Existing law allows fingerprints to be taken from children, and for the parents to keep them. The problem seems to be what happens if a child becomes missing, and what will be done with the prints then.

403 SEN. HAMBY: My problem is the proposed entering of juvenile fingerprints into the criminal history files.

TAPE 241, SIDE A

002 RENFROW: Continues to review bill.

136 SEN. PEG JOLIN: I have two concerns about this bill. -There is a fine line involving the right to privacy. -I am also concerned with Section 3, lines 12-20.

194 JOHN NICHOLS, OREGON STATE SHOOTING ASSOCIATION: We take no position on

the fingerprinting of children. -We oppose Section 3, lines 12-20.

292 CHAIR COHEN: Adjourns hearing at 3:49 p.m.

Reviewed by: Reviewed by:

Bill Taylor Ingrid Swenson Counsel Counsel

Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A - Testimony on HB 2416 - William Linden - 15 pages
B - Testimony on HB 2260 - William Linden - 18 pages
C - Amendments to HB 2260 - Staff - 1 page
D - Hand-engrossed version of HB 3520 - Staff - 3 pages
E - Testimony on HB 3103 - Major Dean Renfrow - 9 pages