

HOUSE COMMITTEE ON JUDICIARY

Full Committee

January 28, 1981      1:30 p.m.      350 State Capitol

MEMBERS PRESENT:

Rep. Tom Mason, Chairman  
Rep. Bill Rutherford, Vice-Chairman  
Rep. Dick Springer  
Rep. Joyce Cohen  
Rep. Peter Courtney  
Rep. Norm Smith  
Rep. Ted Bugas  
Rep. Margie Hendriksen  
Rep. Kip Lombard

STAFF PRESENT:

Stephen Griffith, Legal Counsel  
Diane Daggett, Committee Assistant

WITNESSES:

Ira Blalock, Parole Board  
Chalmers L. Jones, Parole Board  
Bob Watson, Corrections Division  
Tom Thoombs, Corrections Division  
Judge Beatty, Multnomah Circuit Court  
Allison Smith, Oregon District Attorneys Association  
Dave Frohnmayer, Attorney General  
Simon Kornbrodt, Federation of Oregon Parole & Probation  
Officers, President

MEASURES:

HB 2319 Relating to parole of jail inmates  
HB 2320 Relating to parole from jails  
HB 2321 Relating to terms of imprisonment  
HB 2327 Relating to parole  
HB 2328 Relating to parole

TAPES: H-81-JUD-28, H-81-JUD-29 and H-81-JUD-30

TAPE H-81-JUD-28, SIDE A

PUBLIC HEARING

002 CHAIRMAN MASON called the meeting to order at 1:35 p.m.

HB 2319 - Relating to parole of jail inmates

HB 2320 - Relating to parole from jails

011 IRA BLALOCK, Parole Board, testified in favor of HB 2319 and HB 2320. (Exhibit M, Corrections)

151 Chairman Mason stated the way he reads the bill, ORS 144.050 is repealed. Mr. Blalock agreed.

226 THOMAS TOOMBS, Corrections Division, testified in favor of HB 2319 and HB 2320. (Exhibit A, HB 2319 and Exhibit A, HB 2320)

HB 2327 - Relating to parole

308 DAVE FROHNMAYER, Attorney General, testified in opposition to HB 2327. (Exhibit B, HB 2327)

TAPE H-81-JUD-29, SIDE A

52 IRA BLALOCK, Parole Board, testified in favor of HB 2327. (Exhibit M, Corrections)

139 BOB WATSON, Corrections Division, testified in favor of the bill. Exhibit A, HB 2327)

TAPE H-81-JUD-28, SIDE B

014 ALLISON SMITH, Oregon District Attorneys Association, testified in opposition of HB 2327. He stated the bill is opposite to what the District Attorneys would like to see. They would like longer instead of shorter supervision.

025 JUDGE BEATTY, Multnomah County Circuit Court, stated that if HB 2327 passed in its present form, it would create a substantial change in the sentencing practice of circuit judges.

090 SIMON KORN BRODT, Federation of Oregon Parole & Probation Officers, President, testified in opposition to HB 2327, stating that parole can have no impact within a period of six months.

HB 2321 - Relating to terms of imprisonment

164 IRA BLALOCK, Parole Board, testified in favor of HB 2321. (Exhibit M, Corrections)

- 298 ALLISON SMITH, Oregon District Attorneys Association, testified in opposition to HB 2321. He stated that there are only two areas in which a sentencing judge has authority to keep a person in custody: Minimum sentences, which can be overturned by a four out of five vote; and through the use of consecutive sentencing.
- 328 CHALMERS L. JONES, Parole Board, testified in opposition to HB 2327. In reply to question posed by Rep. Lombard, Mr. Jones stated that unless restitution is paid by the tentative discharge date from further supervision, the individual will be retained under supervision, even until the expiration date of his sentence.
- 397 CHALMERS JONES, Parole Board, testified in opposition to HB 2321. He stated that he would like to retain the statutory language as it stands. In his estimation, the suggestion is an undue encroachment by the board on the judicial prerogative. Statute now requires judges to give reasons for their sentence structure and the board is not the body to make the decision on when that should be changed. He suggested that more emphasis should be placed on the statutory requirement that the reasons for the sentence structure be clearly defined in the sentencing order.

TAPE H-81-JUD-29, SIDE B

- 053 BOB WATSON, Corrections Division, testified in favor of HB 2321. (Exhibit A, HB 2321)
- 077 JUDGE BEATTY, Multnomah County Circuit Court, speaking for the Judicial Conference, stated that they oppose the bill and feel the law should remain as it now stands.
- 118 SIMON KORN BRODT, Federation of Oregon Parole & Probation Officers, President, testified in opposition of HB 2321. They feel that this bill takes away the power and discretion of the circuit court judges.

HB 2328 - Relating to parole

- 189 BOB WATSON, Corrections Division, testified in favor of HB 2328. (Exhibit A, HB 2328)
- 224 IRA BLALOCK, Parole Board, testified in favor of the bill. He stated that he felt the division is trying to move faster than the parole board is able to move. The direction the division is taking is an appropriate one. It was contemplated when the statute was written that the board would have control over the format of the presentence report, but this way a uniform set of information would begin to flow through the system. The problem is 49.6% of the History Risk Score and the Crime Severity Rating reports are in error, which makes them subject to appeal. This

bill allows the division to decide who should come back for a release interview and does not allow the board to determine if they want to see someone prior to their actually being ordered on parole.

Work Session

448

Chairman Mason introduced the following bills: LC 1964 - Relating to Motor Vehicles (became HB 2507); LC 1627 - Relating to employment relations at the request of the AFLCIO (became HB 2508); LC 1922 (rough draft) - Relating to dispositions in criminal cases (became HB 2509); At the request of Oregon Bankers Association, Relating to exemptions from execution (became HB 2506)

There were no objections to the introduction of these bills.


Respectfully submitted,  
  
Diane Daggett  
Committee Assistant

Exhibit Log:

Exhibit M, Corrections  
Exhibit A, HB 2319  
Exhibit A, HB 2320  
Exhibit A, HB 2321  
Exhibit A, HB 2327  
Exhibit B, HB 2327  
Exhibit A, HB 2328

HOUSE COMMITTEE ON JUDICIARY

Full Committee

March 23, 1981      1:00 p.m.      350 State Capitol

MEMBERS PRESENT:

Rep. Tom Mason, Chairperson (arrived 1:26)  
Rep. Norm Smith  
Rep. Kip Lombard (arrived 1:40)  
Rep. Joyce Cohen (left 1:45, returned 3:40)  
Rep. Peter Courtney (arrived 1:25)  
Rep. Dick Springer (arrived 1:15)  
Rep. Margie Hendriksen (arrived 1:35)

MEMBERS EXCUSED:

Rep. Ted Bugas  
Rep. Bill Rutherford

STAFF PRESENT:

Stephen Griffith, Legal Counsel  
Diane Daggett, Committee Assistant

WITNESSES:

Ira Blalock, Board of Parole  
Allison Smith, Oregon District Attorney's Association  
Lisa Brown, Department of Justice  
William L. Lasswell, District Attorney, Douglas County  
Darcia Krause, Portland Attorney  
Duncan B. Pierce, Douglas County Parole/Probation  
Marc Sussman, Oregon State Bar  
John Beatty, Multnomah County Circuit Court Judge  
Simon Kornbrodt, Federation of Oregon Parole and Probation  
Officers  
Betty Browne, Chairperson, Board of Parole  
Carol Herzog, American Civil Liberties Union

MEASURES:

HB 2319 - Relating to parole of jail inmates  
HB 2320 - Relating to parole from jails  
HB 2321 - Relating to terms of imprisonment  
HB 2327 - Relating to parole  
HB 2328 - Relating to parole  
HB 2449 - Relating to criminal law  
HB 2544 - Relating to criminal procedures  
HB 2694 - Relating to parole orders  
HB 2999 - Relating to criminal procedure

Mr. Smith stated that he had figures that are attributed to Mr. Chambers of the Corrections Division, that would indicate the 12% of new commitments that have mandatory commitments attached to that and of that about 25% are over-riden. Those figures extrapolated out would indicate about 2.4 cases a month. An unconfirmed figure of 80% of their over-turns of the minimums are by unanimous vote now. This would put the other 20% that are not presently voted on unanimously at issue.

146

IRA BLALOCK, Board of Parole, stated that he is in opposition to HB 2449 and is in favor of another bill, HB 2321, and of that, an amended version of that which he drafted with consultation of other members of the Parole Board. HB 2321 now makes the summing for the ranges of CS sentences permissive, "may" instead of "shall" goes to far and he proposes that HB 2321 be redrafted and he submitted to the committee his draft. (Exhibit HH, Corrections) If two CS sentences call for a range of ten to twenty-four months, that range now is twenty to forty-eight. Instead of doing that, the bill that he has proposed would say that in those cases where the judge passes a CS sentence, the range may be enhanced and ask that the commission of prison terms and parole standards propose and the Board adopt rules governing enhancement to the ranges when the consecutive sentences are imposed. He suggests that be referred to the advisory commission and have that whole question of CS sentences be looked at. It is a complex issue which involves the whole question of merger of sentences. The statute is otherwise silent on consecutive sentences and to his knowledge there is no reference in the Oregon Revised Statutes to consecutive sentences with the exception per charge to the Parole Board and the Advisory Commission to sum the ranges when consecutive sentences are imposed. He speaks in favor of HB 2321 as opposed to this bill and in favor of the amended version which he handed out which would make the Advisory Commission responsible for studying the matter and proposing rules to the Parole Board.

HB 2319, HB 2320, HB 2321, HB 2327, and HB 2328

240

IRA BLALOCK, Board of Parole, stated that if community corrections are expanded and more class C felons are going to be held in the community, he feels it is unwise to take that provision out of the statute. He stated that in HB 2321 he feels it would be wise to take the mandatory summing of the ranges out and require that the Advisory Commission propose rules and the Board adopt rules. He stated that they made a proposal to HB 2327 which would say that the Board would adopt rules to restrict the imposition of longer terms in cases where finding has been made by the Board of Parole prior to release on parole that a six month period of supervision is not in the best interest of the public. The rules adopted by the Board pursuant to this section would consider available resources and that would simply say that they would have to pay attention to the

number and extent of their staffing. They did meet with the executive department and made this amendment. In HB 2328 he feels the Board should be allowed to have their own staff to make their own determinations about who should be scheduled for review. He doesn't feel that the legislature should be used to solve turf fights between the Corrections Division and the Board of Parole which is the way he sees that piece of legislation. The bill that Mr. Blalock proposed (HB 3179) would require that the Board be involved and have review procedures for the granting of temporary leaves in excess of 30 days in any calendar year.

HB 2321 - Relating to terms of imprisonment

339           SIMON KORNBRODT, President Federation of Oregon Parole and Probation officers, testified in opposition to HB 2321.

HB 2327 - Relating to parole

376           SIMON KORNBRODT, President Federation of Oregon Parole and Probation officers, stated that there is a dramatic difference between persons released on parole and persons released without parole. The group released without parole had a far greater recitivism rate. He feels that the legislature might save some morey with a shorter parole term but the cost of higher criminal activity far out-weighs the financial gains by releasing parolees early. He feels it would be a mistake to pass this measure out as it is now written.

HB 2328 - Relating to parole

436           SIMON KORNBRODT, President Federation of Parole and Probation officers, stated that one problem that he has with this measure is that he doesn't feel that institutional misconduct should be taken into consideration. If the institutional misconduct is so agrivated that it constitutes an additional offense, that additional offense should be prosecuted. He doesn't feel that institutional conduct as he has seen has little application to what happens later on the street so he doesn't see the function of having those kind of reports before the Board.

TAPE H-81-JUD-176, SIDE A

077           JOHN BEATTY, Multnomah County Circuit Court Judge, Judicial Conference, stated that page 2 line 36 of the printed bill states "the report shall specify the range of duration of imprisonment applicable in the divididual case and the information used to determine that range". He feels the word "estimate" should replace the word "specify" in line 36 and the word "determine" in line 37. This language if not changed might create some kind of an appellate process.

HOUSE COMMITTEE ON JUDICIARY

Full Committee

April 3, 1981 1:30 p.m. 350 State Capitol

MEMBERS PRESENT: Tom Mason, Chairperson  
Bill Rutherford, Vice-Chairperson  
Joyce Cohen  
Peter Courtney  
Margie Hendriksen (arrived 2:00 p.m.)  
Kip Lombard  
Dick Springer  
Norm Smith

STAFF: Steve Griffith, Legal Counsel  
Pamela Burke, Committee Assistant

WITNESSES: Judge Beatty, Multnomah County Circuit Court Judge and  
Judicial conference  
Ira Blaylok, Salem Parole Board  
Robert Watson, Corrections Division, Director

MEASURES: HB 2319 - Relating to parole of jail inmates  
HB 2320 - Relating to parole from jails  
HB 2321 - Relating to terms of imprisonment  
HB 2322 - Relating to criminal sentences  
HB 2327 - Relating to parole  
  
HB 2444 - Relating to criminal law  
HB 2445 - Relating to criminal law  
HB 2459 - Relating to criminal procedure

TAPES: H-81-JUD-215, H-81-JUD-216, H-81-JUD-217 and  
H-81-JUD-218

TAPE H-81-JUD-215, SIDE A

015 CHAIRPERSON MASON convened the meeting at 1:45 p.m.

WORK SESSION

HB 2319

019 CHAIRPERSON MASON briefed the committee on the bill.

In (4) delete the words "being served" after the word "sentence" and before the word "at" transferring the phrase "previously imposed sentence" to "sentence previously imposed" and  
In printed bill delete (5).

300 There being no objections the motion was adopted.

310 STEVE GRIFFITH, Legal Counsel, submitted proposed language to ORS 137.320 (Exhibit 00, Corrections).

340 CHAIRPERSON MASON moved to adopt amended language (Exhibit 00, Corrections) of HB 2322.

360 There being no objections the motion was adopted.

375 CHAIRPERSON MASON moved HB 2322, as amended, to the floor with a "do pass" recommendation.

390 The vote being unanimous the motion was adopted. Rep. Smith was appointed to carry the bill to the floor.

HB 2327

402 CHAIRPERSON MASON briefed the committee on the bill.

420 STEVE GRIFFITH, Legal Counsel, submitted proposed amendments to HB 2327 (Exhibit PP, Corrections).

TAPE H-81-JUD-217, SIDE A

010 General discussion followed.

TAPE H-81-JUD-218, SIDE A

235 MOTION: CHAIRPERSON MASON moved to delete the word "shall" in line 6, and insert the word "may" delete the words "one year" in line 9 and insert "six months"; and delete the word "however" in line 2.

In the proposed amendments (Exhibit PP, Corrections) CHAIRPERSON MASON moved in (2) line 13 to delete the word "only"; on line 14 to delete the word "however"; and on line 16 to delete the words "prior to the release on parole". In (3) lines 22 insert the words "renew or after the word "may". On lines 23 and 24 delete the words "during that period" adding a period(.) after the word "parole"; and keeping the amendments in (4).

250 There being no objections the motion was adopted.

320 MOTION: CHAIRPERSON MASON moved to adopt the amendments on pages 2-4 (Exhibit PP, Corrections).

350 There being no objections the motion was adopted.

440 MOTION: REP. RUTHERFORD moved in (3) (Exhibit PP, Corrections) to insert the words "imposed after the effective date of this act" at the end of the sentence deleting the period (.).

460 There being no objections the motion was adopted.

TAPE H-81-JUD-217, SIDE B

011 MOTION: REP. SMITH moved to adopt pages 5 and 6 (Exhibit PP, Corrections) of the proposed amendments.

050 There being no objections the motion was adopted.

191 MOTION: CHAIRPERSON MASON moved to adopt the proposed amendments with the changes and refer the bill to the floor with a "do pass" recommendation.

200 The motion carried 7-1 with Rep. Bugas, Cohen, Lombard, Springer, Smith, Rutheford and Chairperson Mason voting aye. Rep. Courtney voted nay. Rep. Hendriksen was excused. HB 2327 will be carried on the floor by Rep. Smith.

HB 2444 and HB 2445

230 CHAIRPERSON MASON briefed the committee on the bills.

256 MOTION: REP. RUTHERFORD moved HB 2445 to the floor with a "do pass" recommendation.

350 The motion carried 5-3 with Rep. Bugas, Courtney, Springer, Smith and Rutherford voting aye. Rep. Cohen, Lombard, and Chairperson Mason voting nay. Rep. Hendriksen was excused. Rep. Rutherford will carry HB 2445 on the floor.

360 STEVE GRIFFITH, Legal Counsel, submitted testimony from the Oregon Criminal Defense Lawyers' Association (Exhibit 6, HB 2444).

397 MOTION: REP. RUTHERFORD moved that HB 2444 be amended by deleting on line 6 the words "separate statute violated certain at least on separate element" and inserting "provision require proof of an element that the others do not".

440 The motion passed 5-2 with Rep. Bugas, Courtney, Springer, Smith, and Rutherford voting aye. Rep. Cohen and Chairperson Mason voted nay. Rep. Hendriksen and Lombard were excused.

DEPARTMENT OF JUSTICE

Memorandum

TO: REPRESENTATIVE TOM MASON  
Chairman, House Judiciary Committee

FROM: DAVE FROHNMAYER  
Attorney General

SUBJECT: HB 2327

DATE: January 30, 1981

The Department of Justice opposes HB 2327, which would require the Board of Parole to terminate parole supervision and discharge a parolee after six months violation free conduct, rather than allowing the Board of Parole discretion to discharge a parolee after a minimum of one year parole if final release is not incompatible with the welfare of the parolee and the public.

The Department of Justice emphasizes five points in opposing this bill:

1. It represents a major change in corrections policy.

The existing statute recognizes the dual purpose of parole: (1) protection of the public and (2) rehabilitation of the offender. This bill eliminates consideration of either element and substitutes an arbitrary period of supervision, set by legislation, as the sole criterion for discharge. The measure eliminates effective involvement of the Board of Parole in the final discharge decision.

2. It does not deal with the danger to the public.

Assuming the Corrections Division believes it can provide adequate rehabilitation resources in the six months period (a point disputed by the parole officers), the new bill eliminates any consideration of the public's safety in determining whether a parolee should be discharged.

3. It is a policy change dictated by fiscal considerations rather than sound correctional philosophy.

The Department of Corrections suggests that the law should be changed because parole is "extended punishment" and six month discharges would allow the Department to maintain lower caseloads per parole officer and save \$2.9 million dollars. Parole is not punishment; it is early supervised release from incarceration, an act of leniency. Given the Division statistic that 2/3 of parole violations occur after six months, no sound correctional policy is served by the proposed bill. Although it is difficult to measure, the social cost in danger to the public as victims of violence as well as loss of property from criminal activity may exceed the estimated savings. Even with limited budget resources, the better solution may be to increase supervision resources rather than subject the public to the real risk of increased crime.

4. It is unnecessary.

Through administrative rules the Corrections Division has the authority to control the level or intensity of supervision of parolees. Without suggesting that such a policy is reasonable, it is possible for the Division to terminate or dramatically reduce supervision after six months by administrative rule without requiring the Board of Parole to discharge the parolee.

5. It is inconsistent with other conditional release statutes.

Existing law allows a judge to place a person on probation for up to five years. Enactment of this bill would mean that a probationer could spend ten times as long under supervision as a parolee. Since persons sentenced to prison and subsequently paroled are presumably more dangerous to the public than probationers, this policy makes little sense for the criminal justice system.

As Mr. Blalock testified, the only real benefit to HB 2327 is that it saves money. The Department suggests that even that benefit is illusory in view of the potential damage to the criminal justice system and the increased risk of criminal activity to the public. For these reasons, HB 2327 should not be passed.

baw

R. J. Watson  
Administrator  
Corrections Division

House Judiciary Committee  
Full Committee Jan. 28, 1981  
Exhibit **B**, HB 2327 1 page  
R. J. Watson, Corrections Div.

TESTIMONY CONCERNING HB 2327

The Corrections Division strongly advocates passage of HB 2327. I believe reading of ORS 144.780, which reflects the existing legislative policy, places the requirement on the Board of Parole to set prison terms which punish, serve as a deterrent and are based on public safety considerations. Once that has been done, it is wasteful and unnecessary to continue parolees on extended periods of supervision.

The Board of Parole practices this policy currently. Very minimal penalties occur for parole violations; 4 to 8 months when no crime is committed, and 8 to 12 months when a crime is committed. This is consistent with ORS 144.780 and this next step to relieve the taxpayers of funding the 58 positions and over \$2-1/2 million is an action which must be taken as taxpayers demand reductions in government spending.

Failure to pass the measure will result in retaining some 2,000 parolees who will "fatten" the caseloads of existing field staff, creating unnecessary work. Caseloads that would influence judges to use prison instead of probation is the fundamental issue I see in this legislation.

Successful completions from probation are increasing despite growing workloads. The Governor's Budget already has an increased average projected caseload for field staff going from a budget level of 50:1 to a 1981-83 budget level of 58:1. Failure to establish a 6 months maximum parole period will increase workloads nearing 10 parolees per officer, or create a 68:1 caseload average which means about half the staff would experience caseloads in excess of 100:1.

Analysis of revocations must be a serious consideration in deciding what to do with this proposed legislation. A study of 4,385 field services files reveals that 17% of all field supervision ends in revocation. One-third of all violations leading to revocation occurs within the first 6 months, though the actual revocation by the Board takes up to 3-4 months and sometimes longer. Of all remaining revocations, about half are by reason of new crime, and prosecution would better satisfy the law. The bottom line is that one-third of all current revocations, all of which are technical in nature or rules/conditions violations, would be eliminated by this bill. The expenditure of \$2-1/2 million and over 50 professional staff needed desperately to maintain a meaningful probation service would be lost with failure to pass HB 2327.

I urge passage to sustain the general thrust of our collective efforts for the past 4 years to strengthen the probation services.

For further exhibits to HB 2327

See exhibit subject file: Corrections

AS  
on:  
BERT SMITH



Members:  
SEN. WALT BROWN  
SEN. EDWARD FADELEY  
SEN. JIM GARDNER  
SEN. KENNETH JERNSTEDT  
SEN. TED KULONGOSKI

Staff:  
FELICIA M. GNIEWOSZ  
KRISTENA A. LaMAR  
Legal Counsel  
HARRIET CIVIN  
Chief Committee Assistant  
GLENDA HARRIS  
VERA J. MOISEVE  
Committee Assistants

## SENATE COMMITTEE ON JUSTICE

Room 347, State Capitol  
SALEM, OREGON 97310  
(503) 378-8833

THURSDAY, MAY 28, 1981                      M I N U T E S                      3:00 p.m.                      ROOM B

MEMBERS PRESENT:    Senator Walt F. Brown  
                                 Edward Fadeley (arr. at 5:30 p.m.)  
                                 Jim Gardner (arr. at 3:40 p.m.)  
                                 Kenneth Jernstedt  
                                 Ted Kulongoski  
                                 Robert F. Smith, Vice-Chairperson  
                                 Jan Wyers, Chairperson

STAFF PRESENT:       Felicia Gniewosz, Legal Counsel  
                                 Kristena A. LaMar, Legal Counsel  
                                 Sandra Brantley, Committee Assistant

### BILLS AND WITNESSES:

Tape 205A - 035	<u>AMENDED HOUSE RESOLUTION 22 - Relating to funds for Building or Improving Corrections Facilities</u>
035	Mr. Bob Watson, Administrator, State of Oregon Corrections Division (EXHIBIT A)
Tape 206A - 051	Mr. Thomas M Baker, Citizen
162	Mr. Norman Babcock, People for Prison Alternatives (EXHIBIT B)
335	Mr. Steve Scheer, People for Prison Alternatives (EXHIBIT C)
Tape 205B - 161	Mr. Paul Snider, Association of Oregon Counties
187	Ms. Jane Rocky Alward, People for Prison Alternatives
Tape 206B - 147	<u>AMENDED HOUSE BILL 2321 - Relating to terms of Imprisonment</u>
148	Mr. Bob Watson, Corrections Division (EXHIBIT D).
290	Mr. Allison Smith, Oregon District Attorneys Association (EXHIBIT E).
300	<u>AMENDED HOUSE BILL 2327 - Relating to Corrections</u>
305	Mr. Bob Watson, Corrections Division (EXHIBIT F).
447	Ms. Marcy Hertzmark, Federation of Oregon Parole and Probation Officers. (EXHIBIT G).
Tape 207A - 128	<u>AMENDED HOUSE BILL 2328 - Relating to Parole</u>
129	Mr. Bob Watson, Corrections Division
345	Mr. Frank Ivancie, Mayor, City of Portland, Letter (EXHIBIT H).

METER READINGS GIVEN FOR INITIAL TESTIMONY OF EACH WITNESS. ADDITIONAL TESTIMONY OFTEN FOLLOWS.

MINUTES WERE RECORDED ON 60 MINUTE CASSETTE TAPES. METER READINGS INDICATE MINUTES ON EACH SIDE.

432 Mr. Watson stated that if the crimes of the individuals currently in prisonsrestitution covers a large percentage. There are other types of crimes possibly a court could define other types of crimes and attach a value to that. Restitution would serve a large number but not the majority of crimes. SENATOR WYERS asked SENATOR GARDNER what he visualized when in a restitution center. SENATOR GARDNER answered that it would be a place to live and would go to work from there. SENATOR GARDNER stated that he had a bill relating to prison industries. If jobs are tight in the community then perhaps there would be in the center a place that they could repair autos, etc.

Tape 206B

019 SENATOR GARDNER stated that he would like to get the resolution and accompanying bill redirected toward community corrections and restitution centers. SENATOR GARDNER asked if that was a direction in which the Committee could move. Mr. Watson responded favorably by stating that he would prefer it. Mr. Watson also stated that he was afraid that there would be programs competing for the same money and that he felt the Legislature should design it in a way that they would not have to compete.

147 AMENDED HOUSE BILL 2321 - Relating to terms of Imprisonment

148 MR. BOB WATSON, Corrections Division, read his testimony in support of HB 2321. (EXHIBIT D).

290 MR. ALLISON SMITH, Oregon District Attorneys Association, submitted testimony in favor of HB 2321. (EXHIBIT E).

300 AMENDED HOUSE BILL 2327 - Relating to Corrections

305 MR. BOB WATSON, Corrections Division, read testimony in support of the bill. (EXHIBIT F).

447 MS. MARCY HERTZMARK representing the Federation of Oregon Parole and Probation Officers testified in opposition to HB 2327. (EXHIBIT G).

Tape 207A

128 AMENDED HOUSE BILL 2328 - Relating to Parole

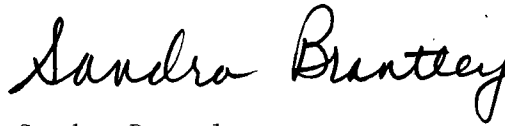
129 MR. BOB WATSON, Corrections Division, testified that the bill was geared around the critical decision of probation. The Legislature in 1977 mandated pre-sentence reports and for the past year and a half have the courts have responded by placing 80% of the people convicted of felony crimes in the State on probation. Prior to that time probation use was 60-65%. With the diminishing revenue and trying to respond to the pre-sentencing reports; in the parole board there are twenty employees that just rewrite the reports and examine the same issues. The request is to take that staff, place them in the field and reduce the time that a person is in prison before they have up-to-date information so the Parole Board can act. What this bill does is redescribe the process of review of information by the Board, what they examine as a Parole Date is set and what is included in a pre-sentence report.

232 SENATOR FADELEY arrived at 5:30 p.m.

345 SENATOR WYERS submitted written testimony on HJR 22 from Mayor Frank Ivancie, Portland, in support of HJR 22. (EXHIBIT H).

350 The meeting was adjourned at 5:42 p.m.

Respectfully submitted,



Sandra Brantley  
Committee Assistant

EXHIBITS

- A - Chart, HJR 22
- B - Testimony, Norman Babcock, HJR 22
- C - Testimony, Steven Scheer, HJR 22
- D - Testimony, Bob Watson, HB 2321
- E - Testimony, Allison Smith, HB 2321
- F - Testimony, Bob Watson, HB 2327
- G - Testimony, Marcy Hertzmark, HB 2327
- Testimony, Mayor Frank Ivancie, HJR 22
- Witness Registration, All Bills

Chairperson:  
SEN. JAN WYERS  
Vice-Chairperson:  
SEN. ROBERT SMITH



Members:  
SEN. WALT BROWN  
SEN. EDWARD FADELEY  
SEN. JIM GARDNER  
SEN. KENNETH JERNSTEDT  
SEN. TED KULONGOSKI

ff:  
FELICIA M. GNIEWOSZ  
KRISTENA A. LaMAR  
Legal Counsel

HARRIET CIVIN  
Chief Committee Assistant  
GLENDA HARRIS  
Committee Assistant

## SENATE COMMITTEE ON JUSTICE

Room 347, State Capitol  
SALEM, OREGON 97310  
(503) 378-8833

Tuesday, July 7, 1981

3:00 P.M.

Room 350, State Capitol

MEMBERS PRESENT: Senator Walt F. Brown  
Edward Fadeley  
Kenneth Jernstedt  
Ted Kulongoski  
Robert F. Smith, Vice-Chairperson  
Jan Wyers, Chairperson

MEMBERS EXCUSED: Senator Jim Gardner

STAFF PRESENT: Felicia Gniewosz, Legal Counsel  
Glenda Harris, Committee Assistant

### WITNESSES & BILLS:

Tape 270A	012	<u>House Bill 3058 - Relating to criminal mistreatment</u>
	060	<u>House Bill 2479 - Relating to crime</u>
	200	Jerry Cooper, Washington County District Attorney's Office
Tape 271A	020	Bob Oliver, Governor Atiyeh's staff
	255	Carol Herzog, American Civil Liberties Union
Tape 270B	235	Ruth McFarland, Senate District 12
Tape 271B	052	<u>House Bill 2320 - Relating to parole from jails</u>
	147	<u>House Bill 2322A - Relating to criminal sentences</u>
	205	<u>House Bill 2327A - Relating to Corrections</u>
	210	Cy Cornbrodt, Federation of Oregon Parole & Probation Officers
	283	<u>House Bill 2328A - Relating to parole</u>
	339	Bob Watson, Corrections Division
Tape 272A	050	<u>House Bill 2320 - Relating to parole from jails</u>
	065	<u>House Bill 2327A - Relating to Corrections</u>

that while the sheriff has the authority to release an inmate, the ultimate responsibility for the inmate rests with the court.

111 MOTION: CHAIRPERSON moved HB 2320 to the Senate Floor with a Do Pass recommendaiton.

VOTE: Voting Aye: Senators Brown, Fadeley, Jernstedt, Kulongoski, Smith, Wyers. Excused. Senator Gardner

147 HOUSE BILL 2322A - Relating to criminal sentences

148 COUNSEL GNIWOSZ explained that the present statute on confinement said that the term did not actually begin until the prisoner was physically received in one of the institutions of the Corrections Division. That was the main problem the bill was addressing. The other thing the bill addressed was that presently the law did not specify whether a sentence as imposed would be concurrent or consecutive to any previously imposed sentence; the first thing the bill did was to amend the statute ORS 137.370 in section 2, to change the time when a criminal defendent was deemed to leave the jurisdiction of the court and enter the Corrections Division, after the sentence was imposed. They would get credit from the time the sentence was in effect. They would get credit for any time spent outside of custody when they were in an authorized program. The bill also clarified that the sentences would be deemed to be concurrent unless the court directed otherwise.

195 WYERS asked Mr. Watson if the concurrent, consecutive business was a housekeeping issue to clarify language or was it a policy change. WATSON replied that it was housekeeping; that was the practice, but there was not statutory reference.

200 MOTION: WYERS moved HB 2322A to the Senate Floor with a Do Pass recommendation.

VOTE: Senators Brown, Fadeley, Jernstedt, Kulongoski, Smith and Wyers voted AYE. Senator Gardner, EXCUSED.

205 HOUSE BILL 2327A - Relating to Corrections

210 CY CORNBRODT, Federation of Oregon Parole and Probation Officers, said they objected to the bill. One of their concerns was not the concern of the person who went out of prison who intended to and did commit crimes. Their problem was that to be effective in parole supervision, a great bulk of people had long records before they went to prison, they had a long pattern of antisocial behavior - to come out, what they really needed was a consultation with a parole officer, getting to know the parole officer, and working with the parole officer, to break their patterns. The problem with six months, was that the person who really wanted to make it came out for six months, the parole officer was just getting to know him, the new patterns were not yet established and then the person was cut off parole. A great deal of parole work was in being supportive and in counseling. They felt the six months was shortsighted and was shifting from corrections to the rest of the criminal justice system. Recent studies have shown that parole has been effective over a longer period of time, not a shorter

period. Their feeling was if the legislature felt parole was not effective, just eliminate parole - don't play games by having six months which wouldn't do anything.

- 235 SMITH said he heard what Mr. Cornbrodt was saying; the problem they had before them was outlined in Mr. Watson's testimony which said that "the failure to pass a measure would result in permitting eighteen felons per month to be released with no supervision during their initial readjustment while retaining some 2,000 parolees who will fatten caseloads of existing field staff, creating unnecessary work."
- 252 CORNBRODT replied that if it was more efficient economically to supervise people on parole than it is to have people in institutions, then supply the officers to do it at a less cost. However, there were other areas. He said the Division had made a value judgment not to touch option one funds under community corrections, where salaries were being paid to administrators and other things were being done. He said it was their position that that was a soft area in the corrections budget - that savings could be transferred into that area, have option three regional managers plan, and 57% of the money could be saved, which could be used effectively in paroles. If paroles were not going to be made effective, then don't have paroles, CORNBRODT stated.
- 266 WYERS asked Smith if he had been talking about the section where they could extend the six months period if it was incompatible with the welfare of the parolee. SMITH said he had been quoting Mr. Watson's testimony.
- 283 HOUSE BILL 2328A - Relating to parole
- 284 COUNSEL GNIEWOSZ explained that HB 2328A dealt with procedures governing the release of parole prison inmates. Section 1 would amend the statute to provide that if a prisoner's parole release date was to be postponed or not set because of severe emotional disturbance, there had to be a finding that the condition constituted a danger to the health and safety of the community. Section 2 amended the next statute to provide that the pre-release interview with the parole board, which is now mandatory and generally very short, would only be held at the request of the parole board or the Corrections Division. The expected result would be that there would be a savings of twenty beds. The section also dealt with the psychological reports which are maintained by the Corrections Division and they would be made available to the parole board, and by the rules, to the parolee, as part of the pre-release process; there was a condition unless the psychologists would consider the disclosure of the information as being harmful. The pre-release process information dealt with duplication of examination and what information they got.
- 330 WYERS asked if subsection (4) of section 1, dealt with a "Charles Manson situation" where the Board may chose not to set a parole date - was this a situation where the parole board could decide, if they had someone who was very violent and dangerous, that they just wouldn't set a parole date.
- WYERS and BOB WATSON discussed the language of subsection (4), section 1.

360 GNIEWOSZ said she thought the House rationale was if there was to be no parole for reasons that did not affect other people, the prisoner was being kept for essentially civil reasons. That person should then be entitled to the protections of the state civil commitment procedures.

GNIEWOSZ and WYERS discussed sections 2-4.

TAPE 272A

025 BOB WATSON explained that Judge Beatty had suggested the language on lines 7 & 8 in section 4, dealing with the parole matrix. It would clarify that the range estimate wouldn't give any rights to the defendant because Judge Beatty thought the prior language could be interpreted as a somewhat stronger statement or was binding on the judge and he would prefer this language which said it was only an estimate - it was for advice to the court.

038 MOTION: BROWN moved HB 2328A to the Senate Floor with a Do Pass recommendation.

VOTE: Senators Brown, Fadeley, Jernstedt, Kulongoski and Wyers voted AYE. Senators Gardner and Smith were excused.

House Bill 2320 - Relating to Parole from Jails

051 MOTION: WYERS moved to reconsider the vote on HN 2320 which sent it to the floor with a Do Pass recommendation.

MOTION adopted without objection.

MOTION: WYERS moved to add an "r" to the word "couts" on line 15.

MOTION adopted without objection.

059 MOTION: WYERS moved HB 2320 to the Senate Floor with a Do Pass as amended recommendation.

VOTE: Senators Brown, Fadeley, Jernstedt, Kulongoski and Wyers voted AYE. Senators Gardner and Smith were Excused.

House Bill 2327A - Relating to Corrections

65 MOTION: WYERS moved House Bill 2327A to the Senate Floor with a Do Pass recommendation.

VOTE: Senators Brown, Jernstedt, Kulongoski and Smith voted AYE. Senators Fadeley and Wyers voted NAY. Senator Gardner was Excused.

075 WYERS discussed with the committee members the number of bills left in the committee and when to schedule hearings on those bills.

181 WYERS adjourned the meeting at 5:30 P.M.

Respectively submitted,

Glenda Harris, Committee Assistant

**Federation Of  
Oregon Parole & Probation Officers**

SENATE COMMITTEE ON JUSTICE  
HB 2327 - EXHIBIT G  
May 28, 1981 - 1 page  
Marcy Hertzmark, Fed. of Or.  
Parole & Probation Officers

May 28, 1981

Senate Justice Committee  
Senator Jan Wyers, Chair

Re: HB 2327 - reducing the time for active parole supervision to six months.

Chairman Wyers, members of the committee:

The Federation of Oregon Parole & Probation officers has taken a position in opposition to HB 2327 on the ground that this would not be a viable corrections policy for the State of Oregon to adopt. The theory of parole of prisoners is based on a continuing period of supervision which fulfills the role of transition back into society at a level which will keep the former prisoner from committing new offenses. Six months is too short to accomplish this goal. The Federation members are concerned, based on their experience with parolees, that the potential impact on the entire corrections system will be greater than the short-term savings in salaries of parole officers.

A six month active parole period is too short to establish community ties, work stability, family readjustment and any other behavior traits which will allow the person to remain uninvolved in criminal activity. The routine of checking in with the parole officer, or the parole officer checking up on the parolee, has been found to be one of the many necessary ties to the type of community behavior that is acceptable and which is trying to be made a part of the person's lifestyle.

The instability of the economic structure of this state, and the nation, will make it difficult enough for the emerging prisoner to find and secure the type of job which will be necessary to support that person, and the person's family, if there is one. By removing access to services which are geared to the prisoner's special needs after such a short period of time, the State can expect to see a much higher recidivism rate with all its attendant costs.

The Federation urges you to table HB 2327.

Sincerely,

Sy Kornbroht,  
President, FOPPO

R. J. Watson  
Administrator  
Corrections Division

SENATE COMMITTEE ON JUSTICE  
HB 2327 - EXHIBIT F  
May 28, 1981 - 1 page  
Corrections Division

TESTIMONY CONCERNING HB 2327

The Corrections Division strongly advocates passage of HB 2327. I believe reading of ORS 144.780, which reflects the existing legislative policy, places the requirement on the Board of Parole to set prison terms which punish, serve as a deterrent and are based on public safety considerations. Once that has been done, it is in most cases wasteful and unnecessary to continue parolees on extended periods of supervision.

The Board of Parole practices this policy currently. Very minimal penalties occur for parole violations; 4 to 8 months when no crime is committed, and 8 to 12 months when a crime is committed. This is consistent with ORS 144.780 and this next step to relieve the taxpayers of funding the 58 positions and over \$2-1/2 million is an action which must be taken as taxpayers demand reductions in government spending.

Failure to pass the measure will result in permitting 18 felons per month to be released with no supervision during their initial readjustment, while retaining some 2,000 parolees who will "fatten" the caseloads of existing field staff, creating unnecessary work. Caseloads that would influence judges to use prison instead of probation is the fundamental issue I see in this legislation.

Successful completions from probation are increasing despite growing workloads. The Governor's Budget already has an increased average projected caseload for field staff going from a budget level of 50:1 to a 1981-83 budget level of 58:1. Failure to limit the majority of parolees to 6 months active supervision will increase workloads nearly 10 parolees per officer, or create a 68:1 caseload average which means about half the staff would experience caseloads in excess of 100:1.

Analysis of revocations must be a serious consideration in deciding what to do with this proposed legislation. A study of 4,385 field services files reveals that 17% of all field supervision ends in revocation. One-third of all violations leading to revocation occurs within the first 6 months, though the actual revocation by the Board takes up to 3-4 months and sometimes longer. Of all remaining revocations, about half are by reason of new crime, and prosecution would better satisfy the law. The bottom line is that one-third of all current revocations, all of which are technical in nature or rules/conditions violations, would be eliminated by this bill. The expenditure of \$2-1/2 million and over 50 professional staff needed desperately to maintain a meaningful probation service would be lost with failure to pass HB 2327.

I urge passage to sustain the general thrust of our collective efforts for the past 4 years to strengthen the probation services.

[illegible]