

**HOUSE JUDICIARY SUBCOMMITTEE**

**ON CRIMINAL LAW**

**May 24, 2005 Hearing Room 357**

**8:30 A.M. Tapes 66 - 67**

**MEMBERS PRESENT:           Rep. Jeff Barker, Chair**

**Rep. Greg Macpherson**

**Rep. Andy Olson**

**Rep. Kim Thatcher**

**GUEST MEMBER:           Rep. Wayne Krieger**

**STAFF PRESENT:           Joe O’Leary, Counsel**

**Elizabeth Howe, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**SB 36 A – Public Hearing and Work Session**

**SB 39 A – Public Hearing and Work Session**

**SB 89 A – Public Hearing and Work Session**

**SB 114 – Public Hearing and Work Session**

**SB 203 – Public Hearing and Work Session**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker’s exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 66, A</b>		
003	Chair Barker	Calls the meeting to order at 8:38 a.m. Opens a public hearing on SB 36 A.

**SB 36 A – PUBLIC HEARING**

006	Joe O’Leary	Counsel. Provides background on SB 36 A, which provides that new subpoena need not be served in criminal action when date or time of appearance has changed if original subpoena is continued orally in open court in presence of person subpoenaed or if person subpoenaed is notified of change.
024	Craig Prins	Executive Director, Oregon Criminal Justice Commission. Testifies in support of SB 36 A.
046	Rep. Macpherson	Inquires about the alternative of express mail to serve a subpoena.
054	Prins	States that there would still be notice if express mail was used, though it is not a technical term.
060	O’Leary	Explains the purpose of using the term express mail.
066	Jean Ann Quinn	Oregon Judicial Department. Explains why express mail was used in the amendments to SB 36 A.
076	Rep. Macpherson	Questions mirror of statutory requirements, and if express mail requires a receipt for delivery.
084	Quinn	States that express mail requires a receipt that mail was sent.
088	Chair Barker	Closes public hearing and opens a work session on SB 36 A.

**SB 36 A – WORK SESSION**

<b>089</b>	<b>Rep. Olson</b>	<b>MOTION: Moves SB 36A to the full committee with a DO PASS recommendation.</b>
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**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

091 Chair Barker The motion CARRIES.

**REP. OLSON will lead discussion in the full committee.**

094 Chair Barker Closes work session on SB 36 A. Opens a public hearing on SB 39 A.

**SB 39 A – PUBLIC HEARING**

095 Joe O’Leary Counsel. Provides background on SB 39 A, which requires court to state on record mental disease or defect on which defendant relied for guilty except for insanity defense.

124 Mary Claire Buckley Psychiatric Review Board. Testifies in support of SB 39 A.

136 Chair Barker Closes public hearing and opens a work session on SB 39 A.

**SB 39 A – WORK SESSION**

138 Rep. Macpherson **MOTION: Moves SB 39A to the full committee with a DO PASS recommendation.**

**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

142 Chair Barker The motion CARRIES.

**REP. MACPHERSON will lead discussion in the full committee**

144 Chair Barker Closes work session on SB 39 A. Opens a public hearing on SB 89 A.

**SB 89 A – PUBLIC HEARING**

146 Joe O’Leary Counsel. Provides background on SB 89 A, which creates crime of custodial sexual misconduct in first degree. Introduces the –A3 amendment to SB 89 A (**EXHIBIT A**).

- 180 Stan Czerniak Assistant Director of Operations, Department of Corrections (DOC). Submits written testimony (**EXHIBIT B**) and testifies in support of SB 89 A with the –A3 amendments.
- 215 Chair Barker Questions if this statute would apply to spouse of an inmate and a guard.
- 222 Czerniak States that this would apply only to the guard and one who is in custody.
- 226 John Powell Oregon State Sheriff’s Association. Testifies in support of SB 89 A with the –A3 amendments.
- 250 Terrie Quinteros Submits testimony and testifies in support of SB 89 A (**EXHIBIT C**).
- 255 Chair Barker Closes public hearing and opens a work session on SB 89 A.

**SB 89 A – WORK SESSION**

- 257 O’Leary Explains the –A3 amendments.
- 274 Rep. Olson **MOTION: Moves to ADOPT SB 89A-A3 amendments dated 5/20/05.**
- VOTE: 4-0-0**
- 277 Chair Barker **Hearing no objection, declares the motion CARRIED.**
- 278 Rep. Olson **MOTION: Moves SB 89A to the full committee with a DO PASS AS AMENDED recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 284 Chair Barker **The motion CARRIES.**
- REP. BARKER will lead discussion in the full committee.**

286 Chair Barker Closes work session on SB 89 A. Opens a public hearing on SB 114.

**SB 114 – PUBLIC HEARING**

288 Joe O’Leary Counsel. Provides background on SB 114, which increases fees for screening interviews of persons convicted of driving while under influence of intoxicants and diagnostic assessments of persons entering diversion agreements.

302 Teresa Douglas Governor’s Advisory Committee on DUII, Alcohol and Drug Evaluation Specialist. Submits written testimony (**EXHIBIT D**) and testifies in support of SB 114. Submits testimony from Lloyd Clodfelter from Mothers Against Drunk Driving (**EXHIBIT E**).

346 Rep. Thatcher Inquires if the Advisory Committee provides evaluation services.

351 Douglas States that some evaluators are private, and some are County.

361 Chair Barker Closes public hearing and opens a work session on SB 114.

**SB 114 – WORK SESSION**

365 Rep. Thatcher States that she supports the bill.

369 Rep. Thatcher **MOTION: Moves SB 114 to the full committee with a DO PASS recommendation.**

**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

372 Chair Barker **The motion CARRIES.**

**REP. THATCHER will lead discussion in the full committee.**

375 Chair Barker Closes work session on SB 114. Opens a public hearing on SB 203.

**SB 203 – PUBLIC HEARING**

378 Joe O'Leary Counsel. Provides background on SB 203, which modifies statute of limitations for certain offenses committed against children.

**TAPE 67, A**

024 Jonathan Fussner Assistant Attorney General, Oregon Department of Justice. Submits written testimony (**EXHIBIT F**) and testifies in support of SB 203.

051 Chair Barker Closes public hearing and opens a work session on SB 203.

**SB 203 – WORK SESSION**

**053 Rep. Macpherson MOTION: Moves SB 203 to the full committee with a DO PASS recommendation.**

**VOTE: 4-0-0**

**AYE: In a roll call vote, all members present vote Aye.**

**055 Chair Barker The motion CARRIES.  
REP. MACPHERSON will lead discussion in the full committee.**

057 Chair Barker Closes work session on SB 203. Adjourns the meeting at 9:08 a.m.

**EXHIBIT SUMMARY**

- A. SB 89 A, -A3 amendments, staff, 2 pp
- B. SB 89 A, written testimony, Stan Czerniak, 2 pp
- C. SB 89 A, written testimony, Terrie Quinteros, 2 pp
- D. SB 114, written testimony, Teresa Douglas, 2 pp
- E. SB 114, written testimony of Lloyd Clodfelter, Teresa Douglas, 1 p
- F. SB 203, written testimony, Jonathan Fussner, 1 p