

HOUSE JUDICIARY SUBCOMMITTEE

ON CRIMINAL LAW

June 09, 2005 Hearing Room 357

8:30 A.M. Tapes 74 - 75

Corrected 10/12/05

MEMBERS PRESENT: Rep. Jeff Barker, Chair

Rep. Greg Macpherson

Rep. Andy Olson

Rep. Kim Thatcher

STAFF PRESENT: Heidi Moawad, Counsel

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

SB 641 A – Public Hearing and Work Session

SB 128 – Public Hearing and Work Session

SB 153 A – Public Hearing

SB 61 A – Work Session

SB 62 – Work Session

SB 243 – Public Hearing and Work Session

SB 1045 – Public Hearing and Work Session

SB 568 A – Public Hearing and Work Session

SB 240 A – 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.

TAPE/#	Speaker	Comments
TAPE 74, A		
002	Chair Barker	Calls the meeting to order at 8:55 a.m. Opens a public hearing on SB 641.

SB 641 A – PUBLIC HEARING

007	Joe O’Leary	Counsel. Provides background on SB 641, which creates crime of possessing dogfighting paraphernalia.
018	Michael Dugan	Oregon District Attorneys Association. Testifies in support of SB 641 A.
030	Randy Covey	Lieutenant, Oregon Humane Society. Testifies in support of SB 641 A.
043	Marcia Keith	Oregon Veterinary Medical Association. Submits written testimony (EXHIBIT A) and testifies in support of SB 641 A.
057	Rep. Thatcher	Seeks further clarification on training dogs to fight out of state.
061	Dugan	Relates that dogfighting has already been outlawed. Explains the intent behind prohibiting certain paraphernalia.
076	Rep. Thatcher	Inquires if training is against the law without paraphernalia.
082	Dugan	Clarifies that offense requires intent to train dogs for fighting with paraphernalia.
092	Covey	Relates that training is already addressed in statute, and explains why paraphernalia is being addressed.
098	O’Leary	Inquires about circumstances under current law.
104	Covey	

Explains situation under current law that is being addressed by SB 641.

113 Chair Barker Closes public hearing and opens a work session on SB 641.

SB 641 A – WORK SESSION

116 Rep. Thatcher **MOTION: Moves SB 641A to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

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

120 Chair Barker **The motion CARRIES.**
REP. THATCHER will lead discussion in the full committee.

122 Chair Barker Closes work session on SB 641 A. Opens a public hearing on SB 128.

SB 128 – PUBLIC HEARING

126 Joe O’Leary Counsel. Provides background on SB 128, which allows grand jury to receive in evidence affidavit of representative of Oregon State Police (OSP) concerning completeness of certain records of sex offenders.

143 Dan Malin Oregon State Police. Submits written testimony (**EXHIBIT B**) and testifies in support of SB 128.

162 Chair Barker Inquires about questions in Grand Jury.

164 Malin Explains that the District Attorney could answer the questions that OSP would be asked.

173 Michael Dugan Oregon District Attorneys Association. Testifies in support of SB 128. Points out a possible typo.

207 O’Leary Respectfully disagrees with Mr. Dugan on the typo, and explains.

227 Dugan Reiterates the mistake, and explains why it is a typo.

- 243 O'Leary Agrees and offers to have an amendment drafted.
- 247 Rep. Macpherson Suggests that the problem is with existing law, not with the bill, so the change should be made next session.
- 255 Dugan Suggests that Subsection 10 would be made useless until then.
- 262 Chair Barker Closes public hearing and opens a work session on SB 128.

SB 128 – WORK SESSION

- 268 Rep. Macpherson **MOTION: Moves to SUSPEND the rules for the purpose of considering a conceptual amendment to SB 128.**

VOTE: 4-0-0

- 272 Chair Barker **Hearing no objection, declares the motion CARRIED.**

- 273 Rep. Macpherson **MOTION: Moves to CONCEPTUALLY AMEND SB 128 on page 1, in line 5, delete "(8)", and insert "(10)".**

VOTE: 4-0-0

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

- 290 Chair Barker **The motion CARRIES.**

- 298 Rep. Thatcher Asks for clarification on the amendment.

- 300 Rep. Macpherson Explains amendment.

- 321 Rep. Macpherson **MOTION: Moves SB 128 to the full committee with a DO PASS AS CONCEPTUALLY AMENDED recommendation.**

VOTE: 4-0-0

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

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

330 Chair Barker Closes work session on SB 128. Opens public hearing on SB 153 A.

SB 153 A – PUBLIC HEARING

332 Bill Taylor Counsel. Provides background on SB 153 A, which modifies provisions relating to photo red light camera and photo radar systems.

344 Sen. Rick Metsger Senate District 26. Testifies in support of SB 153 A, and provides background on the bill.

TAPE 75, A

013 Chair Barker Comments on signs notifying drivers of photo radar.

020 Troy Costales Transportation Safety Division, Department of Transportation. Submits written testimony (**EXHIBIT C**) and testifies in support of SB 153 A.

038 Rep. Thatcher Inquires whether the bill extends the list to allow more cities to use photo radar.

045 Costales Responds negatively.

047 Rep. Macpherson Questions opinion on extending list to more cities.

057 Sen. Metsger States that he is not an advocate for extending the list, but is not an opponent to those who are. Addresses constitutionality.

072 Rep. Macpherson Comments on the public's discomfort with new technology.

082 Sen. Metsger Expresses hope that SB 153 A would extend public support by establishing consistency.

090 Chair Barker Closes the public hearing on SB 153 A. Opens a work session on SB 61 A.

SB 61 A – WORK SESSION

- 099 Bill Taylor Counsel. Provides background on SB 61 A, which modifies provisions relating to private security problems. Reviews discussion from public hearing, and addresses language regarding scope of the law.
- 120 John Minnis Director, Department of Public Safety Standards and Training (DPSST). Testifies in support of SB 61 A. Agrees with Counsel that SB 61 A does not expand current law.
- 136 Rep. Macpherson Expresses support for SB 61A, as it clarifies existing law. Comments that he would be willing to address issue of current law being too broad.
- 147 Rep. Thatcher Announces that she has potential conflict with SB 61 A.
- 152 Rep. Macpherson **MOTION: Moves SB 61A to the full committee with a DO PASS recommendation.**
- VOTE: 3-0-1**
- AYE: In a roll call vote, all members present vote Aye.**
- EXCUSED: 1 - Olson**
- 159 Chair Barker **The motion CARRIES.**
- REP. MACPHERSON will lead discussion in the full committee.**
- 160 Chair Barker Closes work session on SB 61 A. Opens a work session SB 62.

SB 62 – WORK SESSION

- 162 Bill Taylor Counsel. Provides background on SB 62, which authorizes Department of Public Safety Standards and Training to provide grants to private entities for certain purposes. Introduces the -5 amendment **(EXHIBIT D)**.
- 186 Rep. Thatcher Inquires where the Federal Bureau of Investigation (FBI) returns the fingerprint cards.

190	John Minnis	Responds that fingerprint cards are returned to the Oregon State Police.
192	Chair Barker	Inquires if cards are kept in non-criminal records file.
196	Minnis	Addresses concerns about where records are retained.
202	Rep. Thatcher	Questions if fire service professionals are allowed a hearing before their certification is revoked.
205	Minnis	Responds affirmatively.
217	Rep. Thatcher	Inquires whether there is a process to contend the charges.
220	Minnis	States that DPSST relies on the records of the FBI for their determination, so a civil action may be the only step if the records are contested.
228	Rep. Thatcher	Inquires if this is an administrative law process. Inquires if the agency must take the findings of the administrative law judge (ALJ).
223	Brian Hensen	DPSST. Describes the administrative hearings process. States that the agency will most likely take the findings of the ALJ.
240	Minnis	Responds that if the agency were not to take the findings of the ALJ, then civil action would be appropriate.
244	Rep. Thatcher	MOTION: Moves to ADOPT SB 62-5 amendments dated 6/9/05. VOTE: 3-0-1 EXCUSED: 1 - Olson
246	Chair Barker	Hearing no objection, declares the motion CARRIED.
249	Rep. Thatcher	MOTION: Moves SB 62 to the full committee with a DO PASS AS AMENDED recommendation. VOTE: 3-0-1

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

EXCUSED: 1 - Olson

- 256 Chair Barker The motion CARRIES.
REP. BARKER will lead discussion in the full committee.
- 257 Chair Barker Closes work session on SB 62. Opens a public hearing on SB 243.

SB 243 – PUBLIC HEARING

- 262 Joe O’Leary Counsel. Provides background on SB 243, which modifies conditions of post-prison supervision or parole for person convicted of sex crime.
- 291 Darcey Baker Oregon Parole Board. Testifies in support of SB 243.
- 298 Lenn Hannon Oregon Parole Board. Testifies in support of SB 243.
- 303 Chair Barker Relates previous testimony.
- 309 Rep. Thatcher Inquires who gives written approval.
- 314 Baker Responds that the parole officer (PO) gives written approval.
- 320 Rep. Macpherson Inquires if this bill applies to predatory sex offenders, and which sex offenses are included in the statute.
- 324 Baker Explains who SB 243 applies to, and what offenses are included.
- 337 Rep. Macpherson Inquires if the PO has discretion to apply the restriction.
- 343 Baker Responds affirmatively, and explains.
- 356 Rep. Macpherson Comments that restriction may sometimes be unnecessary, and is seeking clarification that the PO can use discretion.
- 366 Baker Explains process PO uses to determine the offenders supervision.

378 Chair Barker Closes public hearing and opens a work session on SB 243.

SB 243 – WORK SESSION

392 Rep. Macpherson **MOTION: Moves SB 243 to the full committee with a DO PASS recommendation.**

VOTE: 3-0-1

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

EXCUSED: 1 - Olson

395 Chair Barker **The motion CARRIES.**

REP. MACPHERSON will lead discussion in the full committee.

398 Chair Barker Closes work session on SB 243. Opens a public hearing on SB 1045, which extends duration of temporary provision allowing memorandum of understanding between twenty-second judicial district and Confederated Tribes of Warm Springs regarding adjudication and disposition of juveniles.

SB 1045 – PUBLIC HEARING

418 Michael Mason Confederated Tribes of Warm Springs. Submits written testimony **(EXHIBIT E)** and testifies in support of SB 1045.

TAPE 74, B

015 Rep. Thatcher Inquires how many transfers have occurred so far.

018 Mason Responds that there have been no cases transferred under the agreement in the year that it has been in effect. Explains that agreement applies to non-violent situations only.

024 Nancy Miller Oregon Judicial Department, on behalf of Judge Neilson. Testifies in support of SB 1045.

034 Rep. Macpherson Inquires about tribal courts compared to traditional circuit courts.

038	Mason	Describes tribal courts.
054	Miller	Adds details about tribal courts.
056	Mason	Explains requirements of tribal courts.
064	Miller	Relates that tribal judges are invited to juvenile court conferences.
073	Rep. Macpherson	Inquires about training for tribal court judges.
078	Mason	States that most tribal court judges are attorneys with experience in Indian law, while juvenile tribal judges are often elders in the tribe.
093	Rep. Thatcher	Questions whether the state system has dealt with tribal juveniles.
098	Mason	Explains that the tribal courts have been in place for over 30 years. Describes the cases that apply to this law.
110	Chair Barker	Closes public hearing and opens a work session on SB 1045.

SB 1045 – WORK SESSION

115 Rep. Macpherson MOTION: Moves SB 1045 to the full committee with a DO PASS recommendation.

VOTE: 4-0-0

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

118 Chair Barker The motion CARRIES.

REP. OLSON will lead discussion in the full committee.

120 Chair Barker Closes work session on SB 1045. Opens a public hearing on SB 568 A.

SB 568 A – PUBLIC HEARING

122 Bill Taylor

Counsel. Provides background on SB 568 A, which increases fines and imposes suspension of driving privileges for person who exceeds speed limit or designated speed by more than 30 miles per hour or who drives 100 miles per hour or greater.

- 130 Sen. Floyd Prozanski Senate District 4. Testifies in support of SB 568 A, and describes details and history of the bill.
- 179 Rep. Thatcher Inquires if other states are addressing the issue of speeding.
- 182 Sen. Prozanski Responds that he is not aware if other states are addressing it.
- 186 Chair Barker Recalls that Washington County used to put offenders in jail for a weekend for exceeding 100 miles an hour.
- 189 Rep. Olson Believes California is discussing similar legislation. Inquires about the no fiscal impact.
- 201 Sen. Prozanski Relates that Oregon Department of Transportation gave no indication that the workload would increase significantly.
- 212 Rep. Olson Expresses support for SB 568 A.
- 215 Chair Barker Closes public hearing and opens a work session on SB 568 A.

SB 568 A – WORK SESSION

- 216 Rep. Olson **MOTION: Moves SB 568A to the full committee with a DO PASS recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 220 Chair Barker **The motion CARRIES.**
- REP. OLSON will lead discussion in the full committee.**
- 223 Chair Barker Closes work session on SB 568 A. Opens a public hearing on SB 240 A.

SB 240 A – PUBLIC HEARING

- 230 Sen. Ginny Burdick Senate District 18. Testifies in support of SB 240 A. Introduces the –A3 amendments (**EXHIBIT F**).
- 285 Claudia Black Interim Director, Criminal Justice Research and Policy Institute within Mark O. Hatfield School of Government, Portland State University Testifies in support of SB 240 A, and offers information on the institute.
- 333 Black Addresses the –A3 amendments, and expresses support for them.
- 359 Annette Jolin Chair, Criminology and Criminal Justice Division, Portland State University (PSU). Testifies in support of SB 240 A, and discusses the peer review process.

TAPE 75, B

- 022 Jolin Continues explanation of peer review.
- 035 Rep. Macpherson Questions how the institute’s work relates to the Criminal Justice Commission (CJC).
- 040 Craig Prins Executive Director, CJC. Describes the partnership that the CJC has with the institute.
- 082 Steve Doell Crime Victims United (CVU). Testifies in opposition to SB 240 A as it is currently drafted. Expresses concerns about using general fund dollars. Suggests giving CJC control of funds. Addresses issue of researching criminal justice policy.
- 150 Doell Expresses concerns about criminal justice studies. Suggests the Maryland State Method of Scientific Study.
- 180 Chair Barker Closes public hearing and opens a work session on SB 240 A.

SB 240 A – WORK SESSION

- 190 Rep. Olson **MOTION: Moves to ADOPT SB 240A-A3 amendments dated 6/8/05.**

VOTE: 4-0-0

191 Chair Barker Hearing no objection, declares the motion CARRIED.

192 Rep. Olson MOTION: Moves SB 240A to the full committee with a DO PASS recommendation.

VOTE: 4-0-0

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

195 Chair Barker The motion CARRIES.

REP. BARKER will lead discussion in the full committee.

197 Chair Barker Closes work session on SB 240 A. Adjourns the meeting at 10:32 p.m.

EXHIBIT SUMMARY

- A. SB 641 A, written testimony, Marcia Keith, 1 p**
- B. SB 128, written testimony, Dan Malin, 2 pp**
- C. SB 153 A, written testimony, Troy Costales, 2 pp**
- D. SB 62, -5 amendments, staff, 10 pp**
- E. SB 1045, written testimony, Michael Mason, 4 pp**
- F. SB 240 A, -A3 amendments, Sen. Ginny Burdick, 3 pp**

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June 09, 2005 Hearing Room 357

10:00 A.M.

MEMBERS PRESENT: Rep. Jeff Barker, Chair

Rep. Greg Macpherson

Rep. Andy Olson

Rep. Kim Thatcher

STAFF PRESENT: Heidi Moawad, Counsel

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

SB 240 A – Work Session

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TAPE/#	Speaker	Comments
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TAPE , A

The agenda scheduling SB 240A for a work session was issued during the 8:30 a.m. meeting of the Criminal Law Subcommittee. See the 8:30 a.m. subcommittee tape log for action taken on SB 240A.