

HOUSE COMMITTEE ON JUDICIARY

May 19, 2003 Hearing Room 357

1:00 p.m. Tapes 197 - 198

MEMBERS PRESENT: Rep. Max Williams, Chair
Rep. Gordon Anderson, Vice-Chair
Rep. Robert Ackerman, Vice-Chair
Rep. Jeff Barker
Rep. Bob Jenson
Rep. Jerry Krummel
Rep. Greg Macpherson
Rep. Floyd Prozanski
Rep. Lane Shetterly

STAFF PRESENT: Craig Prins, Counsel
Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: SB 47 Public Hearing and Work Session
SB 189A Public Hearing
SB 304 Public Hearing and Work Session
SB 19A Work Session
SB 269 Public Hearing

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 197, A		
003	Chair Williams	Calls the meeting to order at 1:14 p.m. Opens a public hearing on SB 47.
<u>SB 47 PUBLIC HEARING</u>		
015	Paul Snider	Association of Oregon Counties. Submits testimony and testifies in support of SB 47 which delays imposition of interest on criminal judgments until July 1, 2007 (EXHIBIT A).
051	Bradd Swank	Special Counsel for Government Relations for State Court Administrator's Office. Testifies in support of SB 47.
060	Chair Williams	Closes the public hearing on SB 47 and opens a work session.
<u>SB 47 WORK SESSION</u>		
061	Rep. Macpherson	MOTION: Moves SB 47 to the floor with a DO PASS recommendation. VOTE: 6-0-3 EXCUSED: 3 - Krummel, Prozanski, Shetterly Hearing no objection, declares the motion CARRIED. REP. MACPHERSON will lead discussion on the floor.
064	Chair Williams	
071	Chair Williams	Closes the work session on SB 47 and opens a public hearing on SB 189A.
<u>SB 189A PUBLIC HEARING</u>		
074	Craig Prins	Committee Counsel. Introduces SB 189A which creates offense of organizing speed racing event. Discusses SB 90A which is the other bill relating to speed racing (EXHIBIT B).
091	Troy Costales	Manager of the Transportation Safety Division, Oregon

		Department of Transportation. Submits testimony and testifies in support of SB 189A (EXHIBIT C).
122	Earl Ray (Smokey)	School Bus driver. Represents Families Against Speeding Drivers (FASD). Testifies in support of SB 189A.
155	Mark Landauer	City of Portland, Government Relations. Testifies in support of SB 189A.
181	Rep. Krummel	Says he is concerned with legal races that take place on public roads. Wonders how this bill will affect those races.
192	Landauer	Says that this bill deals with the highways of Oregon.
204	Rep. Krummel	Explains that he wants to make sure that grand prix type organized races are not illegal.
212	Costales	Explains that SB 189A refers back to the current law of street racing and speed racing which rules out the situation he is referring to.
218	Vice Chair Ackerman	Wonders if an organizer of a speed racing event is more culpable than a participant.
225	Landauer	Answers that the current penalty of a speed racer is a class A traffic infraction. Adds that they decided that organizers of these events should be held to a higher standard.
248	Vice Chair Ackerman	Asks why they are limiting these races to highways and is the definition of highway too narrowly drafted.
258	Costales	Answers that they decided to limit it to any highway. Explains definition of highway.
279	Chair Williams	Comments that highway is defined in ORS 801.305.
285	Rep. Prozanski	Stresses that there could be an exception built into the bill to allow grand prix races.
298	Landauer	Says that they will address this problem if SB 90 and SB 189A start to move.
305	Chair Williams	Talks about fiscal.
338	Rep. Barker	Asks about the definition of a person organizing a race.
344	Costales	Answers that it would be up to the officer to decide the penalty.
351	Chair Williams	Closes the public hearing on SB 189A and opens a public hearing on SB 304.

SB 304 PUBLIC HEARING

370	Craig Prins	Committee Counsel. Introduces SB 304 which expands bases for waiving youth to be prosecuted as adult.
390	Al French	Senior Deputy District Attorney. Oregon District Attorneys Association. Testifies in support of SB 304.
413	Chair Williams	Asks for a hypothetical situation in regards to this bill.
420	French	Gives examples.

TAPE 198, A

018	Susan Russell	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 304.
035	Chair Williams	Questions their positions on the -1 amendments (EXHIBIT D).
043	Julie McFarlane	Juvenile Rights Project. Testifies in support of SB 304.
072	Rep. Krummel	Asks what would make the state stipulate to the waiver.
078	McFarlane	Answers that perhaps the idea that they are getting a more severe consequence because it is an adult adjudication.
085	Rep. Krummel	Wonders if a prosecutor ever does not stipulate to waiver.
100	McFarlane	Says that they can do that, but she has never had a district attorney refuse to stipulate to waiver.
107	Rep. Barker	Asks if the amendments only limit this to Measure 11 crimes.
110	McFarlane	Answers, that is correct.
112	Chair Williams	Says he would be interested in a response regarding when

125	French	waiving up is not good. Responds that they would need to rely on the district attorneys using good discretion. Shares his concerns about the -1 amendments.
158	Russell	Comments that they are talking about very serious cases.
185	Chair Williams	Asks if the judge has the discretion to not let the waiver go forward.
200	McFarlane	Answers, yes, the judge does have the discretion, but rarely turns a waiver down.
225	Vice Chair Ackerman	Asks if you wanted to stipulate to a waiver would it still require a hearing and a court inquiry.
234	McFarlane	Answers, no, in her experience there is a written or oral stipulation.
239	Vice Chair Ackerman	Says that he thinks there is a problem of statutory construction.
253	McFarlane	Comments that she would agree with him.
263	Chair Williams	Asks if they can address the issue of the hearing component. Asks if they have to have a hearing in front of a judge for these to be effective.
284	Russell	States that in her experience you can waive the hearing.
386	Prins	Ask for them to explain how Measure 11 crimes are handled in adult court.
305	Russell	Discusses what happens when a juvenile is charged with a Measure 11 crime.
373	Rep. Prozanski	Asks if a youth that committed a Measure 11 crime would be serving time in an adult facility.
384	McFarlane	Answers that they are talking about a waiver so the provisions that cover Measure 11 would not apply.
396	Vice Chair Anderson	Closes the public hearing on SB 304 and opens a work session.
<u>SB 304 WORK SESSION</u>		
410	Rep. Krummel	MOTION: Moves SB 304 to the floor with a DO PASS recommendation.
415	Rep. Krummel	Comments on bill.
435		VOTE: 6-0-3
438	Chair Williams	EXCUSED: 3 - Macpherson, Shetterly, Williams Hearing no objection, declares the motion CARRIED.
442	Chair Williams	REP. KRUMMEL will lead discussion on the floor. Closes the work session on SB 304 and opens a work session on SB 19A.
<u>SB 19A WORK SESSION</u>		
<u>TAPE 197, B</u>		
009	Craig Prins	Committee Counsel. Introduces SB 19 which establishes when youth offenders and persons alleged to be within jurisdiction of juvenile court may be detained in place where adults are detained. Discusses the -A4 and the -A2 amendments (EXHIBITS E & F) .
033	Timothy Travis	Oregon Judicial Department. Says that they are in support of the A-Engrossed bill and the -A4 amendments.
105	Julie McFarlane	Juvenile Rights Project. Says that the bill is too broadly drafted to address the issues. Discusses the -A2 amendments that they are proposing.
133	Prins	States that the -A4's supercede the -A3 amendments (EXHIBIT G) .
138	Rep. Prozanski	Asks Mr. Travis about the -A2 amendments.
144	Travis	Explains that they had a lengthy debate about the constitutional

		issues of the bill. Says that they are not violating a youth's constitutional rights.
172	McFarlane	Says that there is no case law that allows for a youth to be transferred to an adult setting without a jury trial.
195	Rep. Prozanski	Asks if counsel could check with Legislative Counsel regarding this issue.
202	Rep. Krummel	Asks if the –A2 amendments take the bill back to the original form of SB 19.
207	McFarlane	Answers no because the original bill also contained a provision allowing for the placement of juveniles who had reached their 18 th birthday in adult jails.
216	Rep. Krummel	Comments on the –A2 amendments.
227	McFarlane	Says that they need to clarify some issues on the bill.
244	Travis	Says that they would still like the –A4 amendments.
267	Prins	Asks Ms. McFarlane how she feels about the work group's ideas.
275	McFarlane	Explains that they have always taken the position that they oppose the idea of putting 18 year olds who were adjudicated within the juvenile court in adult lock-ups.
297	Vice Chair Anderson	Closes the work session on SB 19 and opens a public hearing on SB 269.

SB 269 PUBLIC HEARING

303	Bill Joseph	Committee Counsel. Introduces SB 269 which prohibits employees of Office of Emergency Management from striking or recognizing picket line.
317	Mary Botkin	American Federation of State, County and Municipal Employees (AFSCME) Council 75. Testifies in support of SB 269.
359	Ken Murphy	Oregon Emergency Management. Testifies as neutral on SB 269. Expresses his concerns.
397	Vice Chair Anderson	Closes the public hearing on SB 269. Adjourns the meeting at 2:30 p.m.

EXHIBIT SUMMARY

- A – SB 47, written testimony, submitted by Paul Snider, 1 pg.**
- B – SB 90A, A-Engrossed bill, submitted by staff, 10 pgs.**
- C – SB 189A, written testimony, submitted by Troy Costales, 1 pg.**
- D – SB 304, -1 amendments, submitted by staff, 1 pg.**
- E – SB 19A, -A4 amendments, submitted by staff, 3 pgs.**
- F – SB 19A, -A2 amendments, submitted by staff, 1 pg.**
- G – SB 19A, -A3 amendments, submitted by staff, 3 pgs.**