

HOUSE COMMITTEE ON JUDICIARY

May 20, 2003 Hearing Room 357

1:00 pm Tape 199-201

MEMBERS PRESENT: **Rep. Max Williams, Chair**
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, 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**
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD:
 SB 564A Public Hearing
 SB 617A Public Hearing
 SB 342 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, 199, A | | |
| 006 | Chair Max Williams | Opens meeting at 1:25p.m. Opens public hearing on SB 564A. |
| <u>SB 564A PUBLIC HEARING</u> | | |
| 010 | Sen. Jason Atkinson | Senate District 2. Supports SB 564A. Introduces Corporal Jeff Geddings from Grants Pass Police Department. |
| 032 | Jeff Geddings | Corporal, Grants Pass Department of Safety. Testifies in support of SB 564A which creates crime of assaulting law enforcement animal, and submits testimony (EXHIBIT A). |
| 080 | Rep. Prozanski | Asks why level 8 is promoted over level 6. |
| 085 | Geddings | Explains the degrees of assault and level of penalties. |
| 091 | Rep. Prozanski | Asks if Level 8 applies to anyone with a dog. |
| 111 | Craig Prins | Committee Counsel. Reads Section Three, Animal Abuse in the Second Degree, a B Misdemeanor, the statute explains injuries and different degrees of injuries to an animal. |
| 124 | Rep. Macpherson | Discusses protecting themselves in self defense. |
| 184 | Chair Williams | Closes public hearing on SB 564A. Opens public hearing on SB 617A. |
| <u>SB 617A PUBLIC HEARING</u> | | |
| 190 | Hardy Myers | Attorney General of Oregon. Testifies in support of SB 617A which requires restitution in all cases in which victim suffers injury, loss or damage. Most important factor proposed by SB 617A is that the financial condition of the offender is no longer a consideration of restitution to the victim. |
| 336 | Connie Gallagher | Department of Justice, Crime Victims Assistance Section. |

| | | |
|--------------------|----------------|--|
| | | Testifies in support of SB 617A and submits testimony (EXHIBIT B) . Explains why restitution is so important to victims. Relates Colorado's victim assistance policy for restitution. |
| 363 | Arwen Bird | Executive Director, Survivors Advocating For an Effective System (SAFES). Testifies in support of SB 617A and submits testimony (EXHIBIT C) . Gives reasons why restitution should be paid. |
| TAPE 200, A | | |
| 087 | Steve Doell | Crime Victims United of Oregon. Testifies in support of SB 617A. Relates experiences in working with crime victims and how restitution is not usually achieved. Discusses how accountability for actions has to be achieved. |
| 110 | Rep. Shetterly | Asks if restitution constitutes liens and are they enforceable. Discusses mandatory requirements of restitution. Concern is with juvenile offenders and their ability to accomplish restitution and accountability. Asks that there be discretion of the court. |
| 130 | Myers | Answers he believes they are. Answers that there would be some cases that would be difficult with the mandatory requirements. Comments that accountability is what the law is seeking. |
| 170 | Bird | Comments that restitution is part of rehabilitation of an offender. |
| 180 | Chair Williams | Refers to the A-2 amendments (EXHIBIT D) that address disabled persons. |
| 190 | Myers | Replies that he does not recall the work group addressing individual factors, but that accountability was the work group's main concern. |
| 208 | Fred Boss | Assistant Attorney General, Department of Justice. Answers Rep. Shetterly that it depends on the basic nature of the debt whether it is dischargeable. |
| 224 | Rep. Shetterly | Comments that most would not be dischargeable. |
| 230 | Rep. Ackerman | Explains whether the judgment is dischargeable may depend on the finding of the court and the entry of the judgment. |
| 250 | Boss | Discusses Bankruptcy Court findings are not bound by the state court findings. |
| 268 | Gallagher | Refers to the minimal number of cases that would be related to a disabled offender. |
| 289 | Bird | Explains how disabilities still may allow a person to earn money. |
| 295 | Doell | Discusses how a person may become disabled because of the crime. |
| 300 | Helen Smith | Chief Deputy District Attorney, Multnomah County. Testifies in support of SB 617A and submits letter from District Attorney Michael Schrunk (EXHIBIT E) . Describes victims' dilemma when restitution is not received. Explains that circumstances do change for offenders with judgments against them. |
| 326 | Diane Rea | Chair, Oregon Board of Parole and Post-Prison Supervision and Chair, Sub-committee of Restitution Task Force. Testifies in support of SB 617A. Discusses the need for the courts to order restitution schedules. |
| TAPE 199, B | | |
| 070 | Rep. Krummel | Discusses incarcerated individuals who are earning money and their ability to contribute toward restitution. |
| 092 | Smith | Discusses parental responsibility in restitution of juvenile offenders. |
| 100 | Susan Russell | Oregon Criminal Defense Lawyers Association (OCDLA). |

| | | |
|-----|----------------|---|
| 179 | Rep. Ackerman | Testifies in opposition to SB 617A. Describes the mentally ill being processed as criminals and the overwhelming impossibility of their supplying restitution. Supports the –A2 amendments which would allow disabled individuals waiver of restitution. Comments on disabled defendant’s mitigation in criminal case which would not be available to him in a civil case involving the same wrong. |
| 190 | Rep. Shetterly | Compares criminal restitution judgment and civil restitution judgment as not on the same plane. |
| 220 | Chair Williams | Remarks that SB 617A will be heard tomorrow. Closes public hearing on SB 617A. Opens public hearing on SB 342. |

SB 342 PUBLIC HEARING

| | | |
|-----|------------------|--|
| 230 | Craig Prins | Committee Counsel. Explains SB 342 which provides that for purposes of crime of possession of controlled substance person possesses controlled substance if person intentionally consumes controlled substance and certain other circumstances are present. |
| 250 | Brian DeLashmutt | Oregon Council of Police Associations (OCPA). Testifies in support of SB 342. Explains how students are using controlled substances in school. States there are no diversion ways to address their problem. |
| 319 | Craig Durbin | Sergeant, Oregon State Police. Testifies in support of SB 342 and submits testimony (EXHIBIT F). Describes the use of marijuana by students without diversion programs available in the schools. Relates statistics on substance abuse of students. |

TAPE 200, B

| | | |
|-----|----------------|--|
| 008 | Rep. Ackerman | Asks about programs where officers are trained to detect types of substance abuse. |
| 012 | Sgt. Durbin | Describes “driving under the influence” (DUI) impairment by alcohol or drugs. Describes how officers are trained to look for different signs of substance impairment and the tests used to determine the substance. |
| 029 | Rep. Prozanski | Asks about early intervention and wonders what schools use now. |
| 036 | Sgt Durbin | Answers that in Yamhill County there was not much available. |
| 045 | DeLashmutt | Discusses the lack of substance abuse education in the school classrooms. |
| 058 | Rep. Prozanski | Asks if this bill is a tool to reach the substance abusers. |
| 080 | DeLashmutt | Responds that this bill is a tool to address substance abuse in the schools. |
| 107 | Sgt. Durbin | Discusses the need for schools to have mechanisms for dealing with substance abuse. |
| 167 | Rep. Prozanski | Asks about tests that would be applied to suspected drug users. |
| 177 | Sgt. Durbin | Explains the tests, evaluations, and procedures of suspected abusers. |
| 250 | Susan Russell | Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to SB 342. States that a treatment approach would be more appropriate than SB 342 actions. Explains consequences of the approach of SB 342 advocates. |
| 290 | David Fidanque | American Civil Liberties Union (ACLU). Testifies in opposition to SB 342. Supports treatment programs for students who are using substances illegally. States funding is lacking to support these programs in schools. |
| 300 | Chair Williams | Asks for the rationale for a different standard between the provisions of the law of minors in possession and under the |

| | | |
|--------------------|----------------|--|
| 340 | Russell | influence. Replies about collateral consequences. |
| TAPE 201, A | | |
| 014 | Chair Williams | Asks what is the rationale to determine illegal substances. |
| 025 | Russell | Replies that it is the OCDLA position not to be engaged in the drugs and the intervention should be counseling or treatment. |
| 030 | Chair Williams | Asks if that is not the point of Minor in Possession (MIP) resources. |
| 050 | Rep. Shetterly | Questions the minor issue. |
| 060 | Fidanque | Discusses the language of SB 342 and its focus on marijuana use. Comments that marijuana use is not as dangerous as other drugs and this bill will not do anything but make young people more resistant. |
| 089 | Chair Williams | Closes public hearing on SB 342. Adjourns meeting at 3:21 p.m. |

EXHIBIT SUMMARY

A – SB 546A, written testimony, Jeff Geddings, 3 pp

B – SB 617A, written testimony, Connie Gallagher, 2 pp

C – SB 617A, written testimony, Arwen Bird, 2 pp

D – SB 617A-2 amendments, staff, 1 p

E – SB 617A, letter of Michael Schrunck submitted by Helen Smith, 1 p

F – SB 342, written testimony, Sgt. Craig Durbin, 2 pp