

## HOUSE COMMITTEE ON JUDICIARY

May 05, 2003 Hearing Room 357  
1:00 p.m. Tapes 174 - 175

**MEMBERS PRESENT:**

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

**MEMBER EXCUSED:** Rep. Max Williams, Chair

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

**MEASURE/ISSUES HEARD:** SB 19A Public Hearing  
SB 45 Public Hearing and Work Session  
SB 46A Public Hearing  
SB 65 Public Hearing  
SB 67 Public Hearing and Work Session

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 174, A</b>		
003	Vice Chair Anderson	Calls the meeting to order at 1:43 p.m. Opens a public hearing on SB 19A.
<b>SB 19A PUBLIC HEARING</b>		
005	Craig Prins	Committee Counsel. Introduces SB 19A 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 –A2 amendments ( <b>EXHIBIT A</b> ).
030	Julie McFarlane	Senior Attorney, Juvenile Rights Project. Submits testimony and testifies in opposition to SB 19A ( <b>EXHIBIT B</b> ).
089	Larry Oglesby	Oregon Juvenile Directors Association. Submits testimony and testifies in support of SB 19A ( <b>EXHIBIT C</b> ).
123	Timothy Travis	Oregon Judicial Department. Submits testimony and testifies in support of SB 19A ( <b>EXHIBIT D</b> ).
245	Rep. Prozanski	Asks if the maximum incarceration is for eight days.
249	Travis	Answers, yes.
250	Rep. Prozanski	Asks what else is there besides incarceration for a probation violation.
252	Travis	Answers that they can be fined, do service for a victim, or put on house arrest.
258	Rep. Barker	Discusses juveniles' comments at MacLaren when the committee visited. Says that he does not see a problem with an 18-year old going to jail for a week for a probation violation.
272	McFarlane	Explains that with this bill juveniles will be placed in adult

327	Rep. Barker	facilities when it is not appropriate. Comments that if they are 18 years old then they are adults and he doesn't understand her problem with that.
336	Rep. Krummel	Asks what the age of majority is in Oregon.
339	Travis	Says it is 18.
342	Rep. Krummel	Asks what the evidenced-based practice would suggest regarding this issue.
350	McFarlane	Says that she didn't bring that specific information, but there are studies readily available.
373	Vice Chair Anderson	Asks if they have seen the –A2 amendments ( <b>Exhibit A</b> ).
375	Oglesby	Answers that he did see them and thinks that the amendments take away the intent of the bill.
391	Travis	Says that this bill gives a judge the discretion to make a case-by-case determination. Comments on the –A2 amendments.

**TAPE 175, A**

046	Vice Chair Ackerman	Asks if the purpose of the bill is to compensate for the lack of beds in juvenile detention facilities.
048	Travis	Answers, yes, that is one of the purposes.
049	Vice Chair Ackerman	Asks if a finding the court must make could include that treatment alternatives are not viable for the needs of the juvenile.
056	Travis	Says that if he understands his question correctly, then yes.
058	Vice Chair Ackerman	Suggests that they are adopting a penalty standard for some juvenile offenders based upon specific court findings.
059	Travis	Believes that there is a place for punishment and an incentive to pay restitution for some juveniles.
072	Vice Chair Anderson	Closes the public hearing on SB 19A and opens a public hearing on SB 45.

**SB 45 PUBLIC HEARING**

080	Craig Prins	Committee Counsel. Introduces SB 45 which provides that court in which post-conviction relief proceeding is pending may determine whether to transfer venue when petitioner is transferred from one correctional institution to another.
089	Ann Christian	Oregon Judicial Department. Submits testimony and testifies in support of SB 45 ( <b>EXHIBIT E</b> ). Says that this bill is the product of a work group.
145	Rep. Jenson	Expresses how he is trying to understand the bill.
156	Christian	Explains current law and what SB 45 addresses.
193	Vice Chair Anderson	Closes the public hearing on SB 45 and opens a work session.

**SB 45 WORK SESSION**

197	Rep. Prozanski	<b>MOTION: Moves SB 45 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 8-0-1</b>
		<b>EXCUSED: 1 - Williams</b>
204	Vice Chair Anderson	<b>Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.</b>
214	Vice Chair Anderson	Closes the work session on SB 45 and opens a public hearing on SB 46A.

**SB 46A PUBLIC HEARING**

216	Craig Prins	Committee Counsel. Introduces SB 46A which expands definition of enter or remain unlawfully for purposes of burglary and criminal trespass.
266	Jonathan Fussner	Attorney, Oregon Department of Justice. Submits testimony and testifies in support of SB 46A ( <b>EXHIBIT F</b> ).
365	Laurie Abraham	Deputy District Attorney, Multnomah County. Submits

testimony and testifies in support of SB 46A (**EXHIBIT G**).  
Discusses *Collins* decision that is corrected by SB 46A.

**TAPE 174, B**

015	Mike Salsgiver	Portland Business Alliance. Testifies in support of SB 46A.
050	Matt Engen	Officer, Portland Police Bureau. Submits testimony and testifies in support of SB 46A ( <b>EXHIBIT H</b> ).
079	Rep. Prozanski	Points out that there are requirements within city ordinances that allow a person to challenge the police if arrested.
093	Officer Engen	Says that is a good point and explains private property rights.
109	Rep. Prozanski	Asks if Portland Police have an agency agreement with the landowner.
119	Fussner	Explains that they have a business trespass agreement with the property owners.
130	Rep. Prozanski	Comments that he is concerned that some of this is being done on an ordinance. Asks if there will be any impact in defining the statute.
138	Fussner	Responds that a person has a right to challenge an order against them and that is current law. Says that this bill does not attempt to preempt the city ordinances.
170	Rep. Prozanski	Asks if the Portland ordinance expands the current law provided under the ordinance or under the state statute.
178	Abraham	Explains the city of Portland's ordinance.
195	Rep. Jenson	Asks Mr. Fussner if the Attorney General's Office would be withdrawing their appeal.
200	Fussner	Answers that there is a possibility, but says that the Supreme Court might dismiss review on its own if this law is passed.
246	Kelly Skye	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 46A. Says that they are against people being excluded from certain areas or even from their own neighborhoods.
375	Lynn-Marie Crider	Research Director, Oregon American Federal Liberties Union. Submits testimony and testifies in opposition to SB 46A ( <b>EXHIBIT I</b> ).

**TAPE 175, B**

019	Jerod Broadfoot	Oregon Gun Owners. Testifies as neutral on SB 46A.
041	Rep. Shetterly	Wonders if they should give notice in writing.
070	Rep. Prozanski	Comments on the issues of private property owners and no trespassing laws.
090	Skye	Says their concerns are giving notice to people.
120	Rep. Barker	States that businesses are having trouble with criminal activity. Asks Ms. Skye what the limits are on shoplifting before they will be prosecuted in Multnomah County.
132	Skye	Answers that currently they are not prosecuted.
133	Rep. Barker	Asks Ms. Skye if she has a problem with a business excluding an individual from their store.
135	Skye	Answers, no, but she wonders how they are going to word that in the law.
152	Rep. Prozanski	Describes how the stores that he works with deal with criminal trespassing.
166	Rep. Shetterly	Says that he likes "directed not to enter" better than "denied entry" because it is more an active voice.
197	Rep. Macpherson	Asks Ms. Crider for the AFL-CIO's concern.
204	Crider	Explains that they have problems with the language and the law is written too broadly.

229	Rep. Macpherson	Asks if a structure in the statute that requires written or oral notice would help.
237	Crider	Answers, yes, that would be helpful because that gives them something they can challenge.
251	Vice Chair Anderson	Closes the public hearing on SB 46A and opens a public hearing on SB 65.

**SB 65 PUBLIC HEARING**

259	Craig Prins	Committee Counsel. Introduces SB 65 which modifies crime of sexual assault of animal.
273	Lt. Randy Covey	Oregon Humane Society. Testifies in support of SB 65.
303	Vice Chair Anderson	Closes the public hearing on SB 65 and opens a public hearing on SB 67.

**SB 67 PUBLIC HEARING**

312	Craig Prins	Committee Counsel. Introduces SB 67 which clarifies that telephone testimony may be used in proceeding under ORS chapter 419B.
328	Wendy Johnson	Oregon Law Commission. Submits testimony and testifies in support of SB 67 ( <b>EXHIBIT J</b> ).
357	Vice Chair Anderson	Closes the public hearing on SB 67 and opens a work session.

**SB 67 WORK SESSION**

367	Rep. Shetterly	<b>MOTION: Moves SB 67 to the floor with a DO PASS recommendation.</b> <b>VOTE: 6-0-3</b> <b>EXCUSED: 3 - Barker, Krummel, Williams</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>REP. SHETTERLY will lead discussion on the floor.</b>
370	Vice Chair Anderson	
381	Vice Chair Anderson	Closes the work session on SB 67 and adjourns the meeting at 3:30 p.m.

**EXHIBIT SUMMARY**

- A – SB 19A, -2 amendments, submitted by staff, dated 5/5/03, 1 pg.**
- B – SB 19A, written testimony, submitted by Julie McFarlane, 7 pgs.**
- C – SB 19A, written testimony, submitted by Larry Oglesby, 1 pg.**
- D – SB 19A, written testimony, submitted by Timothy Travis, 3 pgs.**
- E – SB 45, written testimony, submitted by Ann Christian, 2 pgs.**
- F – SB 46A, written testimony, submitted by Jonathan Fussner, 2 pgs.**
- G – SB 46A, written testimony of Michael Schrunk, submitted by Laurie Abraham, 2 pgs.**
- H – SB 46A, written testimony, submitted by Matt Engen, 2 pgs.**
- I – SB 46A, written testimony, submitted by Lynn-Marie Crider, 2 pgs.**
- J – SB 67, report, submitted by Wendy Johnson, 3 pgs.**