

SENATE COMMITTEE ON JUDICIARY

January 27, 2003
8:00 a.m.

Hearing Room 343
Tapes 5 - 7

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Ginny Burdick, Vice-Chair
 Sen. Ted Ferrioli
 Sen. Charlie Ringo
 Sen. Charles Starr
 Sen. Vicki Walker

STAFF PRESENT: **Craig Prins, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 45 Public Hearing and Work Session**
 SB 19 Public Hearing
 SB 53 Public Hearing
 SB 23 Public Hearing
 SB 24 Public Hearing
 SB 46 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 5, A		
005	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens a public hearing on SB 45.
<u>SB 45 - PUBLIC HEARING</u>		
008	Judge Terry Leggett	Circuit Court, Marion County. Submits testimony and testifies in support of SB 45 that 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 (EXHIBIT A).
034	Chair Minnis	Closes the public hearing on SB 45 and opens a work session.
<u>SB 45 - WORK SESSION</u>		
035	Vice Chair Burdick	MOTION: Moves SB 45 to the floor with a DO PASS recommendation, and be placed on the consent calendar. VOTE: 5-0-1
038	Chair Minnis	EXCUSED: 1 - Sen. Walker Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.
	Chair Minnis	Closes the work session on SB 45 and opens a public hearing on SB 19 and SB 53.

SB 19 and SB 53 – PUBLIC HEARING

055 Carl Myers Oregon Juvenile Department Directors Association (OJDDA). Submits testimony and testifies in support of SB 19 that establishes when youth offenders and persons alleged to be within jurisdiction of juvenile court may be detained in place where adults are detained; and SB 53 that allows court to place youth offenders 18 years of age or older in adult detention facilities (**EXHIBIT B**). Explains that both bills seek to rectify the same problem.

077 Larry Ogelsby OJDDA. Introduces Rich Scott and Timothy Loewen. Testifies in support of SB 19 and 53 saying that pieces of each bill could be combined to a workable solution.

119 Rich Scott Multnomah County Department of Community Justice. Explains issues in Multnomah County, including the sight and sound issue.

157 Tim Loewen Director, Yamhill County Juvenile Department. Addresses issues in Yamhill County regarding the placement of youth offenders.

185 Larry Olgesby Talks about court sanctions of youth.

212 Sen. Ferrioli Asks for a further definition of “sight and sound.”

226 Ogelsby Explains the separation of youth and adults.

231 Chair Minnis States his understanding of what the two bills do with respect to housing youth offenders.

240 Ogelsby Explains the movement from a juvenile to an adult facility.

253 Vice Chair Burdick Asks if this only affects probationers.

261 Ogelsby Responds, yes.

272 Craig Prins Committee Counsel. Asks for clarification of ‘sight and sound’ in a juvenile facility.

282 Scott Explains the separation of youth in a facility.

295 Sen. Ferrioli States his concern about the youth/adult separation.

308 Ogelsby Responds that the goal is to keep experienced offenders away from youth.

326 Vice Chair Burdick Asks if this could apply to the Oregon Youth Authority.

332 Ogelsby Replies, yes.

336 Kathy Berger Juvenile Rights Project. Testifies as neutral on SB 19. Says this bill really isn’t needed.

454 Berger Says SB 19 is a better bill than SB 53.

TAPE 6 A

020 Berger Continues testimony on SB 19 and SB 53.

050 Chair Minnis Asks for clarification of SB 53, page 2, line 14.

053 Berger Responds.

060 Chair Minnis Asks for comparison of SB 19, page 1, line 9 to SB 53.

063 Berger Explain differences.

078 Sen. Ringo Asks if there are ambiguities in the Multnomah County council’s definitions of youth and adult.

086 Berger Responds that there are.

088 Sen. Ringo Asks if there is an alternate solution that the legislature needs to address.

091 Berger Responds, yes.

095	Timothy Travis	Oregon Judicial Department. Testifies in opposition to SB 19 and talks about the “sight and sound” issue.
150	Travis	Says judges do not like the detailed findings in SB 19.
182	Vice Chair Burdick	Asks if there is a solution to the concerns of due process.
188	Travis	Says he does not think so.
230	Chair Minnis	Asks that a work group get together on these two bills within the next two weeks.
232	Chair Minnis	Closes the public hearing on SB 19 and SB 53 and opens a public hearing on SB 24.

SB 24 – Public Hearing

253	Vice Chair Burdick	State Senator, District 18. Explains and supports SB 24 that creates crime of unlawful development, manufacture, delivery, possession and use of harmful substance, toxin or delivery system. Introduces John Bradley.
287	John Bradley	Multnomah County District Attorneys Office. Testifies in support of SB 24, but explains it still needs some work.
430	Chair Minnis	Asks for clarification of an unclassified felony.
433	Bradley	Explains different classifications of felony.

TAPE 5 B

020	Chair Minnis	Asks if the judge has the discretion to make the classification.
022	Bradley	Replies, yes.
060	Bradley	Continues to discuss SB 24, and suggests that section 9, page 6, should be changed.
087	Sen. Ringo	Asks for clarification in section 2, page 1 of the bill.
092	Bradley	Explains why “unlawful purpose” is needed in this section.
119	Sen. Ringo	Talks about harmful substances.
125	Bradley	Explains this bill is directed toward people who are in the business of harmful substances.
167	Sen. Ringo	Asks if it is illegal to possess Anthrax at this time.
170	Bradley	Says he doesn’t know under state statute.
173	Sen. Ringo	Asks about proof of unlawful purpose.
178	Bradley	Responds, yes, it would have to be proved.
180	Sen. Ferrioli	Talks about lawful versus unlawful purpose, and expresses his support of the context of this bill.
215	Bradley	Responds that unlawful purpose should be more than a misdemeanor.
224	Ingrid Swenson	Oregon Civil Defense Lawyers Association (OCDLA). Submits testimony and testifies in opposition to SB 24 (EXHIBIT C).
289	Swenson	Talks about section 7 of the bill and the offense created.
344	Terry Witt	Director, Oregonians for Food and Shelter. Testifies in opposition to SB 24 and offers his help in amending this bill. Says, as written, it casts too broad a net.
422	Chair Minnis	Suggests that Sen. Burdick lead a work group. Closes the public hearing on SB 24 and opens a public hearing on SB 23.

SB 23 – PUBLIC HEARING

TAPE 6 B

005	Sharon Gorham	Lane County District Attorneys Office. Submits testimony and testifies in support of SB 23 that modifies provisions relating to stalking protective orders (EXHIBIT D) .
035	Counsel Prins	Says this bill was worked on during the interim and introduced by David Nebel.
043	Ingrid Swenson	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies as neutral on SB 23 and discusses the areas that need to be amended.
106	Swenson	Expresses concern that stalking orders have no time limit.
124	Carrie Rasmussen	Deputy District Attorney, Marion County. Testifies in support of SB 23.
145	Rasmussen	Addresses the fiscal report and says that it seems to imply that the stalking order is working.
195	David Nebel	Oregon Law Center. Submits testimony and testifies in support of SB 23. (EXHIBIT E) .
248	Chair Minnis	Closes the public hearing on SB 23 and open a public hearing on SB 46.

SB 46 – PUBLIC HEARING

262	Jonathan Fussner	Department of Justice. Submits testimony and testifies in support of SB 46 that expands definition of enter or remain unlawfully for purpose of burglary and criminal trespass (EXHIBIT F) .
311	Laurie Abraham	Multnomah County District Attorney. Testifies in support of SB 46.
338	Abraham	Discusses examples of trespassers that return time and time again and the law has no recourse.
413	Vice Chair Burdick	Asks for what time period a person can be asked to leave the premises of public property.
422	Abraham	Says the property owner can decide the time.
433	Vice Chair Burdick	Asks if the statute needs to be amended regarding time limits.

TAPE 7, A

012	Abraham	Believes each property owner should make that decision.
036	Vice Chair Burdick	Asks if a time period should be in writing.
038	Abraham	Says, no.
046	Sen. Ferrioli	Asks about how this would apply in a very public place.
052	Abraham	Replies that public property owners tend to have a more formal approach.
070	Officer Matt Engen	Portland Police Bureau. Testifies in support of SB 46 and cites examples of current trespass law.
103	Chair Minnis	Asks what the police tell the property owner to do.
105	Engen	Explains what suggestions they give property owners.
120	Vice Chair Burdick	Asks how trespass applies to drug free zones.
119	Engen	Says the city has its own violation regarding drug free-zones.
127	Abraham	Explains the ordinance that applies to drug dealing.
150	Vice Chair Burdick	Asks for clarification of the drug-free zone ordinance.
157	Abraham	Explains the ordinance.
169	Mike Salzgeber	Portland Business Alliance. Submits testimony and testifies in support of SB 46 (EXHIBIT G) .
184	Susan Russell	Oregon Criminal Defense Lawyers Association. Submits Testimony

229	Chair Minnis	and testifies in opposition to SB 46 (EXHIBIT H). Discusses the definition of burglary versus robbery.
234	Sen. Ringo	Asks how the problem of trespass is resolved if not through this legislation.
240	Russell	Believes there are other vehicles in which trespass can be addressed.
255	Christy Munson	League of Oregon Cities. Offers assistance in satisfying the objections of SB 46.
277	Chair Minnis	Asks if the League supports SB 46.
280	Munson	Says they agree with the concept, but would like to submit language to amend the bill.
286	Munson	Reads the language the league would like to include.
330	Chair Minnis	Asks the proponents of the bill to get together.
338	Chair Minnis	Closes the public hearing on SB 46 and adjourns the meeting at 10:20 a.m.

EXHIBIT SUMMARY

- A – SB 45, written testimony submitted by Terry Leggert, 2 pp**
- B – SB 19 and 53, written testimony submitted by Carl Myers, 1 p**
- C – SB 24, written testimony submitted by Ingrid Swenson, 2 pp**
- D – SB 23, written testimony submitted by Sharon Gorham, 16 pp**
- E – SB 23, written testimony submitted by David Nebel, 1 p**
- F – SB 46, written testimony submitted by Jonathan Fussner, 2 pp**
- G – SB 46, written testimony submitted by Mike Salsgiver, 1 p**
- H – SB 46, written testimony submitted by Susan Russell, 1 p**