

# SENATE COMMITTEE ON JUDICIARY

January 30, 2003  
8:00 a.m.

Hearing Room 343  
Tapes 11 - 12

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

**MEMBER EXCUSED:** Sen. Ginny Burdick, Vice Chair

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

**MEASURE/ISSUES HEARD:** SB 23 Public Hearing  
SB 114 Public Hearing

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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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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 11, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:10 a.m. and opens a public hearing on SB 23.
<b><u>SB 23 – PUBLIC HEARING</u></b>		
010	David Nebel	Oregon Law Center. Testifies in support of SB 23 which modifies provisions relating to stalking protective orders.
079	Nebel	States that he has two amendments to be considered.
106	Sen. Ringo	Asks about intent requirements and why “reckless” is used in this section.
111	Nebel	Says “reckless” is the term used in current law.
127	Craig Prins	Committee Counsel. Explains further the need for “reckless” in this provision and says it is only an action for damages.
139	Sen. Ringo	Asks if a stalking order should have a time limit.
135	Nebel	Replies that there would have to be a provision for reinstating the limit.
171	Chair Minnis	Asks what the process is for extinguishing an order.
173	Nebel	Says there is no process at this time.
180	Chair Minnis	Asks about the free speech right.
181	Nebel	Explains the due process of free speech.
216	Sen. Ringo	Talks about examples of stalking orders that might need to be rescinded.
219	Nebel	Explains the Family Abuse Prevention Act procedures as a means to rescind an order.

252	Prins	Clarifies that in some instances, both orders are sought. Says this legislation is going to have a fiscal impact.
296	Sen. Walker	Asks if the court has discretion when considering time limits.
310	Nebel	Replies that can be made a part of this legislation.
340	Sen. Walker	Believes there needs to be some opportunity for periodic review.
368	Sen. Ferrioli	Questions if stalking orders actually provide protection. Asks how a law enforcement officer would know about one.
390	Chair Minnis	Responds that the order would show up in Law Enforcement Data System (LEDS).
430	Nebel	Explains that the bill is not intended to change current law regarding stalking.

**TAPE 12, A**

023	Sen. Ringo	Expresses his concern about this issue.
030	Chair Minnis	Expresses his concern about the constitutional rights of victims and suspects.
048	Nebel	Says the court of appeals has addressed the issue of constitutional challenges to the stalking procedure.
069	Sen. Ringo	Discusses constitutional rights of someone violating the law.
091	Nebel	Explains how the law deals with a stalking order.
109	Sen. Walker	Clarifies that a respondent does not have to show up for a court to issue an order.
126	Lorena Reynolds	Legal Aid Services of Oregon, Albany office. Testifies in support of SB 23. Gives examples of procedures in Linn and Benton Counties. Discusses the ability to dismiss a stalking order.
190	Chair Minnis	Asks the work group to take another look at SB 23.
221	Chair Minnis	Closes the public hearing on SB 23 and opens a public hearing on SB 114.

**SB 114 – PUBLIC HEARING**

238	Michael Livingston	Assistant Attorney General. Submits testimony and testifies in support of SB 114 which provides that court may not set aside or dismiss delinquency petition after adjudication unless adjudication has been set aside ( <b>EXHIBIT A</b> ).
329	Chair Minnis	Discusses a previous bill before the committee during the last legislative session.
346	Amy Holmes Hehn	Deputy District Attorney, Multnomah County. Testifies in support of SB 114 and provides some historical background. Explains that there is language in the bill that should be amended.

## **TAPE 11, B**

048	Sen. Walker	Asks why a judge would vacate an order post-adjudication.
057	Holmes Hehn	Explains the court's position.
089	Livingston	Gives an example of a particular case.
132	Sen. Ferrioli	Requests information on the statutes on sex offender registration.
140	Holmes Hehn	Offers to provide information.
157	Sen. Ringo	Asks for definition of juvenile sex crimes.
163	Holmes Hehn	Says it includes those age 14 and under.
190	Sen. Starr	Says he struggles with some of these cases that are going to court that perhaps should not.
245	Sen. Ringo	Asks if there is data that shows the long-term threat of juvenile sex offenders.
258	Holmes Hehn	Says there are not any studies available that detect re-offending.
288	Livingston	Talks about the policy provisions allowed the courts.
355	Kathie Berger	Juvenile Rights Project. Testifies in opposition to SB 114.

## **TAPE 12, B**

036	Berger	Continues discussing the various courts' approach to juvenile sex offenders.
062	Chair Minnis	Asks if juvenile courts have pre-trial conferences.
068	Berger	Says she cannot respond for all juvenile courts, but knows of some that do.
128	Ingrid Swenson	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 114.
173	Swenson	Says there are 15 to 18 year olds in the juvenile sex offense system.
208	Nancy Miller	State Court Administrators Office. Testifies in opposition to SB 114. Says she is polling the circuit court judges regarding this bill and will bring her findings to the committee.
275	Chair Minnis	Closes the public hearing on SB 114 and adjourns the meeting at 9:55 a.m.

## **EXHIBIT SUMMARY**

**A – SB 114, written testimony submitted by Michael Livingston, 2 pp**