

SENATE COMMITTEE ON JUDICIARY

February 27, 2003
8:00 a.m.

Hearing Room 343
Tapes 43-44

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

MEMBER EXCUSED: **Sen. Ted Ferrioli**
 Sen. Charles Starr

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

MEASURE/ISSUES HEARD: **SB 302 Public Hearing**
 SB 301 Public Hearing
 SB 299 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 43, A		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a public hearing on SB 302.
<u>SB 302 PUBLIC HEARING</u>		
014	Craig Prins	Committee Counsel. Introduces SB 302 that requires person petitioning for driving while under the influence of intoxicants diversion agreement to file guilty plea as part of petition.
028	Joshua Marquis	Oregon District Attorneys Association (ODAA). Testifies in support of SB 302. Mentions the letter from Jerome Cooper, Governor's Advisory Committee, supporting SB 302 (EXHIBIT A). Says the savings would be substantial.
121	Vice Chair Burdick	Asks how many other states have a diversion program.
125	Marquis	Advises that there were about 15 that responded to the inquiry.
131	Vice Chair Burdick	Asks for clarification of the 60-day deadline to enter into diversion.
136	Marquis	Explains reasons for changing the deadline from 30 days to 60 days.
153	Sen. Ringo	Inquires about the agreement that the defendant pay attorneys fees.

155	Marquis	Explains the benefit of a low-cost diversion program as opposed to legal fees.
169	Sen. Ringo	Wonders about those who cannot pay anything.
172	Marquis	Says under the law, a court cannot make a person pay who has no capacity to pay.
187	Sen. Ringo	Discusses attorney fees.
204	Sen. Walker	Asks about the cost of the diversion program.
199	Marquis	Explains that the fee for the program is about \$300, plus the cost of treatment.
216	Sen. Walker	Expresses concern that district attorneys have so much power.
229	Marquis	Explains the working relationship between the district attorneys and the bench.
253	Sen. Walker	Asks about the use of “good cause.”
240	Marquis	Explains that it gives discretion to the court.
264	Sen. Walker	Asks for an understanding of the diversion program.
269	Marquis	Explains the program.
299	Vice Chair Burdick	Wonders who determines if diversion has been successful.
302	Marquis	Says the treatment providers determine the success or failure of a person in diversion.
311	Vice Chair Burdick	Asks for an example of how the process works.
315	Marquis	Gives an example.
343	Gina Skinner	Deputy District Attorney, Washington County. Testifies in support of SB 302. Discusses the number of DUII litigations per day in Washington County.
422	Kamala Shugar	Oregon District Attorneys Association. Testifies in support of SB 302.
TAPE 44, A		
010	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Submits testimony and testifies in opposition to SB 302 (EXHIBIT B) .
128	Sen. Walker	Asks why defendants that are not guilty are not eligible for diversion.
132	Russell	Explains that SB 302 requires a person to plead guilty in order to be eligible for the diversion program.
180	Chair Minnis	Says the program is a privilege not a right.
190	Sen. Ringo	Asks if this bill will save money.
198	Russell	Says there may be some savings.
223	Sen. Ringo	Asks what the net result would be.
226	Russell	Says there is no definitive answer.
255	Ann Christian	Oregon Judicial Department. Testifies as neutral on SB 302.
369	Chair Minnis	Says he agrees in saving resources, but would like more information.
388	Christian	Says she needs some time to research the net savings.
424	Sen. Walker	Asks if a bill in 1995 passed.
426	Christian	Responds, no.
445	Chair Minnis	Closes the public hearing on SB 302 and opens a public hearing on SB 301.

SB 301 PUBLIC HEARING

451	Craig Prins	Committee Counsel. Explains SB 301 that creates crime of unlawful imprisonment.
467	Gina Skinner	Oregon District Attorneys Association (ODAA). Testifies in support of SB 301.

TAPE 43, B

062	Vice Chair Burdick	Asks about exemption of legal authority.
068	Skinner	Says probable cause would be requirement enough.
088	Chair Minnis	Says the language as it stands is appropriate.
098	Vice Chair Burdick	Wonders about the definition of imprisonment as it might apply to a minor.
108	Kamala Shugar	Explains that ORS 161.205 has specific justification for behavior by a parent or guardian.
138	Vice Chair Burdick	Brings up the issue of what constitutes confinement.
162	Skinner	Talks about how confinement is defined in the kidnapping statute.
183	Shugar	Discusses possible language for an amendment.
244	Vice Chair Burdick	Asks about “no cause” for an arrest.
247	Shugar	Explains the possible penalty.
274	Sen. Ringo	Asks what charge was available in the example given.
280	Skinner	Says the charge was coercion with a firearm.
295	Sen. Ringo	Asks what a category 5 offense involves.
297	Skinner	Reads from the chart of offenses.
348	Sen. Ringo	Expresses concern that there is no time element involved.
353	Shugar	Says the proposed amendment would deal with that.
392	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA) Submits testimony and testifies in opposition to SB 301 (EXHIBIT C) .
460	Chair Minnis	Gives an example and asks what the crime would be.
485	Russell	Says it is a crime of coercion.

TAPE 44, B

022	Russell	Continues with testimony in opposition to SB 301.
058	Chair Minnis	Believes that prosecutors should have every possible tool at their disposal.
060	Russell	Contends that coercion covers these crimes.
080	Sen. Ringo	Discusses the need for limits.
090	Russell	Clarifies how coercion works.
127	Chair Minnis	Asks for cooperation in writing a statute that is better defined.
142	Sen. Ringo	Asks for a comparison of the language in this bill with that of the kidnapping statute.
144	Russell	Believes that it refers to one’s liberty, not a time frame.
149	Sen. Ringo	Talks about kidnap cases, and the movement of a person from one place to another being “substantially interfered” with.
154	Russell	Explains that the law says any movement would apply.
158	Sen. Ringo	Asks counsel for further clarification.
160	Prins	Responds that he will get written information.
177	Russell	Discusses alternatives to a charge of kidnap.
195	Chair Minnis	Closes the public hearing on SB 301 and opens a public hearing on SB 299.

SB 299 PUBLIC HEARING

202	Tom Mahon	Private Citizen, Salem, OR. Submits testimony and testifies as neutral on SB 299 that creates offense of unlawful viewing of display screen of electronic device (EXHIBIT D) .
285	Sen. Ringo	Suggests that reference to the electronic device should be clarified as a television screen, whether broadcast or taped.
302	Jim Botwinis	Oregon State Police Officers’ Association. Submits testimony and testifies in support of SB 299 (EXHIBIT E) . Gives a personal account.
370	Sgt. Curt Curtis	Sergeant, Oregon State Police. Submits testimony and testifies as neutral on SB 299 (EXHIBIT F) . Suggests some language to

434	Al Elkins	amend the bill. Oregon Tow Truck Association. Testifies in opposition to SB 299.
462	Chair Minnis	Asks about GPS equipment.
470	Sgt. Curtis	Explains how the GPS equipment works.
486	Chair Minnis	Asks what constitutes operating a motor vehicle.
502	Craig Prins	Committee Counsel. Explains that there are some cases where operating a motor vehicle would include sitting in, not actually driving the vehicle.
519	Chair Minnis	Closes the public hearing on SB 299 and adjourns the meeting at 10:10 a.m.

EXHIBIT SUMMARY

A – SB 302, written testimony of Jerome Cooper submitted by Josh Marquis, 2 pp

B – SB 302, written testimony submitted by Susan Russell, 1 p

C – SB 301, written testimony submitted by Susan Russell, 1 p
D – SB 299, written testimony submitted by Thomas Mahon, 1 p
E – SB 299, written testimony submitted by Jim Botwinis, 3 pp
F – SB 299, written testimony submitted by Curt Curtis, 2 pp