

## SENATE COMMITTEE ON JUDICIARY

March 04, 2003 Hearing Room 343  
8:00 a.m. Tapes 47 - 48

**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 305 Public Hearing  
SB 306 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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TAPE/#	Speaker	Comments
<b>TAPE 47, A</b>		
003	Chair Minnis	Calls the meeting to order at 8:13 a.m. and opens a public hearing on SB 305 that provides that convictions for or records of person felonies are not subject to being set aside or expunged.
<b><u>SB 305 PUBLIC HEARING</u></b>		
007	Alfred French	Oregon District Attorneys Association (ODAA). Testifies in support of SB 305. Explains that it would change ORS 137.225 that allows people to seal certain convictions as if they never appeared.
082	Chair Minnis	Asks for clarification of expungement.
092	French	Explains the theory of expungement.
098	Chair Minnis	Requests further clarification of its legal effect.
100	French	Explains that the crime is not erased, it is sealed, and an individual can legally say they have never been convicted of a crime.
140	Vice Chair Burdick	Asks if juveniles are treated the same as adults.
156	French	Explains that they are.
172	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Submits testimony and testifies in opposition to SB 305 <b>(EXHIBIT A)</b> .
307	Chair Minnis	Asks if there is support for certain changes in the wording.
316	Russell	Believes the changes would be appropriate.
324	Chair Minnis	Asks about another change from "clear and convincing evidence" to "preponderance of the evidence."
326	Russell	Thinks that change would also be appropriate.
335	Vice Chair Burdick	Asks if the burden of proof is on the district attorney.
343	Russell	Says, yes.

359	Vice Chair Burdick	Asks about an extension of the time period.
365	Russell	Agrees that it is a better approach.
395	Vice Chair Burdick	Asks if expungement is available for A and B felonies.
397	Russell	Replies, not under any circumstances.
410	Chair Minnis	Wonders what the logic was for not allowing expungement of an A or B felony.
420	Russell	Replies that that those are sufficiently aggravated and should not be considered.
423	Chair Minnis	Asks how many of these kinds of cases are heard each year.
430	Russell	Says she will get that information for the committee.
458	Carl Myers	Oregon Juvenile Department Directors Association. Testifies in opposition to SB 305 as it relates to juvenile convictions.
494	Chair Minnis	Closes the public hearing on SB 305 and recesses the meeting at 8:40 a.m.

**TAPE 48, A**

020	Chair Minnis	Reconvenes the meeting at 9:00 a.m. and opens a public hearing on SB 306.
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**SB 306 PUBLIC HEARING**

026	Alfred French	Oregon District Attorneys Association (ODAA). Testifies in support of SB 306 that changes mental state for crime of failure to appear from intentional to knowing.
074	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Submits testimony and testifies in opposition to SB 306 <b>(EXHIBIT B)</b> .
158	Vice Chair Burdick	Discusses confusion of court dates and failure to appear.
164	Russell	Explains cases where failure to appear is legitimate.
184	Chair Minnis	Asks if the court would set another date before proceeding to a subsequent criminal prosecution.
189	Russell	Says she sees very few “failure to appear” cases in Multnomah County, but it would depend on the county.
242	Sen. Walker	Says she is aware of many failure to appear cases, and wonders if changing the mental state from intentionally to knowingly would reduce the number of failure to appear cases.
355	Russell	Believes the wording is not going to be a deterrent.
377	Chair Minnis	Closes the public hearing on SB 306 and opens a work session.

**SB 306 WORK SESSION**

280	Vice Chair Burdick	<b>MOTION: Moves SB 306 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Ferrioli, Sen. Ringo</b>
284	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WALKER will lead discussion on the floor.</b>
287	Chair Minnis	Closes the work session on SB 306 and adjourns the meeting at 9:20 a.m.

**EXHIBIT SUMMARY**

**A – SB 305, written testimony submitted by Susan Russell, 1 p**

**B – SB 306, written testimony submitted by Susan Russell, 1 p**