

## SENATE COMMITTEE ON JUDICIARY

May 08, 2003  
8:00 a.m.

Hearing Room 343  
Tapes 124-125

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

**MEMBERS EXCUSED:**   **Sen. Ginny Burdick, Vice-Chair**

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

**MEASURE/ISSUES HEARD:**     **HB 2177A Work Session**  
                                  **SB 808 Work Session**  
                                  **HB 2101 Public Hearing and Work Session**  
                                  **HB 2174A Public Hearing**  
                                  **HB 2207A Public Hearing and Work Session**  
                                  **HB 2422 Public Hearing**  
                                  **SB 302 Work Session**  
                                  **SB 103A 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 124, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:15 a.m. and opens a work session on HB 2177A.
<b><u>HB 2177A WORK SESSION</u></b>		
008	Craig Prins	Committee Counsel. Introduces HB 2177A that provides that inmates and others may not bring criminal or civil stalking action against parole and probation officer or officer, employee or agent of Department of Corrections, law enforcement unit or Oregon Youth Authority for official conduct of officer, employee or agent, and the -A10 amendments ( <b>EXHIBIT A</b> ).
048	Kamala Shugar	Oregon District Attorneys Association. Asks about limits in a perjury charge.
052	Prins	Explains that there is nothing in this bill that would prohibit the use of statements made in a perjury case.

059 Sen. Walker **MOTION: Moves to ADOPT HB 2177A-A10 amendments dated 5/7/03.**  
**VOTE: 4-0-2**  
**EXCUSED: 2 - Sen. Burdick, Sen. Ferrioli**  
**Hearing no objection, declares the motion CARRIED.**

063 Chair Minnis  
064 Sen. Walker **MOTION: Moves HB 2177 to the floor with a DO PASS AS AMENDED recommendation.**  
**VOTE: 4-0-2**  
**EXCUSED: 2 - Sen. Ferrioli, Sen. Burdick**  
**Hearing no objection, declares the motion CARRIED.**  
**SEN. RINGO will lead discussion on the floor.**

070 Chair Minnis Closes the work session on HB 2177A and opens a work session on SB 808.

**SB 808 WORK SESSION**

073 Craig Prins Committee Counsel. Introduces SB 808 that requires court to include review of child’s comprehensive plan for transition to independent living at certain permanency hearings, and the -2 amendments (**EXHIBIT B**) with a cover letter from legislative counsel (**EXHIBIT C**).

139 Sen. Walker Discusses her concerns about testimony previously heard.  
168 Chair Minnis Closes the work session on SB 808 until 9:15 a.m. and opens a public hearing on HB 2101.

**HB 2101 PUBLIC HEARING**

180 Bill Taylor Committee Counsel. Introduces HB 2101 that provides that contempt proceedings for violation of Family Abuse Prevention Act restraining order and for violation of Elderly and Disabled Person Abuse Prevention Act restraining order may be conducted in county where violation of restraining order occurs.

197 Rebecca Gandy Oregon Coalition Against Domestic and Sexual Violence. Testifies in support of HB 2101.

214 David Nebel Oregon Alliance to End Violence Against Women. Testifies in support of HB 2101.

251 Jonathan Fussner Oregon Department of Justice. Submits testimony and testifies in support of HB 2101 (**EXHIBIT D**).

267 Chair Minnis Asks that the two petitions be identified.  
256 Fussner Explains that the Family Abuse Prevention Act is ORS 107.700, and the Elderly and Disabled Person Abuse Prevention Act is ORS 124.005.

286 Chair Minnis Closes the public hearing on HB 2101 and opens a public hearing on HB 2174A.

**HB 2174A PUBLIC HEARING**

296 Bill Taylor Committee Counsel. Introduces HB 2174A that approves adoption of certain rules and amendments to sentencing guidelines rules by Oregon Criminal Justice Commission.

314 Phil Lemman Oregon Criminal Justice Commission. Submits testimony and testifies in support of HB 2174A (**EXHIBIT E**).

463 Chair Minnis Asks about cigarette crimes and the rationale for putting it at a “1” category.  
474 Lemman Explains that it was through consulting with the Attorney General’s office.

**TAPE 125, A**  
021 Chair Minnis Asks about the ranking of specific offenses.

022	Lemman	Gives an overview of those rankings as contained in his written testimony.
042	Sen. Ferrioli	Discusses the disagreement about the use of the words “shall” and “may.” Wonders who will be the arbitrator when those kinds of grammatical changes are made.
051	Lemman	Explains the process and who handles those changes.
072	Sen. Ferrioli	Asks who settles disputes.
088	Lemman	Says there is full participation from a variety of disciplines and professions in the criminal justice community, along with other public bodies.
120	Sen. Ferrioli	Contends that even minor changes in the law tend to engender these discussions about what is intended.
125	Lemman	Draws attention to the language in section 4 of the bill.
144	Chair Minnis	Asks if fiscal analysis on various crime categories is done by the commission.
148	Lemman	Says, yes. Reviews the record.
175	Chair Minnis	Closes the public hearing on HB 2174A and opens a public hearing on HB 2207A.

**HB 2207A PUBLIC HEARING**

185	Bill Taylor	Committee Counsel. Introduces HB 2207A that authorizes State Parks and Recreation Department to request Department of State Police to provide criminal offender information about subject individuals.
195	Jana Tindall	State Department of Parks and Recreation. Submits testimony and testifies in support of HB 2207A ( <b>EXHIBIT F</b> ).
199	Chair Minnis	Closes the public hearing on HB 2207A and opens a work session.

**HB 2207A WORK SESSION**

225	Sen. Walker	<b>MOTION: Moves HB 2207A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Ringo, Sen. Burdick</b>
228	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED. SEN. C. STARR will lead discussion on the floor.</b>
237	Chair Minnis	Closes the work session on HB 2207A and recesses the meeting at 9:00 a.m.

239 Chair Minnis Reconvenes the meeting at 9:15 a.m. and opens a public hearing on HB 2422.

**HB 2422 PUBLIC HEARING**

241 Rep. Vic Backlund House District 25. Testifies in support of HB 2422 that creates offense of failure to yield to traffic patrol member.  
273 Chair Minnis Asks how a crossing guard is identified.  
275 Rep. Backlund Explains that the guard carries a very conspicuous flag.  
289 Judy Smith Salem, OR. Testifies in support of HB 2422. Says ORS 811.0085 covers students only and not the traffic patrol member.  
344 Sen. Ringo Asks for examples of situations not currently covered by law.  
350 Smith Explains that crossing guards are not covered by any law.  
365 Chair Minnis Closes the public hearing on HB 2422 and reopens the work session on SB 808.

**SB 808 WORK SESSION**

398 Sen. Starr **MOTION: Moves to ADOPT SB 808-2 amendments dated 5/8/03.**

**VOTE: 4-0-2**

**EXCUSED: 2 - Sen. Burdick, Sen. Walker**

403 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

405 Sen. C. Starr **MOTION: Moves SB 808 to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 4-0-2**

**EXCUSED: 2 - Sen. Walker, Sen. Burdick**

409 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

**SEN. FERRIOLI will lead discussion on the floor.**

413 Chair Minnis Closes the work session on SB 808 and opens a work session on SB 302.

**SB 302 WORK SESSION**

418 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, and the - 5 amendments (**EXHIBIT G**).

**TAPE 124, B**

059 Sen. Ringo Says he would like to hear additional testimony from the defense lawyers.  
063 Sen. Walker Asks if the extension request is still in the bill.  
068 Prins Replies that it is.  
080 Ann Christian Oregon Judicial Department. Submits a fiscal impact statement prepared by the Judicial Department (**EXHIBIT H**).  
181 Josh Marquis Oregon District Attorneys Association. Testifies in support of SB 302. Says the real dollar savings in this bill is to police overtime.  
223 Chair Minnis Asks if his estimate of savings includes all police departments statewide.  
226 Marquis Says, yes.  
242 Susan Russell Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 302. Believes the current diversion program works, saying the success rate is between 60 to 70 percent.  
278 Sen. Ringo Thinks 30 to 40 percent failure rate is too much. Asks what harm is done by passing this legislation.  
286 Russell Explains that expenses and undue delay are the major issues.  
324 Sen. Ringo Asks about the time element between time of arrest and making the choice for diversion.

327	Russell	Explains that under the current statute it is 30 days unless good cause.
345	Prins	Clarifies that the time element is the same, but includes the wording “good cause does not constitute time to file.”
336	Russell	Believes that 30 days is an impossibly short period of time to investigate.
366	Chair Minnis	Asks if an argument for time is made before the judge.
367	Russell	Believes that a defense attorney ought to succeed in arguing to a judge that there is good cause to extend beyond 30 days.
434	Sen. Ringo	Says he likes the bill.
436	Sen. Ferrioli	Says that he also likes the bill.
462	<b>Sen. Ferrioli</b>	<b>MOTION: Moves to ADOPT SB 302-5 amendments dated 5/7/03.</b>
		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Sen. Burdick</b>
466	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
469	<b>Sen. Ferrioli</b>	<b>MOTION: Moves SB 302 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 5-0-1</b>
		<b>EXCUSED: 1 - Sen. Burdick</b>
477	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
480	Chair Minnis	Closes the work session on SB 302 and opens a public hearing on SB 103A.

**SB 103A PUBLIC HEARING**  
**TAPE 125, B**

018	Eugene Ebersole	Department of Justice. Submits testimony and testifies in support of SB 103A ( <b>EXHIBIT I</b> ) that prohibits seller of motor vehicle from selling or leasing buyer’s trade-in vehicle prior to seller receiving final approval from lender, and the –A4 amendments ( <b>EXHIBIT J</b> ).
064	Sen. Ringo	Explains that his understanding is that the system was set up for instant approval.
066	Ebersole	Points out that it works in most instances using a scoring system provided through credit reports.
075	Darrell Fuller	Oregon Auto Dealers Association. Explains how credit ratings and interest rates are computed. Responds to the -4 amendments.
103	Sen. Ringo	Asks if there is a completion date required on the financing of an auto.
106	Fuller	Says there is no statutory deadline.
122	Chair Minnis	Closes the public hearing on SB 103A and opens a work session.

**SB 103A WORK SESSION**

124	<b>Sen. Walker</b>	<b>MOTION: Moves to ADOPT SB 103A-A4 amendments dated 5/8/03.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Burdick, Sen. Ferrioli</b>
126	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
127	<b>Sen. Walker</b>	<b>MOTION: Moves SB 103A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Ferrioli, Sen. Burdick</b>

129	Chair Minnis	Hearing no objection, declares the motion <b>CARRIED</b> . <b>SEN. WALKER</b> will lead discussion on the floor.
131	Chair Minnis	Closes the work session on SB 103A and opens a work session on HB 2101.
<b><u>HB 2101 WORK SESSION</u></b>		
135	Sen. Walker	<b>MOTION:</b> Moves HB 2101 to the floor with a <b>DO PASS</b> recommendation. <b>VOTE:</b> 5-0-1 <b>EXCUSED:</b> 1 - Sen. Burdick
137	Chair Minnis	Hearing no objection, declares the motion <b>CARRIED</b> . <b>SEN. WALKER</b> will lead discussion on the floor.
144	Chair Minnis	Closes the work session on HB 2101 and adjourns the meeting at 10:05 a.m.

### **EXHIBIT SUMMARY**

**A – HB 2177A, -A10 amendments submitted by staff, 5 pp**  
**B – SB 808, -2 amendments submitted by staff, 2 pp**  
**C – SB 808, written testimony of Virginia Vanderbilt submitted by staff, 1 p**  
**D – HB 2101, written testimony submitted by Jonathan Fussner, 2 pp**  
**E – HB 2174A, written testimony submitted by Phil Lemman, 15 pp**  
**F – HB 2207A, written testimony submitted by Jana Tindall, 2 pp**  
**G – SB 302, -5 amendments submitted by staff, 2 pp**  
**H – SB 302, written material submitted by Ann Christian, 3 pp**  
**I – SB 103A, written testimony submitted by Eugene Ebersole, 2 pp**  
**J – SB 103A, -A4 amendments submitted by staff, 1 p**