

# SENATE COMMITTEE ON JUDICIARY

June 05, 2003  
8:00 a.m.

Hearing Room 343  
Tapes 152-153

**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**  
                                  **Bill Taylor, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **HB 3093A Work Session**  
                                  **SB 610 Public Hearing and Work Session**  
                                  **HB 2490A Public Hearing and Work Session**  
                                  **SB 895 Public Hearing and Work Session**  
                                  **HB 3259A Public Hearing and Work Session**  
                                  **HB 2425A Work Session**  
                                  **HB 2095A Work Session**  
                                  **HB 3389A Work Session**  
                                  **HB 2275A Public Hearing and Work Session**  
                                  **HB 2276A Public Hearing and Work Session**  
                                  **HB 2865A 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 152, A</b>		
003	Chair Minnis	Calls the meeting to order at 8:20 a.m. and opens a work session on HB 3093A.
<b><u>HB 3093A WORK SESSION</u></b>		
007	Bill Joseph	Committee Counsel. Introduces HB 3093A that allows individual to ask public body not to disclose individual's electronic mail address. Says that the -A6 and -A8 amendments have already been adopted ( <b>EXHIBITS A &amp; B</b> ). Introduces the -A9 amendments ( <b>EXHIBIT C</b> ).
020	Vice Chair Burdick	Discusses the -A9 amendments and explains that they include a sunset provision.
037	Rep. Mary Nolan	House District 36. Testifies in support of HB 3093A and the -A9 amendments.
050	Sen. Walker	Asks for an explanation of the -A10 amendments ( <b>EXHIBIT D</b> ).
066	Vice Chair Burdick	Explains the difference between the -A9 and -A10 amendments.
082	Joseph	Provides further information regarding the -A9 and -A10 amendments.

103	Sen. Walker	Expresses her concern and says she will not support the –A9 and –A10 amendments.
117	Vice Chair Burdick	Asks for a discussion from Janet Phillips of Oregon Health Sciences University (OHSU) about exemption of information to the public.
141	Janet Phillips	OHSU legal counsel. Explains what the protocol is for disseminating information.
240	Sen. Walker	Asks for clarification of her letter presented to the committee at the last hearing where she refers to information being “twisted”.
260	Phillips	Explains her comments.
269	Chair Minnis	Relates a personal experience of having his statements to Willamette Week misconstrued.
280	Sen. Ringo	Notes the two-year sunset clause, and asks what will be done to resolve the conflict during this time.
284	Phillips	Provides an explanation of an internal process.
295	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT HB 3093A-A9 amendments dated 5/21/03.</b>
		<b>VOTE: 5-1</b>
		<b>AYE: 5 - Burdick, Ferrioli, Ringo, Starr C., Minnis</b>
		<b>NAY: 1 – Walker</b>
297	<b>Chair Minnis</b>	<b>The motion CARRIES.</b>
331	<b>Vice Chair Burdick</b>	<b>MOTION: Moves HB 3093A to the floor with a DO PASS AS AMENDED recommendation.</b>
338	Sen. Walker	Asks what amendments have been adopted.
340	Joseph	Says that the -A6, -A8 and -A9 amendments have been adopted.
341		<b>VOTE: 5-1</b>
		<b>AYE: 5 - Burdick, Ferrioli, Ringo, Starr C., Minnis</b>
		<b>NAY: 1 – Walker</b>
343	<b>Chair Minnis</b>	<b>The motion CARRIES.</b>
		<b>SEN. BURDICK will lead discussion on the floor.</b>
349	Chair Minnis	Closes the work session on HB 3093A and opens a public hearing on SB 610.
<b><u>SB 610 PUBLIC HEARING</u></b>		
359	Craig Prins	Committee Counsel. Introduces SB 610 that requires certain employers to allow employees who are crime victims to take leave from employment to attend criminal or juvenile proceedings or other proceedings at which crime victims have right to be present, and the -3 amendments ( <b>EXHIBIT E</b> ).
448	Chair Minnis	Closes the public hearing on SB 610 and opens a work session.
<b><u>SB 610 WORK SESSION</u></b>		
450	<b>Vice Chair Burdick</b>	<b>MOTION: Moves to ADOPT SB 610-3 amendments dated 4/29/03.</b>
		<b>VOTE: 6-0</b>
451	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
452	<b>Vice Chair Burdick</b>	<b>MOTION: Moves SB 610 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b>
456	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. BROWN will lead discussion on the floor.</b>
<b>TAPE 153, A</b>		
006	Chair Minnis	Closes the work session on SB 610 and opens a public hearing on HB 2490A.

**HB 2490A PUBLIC HEARING**

015	Rep. Jeff Kruse	House District 7. Testifies in support of HB 2490A that modifies purpose of planning and advisory committee relating to children whose parents are involved in criminal justice system.
040	Heather Brunelle	Private Citizen. Testifies in support of HB 2490A. Discusses being incarcerated when her child was 4 weeks old, and the difficult adjustment of being released to the responsibility of being a mother to a 4 year old.
053	Sen. Walker	Asks if she was at Coffee Creek.
056	Brunelle	Says, yes.
079	Rep. Kruse	Says this program in the prison system is one of the more positive ones.
088	Janet Carlson	Marion County Commissioner. Submits printed material and testifies in support of HB 2490A ( <b>EXHIBIT F</b> ).
133	Ron Adams	Director, Oregon Youth Conservation Corp. Testifies in support of HB 2490A.
155	Diana Janowski	Private Citizen. Testifies in support of HB 2490A.
170	Chair Minnis	Closes the public hearing on HB 2490A and opens a work session.

**HB 2490A WORK SESSION**

**176 Vice Chair Burdick MOTION: Moves HB 2490A to the floor with a DO PASS recommendation.**

**VOTE: 5-0-1**

**EXCUSED: 1 - Sen. Ringo**

**190 Chair Minnis Hearing no objection, declares the motion CARRIED. SEN. WALKER will lead discussion on the floor.**

193 Chair Minnis Closes the work session on HB 2490A and opens a public hearing on SB 895.

**SB 895 PUBLIC HEARING**

184 Craig Prins Committee counsel. Introduces SB 895 that increases criminal penalties for selling, giving or otherwise providing alcoholic beverages to person under 21 years of age, and the -4 amendments (**EXHIBIT G**).

238 Sen. Walker Gives an example and asks if it would apply.

146 Prins Says, yes.

247 Sen. Walker Says she doesn't agree with this concept.

251 Prins Explains that under current law the penalty is a Class A misdemeanor, and includes a fine of up to \$5000 and a possible prison term. This legislation would increase the minimum fine by \$650.

289 Vice Chair Burdick Asks if the mandatory \$1000 fine would apply if the act is reduced to a violation.

292 Prins Replies that his understanding is that it would.

310 Chair Minnis Believes that the courts still have discretion on the fine and the amount.

317 Prins Agrees that judges can be flexible when it comes to re-payment plans.

325 Sen. Walker Expresses concern.

340 Chair Minnis Closes the public hearing on SB 895 and opens a work session.

**SB 895 WORK SESSION**

**344 Vice Chair Burdick MOTION: Moves to ADOPT SB 895-4 amendments dated 5/28/03.**

**VOTE: 5-0-1**

**EXCUSED: 1 - Sen. Ringo**

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

348 Vice Chair Burdick **MOTION: Moves SB 895 to the floor with a DO PASS AS AMENDED recommendation.**  
**VOTE: 4-1-1**  
**AYE: 4 - Burdick, Ferrioli, Starr C., Minnis**  
**NAY: 1 - Walker**  
**EXCUSED: 1 - Ringo**  
360 Chair Minnis **The motion CARRIES.**  
**SEN. FERRIOLI will lead discussion on the floor.**  
367 Chair Minnis Closes the work session on SB 895 and opens a public hearing on HB 3259A.

**HB 3259A PUBLIC HEARING**

375 Rep. Jackie Dingfelder House District 45. Submits testimony and testifies in support of HB 3259A that provides additional means of establishing identity of controlled substance in prosecutions involving controlled substances (**EXHIBIT H**), and the -A4 amendments (**EXHIBIT I**) and the -A5 amendments (**EXHIBIT J**).

**TAPE 152, B**

012 Mark Landauer City of Portland. Submits written testimony in support of HB 3259A (**EXHIBIT K**).  
015 Chair Minnis Closes the public hearing on HB 3259A and opens a work session.

**HB 3259A WORK SESSION**

018 Vice Chair Burdick **MOTION: Moves to ADOPT HB 3259A-A4 amendments dated 5/2/03.**

018 Vice Chair Burdick **MOTION: Moves to ADOPT HB 3259A-A5 amendments dated 5/15/03.**

**VOTE: 6-0**

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

021 Vice Chair Burdick **MOTION: Moves HB 3259A to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 6-0**

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

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

029 Chair Minnis Closes the work session on HB 3259A and opens a work session on HB 2425A.

**HB 2425A WORK SESSION**

035 Bill Taylor Committee Counsel. Explains HB 2425A exempts from disclosure under public records law public body's plan in connection with threat against individual or public safety.

049 Vice Chair Burdick **MOTION: Moves HB 2425A to the floor with a DO PASS recommendation.**

**VOTE: 6-0**

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

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

053 Chair Minnis Closes the work session on HB 2425A and opens a work session on HB 2095A.

**HB2095A WORK SESSION**

055 Bill Taylor Committee Counsel. Introduces HB 2095A that requires court or enforcing agency issuing child support order to direct obligor to provide health care coverage to child under health benefit plan under certain circumstances, and the -A4 conflict amendments (**EXHIBIT L**).

060 Vice Chair Burdick **MOTION: Moves to RECONSIDER the vote by which HB**

**2095A was sent to the floor with a DO PASS recommendation with a subsequent referral to Ways & Means.**

**VOTE: 6-0**

**067 Chair Minnis**  
**071 Vice Chair Burdick**

**Hearing no objection, declares the motion CARRIED.**

**MOTION: Moves to ADOPT HB 2095A-A4 amendments dated 6/4/03.**

**VOTE: 6-0**

**075 Chair Minnis**  
**081 Vice Chair Burdick**

**Hearing no objection, declares the motion CARRIED.**

**MOTION: Moves HB 2095A to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.**

**VOTE: 6-0**

**096 Chair Minnis**  
**100 Chair Minnis**

**Hearing no objection, declares the motion CARRIED.**

Closes the work session on HB 2095A and opens a work session on HB 3389A.

**HB 3389A WORK SESSION**

**105 Bill Taylor**

Committee Counsel. Introduces HB 3389A that provides additional means of establishing identity of controlled substance I prosecutions involving controlled substances, and the -A2 amendments (**EXHIBIT M**).

**115 Vice Chair Burdick**

**MOTION: Moves to SUSPEND the rules for the purpose of considering conceptual amendments to HB 3389A.**

**VOTE: 6-0**

**118 Chair Minnis**  
**119 Vice Chair Burdick**

**Hearing no objection, declares the motion CARRIED.**

**MOTION: Moves to AMEND the -A2 amendments to HB 3389A on page 1, "delete line 10".**

**VOTE: 6-0**

**125 Chair Minnis**  
**135 Taylor**

**Hearing no objection, declares the motion CARRIED.**

Explains the -A2 amendments to HB 3389A as conceptually amended.

**138 Michael Dugan**

Deschutes County District Attorney. Requests an emergency clause be added to the bill.

**157 Chair Minnis**

Decides to bring the bill back on Monday, June 9, closes the work session on HB 3389A and opens a public hearing on HB 2275A.

**HB 2275A PUBLIC HEARING**

**181 Wendy Johnson**

Oregon Law Commission. Testifies in support of HB 2275 that prohibits unlawful discrimination based on age by place of public accommodation under certain circumstances.

**200 Chair Minnis**

Closes the public hearing on HB 2275A and opens a work session.

**HB 2275A WORK SESSION**

**203 Vice Chair Burdick**

**MOTION: Moves HB 2275A to the floor with a DO PASS recommendation.**

**VOTE: 5-0-1**

**208 Chair Minnis**

**EXCUSED: 1 - Sen. Ferrioli**

**Hearing no objection, declares the motion CARRIED.**

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

**211 Chair Minnis**

Closes the work session on HB 2275A and opens a public

**HB 2276A PUBLIC HEARING**

213 Wendy Johnson

hearing on HB 2276A.

227 Chair Minnis

Oregon Law Commission. Testifies in support of HB 2276A that permits compensatory and punitive damages in civil action for violation of certain injured worker rights.

Closes the public hearing on HB 2276A and opens a work session.

**HB 2276A WORK SESSION**

228 Vice Chair Burdick

**MOTION: Moves HB 2276A to the floor with a DO PASS recommendation.**

**VOTE: 5-0-1**

**EXCUSED: 1 - Sen. Ferrioli**

230 Chair Minnis

**Hearing no objection, declares the motion CARRIED.**

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

239 Chair Minnis

Closes the work session on HB 2276A and opens a public hearing on HB 2865A.

**HB 2865A PUBLIC HEARING**

242 Bill Taylor

Committee Counsel. Introduces HB 2865A that allows district attorney to treat certain non-person felonies as Class A misdemeanors, and the -A5 and -A6 amendments (**EXHIBIT N & O**).

277 John Bradley

Former District Attorney, Multnomah County. Submits the testimony of Michael Schrunk, District Attorney for Multnomah County (**EXHIBIT P**), and testifies in support of HB 2865. Says the Oregon Criminal Defense Lawyers Association (OCDLA) is neutral on this bill.

405 Chuck French

Deputy District Attorney, Multnomah County. Testifies in support of HB 2865A.

**TAPE 153, B**

027 Vice Chair Burdick

Asks what the penalty is for lying before the grand jury.

031 French

Explains the penalties.

048 Vice Chair Burdick

Gives an example and asks who would be responsible for the perjury in this instance.

053 French

Explains how it would be handled.

088 Chair Minnis

Discusses how ambiguous reports are usually handled.

101 French

Says there are a number of exceptions to the hearsay laws.

113 Chair Minnis

Asks if a police officer has ever been prosecuted for false statements or reports.

115 French

Says he recalls only one case.

128 Susan Russell

Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in support of HB 2865A. Says there is no longer opposition to the -A5 amendments and explains the -A6 amendments.

183 Chair Minnis

Asks about additional testimony being brought by the district attorney to the grand jury.

187 Russell

Agrees that a grand jury may not render a judgment without additional testimony.

211 Vice Chair Burdick

Asks if OCDLA would support the bill if the -A6 amendments are adopted.

214 Russell

Responds, yes.

241 French

Responds to prior testimony. Discusses the kinds of warrants that are available in obtaining indictments.

294 Chair Minnis

Closes the public hearing on HB 2865A and adjourns the meeting at 10:10 a.m.

## **EXHIBIT SUMMARY**

- A – HB 3093A, -A6 amendments submitted by staff, 1 p**
- B – HB 3093A, -A8 amendments submitted by staff, 1 p**
- C – HB 3093A, -A9 amendments submitted by staff, 7 pp**
- D – HB 3093A, -A10 amendments submitted by staff, 7 pp**
- E – SB 610, -3 amendments submitted by staff, 3 pp**
- F – HB 2490A, printed material submitted by Janet Carlson, 29 pp**
  
- G – SB 895, -4 amendments submitted by staff, 3 pp**
- H – HB 3259A, written testimony submitted by Rep. Jackie Dingfelder, 8 pp**
- I – HB 3259A, -A4 amendments submitted by staff, 1 p**
- J – HB 3259A, -A5 amendments submitted by staff, 1 p**
- K – HB 3259A, written testimony submitted by Mark Landauer, 2 pp**
- L – HB 2095A, -A4 amendments submitted by staff, 6 pp**
- M – HB 3389A, -A2 amendments submitted by staff, 1 p**
- N – HB 2865A, -A5 amendments submitted by staff, 1 p**
- O – HB 2865A, -A6 amendments submitted by staff, 1 p**
- P – HB 2865A, written testimony submitted by John Bradley, 2 pp**