

**HOUSE COMMITTEE ON JUDICIARY**  
**SUBCOMMITTEE ON CRIMINAL LAW**

February 15, 2001  
8:30 a.m.

Hearing Room 357  
Tapes 18 - 20

**MEMBERS PRESENT:**      **Rep. Max Williams, Chair**  
                                 **Rep. Robert Ackerman**  
                                 **Rep. Jo Ann Bowman**  
                                 **Rep. Wayne Krieger**  
                                 **Rep. Lane Shetterly**  
                                 **Rep. Vicki Walker**  
                                 **Rep. Carl Wilson**

**STAFF PRESENT:**            **Bill Taylor, Counsel**  
                                 **Shannon Reed, Committee Assistant**

**MEASURE/ISSUES HEARD:**      **HB 2646 Public Hearing**  
                                 **HB 2560 Public Hearing**  
                                 **HB 2646 Public Hearing and Work Session**  
                                 **HB 2611 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 18, A</b>		
003	Chair Williams	Calls the meeting to order at 8:32 a.m. and opens the public hearing on HB 2646.
<b><u>HB 2646 PUBLIC HEARING</u></b>		
015	<b>Sen. John Minnis</b>	<b>Senate District 11</b> Testifies in support of HB 2646, which relates to assaulting a public safety officer. States there were more than 2,900 assaults on public safety officers in Oregon during 1999 and 342 of those were on Oregon State Police.
033	<b>Rep. Karen Minnis</b>	<b>House District 20</b> Submits testimony and testifies in support HB 2646 ( <b>EXHIBIT A</b> ). Expresses concern that penalties for assaulting an ambulance driver or bus driver carry stricter penalties than for a public safety officer.
040	Chair Williams	Asks if they had an opportunity to see the fiscal impact for this bill.
060	Sen. Minnis	Responds he will let others speak to that and states there is an assumption the vast majority of these cases would be prosecuted as felonies.
075	Rep. Shetterly	States we have tried this before. Asks if this has had trouble with it's fiscal impact.
082	Sen. Minnis	Responds that it is his intent to try to create as many potential prosecuting strategies in looking at conduct and appropriate criminal penalties associated in the statutes.
105	<b>Brian DeLashmutt</b>	<b>Oregon Council of Police Associations (OCPA) and Association of Oregon Corrections Employees (AOCE).</b>

		Testifies in support of HB 2646 and states there were no philosophical reasons of disagreement with the bills from last session, but they were halted in Ways and Means because of a fiscal issue.
150	<b>Mike Van Patton</b>	<b>Association of Oregon Corrections Employees</b> Testifies in support of HB 2646 and states at Oregon State Police in 1988 there were 64 staff assaults in 1999. States that after HB 2273 was passed it dropped to 46 and in 2000 it dropped to 30.
196	<b>Amy Banta</b>	<b>Multnomah County Sheriff's Office</b> Testifies in support HB 2646. Describes an assault on her and others by an inmate.
245	Rep. V. Walker	Asks why was nothing done to the inmate that assaulted Mr. Van Patton.
249	Van Patton	Responds the district attorney doesn't prosecute Class misdemeanors.
270	DeLashmutt	Comments that a district attorney has the latitude to decide what they do or don't prosecute within a jurisdiction and in some jurisdictions they choose not to prosecute Class A misdemeanors due to full case loads.
315	DeLashmutt	States that with incarcerated prisoners, once they see consequences for their action, they in fact do change their behavior.
322	Counsel Taylor	Expresses that a key issue in HB 2646 is physical injury. Explains the courts interpretation.
337	Rep. Bowman	Asks if the only way to get the district attorney to prosecute is to toughen up the penalty for the crime.
379	DeLashmutt	Responds that there is justification for this being a Class C felony if you intentionally cause bodily injury to a public safety officer. States it is currently a Class C felony to assault public transit vehicle operators, youth correction facility employees and emergency medical technicians or paramedics, but not a police officer or corrections officer.
396	Rep. Bowman	Restates concern about district attorney's discretion whether to prosecute or not.
402	Rep. Shetterly	Expresses support for public safety officers if assaulted in the course of official duty and feels this should be recognized as a more serious crime than a Class A misdemeanor.
450	DeLashmutt	Details assault of Polk County Deputy Tara Duncan by same drunk driver two times and was never prosecuted and Tigard Officer Arten Morton had a knee injury with substantial time off.
460	<b>Steven Dingle</b>	<b>Marion County District Attorney's Office.</b> States they conditionally support HB 2646 and comments that the corrections officer issue should be separated from the public safety officers on the street. Explains the difficulties with prosecuting and limited prison space.
<b>TAPE 19, A</b>		
111	Rep. V. Walker	Asks why not add time to current prison sentence.
119	Dingle	States that Corrections doesn't have any legal authority to add to an inmate's sentence.
130	Rep. V. Walker	Comments that maybe the law could be changed to read that if you assault a public safety officer while incarcerated in a correctional facility additional time will be added to the sentence being served in that facility.

139	Dingle	Responds that still puts the burden on either the state or county facility and the issue of overcrowding.
141	Rep. Krieger	Asks if he can site any instances where a judge or attorney has been assaulted during official duty in Oregon.
149	Dingle	Responds he does not know of any cases in Oregon.
150	Rep. Krieger	Asks if that were to happen, how would they be prosecuted.
152	Dingle	Comments that would depend on the severity of the assault and the status of the individual who did the assault.
174	Counsel Taylor	Asks if he has gone through the statistics for the assaults and found that substantially few are assaults that can be prosecuted.
177	Dingle	States that a large majority of those assaults were categorized as unintentional assault.
194	Counsel Taylor	Asks for the percentage of unintentional assaults.
209	Dingle	Comments that more than 50% of the cases submitted as assault on a public safety officer were reduced at filing to resisting arrest or harassment or reckless harassment.
221	Chair Williams	Closes the public hearing on HB 2646 and opens a public hearing on HB 2560.

**HB 2560 PUBLIC HEARING**

225            **Rep. Tom Butler**

**House District 60**

Testifies in support HB 2560 relating to minor in possession of alcohol and states this bill gives the court authority to order the suspension of a minors drivers license if failure to appear when the minor has been charged with possession of alcohol.

268            Rep. Butler

Comments that in spite of a negative or positive impact he would still encourage this bill to be passed.

270            Chair Williams

Closes the public hearing on HB 2560 and reopens public hearing on HB 2646.

**HB 2646 REOPENS PUBLIC HEARING**

**Kevin Campbell**

**Oregon Association Chiefs of Police.**

Testifies in support of HB 2646 relating to assaulting a public safety officer. Comments that officers are often the protective barrier between an assailant and a victim and that when a crime is just a misdemeanor an aggressor has no reason to think twice before assaulting a public safety officer.

278            **Chief Mark Adams**

**Oregon Association Chiefs of Police.**

Testifies in support of HB 2646.

281            **Nick Armenakis**

**Oregon Department of Corrections.**

Submits testimony and testifies in support of HB 2646 **(EXHIBIT B)**. Expresses concern that in the absence of criminal consequences assaults are not deterred.

406            **Curt A. Curtis**

**Oregon State Police**

Submits testimony and testifies in support of HB 2646 **(EXHIBIT C)**. Notes information provided from 1999 showed 590 cases of officer assault incidents and 265 of those involved situations where the officer was injured.

425            Rep. V. Walker

Asks Chief Mark Adams to clarify “resisting arrest” and “assault”.

439            Chief Adams

Responds there are two different statutes involved:

1. Resisting arrest can be anything from static resistance.

470 Rep. V. Walker 2. Assault – is where they deliberately attack with intent to injure. Asks if this may cause the legal process to be challenged more often as resisting arrest as opposed to assault.

473 Chief Adams States it is challenged now even as Class A misdemeanor as to whether it is resisting arrest or an assault.

**TAPE 18, B**

010 **Bob Livingston** **Oregon State Firefighters Council.**  
 Testifies in support of HB 2646 and comments that the overriding issue of this bill is to treat public safety officers like many other assault victims.

028 **Mary Botkin** **American Federation of State, County and Municipal Employees**  
 Testifies in support of HB 2646. States they generally support the bill. Thinks it could go further should be a Class B felony instead and cover volunteers as well.

079 Chair Williams Closes the public hearing on HB 2646 and opens a public hearing on HB 2611.

**HB 2611 PUBLIC HEARING**

222 **Senator Kate Brown** **Senate District 7**  
 Testifies in support of HB 2611 and amendments relating to juvenile court dependency (**EXHIBIT D**).

127 **Michael Livingston** **Oregon Department of Justice.**

149 Chair Williams Submits testimony and testifies in support of HB 2611 (**EXHIBIT E**).

Closes the work session on HB 2611 and opens a work session on HB 2646.

**HB 2646 WORK SESSION**

153 **Rep. Wilson** **MOTION: Moves HB 2646 to the floor with a DO PASS recommendation.**

160 **VOTE: 5-1-1**

**AYE: 5 - Ackerman, Krieger, Shetterly, Wilson, Williams**

**NAY: 1 - Bowman**

**EXCUSED: 1 - V. Walker**

164 **Chair Williams** **The motion Carries.**

067 Chair Williams Closes the work session on HB 2646 and reopens the public hearing on HB 2611.

**HB 2611 REOPENS PUBLIC HEARING**

170 Livingston Comments this bill is important to re-codify and reorganize statutes.

259 **Judge Deanne Darling** **Clackamas County Juvenile Court**

Testifies in support of HB 2611. States that she would like to have a forum with other judges for input on their specific concerns and come back to the committee at a later date.

341 Chair Williams States his intention to grant time to address concerns of all those

involved to reach a resolution.

360 **Julie McFarlane** **Juvenile Rights Project**  
 Testifies in support HB 2611. Comments that the bill is an overall reorganization. States it was geared to make it more understandable to non-lawyers.

**TAPE 19, B**

069 Chair Williams Suggests reworking the bill before going over amendments.  
 112 Rep. Krieger Asks if this bill addresses parental and family protection issues.  
 118 Judge Darling Responds the goal was to set clear rules and timelines to alleviate any confusion as to what the rules are.  
 153 Chair Williams Closes the public hearing on HB 2611 and reopens public hearing on HB 2560.

**HB 2560 REOPENS PUBLIC HEARING**

190 **Pamela Erickson** **Oregon Liquor Control Commission (OLCC).**  
 Testifies in support of HB 2560. Comments that underage drinking is associated with the four leading causes of death among teens - crashes, homicide, suicides and drowning **(EXHIBIT F).**

206 **Sarah Ramsay** **Student, Lake Oswego High School**  
 Submits testimony and testifies in support of HB 2560 and explains personal experience **(EXHIBIT G).**

225 **Paul Cosgrove** **Distilled Spirits Council**  
 Submits testimony and testifies in support of HB 2560 **(EXHIBIT H).**

230 Chair Williams Comments that Mr. Powell who represents Miller Brewing Co. and Mr. Romaine representing the Beer and Wine Distributors could not be present at the meeting but would like to be on record in support of HB 2560.

249 Rep. Bowman Asks how can we get current figures on under age drinking.  
 253 Erickson Responds there is an annual school survey that polls high school students and their drinking habits and this is the primary source of their information.

256 Rep. Bowman Comments she doesn't see the penalty as a deterrent. States we need to help teens with alcohol problems not penalize them.  
 291 Erickson Responds that no one thing will solve this problem.  
 302 Rep. Bowman Expresses concerns about punishment as first response instead of treatment.

246 **Lonnie Nettles** **Multnomah Juvenile Justice**  
 Testifies in support of HB 2560. Details current partnerships with Emmanuel Hospital and Main Stream Drug and Alcohol Program.

438 Rep. Bowman Asks what is the rate of no shows in Multnomah County.  
 446 Nettles Responds that the rate is about 50%.  
 479 Chair Williams Asks what would send the message to minors that they stand a real possibility of losing their driver's license.

**TAPE 20, A**

010 Rep. Shetterly States that the consequences attached to the losing their driver's license will spread quickly in his opinion.  
 016 Rep. V. Walker Expresses concern about diversion and court appearance.  
 027 Nettles Responds that they are moved to court only when they fail to comply with the informal sanctions at the first level.  
 059 **Nina Robart** **Director, Oregon Coalition to Reduce Underage Drinking**

106	<b>Bill Houser</b>	Submits and refers to written testimony ( <b>EXHIBIT I</b> ). States there are about 14,000 minors in possession cases filed annually. <b>Oregon Criminal Defense Lawyers Association</b>
152	Chair Williams	Expresses concern of added cost and caseload. Asks if he could address the language issues of violation, citation versus summons and petition should these word changes statutorily be refined in the bill.
153	Houser	Responds yes, he feels they are separate issues.
155	Rep. Shetterly	Concurs and states the language in the bill should be addressed further.
157	<b>Bradd Swank</b>	<b>State Court Administrator's Office</b> States some of the issues in the bill that are targeted at adult court.
230	Chair Williams	Closes the public hearing on HB 2560 and adjourns the meeting at 10:46 a.m.

Submitted By,

Reviewed By,

Shannon Reed,  
Committee Assistant

Bill Taylor,  
Counsel

Transcribed By,

Pamela Johansen

**EXHIBIT SUMMARY**

- A – HB 2646, testimony submitted by Rep. Karen Minnis, House District 20, dated 2/15/01 1 pg.**
- B – HB 2646, testimony submitted by Nick Armenakis, Department of Corrections, dated 2/15/01, 2 pgs.**
- C – HB 2646, testimony submitted by Sgt. C. Curtis, Oregon State Police, dated 2/15/01 1 pg.**
- D – HB 2611, -1 amendments, submitted by staff, dated 1/30/01, 55 pgs.**
- E – HB 2611, testimony submitted by Michael Livingston, Attorney General's Office, dated 2/15/01, 3 pgs.**
- F – HB 2560, testimony submitted by Pamela Erickson, Oregon Liquor Control Commission, dated 2/15/01, 2 pgs.**
- G – HB 2560, testimony submitted by Sarah Ramsay, dated 2/15/01 1 pg.**
- H – HB 2560, testimony submitted by Paul Cosgrove, Distilled Spirits Council, dated 2/15/01, 2 pgs.**
- I – HB 2560, testimony submitted by Nina Robart, Oregon Coalition to Reduce Underage Drinking, dated 2/15/01, 2 pgs.**