

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

February 22, 2001  
8:30 A.M.

Hearing Room 357  
Tapes 23-24

**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, Assistant**

**MEASURE/ISSUES HEARD:**      **HB 2404 Public Hearing**  
                                 **HB 2353 Work Session**  
                                 **HB 2343 Work Session**

---

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.

---

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 23, A</b>		
004	Chair Williams	Calls the meeting to order at 8:40 a.m. and opens a public hearing on HB 2404.
<b><u>HB 2404 PUBLIC HEARING</u></b>		
021	<b>Sen. Neil Bryant</b>	<b>Former Senator, District 27</b> Testifies in support of HB 2404 which creates an Oregon Criminal Justice Council.
245	Rep. Bowman	Thanks Sen. Bryant and asks about the make-up of the council and wonders if they need post-release and community re-entry members.
289	Bryant	Responds yes and that the prison programs are doing better communicating with the community.
310	<b>Phil Lemman</b>	<b>Executive Director, Criminal Justice Commission</b> Submits testimony and testifies as neutral to HB 2404 ( <b>Exhibit A</b> ). States that the parole board should set the time of service and felony-sentencing guidelines should become more realistic.
369	Chair Williams	Asks about members of the commission.
381	Lemman	States the members are appointed by the Governor and must have political and geographic diversity.
387	Chair Williams	Asks why the original council was abolished.
407	Bryant	Replies that frustration caused the abolition and hopes that the council could support the commission or any other support the legislature chooses.

468	Lemman	Expresses concerns about redundancy of missions and what sort of membership make-up would be best.
494	Rep. Ackerman	Asks about the responsibilities for budget recommendations.
<b>TAPE 24, A</b>		
007	Lemman	Discusses fiscal and funding that is credible.
018	Bryant	States that any change in sentencing changes costs or saves money and any changes must be worked through the governor's budget.
036	Rep. Ackerman	Asks why this is the best way to handle the situation.
039	Bryant	Responds that the commission has no political clout to make the necessary changes.
053	Rep. Lowe	Questions if a member on the commission should be an advocate for mentally ill.
071	Bryant	Responds yes. States that there are those advocates on the proposed Council and hopes that the Council would help review and update statutes.
099	Rep. Krieger	Questions membership and says that more input is needed from police as they are involved in every situation.
112	Bryant	Agrees, but says that size of the Council is an issue. Adds that the council should act as an executive committee with sub-committees from specific areas.
150	Chair Williams	Closes the public hearing on HB 2404 and opens a work session on HB 2353.

**HB 2353 WORK SESSION**

166	Counsel Taylor	Explains HB 2353 relating to precursor substances and the -2 amendments ( <b>EXHIBIT B</b> ).
189	<b>Marissa McNutt</b>	<b>High School Student</b> Submits testimony and testifies in support of HB 2353 ( <b>EXHIBIT C</b> ). Explains personal experience with involuntary intoxication and date-rape.
244	Rep. V. Walker	Asks about the prevalence of this and about the medical implications.
250	McNutt	Responds that the drug seems readily available even in small towns and that she was tested for HIV and pregnancy and that this bill would help prosecute the crime. States that she has become a spokesperson for the issue.
<b>336</b>	<b>Rep. V. Walker</b>	<b>MOTION: Moves to ADOPT HB 2353-2 amendments dated 2/19/01.</b>
341	Rep. Ackerman	Questions omission about the medical dispensing of drugs.
402	Jim Gardner	<b>Pharmaceutical Research and Manufacturers of America</b> Responds that those definitions are covered in the ORS.
<b>459</b>		<b>VOTE: 7-0</b>
<b>478</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>485</b>	<b>Rep. V. Walker</b>	<b>MOTION: Moves HB 2353 to the full committee with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 7-0</b>
<b>489</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>

**TAPE 23, B**

023 Chair Williams Closes the work session on HB 2353 and opens a work session on HB 2343 relating to child abuse reporting.

**HB 2343 WORK SESSION**

037 Counsel Taylor Explains the HB 2343 which relates to child abuse reporting and amendments (**EXHIBIT D**).

087 **Walt Beglaw** **Oregon District Attorney Association**

Testifies in opposition to –1 amendment concerning attorney privilege.

121 Chair Williams Asks about “secrets” as defined for attorney privileged.

129 Beglaw Responds that a more narrow definition and scope for an attorney is better and that attorneys shouldn’t have control over what an attorney will or will not disclose.

200 **Timothy Travis** **Private Citizen**

Testifies in support of –1 amendments and says that the definition is narrow and not the same definition as in the statute.

248 Rep. Ackerman Wonders about 6<sup>th</sup> amendment right in a civil action.

261 Travis States that the right to counsel is not a civil law right, but rather a criminal law right.

293 Rep. V. Walker Expresses concerns about disclosure definition.

337 Rep. Lowe States that it is important to shield clients in domestic relation cases and that attorneys need to filter information.

430 Rep. Krieger Comments from personal experience and that Children’s Services doesn’t have resources to investigate every occurrence.

**TAPE 24, B**

057 **Rep. Bowman** **MOTION: Moves to ADOPT HB 2343-1 amendments dated 2/7/01.**

**VOTE: 7-0**

061 **Chair Williams** **Hearing no objection, declares the motion CARRIED.**

067 Beglaw Expresses that he likes –2 amendments except language about prior reporting and reasonable belief.

107 **Rep. Bowman** **MOTION: Moves to ADOPT HB 2343-2 amendments dated 2/7/01.**

**VOTE: 7-0**

109 **Chair Williams** **Hearing no objection, declares the motion CARRIED.**

122 **Bill Houser** **Oregon Criminal Defense Lawyers Association**

Testifies in support of –3 amendments concerning child abuse reporting during off-duty time (**EXHIBIT F**).

141 Rep. Shetterly Comments about private time versus official time or duties.

195 **Alan Tresidder** **Oregon Trial Lawyers Association**

Testifies in opposition to the –3 amendments in that officials have a special trust and duty to report whenever they see child abuse.

220 Chair Williams Comments on mandatory reporting and professional obligation and penalty assigned.

248 Tresidder Explains duty to report child abuse.

300 Rep. Lowe Poses the question of jurisdictional boundaries on vacation and other examples.

342

**Pat Melius**

**Child Protective Services**

Testifies in opposition to the –3 amendments as the officials do have a responsibility to report at any time.

364

Chair Williams

Close the work session on HB 2343 and adjourns the meeting at 10:30 a.m.

Submitted By,

Reviewed By,

Shannon Reed,  
Assistant

Bill Taylor,  
Counsel

**EXHIBIT SUMMARY**

**A – HB 2404, testimony submitted by P. Lemman, Oregon Criminal Justice Commission, dated 2-22-01, 1 pg.**

**B – HB 2353 –2 amendments, submitted by staff, dated 2-19-01, 2 pgs.**

**C – HB 2353, testimony submitted by Marissa McNutt, High School Student, dated 2-22-01, 2 pgs.**

**D – HB 2343-1 amendment, submitted by staff, dated 2-7-01, 1 pg.**

**E – HB 2343-2 amendment, submitted by staff, dated 2-15-01, 1 pg.**

**F – HB 2343-3 amendment, submitted by staff, dated 2-15-01, 1 pg.**