

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CRIMINAL LAW

March 27, 2001
8:30 a.m.

Hearing Room 357
Tapes 46-49

MEMBERS PRESENT: **Rep. Max Williams, Chair**
 Rep. Robert Ackerman
 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 3357 Public Hearing**
 HB 3244 Public Hearing & Work Session
 HB 2663 Public Hearing
 HB 2664 Public Hearing
 HB 2590 Public Hearing
 HB 2378 Public Hearing
 HB 3489 Public Hearing & Work Session
 HB 3263 Public Hearing & Work Session
 HB 3460 Public Hearing

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.

TAPE/#	Speaker	Comments
TAPE 46, A		
003	Rep. Krieger	Opens the meeting at 8:37 a.m. and opens a public hearing on HB 3357.
<u>HB 3357 PUBLIC HEARING</u>		
012	Rep. Rob Patridge	House District 50 Testifies in support of HB 3357, which relates to child support judgments.
055	Rep. Lowe	Comments this is a wonderful bill and thinks the priorities are right.
063	Rep. Krieger	Closes the public hearing on HB 3357 and opens a public hearing on HB 3244.
<u>HB 3244 PUBLIC HEARING</u>		
073	Rep. Dan Gardner	House District 13 Submits testimony and testifies in support of HB 3244 which expands crime of assault in third degree to include physical injury to taxi driver (EXHIBIT A).

103	Michael Tolley	Member, Taxi Cab Board of Review Testifies in support of HB 3244.
129	Rep. Krieger	Asks what the rates of incidents are.
131	Tolley	Responds not all incidents are reported as taxi cab drivers are independent contractors.
145	Rep. Krieger	Asks about past testimony regarding civil rights issues for taxi drivers working certain areas at certain times.
150	Tolley	Responds he does not recall that testimony but knows in the City of Portland a taxi cab driver must transport anybody who has demonstrated the ability to pay.
165	Bill Houser	Oregon Criminal Defense Lawyers Association Testifies in opposition to HB 3244 and says he doesn't want specific rules for specific categories of people.
177	Rep. Wilson	Asks if there is a compelling reason not to add taxi drivers to the public transit vehicle operator statute.
184	Houser	Responds they would prefer to have public transit operators removed from the statute as well.
221	Rep. Jackie Winters	House District 31 Testifies in support of HB 3244.
244	Rep. Krieger	Closes the public hearing on HB 3244 and opens a public hearing on HB 2663.
<u>HB 2663 PUBLIC HEARING</u>		
257	Rep. Jackie Winters	House District 31 Submits testimony and testifies in support of HB 2663 which relates to the statute of limitations on rape and sodomy (EXHIBIT B) .
373	Dale Penn	Oregon District Attorneys Association Testifies in support of HB 2663.
TAPE 47, A		
038	Rep. V. Walker	Asks about the DNA and will it be tied to semen or hair samples.
044	Penn	Answers yes, and skin cells will also be the used for comparisons.
055	Rep. V. Walker	Comments about being a victim of incest. Wonders how this will affect women who have repressed memories of sexual abuse as children.
063	Penn	Responds this bill does not limit the statute on DNA and is part of the reason why the extension was done.
071	Counsel Taylor	Asks about statute of limitations and how this bill affects that.

077	Penn	Responds if statute of limitations has run, this bill will not be effective.
088	Rep. Lowe	Asks about the DNA data bank; how it is kept.
092	Penn	Defers to later testimony from the State Police to answer that question.
113	Rep. Lowe	Asks about challenging the DNA test 20 years down the road.
120	Penn	Responds the DNA test is the same test, the same process.
136	Rep. Krieger	Closes the public hearing on HB 2663 and opens a public hearing on HB 2664.

HB 2664 PUBLIC HEARING

140	Rep. Jackie Winters	House District 31 Submits testimony and testifies in support of HB 2664 which relates to the collection of blood samples (EXHIBIT B).
186	Rep. Shetterly	Comments on several bills that relate to DNA which represent that technology is moving forward and the law enforcement sector needs to stay current on the issues.
210	Rep. Krieger	Closes the public hearing on HB 2664 and reopens the public hearing on HB 3244, which relates to assault of taxi cab drivers.

HB 3244 PUBLIC HEARING

220	John Hamilton	Taxi Cab Supervisor, City of Portland Testifies in support of HB 3244, which expands crime of assault in third degree to include physical injury to taxi driver.
269	Rep. V. Walker	Comments that being a taxi driver must be a most fearful job, thanks him for his testimony.
290	Rep. Krieger	Closes the public hearing on HB 3244 and opens the work session on HB 3244.

HB 3244 WORK SESSION

298	Rep. Wilson	MOTION: Moves HB 3244 to the full committee with a DO PASS recommendation.
324	Rep. Krieger	Vote: 6-0 Hearing no objections, declares the motion CARRIED.
331	Rep. Krieger	Closes the work session on HB 3244 and reopens the public hearing on HB 2663.

HB 2663 PUBLIC HEARING

353	Lt. Tom Dixon	State Police Forensic Services Submits testimony and testifies in support of HB 2663 relating to the statute of limitations on rape and sodomy (EXHIBIT C).
413	Rep. V. Walker	Asks if mistakes can be made in DNA analysis and if so, what is the percentage.
420	Lt. Dixon	Responds that DNA tests are performed by humans so there is always the possibility of mistakes. However, there are standards that have been established with strict and extensive protocols to ensure accurate results.
435	Rep. Lowe	Asks about errors made in labeling samples and what safeguards they have.
453	Lt. Dixon	Responds with explanation of the quality standards they have to adhere to in order to be qualified as a DNA lab.

TAPE 46, B

053	Rep. Lowe	Asks about safeguarding of the samples and wonder's if there is a
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071	Lt. Dixon	policy of retaining the evidence for a certain period of time. Responds that if a person has been convicted, they retain the evidence.
087	Katy Yetter	Oregon Coalition Against Domestic and Sexual Violence Submits testimony and testifies in support of HB 2663. (EXHIBIT D)
105	Craig Campbell	Oregon Association Chiefs of Police Testifies in support of HB 2663.
110	Chief Marc Adams	Chief of Police, Keizer, OR Testifies in support of HB 2663.
117	Rep. Krieger	Closes the public hearing on HB 2663 and reopens a public hearing on HB 2664.
<u>HB 2664 PUBLIC HEARING</u>		
134	Scott Taylor	Department of Corrections Testifies in support of HB 2664 which relates to blood samples.
215	Counsel Taylor	Comments on the ability to amend this bill and makes suggestions on how to do it.
239	Dale Penn	Oregon District Attorney's Association Testifies in support of HB 2664.
334	Rep. Wilson	Expresses concerns that the collection of samples is defined too broadly.
352	Penn	Responds that this bill does not come into play until a criminal has been convicted of a crime.
399	Rep. Lowe	Asks about the use of the data bank and the information contained within.
423	Penn	Responds that the data bank was constructed in 1991 and says there are strict controls within the statute that limits the use only to law enforcement. Comments that misuse is an issue that needs to be watched in the future, but this bill does not allow for use by anybody other than law enforcement.
451	Rep. Lowe	Expresses concerns about people's right to genetic privacy.
TAPE 47, B		
023	Penn	Responds that the people they are dealing with are being held at the state level and they have given up a certain amount of privacy by being there. Adds there are strict controls in the statute for use and it is to be used to solve unsolved crimes.
036	Rep. Lowe	Asks if there should be an amendment that limits the use.
045	Lt. Tom Dixon	State Police Forensic Services Submits testimony and testifies in support of HB 2664 (EXHIBIT E) .
095	Rep. V. Walker	Asks about a conviction being appealed, what happens to the DNA samples.
099	Dixon	Responds the DNA record would be removed.
104	Rep. Krieger	Closes the public hearing on HB 2664 and opens a public hearing on HB 2590 which directs the JC PAC to make grants for after school programs.
<u>HB 2590 PUBLIC HEARING</u>		
125	Cindy Robert	Friends of the Children Submits testimony and testifies in support of HB 2590 (EXHIBIT F) .
140	Juliet Hochman	Friends of the Children

255	Rep. V. Walker	Testifies in support of HB 2590 and shows a video.
		Asks how do they get adults to commit to 12 years of following the child.
260	Hochman	Responds they start out with a three-year commitment and hope they stay longer and many of them have.
278	Rep. Krieger	Comments on the foster kids he has had over the years.
294	Chair Williams	Expresses support for HB 2590.
332	Hochman	Comments that "Friends" is a new group that will be affected by HB 2590 and they are very interested in its passage.
347	Rep. Lowe	Comments on her childhood experiences with a mentor.
363	Mayor Mike Swaim	Salem, Oregon Submits testimony and testifies in support of HB 2590 (EXHIBIT G)
TAPE 48, A		
041	Chair Williams	A comment on juvenile crime saying that the time of day it is normally committed is between 3-6 p.m.
056	Rep. Lowe	Comments that time of day is also the most common time when teenagers get pregnant.
051	Randy Westrick	Oregon Recreation and Parks Association Testifies in support of HB 2590.
130	Steven Bosak	Tualatin Hills Parks and Recreation Department Testifies in support of HB 2590.
168	Becky Eklund	Oregon Criminal Justice Commission Submits testimony and testifies in support of HB 2590 (EXHIBIT H).
226	Chair Williams	Close the public hearing on HB 2590 and recess the committee until 3:30 p.m.

238	Chair Williams	Reconvenes the meeting at 3:36 p.m. and opens a public hearing on HB 2664.
<u>HB 2664 PUBLIC HEARING</u>		
257	Andrea Meyer	American Civil Liberties Union Submits testimony and testifies in opposition to HB 2664 relating to blood samples (EXHIBIT I) .
385	Kathie Osborn	Juvenile Rights Project Testifies in opposition to HB 2664.
TAPE 49, A		
058	Chair Williams	Asks about the current law and would this bill not affect that.
062	Osborn	Responds that is correct. Explains examples of personal experiences and that the juvenile code in those instances refers to adult code.
103	Bill Houser	Oregon Criminal Defense Lawyers Association. Testifies in opposition to HB 2664. Discusses robbery and kidnapping issues linking with DNA and a rational relationship of those crimes.
155	Chair Williams	Closes the public hearing on HB 2664 and opens the hearing on HB 2378.
<u>HB 2378 PUBLIC HEARING</u>		
161	Counsel Taylor	Explains HB 2378 relating to security deposits.
176	Bill Houser	Oregon Criminal Defense Lawyers Association Submits testimony and testifies in support of HB 2378 (EXHIBIT J) .
226	Ann Christian	Indigent Defense Services Division Testifies in support of amendment proposed (Exhibit J) to HB 2378 only.
321	Chair Williams	Asks about limits of bail by secondary person.
345	Houser	Responds that they want better warning to secondary person. They may lose their money if primary person is in arrears with child support.
370	Christian	Says that the court does give a warning concerning potential loss.
391	Carl Stecker	Oregon District Attorney's Association Submits testimony and testifies in opposition to HB 2378 (EXHIBIT K) .
TAPE 48, B		
060	Ronelle Shankle	Department of Justice Submits testimony and testifies in opposition to HB 2378 (EXHIBIT L) .
080	Bradd Swank	State Court Administrator's Office Testifies as neutral to HB 2378 and gives background to the bill as written, excluding proposed amendments.
127	Rep. Ackerman	Asks about bail funds being constitutionally applied to another's debt -isn't that wrongful seizure of funds.
145	Stecker	Responds that bail money is usually treated as belonging to the defendant.
167	Chair Williams	Responds that if the notice is sufficient, then adequate and reasonable notice of loss is enough.
188	Rep. V. Walker	Comments on personal experience of posting bail, feels notice needs to be more uniform.

210	Chair Williams	Closes the public hearing on HB 2378 and opens a public hearing on HB 3489.
<u>HB 3489 PUBLIC HEARING</u>		
227	Nick Armenakis	Department of Corrections Submits testimony and testifies in support of HB 3489 relating to appointment of special state police officers (EXHIBIT M).
269	Capt. Jim Reed	Oregon State Police Testifies in support of HB 3489.
295	Mary Botkin	State Corrections Officers and Employees Testifies as neutral to HB 3489.
354	Chair Williams	Asks if there will be any training for these individuals.
368	Armenakis	Responds yes, they will develop a training program.
375	Rep. V. Walker	Asks why the “real” officers aren’t trained that way.
379	Armenakis	Responds that the budget does not allow for that.
385	Rep. V. Walker	Asks how many escapes they have had in medical transport.
390	Armenakis	Responds they have not had any.
395	Rep. V. Walker	Expresses concerned about possible escapes if they are not using “real” police officers.
405	Chair Williams	Responds they are correction officers, they are just not peace officers who can cross state lines.
TAPE 49, B		
002	Botkin	Explains the liability and authority issues in transport. Feels this is a bad bill but will support it; it is a first step.
027	Rep. Krieger	Asks for clarification of transport duties.
031	Capt. Reed	Responds it is intended to be limited to medical transport issues.
034	Chair Williams	Closes the public hearing and opens the work session HB 3489.
<u>HB 3489 WORK SESSION</u>		
042	Chair Williams	MOTION: Moves HB 3489 to the full committee with a DO PASS recommendation.
043	Rep. V. Walker	Agrees with Botkin, not a good bill but will support it.
048	Chair Williams	Hearing no objections, declares the motion CARRIED.
069	Chair Williams	Closes work session on HB 3489 and opens a public hearing on HB 3263.
<u>HB 3263 PUBLIC HEARING</u>		
079	Bill Houser	Oregon Criminal Defense Lawyers Association Testifies in support of HB 3263.
088	Chair Williams	Submits testimony from Fred Lenzser (EXHIBIT N).
099	Houser	Responds that some counties don’t have the resources to collect bad checks without having to go through the criminal process.
111	Chair Williams	Closes the public hearing on HB 3263 and opens a work session on HB 3263.
<u>HB 3263 WORK SESSION</u>		
120	Rep. Krieger	MOTION: Moves HB 3263 to the full committee with a DO PASS recommendation.
126	Chair Williams	Hearing no objections, declares the motion CARRIED.
128	Chair Williams	Closes the work session on HB 3263 and opens a public hearing on HB 3357.
<u>HB 3357 PUBLIC HEARING</u>		
147	Ronelle Shankle	Department of Justice Submits testimony and testifies in opposition to HB 3357 relating to forfeited security (EXHIBIT O).

183	Bradd Swank	State Court Administrator's Office
		Testifies as neutral to HB 3357.
264	Chair Williams	Closes the public hearing on HB 3357 and opens a public hearing on HB 3460.
<u>HB 3460 PUBLIC HEARING</u>		
274	Jesse Cornett	Private Citizen
		Submits testimony and testifies in support of HB 3460 which relates to reserve officers (EXHIBIT P) .
328	Rep. Krieger	Asks about sheriff's support of this bill.
336	Cornett	Says the Oregon sheriffs do not support the bill as the protection and their rights are already there.
352	Chair Williams	Closed the public hearing on HB 3460 and adjourns the meeting at 5:03 p.m.

Submitted By,

Reviewed By,

Shannon Reed,
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

- A - HB 3244, testimony submitted by Rep. Dan Gardner, House District 13, dated 3-27-01, 1 pg.**
- B – HB 2664 & 2663, testimony submitted by Rep. Jackie Winters, District 31, 8 pgs.**
- C – HB 2663, testimony submitted by Tom Dixon, Department of State Police, dated 3-27-01, 2 pgs.**
- D – HB 2663, testimony submitted by Katy Yetter, Oregon Coalition Against Domestic and Sexual Violence, dated 3-27-01, 1 pg.**
- E – HB 2664, testimony submitted by Lt. Tom Dixon, State Police, dated 3-27-01, 2 pgs.**
- F – HB 2590, informational booklet submitted by Cindy Robert, Friends of the Children, 45 pgs.**
- G – HB 2590, testimony submitted by Mayor Mike Swaim, Salem, OR, dated 3-27-01, 10 pgs.**
- H – HB 2590, testimony submitted by Becky Eklund, Oregon Criminal Justice Commission, dated 3-27-01, 4 pgs.**
- I – HB 2664, testimony submitted by Andrea Meyer, American Civil Liberties Union of Oregon, dated 3-27-01, 2 pgs.**
- J – HB 2378, testimony submitted by Bill Houser, Oregon Criminal Defense Lawyers Association, 2 pgs.**
- K – HB 2378, testimony submitted by Carl Stecker, Oregon District Attorney's Association, dated 3-27-01, 7 pgs.**
- L – HB 2378, testimony submitted by Ronelle Shankle, Department of Justice, dated 3-27-01, 1 pg.**
- M – HB 3489, testimony submitted by Nick Armenakis, Department of Corrections, dated 3-27-01, 2 pgs.**
- N – HB 3263, testimony of Fred Lenzser, Multnomah County District Attorney's Office, submitted by staff, 7 pgs.**
- O – HB 3357, testimony submitted by Ronelle Shankle, Department of Justice, dated 3-27-01, 4 pgs.**
- P – HB 3460, testimony submitted by Jesse Cornett, Private Citizen, 3 pgs.**