

HOUSE COMMITTEE ON JUDICIARY

May 29, 2001
8:30 a.m.

Hearing Room 357
Tapes 77 - 78

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Wayne Kreiger, Vice Chair
 Rep. Kathy Lowe, Vice Chair
 Rep. Robert Ackerman
 Rep. Vic Backland
 Rep. Jackie Dingfelder
 Rep. Charlie Ringo
 Rep. Lane Shetterly
 Rep. Cheryl Walker

MEMBERS EXCUSED: Rep. Vicki Walker
 Rep. Carl Wilson

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

MEASURES HEARD: SB 230A Reconsideration and Work Session
 SB 366A Public Hearing and Work Session
 SB 290A Work Session
 SB 133A 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 77, A 003	Chair Williams	Calls the meeting to order at 8: 44 a.m. and reviews the changes to the agenda. Opens a work session on SB 230A.
<u>SB 230A RECONSIDERATION AND WORK SESSION</u>		
020	Chair Williams	<u>MOTION: Moves to SUSPEND the rules for the purpose of possible reconsideration of SB 230A.</u> VOTE: 9-0-2 EXCUSED: 2 – Walker V, Wilson
	Chair Williams	Hearing no objection, declares the rules suspended.
024	Counsel Bill Taylor	Explains the –A22 amendments (EXHIBIT A) to SB 230 which change neglect resulting in death of animal from crime of animal neglect in the first degree to a new crime of aggravated animal neglect in the first degree.
073	Chair Williams	MOTION: Moves to ADOPT SB 230A-A22 amendments dated 5/29/01. VOTE: 9-0-2 EXCUSED: 2 – Walker V, Wilson
075	Chair Williams	Hearing no objection, declares the motion CARRIED.
076	Chair Williams	MOTION: Moves SB 230A to the floor with a DO PASS AS AMENDED recommendation. <u>VOTE: 9-0-2</u>

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 2 - Walker C, Wilson

The motion CARRIES.

REP. DINGFELDER will lead discussion on the floor.

086 Chair Williams

089 Chair Williams

Closes the work session on SB 230A and opens the public hearing on SB 366A.

SB 366A PUBLIC HEARING

099 Dianne Middle

Department of Public Safety Standards and Training

Submits testimony and testifies in support of SB 366A

(EXHIBIT B).

124 Rep. C. Walker

Questions the definition of “family member.”

129 Middle

Responds it is the spouse, child, or person who qualifies as a dependent of a public safety officer for tax purposes.

135 Rep. Ackerman

Questions the solvency of the fund.

139 Middle

Responds that the fund is subject to the amount of funds available.

157 Rep. Ringo

Questions what the purpose of the fund is.

161 Middle

Responds that there is often a time lag before surviving families get benefits.

189 Chair Williams

Notes that there were a number of hearings in the 1999 session that discussed the surviving spouse not having the resources to meet obligations as well as scholarship funding.

214 Chair Williams

Closes the public hearing on SB 366A and opens a work session.

SB 366A WORK SESSION

216 Rep. Lowe

MOTION: Moves SB 366A to the floor with a DO PASS recommendation.

VOTE: 9-0-2

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 2 - Walker V, Wilson

The motion CARRIES.

REP. KRIEGER will lead discussion on the floor.

220 Chair Williams

232 Chair Williams

Closes the work session on SB 366A and opens a work session on SB 290A.

SB 290A WORK SESSION

233 Counsel Taylor

Summarizes SB 290A which, requires Department of Public Safety Standards and Training to adopt rules specifying crimes for which conviction requires denial or revocation of certification of public safety officer or instructor. Explains the – A4 amendments **(EXHIBIT C).**

228 Dianne Middle

Department of Public Safety Standards and Training

Testifies in support of the –A4 amendments.

260 Rep. Shetterly

Questions if the department wants this authority.

268 Middle

Responds that this allows the board flexibility and states that the board, the department, and the advisory committees are in support.

281 Chair Williams

Cautions the board to monitor the crimes that disqualify and request that the department report to the Interim Judiciary Committee.

315	Middle	Responds affirmatively.
319	Rep. Williams	MOTION: Moves to ADOPT SB 290A-A4 amendments dated 05/24/01. VOTE: 9-0-2 EXCUSED: 2 – Walker V, Wilson
321	Chair Williams	Hearing no objection, declares the motion CARRIED.
322	Rep. Williams	MOTION: Moves SB 290A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 9-0-2 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 – Walker V, Wilson
331	Chair Williams	The motion CARRIES. REP. ACKERMAN will lead discussion on the floor.
336	Chair Williams	Closes the work session on SB 290A and opens a work session on SB 133A.
<u>SB 133A WORK SESSION</u>		
352	Counsel Taylor	Summarizes SB 133A which creates crime of felon in possession of body armor. Reviews the –A5, -A6, -A7, -A8, -A9, and -A11 amendments (EXHIBIT D). Notes that the –A8 amendments have been withdrawn.
392	Ann Christian	State Court Administrator’s Office Reviews the –A5 amendments and the –A10 amendments. Introduces the –A13 amendments (EXHIBIT E).
TAPE 78, A		
026	Dale Penn	Oregon District Attorney’s Association Testifies in support of the –A10 amendments.
046	Rep. Lowe	Supports and discusses the –A6 amendments.
060	Bill Houser	Oregon Criminal Defense Lawyers Association (OCDLA) Discusses the intent of the –A7 amendments.
087	Rep. C. Walker	Questions if counsel accompanies the individuals brought before the grand jury.
093	Houser	Responds not in the grand jury chamber.
103	Rep. Lowe	Comments that the individuals may not realize the impact of something said before the grand jury and questions if the recording of the proceedings could later be used in trial.
115	Houser	Responds if an incriminating statement is made before the grand jury and the individual is indicted due to that statement, the evidence would be under hearsay rule in trial.
143	Rep. C. Walker	Discusses a scenario where an individual has information but does not want their identity known.
155	Houser	Responds there is a lag time between the testimony before the grand jury and the release of the information.
175	Rep. Lowe	Questions if grand jury proceedings are court reported in the federal system.
180	Houser	Responds that he believes they are.
183	Rep. Lowe	Questions if the proceedings in the state system are court reported.
190	Houser	Responds no, not to his knowledge. States this would be a check to ensure the grand jury proceedings are being used correctly.
227	Rep. Ackerman	Questions would the state or counties bear the fiscal impact.

232	Houser	Responds, he does not have that information.
219	Brian DeLashmutt	Oregon Council of Police Associations
		Testifies in opposition to the –A7 amendments.
231	Dale Penn	Oregon District Attorney’s Association
		Testifies in support of SB 133A but explains opposition to the –A7 amendments. Explains the federal system has different rules about grand jury proceedings.
358	Penn	Continues to testify in opposition to the –A7 amendments.
418	Paul Snider	Association of Oregon Counties
		Testifies in opposition to the –A7 amendments.
TAPE 77, B		
024	Rep. Ackerman	Questions if the district attorney’s office has the authority to establish early disposition programs without this bill.
037	Penn	Explains that it takes the court, district attorney, and the defense bar to agree to do a program. Notes this would provide guidance statewide.
048	Rep. Ringo	Questions what expenses would be associated with the cost of recording proceedings.
054	Penn	Describes the staff associated with recording proceedings and the cost of equipment.
104	Rep. Chris Beck	House District 12
		Testifies in support for the –A9 amendments.
117	Sen. Jason Atkinson	Senate District 25
		Testifies in support of the –A9 amendment and relates observations and personal experience with regard to biking around the country.
158	Chair Williams	Questions if there was a fault determination in the cycling accident.
162	Sen. Atkinson	Responds it was a substantial slap on the wrist.
181	Chair Williams	Notes that the current assault statute would cover this type of incident.
189	Joel Shapiro	Attorney
		Explains the intent of the –A9 amendments is to have assault language in the pedestrian and bicycling statutes.
239	Rep. Shetterly	Questions if there would be a charge for an offense less than recklessness.
249	Shapiro	Explains if the officer issues a citation as an infraction then the incident would not be considered as a criminal charge.
280	Chair Williams	Reads the definition of recklessness from the criminal code.
268	Rep. Ackerman	Questions why wouldn’t reckless driving cover the intent of the –A9 amendments.
274	Shapiro	Responds the concern is where the crimes are located in the code, reckless driving is not in the duties to pedestrians and bicycles.
295	Rep. Ackerman	Comments on prosecution options.
313	Rep. Ringo	Discusses the standard for recklessness in citing practices.
331	Rep. C. Walker	Relates personal experience.
399	Rep. Lowe	States for the record she has no objections to the –A9 amendments, (EXHIBIT F) .
371	Rep. Janet Carlson	House District 32
		Testifies in support of the –A11 amendments.

414	Kathie Osborn	Juvenile Rights Project
		Testifies in opposition to the –A9 amendments.
466	Chair Williams	Closes the work session on SB 133A and adjourns the meeting at 10:04 a.m.

Transcribed By,

Reviewed By,

Linda Gatto,
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

- A - SB 230A, -A22 amendments dated 5/29/01, submitted by staff, 3 pp.**
- B - SB 366A, testimony submitted by Diane Middle, Department of Public Safety and Standards Training, dated 5/29/01, 2 pp.**
- C - SB 290A, -A4 amendments dated 5/24/01, staff, 3 pp.**
- D - SB 133A, -A5 amendments dated 5/14/01, -A6 amendments dated 5/14/01, A7 amendments dated 5/16/01, -A8 amendments dated 5/18/01, -A9 amendments dated 5/23/01, -A11 amendments dated 5/29/01, staff, 16 pp.**
- E - SB 133A, -A13 amendments dated 5/29/01, Ann Christian, 6 pp.**
- F - SB 133A, prepared testimony, Rep. Kathy Lowe, 2 pp.**
- G - SB 133A, written testimony, Phillip Fell, 1 p**