

SENATE COMMITTEE ON JUDICIARY

January 12, 2001 Hearing Room 343

1:00 p.m. Tapes 2 - 4

MEMBERS PRESENT: **Sen. Minnis, Chair**
 Sen. Courtney, Vice-Chair
 Sen. R. Beyer
 Sen. Burdick
 Sen. Duncan
 Sen. Harper
 Sen. Metsger

STAFF PRESENT: **Craig Prins, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 133, Public Hearing**
 SB 141, Public Hearing
 SB 156, 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 2, A		
003	Chair Minnis	Calls the meeting to order at 1:10 p.m.
SB 133 PUBLIC HEARING		
003	Ingred Swenson	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to SB 133 relating to body armor. Says that this bill is not supported by the OCDLA based on the fact that body armor is a defense item, not an offense item. Might be depriving citizens of an ability to protect themselves from gunfire. Exceptions and permits may help to narrow the bill.
041	Rep. Kathy Lowe	State Representative, House District 26 Submits testimony and testifies in support of SB133 (EXHIBIT A). Introduces witnesses.
077	Commander Frank Grace	Gladstone Reserve Police Unit. Submits testimony and testifies in support of SB 133 (EXHIBITS B & C). Indicates a desire to establish an Oregon law that would make it a Class C felony for convicted felons (with few exceptions) to wear bulletproof vests.
120	Officer David Ratto	Oregon City Police Department. Submits testimony and testifies in support of SB 133 (EXHIBIT D). Cites an incident where an individual wearing soft body armor was involved in a shooting. This individual sustained several shots before going down and he explains that as soon as one shot is fired the lives of citizens and law enforcement officers are at risk.

179	Rep. Lowe	States that she has proposed changes to the bill that would include armor which protects against stabbings.
182	Sen. Burdick	Asks about narrowing the scope of this provision to include just those convicted of violent felonies.
195	Grace	Answers that when a person is convicted of a felony he gives up certain rights and this would be in addition.
208	Rep. Lowe	Comments that she does not have an objection to the amendment if it is a reasonable one that addresses non-violent felons.
225	Sen. Metsger	Asks about the transport of individual under witness protection.
247	Rep. Lowe	Answers that the witness generally would be escorted by a police officer.
265	Chief Jim Harper	Dallas Police Department Testifies in support of SB 133. States that all associations including Oregon Association of Chiefs of Police, Oregon Sheriff's Association. And State Police are all in agreement with this legislation.
296	Sen. Burdick	Wonders if this bill goes far enough to do what is intended, as example, a group such as gangs, where there may not be a felony conviction.
318	Chief Harper	Replies that it is a start.
323	Vice Chair Courtney	Asks if police are trained to aim at a certain part of the body.
323	Chief Harper	Answers, yes, they are trained to shoot for the largest available target, or center of mass.
344	Vice Chair Courtney	Responds, a head shot is NOT what the training is all about, correct?
347	Chief Harper	Concurs that is correct.
350	Vernon Wells	Independence Police Department Speaking for the Police Chief's Association. states that "less than lethal" weapons are being used and such weapons would be defeated by a criminal using body armor.
358	Chair Minnis	Asks for clarification of "less than lethal" weapons".
359	Wells	Gives examples of beanbag guns, rubber ball guns, things that would allow control of the situation without using deadly force.
368	Sen. Beyer	Asks for clarification of what a beanbag or rubber ball gun can do.
370	Wells	They are intended to knock a person down and the vest most likely would prevent this from happening.
381	Vice Chair Courtney	Asks why just felons were targeted in this legislation.
391	Harper	Replies that today it is lawful for anyone to wear body armor. This particular legislation is a first step in restricting possibly dangerous persons from wearing it..
TAPE 3, A		
014	Rep. Lowe	Suggests the possibility of a criminal enhancement provision for those situations not covered by people who already have a felony conviction.
026	Brian Delashmutt	Representing the Oregon Council of Police Associations Testifies in support of Bill 133. Explains the scope of the Council. Concurs that the penalty enhancement provision is a very good suggestion. Points out that we must be very aware of the technicality of types of vests used.
047	Sen. Duncan	Asks if anyone in possession of a weapon and wearing a vest

062	Delashmutt	should be identified in this legislation.
068	Sen. Metsger	Replies that it leads to the issue of non-lethal weapons. Suggests some type of amendment where committing a crime and wearing a vest would result in an additional penalty.
078	Chair Minnis	Asks about stabbing and how it would be defined in a court of law regarding the particular type of clothing the person is wearing.
084	Delashmutt	Responds that wording would have to be clear.
093	Sheriff Bob Wolfe	Polk County Sheriff Discusses the issue of law enforcement with regard to body armor..
103	Chair Minnis	Talks about the practicality of identifying body armor.
116	Sheriff Wolfe	Comments that body armor was originally designed and manufactured for use by those putting their lives on the line, and not for the general public.
125	Sen. Burdick	Asks if this legislation should include some of the violent misdemeanors.
135	Rep. Lowe	Responds that this is a possibility.
143	Sen. Burdick	States there is an existing list of those people convicted of crimes who are not allowed to purchase firearms.
150	Rep. Lowe	Maintains that we must be careful to target the exact population with which we are concerned.
160	Vice Chair Courtney	Asks if these soft body armor vests are easy to obtain?
167	Sheriff Wolfe	Replies that they can be ordered over the internet and have been seen in garage sales.
182	Katie Suver	Oregon District Attorneys Association Testifies in support of SB 133. Responds to several previous questions and discusses the possibility of expanding the bill.
246	Sen. Burdick	Asks if the witness believes there should be enhanced penalties for use of body armor.
251	Suver	Replies in the affirmative, subject to sentencing guidelines.
288	Delashmutt	Raises an issue of domestic violence.
304	Chair Minnis	Closes public hearing on SB 133 and opens public hearing on SB 141.

SB141 PUBLIC HEARING

310	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in support of SB 141. Provides additional information on bill's intention and submits her own hand-written amendment to clarify the bill (EXHIBIT E). Clarifies felony versus misdemeanor.
378	Vice Chair Courtney	Asks for further definition of felony.
385	Swenson	Provides further definitions of felony.
390	Vice Chair Courtney	Asks for further clarification of treatment of juveniles based on whether they are a parent.
392	Swenson	Contends that the amendment proposed addresses this issue.
406	Vice Chair Courtney	Questions the constitutionality of the bill.
410	Swenson	Maintains there is rational distinction between being a parent and being a child in the home.
427	Sen. Burdick	Asks about lowering the age to 16.
436	Swenson	Replies, no, the bill was directed at juvenile court jurisdiction and how to effect juvenile court jurisdiction, which applies to anyone under 18.
444	Sen. Burdick	Asks for clarification of amendment with regard to which

451	Swenson	children are being covered. Replies that it applies to all parties.
TAPE 2, B		
018	Gina Skinner	Oregon District Attorneys Association Testifies in opposition to SB 141. States that she does not object to the premise of the proposed amendment, but would not propose limiting to specific ages of the juvenile. Cites examples.
083	Sen. Burdick	Asks for clarification of objection.
091	Skinner	Contends that wording may be problematic, if not unconstitutional.
099	Chair Minnis	Asks for definition of “in the immediate presence of” and how it is being applied in terms of prosecutions.
101	Skinner	Responds that currently there is no specific definition, but would be in support of helping to establish one.
155	Swenson	Discusses intent that it is sibling conflicts as well as child/parent conflicts in the home that are at issue.
160	Chair Minnis	Asks if constructing some language would be possible to make it very obvious what the intent is.
161	Swenson	Insists that was what she thought she had done, but would be glad to work on it further.
166	Skinner	Responds that she would like to work on resolving the issue.

176	Counsel Prins	Asks if in Marion County they prosecute children who assault their parent or sibling and if she would support such legislation.
183	Skinner	Responds that she cannot give a specific answer as she works in adult court.
189	Sen. Metsger	Asks for clarity of the word “residing” and gives an example.
203	Skinner	Responds that residing is “living in.”
204	Sen. Metsger	Asks for clarification of degree of trauma to a child if it were not an immediate family member engaging in violence.
220	Skinner	Responds that degree of trauma would not be any less.
223	Swenson	States that the idea was to deal with family situations, more than just the circumstance of children being witnesses.
231	Chair Minnis	Closes the public hearing on SB 141, and opens a public hearing on SB 156.

SB 156 PUBLIC HEARING

237	Shawn Cleave	Representing Senator Bill Fisher Presents testimony in support of SB 156 relating to reserve officers (EXHIBIT F).
262	Det. Joseph Felix	Officer, Winston Police Department. Submits testimony and testifies in support of SB 156 (EXHIBIT G & H). Conveys details of incidents involving reserve officers.
374	Richard Arwood	Reserve officer, Roseburg City Police Department Submits testimony and testifies in support of SB 156. Discusses difference in treatment of a full time officer and a reserve officer under the current statute (EXHIBIT I).
402	Officer Chris Roberts	Winston Police Department Testifies in support of SB 156. Relays his experience as a reserve officer who has been shot at in the line of duty.
441	Chair Minnis	Asks how Officer Roberts’ agency dealt with his experience.
450	Officer Roberts	States that his agency supported him 100%.
471	Sen. Metsger	Asks about the role of reserve officers when they are not acting in an official role.
489	Officer Roberts	Answers there are many areas of employment outside of law enforcement.
501	Sen. Metsger	Discusses his concern about public disclosure issues.
TAPE 3, B		
58	Det. Felix	Asks for clarification of disclosure.
61	Sen. Metsger	Responds with an example of reservist acting as a private citizen.
65	Det. Felix	Responds that extensive background checks are performed and that standards and qualifications are the same as for a full-time police officer.
78	Sen. Metsger	Clarifies his question asking if procedures of disclosure may be affected by other business activities.
83	Chair Minnis	Responds that he believes it would not affect anything other than what transpired during the course of their duty as a reserve officer.
90	Arwood	States that he is concerned that if this legislation does not pass it will hinder the employment of reservists. States that Sen. Fisher has agreed to attach an amendment, which has been sent to legislative counsel, and presents a copy of the amendment to the committee (EXHIBIT J).
104	Sen. Beyer	Expresses a concern about changes in the workers compensation.

113	Det. Felix	Replies that a reservist working on official duty is covered. Refers to Citation Chapter 656.031.
119	Sen. Burdick	Asks for additional clarification.
136	Arwood	Replies that all working in official capacity are covered and excludes retirees, as it stands now.
155	Vice Chair Courtney	Refers to line 3 and 4 on page 2 of SB 156. Interprets the bill as including regular police officers as well as reservists.
171	Arwood	Responds that he would need to check that.
172	Chair Minnis	States that Police Officer's commission is 24/7. Currently Reservists status is not.
190	Sen. Duncan	Asks when it is necessary to identify one's self as a peace officer.
216	Chair Minnis	Gives example of how difficult identifying one's self might be.
219	Chair Metsger	Interprets line 3 ...the murder was related to the performance of the victim's official duty in the justice system. Contends the wording is very clear.
233	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to Bill 156 because of a general opposition to the death penalty.
249	Kathleen Pugh	Oregonian for Alternatives for the Death Penalty Submits testimony and testifies in opposition to Bill 156 (EXHIBIT K) .
276	Sen. Duncan	Expresses the view that the issue of the bill is not the death penalty.
296	Pugh	Responds that the expansion of the bill is at issue regarding aggravated murder.
327	Swenson	Responds regarding the aggravated murder issue as it relates to the death penalty.
335	Sen. Burdick	Asks if the sentence were changed legislatively or through the initiative process, from death to life, would she favor reserve officers being grouped with active officers.
346	Swenson	Replies in the affirmative.
357	Gina Skinner	Oregon District Attorneys Association Testifies in opposition to SB 156. Provides additional clarification of designation of reservist as well as the aggravated murder sentence.
424	Vice Chair Courtney	Asks if the "performance of duty" clause means that the individual is on duty.
436	Skinner	States that this is her understanding of the current practice.
446	Vice Chair Courtney	Expresses concern about the vagueness of the wording, and asks about the language within an example given..
494	Skinner	Cannot answer that question without referral. Offers to do further research and provide additional information.
TAPE 4, A		
046	Chair Minnis	Closes public hearing on SB 156 and adjourns the meeting at 3:00 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Craig Prins
Counsel

EXHIBIT SUMMARY

- A – SB 133, written testimony, Rep. Kathy Lowe, dated 1/11/00 2 pp**
- B – SB 133, reprint, “No Bulletproof Vests for Felons”, Commander Frank Grace, 1 p**
- C – SB 133, written testimony, Commander Frank Grace, 1 p**
- D – SB 133, reprint, Officer Dave Ratto, 2 pp**
- E – SB 141, proposed amendment, Ingrid Swenson, 1 p**
- F – SB 156, written testimony, Sen. Bill Fisher, dated 1/12/01, 1 p**
- G – SB 156, written testimony, Officer Joseph Felix, dated 1/12/00, 1 p**
- H – SB 156, written testimony, Officer Joseph Felix, 2 pp**
- I – SB 156, written testimony, Officer Arwood, 2 pp**
- J – SB 156, proposed amendments, Sen. Bill Fisher, dated 1/12/01 4 pp**
- K – SB 156, written testimony with attached flier “Abolish the Death Penalty”, Kathleen Pugh, dated 1/12/01, 2 pp**