SENATE COMMITTEE ON JUDICIARY

February 27, 2001 Hearing Room 343

1:00 p.m. Tapes 46 - 48

MEMBERS PRESENT: Sen. John Minnis, Chair

Sen. Peter Courtney, Vice Chair

Sen. Roger Beyer Sen. Ginny Burdick Sen. Verne Duncan Sen. Steve Harper Sen. Rick Metsger

STAFF PRESENT: Craig Prins, Counsel

Annola DeJong, Committee Assistant

MEASURE/ISSUES HEARD: SB 126 Work Session

SB 352 Work Session SB 444 Public Hearing SB 247 Public Hearing SB 249 Public Hearing SB 437 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, <i>A</i>	4	
004	Chair Minnis	Calls the meeting to order at 1:07 p.m. and opens a work session
		on SB 126.
SB 126 - W	ORK SESSION	
005	Counsel Prins	Introduces the -1 amendments to SB 126 relating to allowing a court to order a parent or legal guardian to pay supervision fees
		of a youth placed on probation (EXHIBIT A).
026	Sen. Harper	MOTION: Moves to ADOPT SB 126-1 amendments dated 2/26/01.
		VOTE: 6-0-1
020	Chain Minair	EXCUSED: 1 - Sen. Courtney
030	Chair Minnis	Hearing no objection, declares the motion CARRIED. MOTION: Moves SB 126 to the floor with a DO PASS AS
031	Sen. Harper	AMENDED recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Sen. Courtney
034	Chair Minnis	Hearing no objection, declares the motion CARRIED.
		SEN. HARPER will lead discussion on the floor.
036	Chair Minnis	Closes the work session on SB 126 and opens a work session on
		SB 352.
SB 352- W	ORK SESSION	
037	Counsel Prins	Introduces SB 352 which would extend the period during which claim for benefits and payments may be made when victims of crimes suffer catastrophic injuries States there are no

046	Sen. Burdick	amendments. MOTION: Moves SB 352 to the floor with a DO PASS recommendation.
050	Chair Minnis	VOTE: 6-0-1 EXCUSED: 1 - Sen. Courtney Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
054	Chair Minnis	Closes the work session on SB 352 and opens a public hearing on SB 444.
SB 444 -	- PUBLIC HEARING	
058	Sen. Metsger	State Senator, District 14
070	Cindy Baker	Testifies in support of SB 444 which would require the Department of Corrections and the State Board of Parole and Post-Prison Supervision to adopt rules to be followed when deciding where to place certain sex offenders upon release from custody. Citizen Advocate, Clackamas County
	J	Submits testimony and testifies in support of SB 444 (EXHIBIT
1.5.6	D D I	B).
156	Darcey Baker	Clackamas County Department of Community Corrections
		Submits testimony and testifies in support of SB 444 (EXHIBIT C).
199	Chair Minnis	Clarifies that the issue of transitional housing is contained in the –2 amendments. Confirms that the –2 amendments supercede the –1 amendments (EXHIBITS D & E).
202	Sen. Metsger	Agrees.
213	Diane Rea	Chair, Board of Parole and Post-Prison Supervision
		Submits testimony and testifies in support of SB 444 (EXHIBIT F).
273	Russ Spencer	Oregon State Sheriff's Association (OSSA)
299	Chair Minnis	Testifies in support of SB 444. Requests an amendment be made to the wording of Section 1, sub-section 1, on page 1. Asks if there was no deletion to this section would the OSSA still support it.
301	Spencer	States that he is unable to answer that question.
320	Chair Minnis	Inquires if the OSSA has concerns other than wording.
321	Spencer	Says the wording is "so broad and so general" it would provide a way to "challenge on just about any basis."
334	Sen. Metsger	Asks Mr. Spencer if he has looked at the –2 amendments. Explains page 1, line 1 and 2 of the –2 amendments.
349	Spencer	Acknowledges the intent of the changes. Expresses concern that the wording would still leave the door open for a "broad legal challenge."
370	Sen. Metsger	Requests that Mr. Spencer take part in the SB 444 work group.
377	Spencer	Agrees.
382	Sen. Burdick	Point outs that removing the questionable language does not
		change the overall meaning.
402	Spencer	Talks about the OSSA objective as it relates to SB 444.
423	Chair Minnis	Closes the public hearing on SB 444 and opens a public hearing on SB 247.
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<u>SB 247 – PUBLIC HEARING</u>

TAPE 47, A		
012	Mark McDonnell	Senior Deputy District Attorney, Multnomah County
		Submits testimony and testifies in support of SB 247 which
		requires that certain offenders be placed in physical custody of
		Oregon Youth Authority (OYA) after revocation of probation
		and imposition of sentence of imprisonment (EXHIBIT G).
074	Kathie Osborn	Juvenile Rights Project
		Testifies in opposition to SB 247.
136	Sen. Burdick	Clarifies her understanding of who would get priority for a bed at
1.41	Osborn	the Oregon Youth Authority under SB 247.
141	OSDOIII	Contends the Senator is correct. Gives an example of how the OYA beds are assigned.
181	Karen Brazeau	Director, Oregon Youth Authority (OYA)
101	21,000	Submits testimony and testifies in opposition to SB 247
		(EXHIBIT H).
288	Sen. Burdick	Inquires about the youths that would be displaced by SB 247-
		what kinds of youths they are and where they would go.
299	Brazeau	Describes the types of youths that come through the OYA and
2.50	C 1.D.:	the role that the OYA plays in their treatment process.
359	Counsel Prins	Asks what happens to a youth that gets a probation sentence and then has it revoked.
375	Brazeau	Replies that the youth would go into the local community
373	Diazeau	corrections system.
392	Counsel Prins	Discusses what SB 1049 accomplished in 1997. Clarifies how
		SB 247 would factor in.
402	Brazeau	Agrees.
424	Ingrid Swenson	Oregon Criminal Defense Lawyers Association (OCDLA)
		Testifies in opposition to SB 247.
TAPE 46, B	Massa Dadiin	American Federal Control of Marie and
007	Mary Botkin	American Federation of State, County and Municipal Employees Council 75
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053	Chair Minnis	Testifies as neutral on SB 247. Asks Ms. Botkin what she likes or dislikes about SB 247.
055	Botkin	Explains that there should be a better way to utilize the current
	20 viiiii	resources and to find more funding for the "program bases we
		need."
111	Sen. Duncan	Verifies there is no longer a facility for first-time offenders.
120	Botkin	Agrees.
135	Chair Minnis	Closes the public hearing on SB 247 and opens a public hearing on SB 249.
SB 249 – PUB	LIC HEARING	011 3D 247.
152	John Horton	Deputy District Attorney, Multnomah County
		Submits testimony and testifies in support of SB 249 which
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255 259 279	Sen. Burdick Horton John Bradley	makes discovery requirements in criminal cases reciprocal between defense and prosecution except when privilege would be violated. Discusses their proposed amendment to SB 249 (EXHIBIT I). Asks what happens in court when surprise evidence is

251	Can Hamman	Testifies in support of SB 249.
351	Sen. Harper	Suggests that evidence can only be introduced if it has been discovered properly.
355	Bradley	Responds "it is not as clear cut as that."
404	Chair Minnis	Describes his understanding of what the proposed amendment to
		SB 249 would accomplish.
410	Bradley	Agrees.
TAPE 47, B		
001	Ingrid Swenson	Oregon Criminal Defense Lawyers Association (OCDLA)
		Testifies in opposition to SB 249.
086	Chair Minnis	Points out that judges are unlikely to rule in favor of releasing
		information that is protected under the defendant's 5 th
		amendment.
100	Swenson	States she is certain that court judges would find this statute
		unconstitutional.
103	Chair Minnis	Inquires if Ms. Swenson has researched similar laws in other
		states.
104	Swenson	Replies, she has not.
115	Chair Minnis	Asks Ms. Swenson if the constitution does not require her to turn
116	C	over evidence.
116	Swenson Sen. Duncan	Explains that "in this narrow instance" no.
124	Sen. Duncan	Suggests that the "key issue" is whether the client voluntarily tells their counsel.
127	Swenson	Agrees.
133	Duncan	Wonders if a defense attorney were to find evidence, are they
133	Duncun	obligated to turn it over.
138	Swenson	Responds, yes they are.
144	Chair Minnis	Proposes the committee do more research on the constitutional
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		issues that have been raised.
152	Kathie Osborn	Juvenile Rights Project
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173 174	Chair Minnis Osborn	Juvenile Rights Project Testifies in opposition to SB 249. Confirms his understanding of Ms. Osborn's suggestion regarding juvenile proceedings. Agrees. Refers to the example in Ms. Swenson's testimony. Says they can make an amendment for those circumstances. Closes the public hearing on SB 249, opens a public hearing on
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173 174 186 204 SB 437 – PUB	Chair Minnis Osborn Bradley Chair Minnis LIC HEARING	Juvenile Rights Project Testifies in opposition to SB 249. Confirms his understanding of Ms. Osborn's suggestion regarding juvenile proceedings. Agrees. Refers to the example in Ms. Swenson's testimony. Says they can make an amendment for those circumstances. Closes the public hearing on SB 249, opens a public hearing on SB 437.
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173 174 186 204 SB 437 – PUB 210	Chair Minnis Osborn Bradley Chair Minnis LIC HEARING Karin Immergut	Juvenile Rights Project Testifies in opposition to SB 249. Confirms his understanding of Ms. Osborn's suggestion regarding juvenile proceedings. Agrees. Refers to the example in Ms. Swenson's testimony. Says they can make an amendment for those circumstances. Closes the public hearing on SB 249, opens a public hearing on SB 437. Multnomah County District Attorney's Office Testifies in support of SB 437.
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043 Immergut Refers to Sen. Courtney's concern. Offers additional

clarification.

O71 Chair Minnis Closes the public hearing on SB 437 and adjourns the meeting at

3:00 p.m.

Submitted By, Reviewed By,

Annola DeJong, Craig Prins,
Committee Assistant Counsel

EXHIBIT SUMMARY

A – SB 126, -1 amendment submitted by staff, dated 2/19/01, 1 p.

B – SB 444, written testimony submitted by Cindy Baker, Citizen Advocate, dated 2/27/01, 6 pp.

C-SB 444, written testimony submitted by Darcey Baker, Clackamas County Department of Community Corrections, 1 p.

D-SB 444, -1 amendment submitted by staff, dated 2/14/01, 1 p.

E – SB 444, -2 amendment submitted by staff, dated 2/26/01, 2 pp.

F – SB 444, written testimony submitted by Diane Rea, Board of Parole and Post-Prison Supervison, 2 pp.

G – SB 247, written testimony submitted by Mark McDonnell, Multnomah County District Attorney's Office, dated 2/26/01, 2 pp.

H-SB 247, written testimony submitted by Karen Brazeau, Oregon Youth Authority, dated 2/27/01, 1 p.

I – SB 249, written testimony submitted by John Horton, Multnomah County District Attorney's Office, dated 2/27/01, 4 pp.

J-SB 437, written testimony submitted by Steve Doell, Crime Victims United, dated 2/27/01, 2 pp.