

## 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**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 46, A</b>		
004	Chair Minnis	Calls the meeting to order at 1:07 p.m. and opens a work session on SB 126.
<b><u>SB 126 – WORK SESSION</u></b>		
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 ( <b>EXHIBIT A</b> ).
026	<b>Sen. Harper</b>	<b>MOTION: Moves to ADOPT SB 126-1 amendments dated 2/26/01.</b> <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Sen. Courtney</b>
030	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
031	<b>Sen. Harper</b>	<b>MOTION: Moves SB 126 to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Sen. Courtney</b>
034	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. HARPER will lead discussion on the floor.</b>
036	Chair Minnis	Closes the work session on SB 126 and opens a work session on SB 352.
<b><u>SB 352- WORK SESSION</u></b>		
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



**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 the Oregon Youth Authority under SB 247.

141           Osborn           Contends the Senator is correct. Gives an example of how the OYA beds are assigned.

181           **Karen Brazeau**           **Director, Oregon Youth Authority (OYA)**  
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 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 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**

007           **Mary Botkin**           **American Federation of State, County and Municipal Employees Council 75**  
Testifies as neutral on SB 247.

053           Chair Minnis           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 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 – PUBLIC HEARING**

152           **John Horton**           **Deputy District Attorney, Multnomah County**  
Submits testimony and testifies in support of SB 249 which 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**).

255           Sen. Burdick           Asks what happens in court when surprise evidence is introduced.

259           Horton           Describes a common remedy for those situations.

279           **John Bradley**           **Multnomah County District Attorney’s Office**

351	Sen. Harper	Testifies in support of SB 249. 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.
<b>TAPE 47, B</b>		
001	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyers Association (OCDLA)</b> 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 <sup>th</sup> 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 over evidence.
116	Swenson	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 obligated to turn it over.
138	Swenson	Responds, yes they are.
144	Chair Minnis	Proposes the committee do more research on the constitutional issues that have been raised.
152	<b>Kathie Osborn</b>	<b>Juvenile Rights Project</b> Testifies in opposition to SB 249.
173	Chair Minnis	Confirms his understanding of Ms. Osborn’s suggestion regarding juvenile proceedings.
174	Osborn	Agrees.
186	Bradley	Refers to the example in Ms. Swenson’s testimony. Says they can make an amendment for those circumstances.
204	Chair Minnis	Closes the public hearing on SB 249, opens a public hearing on SB 437.

**SB 437 – PUBLIC HEARING**

210	<b>Karin Immergut</b>	<b>Multnomah County District Attorney’s Office</b> Testifies in support of SB 437.
392	<b>John Bradley</b>	<b>Multnomah County District Attorney’s Office</b> Testifies in support of SB 437.
422	Vice Chair Courtney	Expresses great concern about disrupting the privilege of confession.
<b>TAPE 48, A</b>		
004	Bradley	Remarks that he believes there is no intent to include this issue. Continues his testimony for SB 437.
030	Chair Minnis	Confirms his understanding of Mr. Bradley’s testimony regarding a person’s admission of future crimes in a protected situation.
035	Bradley	Agrees.

043	Immergut	Refers to Sen. Courtney's concern. Offers additional clarification.
071	Chair Minnis	Closes the public hearing on SB 437 and adjourns the meeting at 3:00 p.m.

Submitted By,                      Reviewed By,

Annola DeJong,  
Committee Assistant

Craig Prins,  
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 Supervision, 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.**