

## SENATE COMMITTEE ON JUDICIARY

March 12, 2001 Hearing Room 343  
1:00 p.m. Tapes 59 - 61

**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 657 Public Hearing**  
  **SB 655 Public Hearing**  
  **SB 656 Public Hearing and Work Session**  
  **SB 654 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 59, A</b>		
004	Chair Minnis	Calls the meeting to order at 1:08 p.m. and opens a public hearing on SB 657.
<b><u>SB 657 - PUBLIC HEARING</u></b>		
013	Counsel Odell	Introduces SB 657 which would allow county sheriff's to seek payment of amount owed by prisoners through the Collections Unit at the Department of Revenue.
028	<b>Jim Main</b>	<b>Sheriff, Douglas County</b> Submits testimony and testifies in support of SB 657 ( <b>EXHIBIT A</b> ).
074	Sen. Duncan	Asks what consideration is given to a prisoner's other financial obligations, i.e. child support payments.
080	Main	Says these issues would have to be worked out with the Department of Revenue.
085	Counsel Odell	States she will provide this information to the committee.
092	<b>Steve Little</b>	<b>Oregon Department of Revenue</b> Submits testimony and testifies as neutral on SB 657 ( <b>EXHIBIT B</b> ). Discusses how the Department of Revenue has established priorities for the "offset" of refunds.
152	Sen. Burdick	Verifies this falls under the category of local debt.
154	Little	Agrees.
175	<b>Matt Markee</b>	<b>Oregon Collector's Association</b> Testifies as neutral on SB 657. Expresses support for the -1 amendments ( <b>EXHIBIT C</b> ).
189	Chair Minnis	Asks Mr. Little about the fiscal impact statement for SB 657.

198	Little	Explains the fiscal impact.
212	Chair Minnis	Reminds the committee the fiscal will be reviewed by Ways and Means.
215	Sen. Beyer	Requests additional clarification on the fiscal impact statement.
224	Little	<i>(Responds unintelligibly from the back of the room.)</i>
228	Chair Minnis	Explains his understanding of the fiscal impact statement.
231	Little	Agrees.
232	Sen. Beyer	Wonders if going through private collection agencies could reduce costs.
240	Markee	Points out that private collection agencies do not have the ability to offset the tax refund.
249	Chair Minnis	Asks Mr. Markee to provide an amendment addressing the “priority rule authority” for the Department of Revenue.
267	Chair Minnis	Closes the public hearing on SB 657 and opens a public hearing on SB 655 and SB 656.
<b><u>SB 655 &amp; SB 656 - PUBLIC HEARING</u></b>		
295	Chair Minnis	Allows for Lynnae Berg, Mark Landauer, and Jim Ferraris to testify collectively on SB 655 and SB 656.
300	<b>Mark Landauer</b>	<b>City of Portland</b>  Testifies in support of SB 655 which will expand the crime of criminal trespass in the first degree to cover entering or remaining unlawfully on premises that have been determined not fit for use due to illegal drug manufacturing. Testifies in support of SB 656 which will expand the crime of child neglect in the first degree to include leaving a child, or allowing a child to stay at a place that has been determined to be not fit for use due to illegal drug manufacturing.
321	<b>Lynnae Berg</b>	<b>Portland Police Bureau</b>  Submits testimony and testifies in support of SB 655 and SB 656 <b>(EXHIBITS D &amp; E)</b> .
417	<b>Jim Ferraris</b>	<b>Portland Police Bureau</b>  Submits testimony and testifies in support of SB 655 and SB 656 <b>(EXHIBIT F)</b> .
<b>TAPE 60, A</b>		
001	Ferraris	Continues his testimony in support of SB 655 and SB 656.
065	<b>Eric Schober</b>	<b>Portland Police Bureau</b>  Submits testimony and testifies in support of SB 655 and SB 656 <b>(EXHIBITS G &amp; H)</b> .
147	Sen. Burdick	Inquires about a landlord’s liability, i.e. are they treated the same as the person producing methamphetamine.
153	Ferraris	Discusses an exception in health division rules that allows for a certified clean-up contractor to enter the premises.
169	<b>David Lesh</b>	<b>Attorney, City of Portland</b>  States that he has never seen a landowner cited.
186	Chair Minnis	Inquires how these properties are marked.
189	Ferraris	Describes how contaminated properties are distinguished in the City of Portland.
214	Sen. Burdick	Expresses concerns about being prohibited from entering a contaminated premise from a landlord’s perspective.
246	Berg	Addresses Sen. Burdick’s concerns.

262	Sen. Duncan	Asks Mr. Ferraris if he would feel comfortable if his children moved into a home that had been contaminated.
269	Ferraris	Says it would depend on whether he felt the contamination had been thoroughly removed.
281	Chair Minnis	Talks about the problem in getting these properties certified as clean for insurance purposes.
301	Vice Chair Courtney	Inquires why Oregon is one of the leading states in methamphetamine production.
316	Ferraris	Cites the geographic issue, i.e. situated between California and Washington which have "huge meth problems." Notes that producers look for places rural and "out of the way." Points out there is a user base in Oregon and a demand for the drug.
363	Sen. Beyer	Addresses SB 655 and suggests there should be more than an affirmative defense for a landlord who has not been charged with criminal activity.
384	Chair Minnis	Agrees with Sen. Beyer.
408	Sen. Metsger	Expresses his support for SB 655 and SB 656.
447	Chair Minnis	Closes the public hearing SB 656 and opens a public hearing on SB 655.

**TAPE 59, B**

**SB 655 – PUBLIC HEARING**

007	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyers Association (OCDLA)</b> Testifies in opposition to SB 655.
014	Chair Minnis	Closes the public hearing SB 655 and opens a public hearing on SB 656.

**SB 656 – PUBLIC HEARING**

017	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyers Association (OCDLA)</b> Testifies in opposition to SB 656.
037	Chair Minnis	Asks if Ms. Swenson is suggesting the chemicals found in these places are less dangerous than guns.
039	Swenson	Replies "certainly not." Discusses the issue of ignorance as it relates to the people who visit these places.
087	Chair Minnis	Closes the public hearing on SB 656 and opens a work session on SB 656.

**SB 656 – WORK SESSION**

<b>088</b>	<b>Vice Chair Courtney</b>	<b>MOTION: Moves SB 656 to the floor with a DO PASS recommendation.</b>
<b>090</b>	<b>Chair Minnis</b>	<b>VOTE: 7-0-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. BURDICK will lead discussion on the floor.</b>
095	Chair Minnis	Closes the work session on SB 656 and opens a public hearing on SB 654.

**SB 654 – PUBLIC HEARING**

108	<b>Mary Wheat</b>	<b>Portland Police Bureau</b> Submits testimony and testifies in support of SB 654 relating to including prostitution in the circumstances under which law enforcement officers may obtain part of conversations by means of recording device ( <b>EXHIBIT I</b> ).
175	Sen. Beyer	Wonders about the legitimacy of statements made by a person wearing a body wire.
189	Wheat	Explains there are different ways to convey critical information.
207	Sen. Beyer	Asks for clarification as to what SB 654 would allow.

218	Counsel Prins	Explains SB 654 will allow body wires to be used for both prosecution and personal safety reasons.
222	Sen. Metsger	Inquires about using body wires when there is no particular suspect.
239	Counsel Prins	Mentions that Erik Wasmann will be able to address this issue.
256	<b>Pete Shepherd</b>	<b>Attorney General's Office</b> Testifies in support of SB 654 and talks about the –1 amendments ( <b>EXHIBIT J</b> ).
287	<b>Erik Wasmann</b>	<b>Department of Justice</b> Submits testimony and testifies in support of SB 654. Discusses the –1 amendments. Explains what a body wire is and what procedures must be followed in order to obtain one ( <b>EXHIBIT K - M</b> ).
<b>TAPE 60, B</b>		
001	Wasmann	Continues his testimony in support of SB 654.
084	Sen. Burdick	Clarifies that, pursuant to the court cases Cleveland and Fleetwood, using a body wire for homicide investigations would not be allowed.
090	Wasmann	Agrees.
104	Sen. Mestger	Wonders if a body wire could be used in all illegal activity situations vs. one specific person's activity.
113	Wasmann	Explains how and when probable cause is developed.
169	Sen. Duncan	Asks Ms. Wheat how many prostitution decoy missions she would have been better off wearing a body wire.
178	Wheat	Replies all of them.
193	Sen. Duncan	Observes that Ms. Wheat is dealing with dangerous people, not just men soliciting sex.
198	Wheat	Agrees.
209	Sen. Harper	Inquires about the current status of the body wire statute.
211	Counsel Prins	Explains the current status.
232	Sen. Harper	Asks if body wires are being “used on the street” right now.
233	<b>Steve Dingle</b>	<b>Marion County District Attorney's Office</b> Responds, no.
264	Sen. Harper	Comments that SB 654 adds prostitution to a statute we do not use.
267	Counsel Prins	Remarks the -1 amendments should address the problems with the current statute.
274	Vice Chair Courtney	Inquires about a person who is doing undercover work and wearing a body wire for protection purposes.
290	Wasmann	Says under current statute that person would be committing a crime.
304	Chair Minns	Asks if the -1 amendments address the issue of officer safety.
307	Wasmann	Responds, not directly. Says the –1 amendments explain the circumstances in which a body wire could be obtained.
320	Sen. Burdick	Verifies her understanding of what the -1 amendments will accomplish.
324	Wasmann	Agrees. Discusses Article 1, Section 9 of the Oregon Constitution.
372	Chair Minnis	Talks about the issues before the committee - “statutory construction” and in what situations the legislature should approve the use of body wires.
426	<b>Ingrid Swenson</b>	<b>Oregon Criminal Defense Lawyers Association (OCDLA)</b>

		Testifies in opposition to SB 654.
479	Vice Chair Courtney	Verifies that Ms. Swenson would feel differently if it were a matter of officer safety.
486	Swenson	Agrees.
490	Chair Minnis	Clarifies his understanding of Ms. Swenson's position on SB 654.
<b>TAPE 61, A</b>		
031	<b>Andrea Meyer</b>	<b>American Civil Liberties Union (ACLU)</b>
		Testifies in opposition to SB 654.
044	Sen. Duncan	Confirms the ACLU does not object to body wires being used for safety purposes.
052	Meyer	Agrees.
055	Chair Minnis	Notes that statements made while wearing a body wire would not be admissible in court.
063	Swenson	Stresses there are two issues to keep in mind: officer safety and what is authorized for use as evidence.
070	Chair Minnis	Agrees.
076	Sen. Metsger	Asks Ms. Swenson about adding a warrant requirement to SB 654.
080	Swenson	Responds this is exactly what they would like to see.
105	Chair Minnis	Closes the public hearing on SB 654 and adjourns the meeting at 3:05 p.m.

Submitted By,

Reviewed By,

Annola DeJong,  
Committee Assistant

Craig Prins,  
Counsel

### **EXHIBIT SUMMARY**

- A – SB 657, written testimony submitted by Jim Main, Sheriff, Douglas County, 2 pp.**
- B – SB 657, written testimony submitted by Steve Little, Department of Revenue, dated 3/12/01, 2 pp.**
- C – SB 657, -1 amendments submitted by staff, dated 3/12/01, 1 p.**
- D – SB 655 & SB 656, written testimony submitted by Lynnae Berg, Portland Police Bureau, dated 3/12/01, 6 pp.**
- E – SB 655 & SB 656, written testimony submitted by Lynnae Berg, Portland Police Bureau, dated 10/08/00, 18 pp.**
- F – SB 655 & SB 656, written testimony submitted by Jim Ferraris, Portland Police Bureau, dated 3/12/01, 3 pp.**
- G – SB 655 & SB 656, written testimony submitted by Eric Schober, Portland Police Bureau, dated 3/12/01, 7 pp.**
- H – SB 655 & SB 656, written testimony submitted by Eric Schober, Portland Police Bureau, 4 pp.**
- I – SB 654, written testimony submitted by Mary Wheat, Portland Police Bureau, dated 3/12/01, 5 pp.**
- J – SB 654, -1 amendments submitted by staff, dated 3/12/01, 15 pp.**
- K – SB 654, written testimony submitted by Erik Wasmann, Department of Justice, dated 3/12/01,**

**2 pp.**

**L – SB 654, written testimony submitted by Erik Wasmann, Department of Justice, 3 pp.**

**M – SB 654, written testimony submitted by Erik Wasmann, Department of Justice, 16 pp.**