

SENATE COMMITTEE ON JUDICIARY

March 13, 2001 Hearing Room 343
1:00 p.m. Tapes 57-58

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: Marilyn Odell, Counsel
Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: SB 925 Public Hearing and Work Session
SB 667 Public Hearing
SB 920 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 57, A 006	Chair Minnis	Calls the meeting to order at 1:15 p.m. and opens a public hearing on SB 925.
<u>SB 925 PUBLIC HEARING</u> 009	Bill Perry	Director of Government Relations, Oregon Restaurant Association Submits testimony and testifies in support of SB 925 relating to alcoholic beverages, creating new provisions (EXHIBIT A). Explains that the bill says that if you become intoxicated on your own accord and hurt yourself you cannot seek damages from the licensee.
050	Dave Heynderickx	Legislative Counsel Discusses the -1 amendments (EXHIBIT B).
085	Chair Minnis	Closes the public hearing on SB 925 and opens a work session.
<u>SB 925 WORK SESSION</u> 086	Sen. Duncan	MOTION: Moves to ADOPT SB 925-1 amendments dated 3/13/01. VOTE: 5-0-2 EXCUSED: 2 – Burdick, Metsger
088	Chair Minnis	Hearing no objection, declares the motion CARRIED .

092	Vice Chair Courtney	<p>MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment to SB 925.</p> <p>VOTE: 5-0-2</p> <p>EXCUSED: 2 – Burdick, Metsger</p>
094	Chair Minnis	<p>Hearing no objection, declares the motion CARRIED.</p>
099	Vice Chair Courtney	<p>MOTION: Moves to AMEND SB 925 on page 1, line 7, after "action," insert “based on statute or common law” and on page 1, line 8, after "beverages," delete "based on common law negligence”.</p> <p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Burdick, Metsger</p>
130	Chair Minnis	<p>Hearing no objection, declares the motion CARRIED.</p>
133	Vice Chair Courtney	<p>MOTION: Moves SB 925 to the floor with a DO PASS AS AMENDED recommendation.</p> <p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Burdick, Metsger</p>
135	Chair Minnis	<p>Hearing no objection, declares the motion CARRIED.</p> <p>MINNIS will lead discussion on the floor.</p>
140	Chair Minnis	<p>Closes the work session on SB 925 and opens a public hearing on SB 667.</p>
<u>SB 667 PUBLIC HEARING</u>		
161	William Winner	<p>Oregon State University</p> <p>Submits testimony and testifies in support of SB 667 relating to criminal procedure, amending ORS 138.510 and 138.530 (EXHIBIT C). Says the bill would provide post-conviction relief for those who can prove innocence, or justify sentence reduction with DNA forensic evidence.</p>
404	Ingrid Swenson	<p>Oregon Criminal Defense Lawyers Association (OCDLA)</p> <p>Submits news articles and testifies in support of SB 667 (EXHIBIT D).</p> <p>Says this bill would address a very specific need in Oregon, as there currently is no way of undoing a conviction other than the Governor’s pardon. Refers to the article reprints submitted in Exhibit D with regard to innocent people being convicted of crimes.</p>
062	David Fidanque	<p>Executive Director, American Civil Liberties Union of Oregon</p> <p>Testifies in support of SB 667. Says their concern is that legislation to make available the possibility of post conviction relief based on DNA testing not be too limited. Says the bill’s language is narrower than the drafter intends. Discusses a case to illustrate. Contends that DNA evidence is not always conclusive.</p>
166	Chair Minnis	<p>Closes the public hearing on SB 667.</p>
173	Counsel Odell	<p>Updates the committee on HB 2415 that is related in subject area.</p>

210	Vice Chair Courtney	Wonders if Portland is the only place in Oregon where DNA testing is available.
220	Chair Minnis	Closes the public hearing on SB 667 and open a public hearing on SB 920.
<u>SB 920 PUBLIC HEARING</u>		
223	Chair Minnis	Provides background on SB 920 that requires person convicted of any felony and certain other crimes to provide a blood or buccol sample upon request of an appropriate law enforcement agency.
261	Counsel Odell	Audiotape presented by staff of an NPR broadcast on DNA testing. Relates the story of a man whose DNA proved him innocent of the crime of rape for which he had been imprisoned. Discusses the variety of ways DNA is collected (EXHIBIT E).
435	Chair Minnis	Comments that there is a compelling reason to look at the collection of this kind of information.
TAPE 57, B		
015	Brian Ostrom	Supervisor, Oregon State Police DNA Program Submits testimony and testifies in support of SB 920 (EXHIBIT F). Talks about the states having DNA databases. Says this legislation is the logical next step to assure Oregonians have the availability of this extremely effective tool in solving crime.
055	Sen. Burdick	Asks about the fiscal impact if there is reduced investigation time needed because of the quick access to DNA matches.
059	Ostrom	Replies that he does not have that information.
060	Sen. Burdick	Wonders if there would be a reduction in investigation time.
061	Ostrom	Replies yes.
064	Sen. Beyer	Asks how DNA samples can be used to prove a person did not commit a crime.
068	Ostrom	Replies that this can occur only if there is DNA evidence available for comparison.
105	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Explains that it depends on all the evidence in the case, but that in many cases it does not eliminate a suspect.
121	Vice Chair Courtney	Asks how long it takes to get a DNA report.
123	Ostrom	Replies that it takes about 50 days.
130	Chair Minnis	Asks if compiling a database would include approximately 11,000 persons per year.
131	Ostrom	Replies that is correct.
135	Chair Minnis	Asks about the cost of DNA testing and if it is going down.
140	Ostrom	Replies the costs are going down.
145	Ingrid Swenson	Testifies in opposition to SB 920. States this kind of information is intrusive and calls it a "search" which violates civil liberties. Suggests that DNA samples could be misused or mishandled.
280	David Fidanque	Executive Director, American Civil Liberties Union (ACLU) of Oregon Testifies in opposition to SB 920. States concerns of search and seizure, and the possibility that a database could be used for other purposes. Asks that very strict application of the database be used.
326	Chair Minnis	Mentions an article in today's paper about Germany wanting to get DNA samples of all males in the country.
343	Sen. Metsger	Asks about the expansion of fingerprinting over the years.
348	Fidanque	Replies that the FBI keeps the national fingerprint database, and

while it was once for use only by police agencies, the legislature has approved use by the public schools and other agencies that hire people with access to children.

TAPE 58, B

007	Sen. Beyer	Wonders why we would need to test everyone in the Department of Corrections (DOC) at one time.
010	Chair Minnis	Replies that is a good point.
020	Sen. Harper	Asks if there is federal grant money.
023	Counsel Odell	Says that was proposed in the President's budget but it hasn't passed.
060	Vice Chair Courtney	States that he is extremely concerned about the danger of this kind of testing being used in the wrong way.
082	Kathie Osborn	Juvenile Rights Project Testifies in opposition to SB 920. Says this bill includes juveniles. States that cross contamination can be a problem with DNA.
148	Dale Penn	Marion County District Attorney Testifies in support of SB 920. Says this bill focuses on people who have been convicted of crimes. Thinks there are ways to phase this in responsibly.
177	Sen. Harper	Asks if a buccol swab is all that is needed to get the necessary information for DNA.
179	Penn	Replies, yes.
184	Vice Chair Courtney	Asks if David Fidanque would like to see this bill go away.
200	Fidanque	Replies it would be easier for this bill to go away, but since it won't, the issue for the legislature to identify is where we are headed with this technology.
251	Chair Minnis	Closes the public hearing on SB 920.
252	Sen. Metsger	MOTION: Moves to SUSPEND the rules so that Sen. Metsger and Sen. Burdick can vote on SB 925.
		VOTE: 7-0-0
257	Chair Minnis	Hearing no objection, declares the motion CARRIED.
259		Both vote aye
260	Chair Minnis	Adjourns the meeting at 3:00 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Marilyn Odell,
Counsel

EXHIBIT SUMMARY

- A – SB 925, written testimony submitted by Bill Perry, 23 pp**
- B – SB 925, -1 amendments submitted by staff, dated 3/13/01, 1**
- C – SB 667, written testimony submitted by William Winner, dated 3/13/01, 4 pp**
- D – SB 667, news articles submitted by Ingrid Swenson, 3 pp**
- E – SB 920, audiotape submitted by staff, dated 3/8/01**

F – SB 920, written testimony submitted by Brian Ostrom, 1 p