

SENATE COMMITTEE ON JUDICIARY

March 29, 2001 Hearing Room 343
1:00 p.m. Tapes 80-81

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**
 Craig Prins, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 806 Public Hearing**
 SB 914 Public Hearing
 SB 384 Work Session
 SB 655 Work Session
 SB 199 Work Session
 SB 167 Work Session
 SB 423 Work Session

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 80, A 003	Chair Minnis	Calls the meeting to order at 1:14 p.m. and opens a public hearing on SB 806.
<u>SB 806 PUBLIC HEARING</u>		
012	Counsel Prins	Explains SB 806 that creates crime of disseminating information about destructive devices. Says this bill parallels a federal law as described in (EXHIBIT R) .
026	Sen. Burdick	Asks if this has been challenged in court.
036	Counsel Prins	Replies that he is not aware of any challenges.
041	Andrea Meyer	American Civil Liberties Union Testifies in opposition to SB 806. Says there is a concern with the language of this bill and its implications on Article 1, Section 8 of the Oregon Constitution dealing with free speech.
064	Sen. Metsger	Referring to line 7, page 1 of the bill, asks about the "teaching with the intent to commit a felony" language.
069	Meyer	Says there is still the risk that the speech and what is being communicated in the ideas is being used to pursue someone.
080	Sen. Burdick	Asks if this bill would make it a crime to publish a novel involving how to make destructive devices.
104	Chair Minnis	Says the bill targets a person with intent, so if a person writes a book about making destructive devices, intent would have to be

108	Sen. Harper	proved.
112	Chair Minnis	Asks if the military law enforcement is an automatic exclusion.
119	Chair Minnis	Responds, yes.
		Closes the public hearing on SB 806 and opens a public hearing on SB 914.

SB 914 PUBLIC HEARING

125 **Steve Marks**

Governor’s Senior Policy Advisor

Testifies in support of SB 914 that requires court, under certain circumstances, to place person on probation when person is convicted of nonviolent drug possession crime. Says this bill is an important tool for the courts.

154 **Sen. Ryan Deckert**

Senate District 4

Submits testimony and testifies in support of SB 914 (**EXHIBIT A**). Says this bill does not take any funds from the General Fund and does not increase taxes. Also submits testimony from Judge Darryl Larson (**EXHIBIT B**), Kevin Mannix (**EXHIBIT C**), and Sheriff Jim Spinden (**EXHIBIT D**).

214 Chair Minnis

Asks about Judge Larson’s concerns in his testimony and his proposed amendments.

226 Sen. Deckert

Replies that someone from Judge Larson’s office will respond.

244 Sen. Harper

Ask about the forfeiture fund.

252 Sen. Deckert

Replies that this bill is tied into the civil forfeiture fund through the drug and alcohol treatment funds.

284 Sen. Duncan

Asks if any judges were involved in the work group that introduced the bill.

287 Sen. Deckert

Says there have been several judges involved.

297 Vice Chair Courtney

Comments that he would like to see the Oregon State Bar, or the Judiciary becomes involved in reviewing the bill with regard to taking away discretion of the court.

315 **Scott Taylor**

Department Of Corrections

Testifies in support of SB 914. Discusses a number of amendments that have been proposed and says that he has not reviewed all of them, but feels that their concerns have been dealt with.

345 Sen. Metsger

Asks for a number or percentage of individuals who would fall under the purview of this bill.

349 Taylor

Replies that he does not have a ballpark number.

368 Sen. Metsger

Asks what percentage of those currently incarcerated are in for non-violent drug offenses.

373 Taylor

Replies that the numbers are fairly high.

384 Counsel Prins

States that the bill is addressing possession offenses, which are Level one offense, therefore, none of the people addressed in this bill would be going to the Department of Corrections.

424 **Karen Wheeler**

Program and Policy Specialist, Office of Alcohol and Drug Abuse

Testifies in support conceptually of SB 914 with the –1 and –3 amendments (**EXHIBITS E and F**). Says that without a dedicated funding or revenue source the Governor can agree to, her office cannot fully endorse the bill.

TAPE 81, A
055

Dr. Mark Burton

Psychologist, Oregon Psychological Association

		Submits testimony and testifies in support of SB 914 (EXHIBIT G). Says that in the Journal of the American Medical Association it was pointed out that treatment of addiction has been established by research to be more cost-effective than law enforcement interventions alone.
120	Sen. Harper	Wonders about the threat of jail and random drug testing as important elements in treatment.
125	Dr. Burton	Replies that it depends on the particular individual and how they are assessed when they come in.
151	Dr. Shane Hayden	Oregon Psychological Association Testifies in support of SB 914. Talks about his work in the treatment culture for the past 30 years.
225	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in support of SB 914. Talks about the –1 amendments and says they incorporate the principal idea behind this measure. Says the –3 amendments refer to something that is technically available under current law. Believes this bill is a work in progress.
270	John Horton	Multnomah County District Attorneys Office Testifies in support of SB 914. Discusses current law and says that treatment is a condition of sentencing. Says his concerns include funding and not imposing jail time.
362	Sen. Harper	Asks how this bill differs from what we are doing today.
367	Counsel Prins	Explains that until the amendments are in place, they can't be compared.
393	Amy Klare	Oregonians for Property Protection Testifies that her organization is in support of the concept of SB 914. Says she represents the proponents of Ballot Measure 3. Says that her organization is very sincere in trying to fund drug treatment programs.
422	Chair Minnis	Closes the public hearing on SB 914 and opens a work session on SB 384.
<u>SB 384 WORK SESSION</u>		
445	Counsel Prins	Discusses SB 384 which eliminates certain responsibilities of State Commission on Children and Families and transfers other responsibilities to Juvenile Crime Prevention Advisory Committee and the Oregon Youth Authority. Introduces the –2 amendments (EXHIBIT H).
TAPE 80, B		
009	Karen Brazeau	Director, Oregon Youth Authority (OYA) Says this bill speaks to a couple of issues, including the transfer of the court services dollars that under current law are managed by the Commission on Children and Families with the intent to transfer that funding stream to the OYA.
042	Mickey Lansing	Oregon Commission on Children and Families Discusses the findings of the Oregon Criminal Justice Commission, Oregon Youth Authority and State Commission on Children & Families meetings of approximately 9 months duration. Says all three organizations are in agreement with the amendments.

061	Becky Eklund	Oregon Criminal Justice Commission
		Confirms that all are in agreement on the amendments.
069	Sen. Beyer	Asks Karen Brazeau why she desires deleting sections 3, 4, and 5.
073	Brazeau	Responds that section 3 covers the desired deletions.
083	Chair Minnis	Closes the work session on SB 384 and opens a work session on SB 655.

SB 655 WORK SESSION

086	Counsel Prins	Discusses SB 655 which expands crime of criminal trespass in first degree to cover entering or remaining unlawfully on premises that have been determined not fit for use due to illegal drug manufacturing, and presents the –1 amendments (EXHIBIT D) that speak to the property owner.
113	Mark Landauer	City of Portland, Government Relations Says that he hopes the –1 amendments address the concerns of committee members regarding innocent property owners who had meth labs operating on their property unbeknownst to them.
130	Vice Chair Courtney	MOTION: Moves to ADOPT SB 655-1 amendments dated 3/28/01.
132	Sen. Beyer	Says he doesn't like section 2a of the –1 amendments. VOTE: 6-1 AYE: 6 - Burdick, Courtney, Duncan, Harper, Metsger, Minnis NAY: 1 - Beyer
159	Chair Minnis	The motion Carries.

- 179 Vice Chair Courtney **MOTION: Moves SB 655 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 6-1
AYE: 6 - Burdick, Courtney, Duncan, Harper, Metsger, Minnis
NAY: 1 - Beyer
- 181 Chair Minnis **The motion Carries.**
COURTNEY will lead discussion on the floor.
- 185 Chair Minnis Closes the work session on 655 and opens a work session on SB 199.

SB 199 WORK SESSION

- 203 Counsel Odell Talks about SB 199 relating to the safe surrender of newborn children; appropriating money; declaring an emergency. Explains that the –5 amendments consolidate the other amendments **(EXHIBIT J).**
- 233 Vice Chair Courtney States that at the last hearing the representative from Kaiser Permanente felt that the definitions excluded facilities such as theirs and asked to be included.
- 248 Sen. Metsger Asks about the change from “person” to “parent”.
- 260 Vice Chair Courtney Says the intent of the change is consistency with other provisions.
- 289 Counsel Odell Explains that there is nothing preventing a facility from asking if the individual is the parent, but that it is only the parent that is given the waiver of criminal liability.
- 299 Vice Chair Courtney Further explains that it is the intent to make the parent not liable.
- 310 Sen. Beyer Asks about the “doctor” and “physician” terminology.
- 319 Counsel Odell Responds that the physician definition refers to the type of office.
- 342 Vice Chair Courtney **MOTION: Moves to ADOPT SB 199-5 amendments dated 3/28/01.**
VOTE: 7-0
- 350 Chair Minnis **Hearing no objection, declares the motion CARRIED.**
- 352 Vice Chair Courtney **MOTION: Moves SB 199 to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 7-0
- 357 Chair Minnis **Hearing no objection, declares the motion CARRIED.**
COURTNEY will lead discussion on the floor.
- 360 Chair Minnis Closes the work session on SB 199 and re-opens the work session on SB 384.

SB 384 WORK SESSION REOPENED

- 371 Sen. Metsger **MOTION: Moves to ADOPT SB 384-2 amendments dated 3/26/01.**
VOTE: 7-0
- 373 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

375	Sen. Duncan	MOTION: Moves SB 384 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0
382	Chair Minnis	Hearing no objection, declares the motion CARRIED. DUNCAN will lead discussion on the floor.
385	Chair Minnis	Closes the work session on SB 384 and opens a work session on 167.
<u>SB 167 WORK SESSION</u>		
390	Counsel Odell	Explains SB 167 permits court to appoint parenting plan and custody evaluation panel to assist court in evaluation of parenting plan and parenting time disputes and the –1 amendments (EXHIBIT K).
400	Vice Chair Courtney	MOTION: Moves to ADOPT SB 167-1 amendments dated 3/16/01.
		VOTE: 6-0-1
		EXCUSED: 1 – Burdick
404	Chair Minnis	Hearing no objection, declares the motion CARRIED.
405	Vice Chair Courtney	MOTION:..Moves SB 167 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0
		EXCUSED: 1 – Burdick
412	Chair Minnis	Hearing no objection, declares the motion CARRIED. MINNIS will lead discussion on the floor.
420	Chair Minnis	Closes the work session on SB 267 and opens a work session on SB 423.
<u>TAPE 81, B</u>		
<u>SB 423 WORK SESSION</u>		
032	Counsel Odell	Explains SB 423 modifies criminal and civil penalties for violations of cigarette tax laws, distributes an article entitled “Cigarette scams cost millions in lost tax revenue” (EXHIBIT L) and explains the –1, -2, -3 and –4 amendments (EXHIBITS M – P).
070	John Scott	Administrator, Business Tax Division, Department of Revenue
		Submits testimony and testifies in support of SB 423 (EXHIBIT Q). Discusses the context of the bill, the revenues and the issues.
133	Bob Alexander	Department of Revenue
		Testifies in support of SB 423. Says this bill updates the civil statutes and gives two additional penalties.
272	Sen. Harper	Referring to the spreadsheet in Exhibit Q and the –2 amendments, asks which are class C felonies.
275	Counsel Odell	Explains that #2 and #6 would be felonies and add the 60,000 cigarettes requirement.
286	Alexander	Provides additional explanation.
309	Sen. Burdick	Wonders where the 60,000 cigarette limit came from.
311	Counsel Odell	Explains that this is the number most other states in the western region have adopted.

366	Sen. Harper	MOTION: Moves to ADOPT SB 423-2 amendments dated 3/28/01. VOTE: 7-0
368	Chair Minnis	Hearing no objection, declares the motion CARRIED.
375	Vice Chair Courtney	MOTION: Moves to ADOPT SB 423-3 amendments dated 3/29/01. VOTE: 7-0
377	Chair Minnis	Hearing no objection, declares the motion CARRIED.
380	Sen. Courtney	MOTION: Moves SB 423 to the Revenue Committee with a DO PASS AS AMENDED recommendation. VOTE: 7-0
385 386	Chair Chair Minnis	Hearing no objection, declares the motion CARRIED. Closes the work session on SB 423 and adjourns the meeting at 3:02 p.m.

Submitted By,

Reviewed By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Craig Prins
Counsel

Marilyn Odell,
Counsel

EXHIBIT SUMMARY

- A – SB 914, written testimony submitted by Sen. Ryan Deckert, dated 3/29/01, 5 pp**
- B – SB 914, written testimony submitted by Judge Darryl Larson, dated 3/29/01, 3 pp**
- C – SB 914, written testimony submitted by Kevin Mannix, dated 3/28/01, 1 p**
- D – SB 914, written testimony submitted by Jim Spinden, dated 3/28/01, 1 p**
- E – SB 914, -1 amendments submitted by staff, dated 3/7/01 3pp**
- F – SB 914, -3 amendments submitted by staff, dated 3/16/01, 1 p**
- G – SB 914, written testimony submitted by Dr. Mark Burton, 1 p**
- H – SB 384, -2 amendments submitted by staff, dated 3/26/01, 2 pp**
- I – SB 655, -1 amendments submitted by staff, dated 3/28/01, 1 p**
- J – SB 199, -5 amendments submitted by staff, dated 3/28/01, 1 p**
- K – SB 167, -1 amendments submitted by staff, dated 3/16/01, 3 pp**
- L – SB 423, reprint of Oregonian article submitted by staff, 1 p**
- M – SB 423, -1 amendments submitted by staff, dated 3/27/01, 1 p**
- N – SB 423, -2 amendments submitted by staff, dated 3/28/01, 1 p**
- O – SB 423, -3 amendments submitted by staff, dated 3/29/01, 1 p**
- P – SB 423, -4 amendments submitted by staff, dated 3/29/01, 1 pp**
- Q – SB 423, written testimony submitted by John Scott, 7 pp**
- R – SB 806, reprint of federal law submitted by staff, 5 pp**