

SENATE COMMITTEE ON JUDICIARY

May 1, 2001 Hearing Room 343
1:00 p.m. Tapes 118 – 119

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: **Bill Taylor, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2409A Public Hearing and Work Session**
 HB 2413 Public Hearing
 HB 2428A Public Hearing and Work Session
 HB 2351 Public Hearing and Work Session
 HB 2348A Public Hearing
 HB 2444A Public Hearing and Work Session
 HB 2072A 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 118, A 004	Chair Minnis	Calls the meeting to order at 1:30 p.m. and opens a public hearing on HB 2409A.
<u>HB 2409 A PUBLIC HEARING</u> 007	Kevin Campbell	Oregon Association, Chiefs of Police Testifies in support of HB 2409A that exempts peace officers and federal officers from prohibitions against possessing firearms in court facilities under specified condition.
<u>HB 2409A WORK SESSION</u> 039	Vice Chair Courtney	MOTION: Moves HB 2409A to the floor with a DO PASS recommendation. VOTE: 5-0-2 EXCUSED: 2 – Beyer, Metsger
043	Chair Minnis	Hearing no objection, declares the motion CARRIED. HARPER will lead discussion on the floor.
047	Chair Minnis	Closes the work session on HB 2409A and opens a public hearing on HB 2413.
<u>HB 2413 PUBLIC HEARING</u> 051	Rep. Lane Shetterly	House District 34 Introduces HB 2413 that modifies affirmative defense to crime of furnishing obscene materials to a minor and testifies in support of

the bill. Says that this bill ties the language of the affirmative defense directly to the language of the statute which is what the court of appeals said would have to be done in order to make the furnishing of obscene materials to minors statute constitutional.

118	Chair Minnis	Asks why this was not sent to the supreme court.
120	Rep. Shetterly	Replies that he does not know if a review was sought.
155	Counsel Taylor	Read ORS 167.065.
170	Rep. Shetterly	Discusses the interpretation of ORS 167.065.
211	David Fidanque	American Civil Liberties Union of Oregon (ACLU) Submits testimony and testifies in opposition to HB 2413 (EXHIBIT A) . Suggests that the bill does nothing to address the most serious constitutional deformities of the furnishing to minors statute.
319	Vice Chair Courtney	Asks counsel if we are dealing with the same part of the constitution that has been dealt with for the last three sessions.
330	Counsel Taylor	Replies, yes.
348	Rep. Shetterly	Says that he believes it is time for this issue to be dealt with.
368	Chair Minnis	Reads ORS 163.686 and asks if this criminal statute doesn't cover the crime.
387	Rep. Shetterly	Says that this statute deals with "possession", not "furnishing".
396	Vice Chair Courtney	Asks if he believes the constitution would need to be amended.
399	Rep. Shetterly	Replies, no, that the statute could work within the constitution.
412	Sen. Burdick	Asks for more information about the "grooming" statute that Mr. Fidanque referred to.
419	Fidanque	Explains that the proposal he is referring to would be similar to the statute referred to by Sen. Minnis.
TAPE 119, A		
025	Sen. Burdick	Asks for Rep. Shetterly's response.
027	Rep. Shetterly	Said that there are definitional issues and reference to other portions of the obscenity statutes that raise question that are addressed in this bill.
045	Chair Minnis	Asks what the intent of HB 2413 is.
062	Rep. Shetterly	Replies that it is to rehabilitate the statute with regard to the "furnishing" aspect.
085	Vice Chair Courtney	States that he does not see how this can be achieved without amending the Oregon constitution.
096	Fidanque	Cites instances where it would not be necessary.

146	Vice Chair Courtney	Asks for clarity of the child's role.
175	Rep. Shetterly	Says it is the goal of this legislation to protect the children.
211	Counsel Taylor	Comments on past work groups.
228	Chair Minnis	Asks Sen. Burdick, Sen. Courtney and Sen. Duncan to sit in on a work group to discuss the issues of this bill further.
254	Chair Minnis	Closes the public hearing on HB 2413 and opens a public hearing on HB 2428A.

HB 2428A PUBLIC HEARING

256	Rep. Lane Shetterly	House District 34 Introduces HB 2428A that authorizes court to order youth offender to pay restitution for reward offered by victim or organization authorized by victim and paid for information leading to apprehension of youth offender.
277	Dale Penn	District Attorney's Association Testifies in support of HB 2428A.
302	Kathy Osborne	Juvenile Rights Project Testifies as neutral on HB 2428A.
316	Chair Minnis	Closes the public hearing on HB 2428A and opens a work session.

HB 2428A WORK SESSION

318	Sen. Beyer	MOTION: Moves HB 2428A to the floor with a DO PASS recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 – Courtney
322	Chair Minnis	Hearing no objection, declares the motion CARRIED. BEYER will lead discussion on the floor.
327	Chair Minnis	Closes the work session on HB 2428A and opens a public hearing on HB 2351.

HB 2351 PUBLIC HEARING

350	Jim Nass	Appellate Court Legal Counsel Submits testimony and testifies in support of HB 2351 (EXHIBIT B) that limits appeals and appellate review of appeals in criminal proceedings.
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TAPE 118, B

017	David Groom	State Public Defender's Office Testifies as neutral on HB 2351. Says that this bill withdraws some rights from clients that they previously had.
054	Nass	Says that criminal cases make up about 50 percent of the workload.
074	Chair Minnis	Closes the public hearing on HB 2351 and opens a work session.

HB 2351 WORK SESSION

076	Sen. Beyer	MOTION: Moves HB 2351 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.
		VOTE: 6-0-1
		EXCUSED: 1 – Courtney
078	Chair Minnis	Hearing no objection, declares the motion CARRIED.
079	Chair Minnis	Closes the work session on HB 2351 and opens a public hearing on HB 2348A.

HB 2348A PUBLIC HEARING

087 Jim Ness

Appellate Court Legal Counsel

Submits testimony and testifies in support of HB 2348A **(EXHIBIT C)** that limits judicial review of final orders of State Board of Parole and Post-Prison Supervision.

199 David Groom

State Public Defender's Office

Testifies in support of HB 2348A. Says that he is concerned about the impact on his office with regard to the caseload.

218 Chair Minnis
220 Groom

Asks where their caseload comes from.

Replies that most of the caseload is from direct appeal cases that come from circuit court.

243 Chair Minnis
268 Ness

Ask if there are some savings by bypassing circuit court.

Replies yes, but additional costs in the court of appeals will occur because of the additional caseload.

319 Philip Schradle

Oregon Department of Justice

Submits testimony and testifies in support of HB 2348A **(EXHIBIT D)**. Says that by eliminating the circuit court process we look for a savings of \$450,000 in the next biennia.

353 Ness

Mentions that there are some proposed technical amendments that are on page 8 and 9 of his written testimony (Exhibit C).

395 Chair Minnis

Closes the public hearing on HB 2348A and opened a public hearing on HB 2444.

HB 2444A PUBLIC HEARING

402 Carl Myers

Oregon Juvenile Department Director's Association

Submits testimony and testifies in support of HB 2444A that authorizes establishment of youth courts **(EXHIBIT E and F)**.

437 Chair Minnis

Closes the public hearing on HB 2444A and opens a work session.

HB 2444A WORK SESSION

439 Sen. Duncan

MOTION: Moves HB 2444A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 – Courtney

444 Chair Minnis

Hearing no objection, declares the motion CARRIED.

DUNCAN will lead discussion on the floor.

448 Chair Minnis

Closes the work session on HB 2444A and opens a public hearing on HB 2072A.

TAPE 119, B

HB 2072A PUBLIC HEARING

025 Ronelle Shankle

Department of Justice, Division of Child Support

Submits testimony and testifies in support of HB 2072A **(EXHIBIT G)** that provides that child support obligation is rebuttably presumed to be offset dollar for dollar by child's Social Security or Veterans' benefits received as result of obligor's disability or retirement.

046 David Nebel

Oregon Law Center

Testifies as neutral on HB 2072A and suggests a small change in the A-engrossed bill. Says credit against arrearages needs to be

078	Chair Minnis	addressed.
102	Sen. Burdick	Closes the public hearing on HB 2072A. MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. COURTNEY to BE RECORDED as voting AYE on HB 2428A, HB 2351 and HB 2444A to the floor with a DO PASS recommendation.
107	Sen. Burdick	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. METSGER to BE RECORDED as voting AYE on HB 2409A to the floor with a DO PASS recommendation.
108	Chair Minnis	Adjourns the meeting at 2:55 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

- A - HB 2413, written testimony submitted by David Fidanque, dated 5/1/01, 1 p**
- B – HB 2351, written testimony submitted by James Nass, dated 5/1/01, 4 pp**
- C – HB 2348, written testimony submitted by James Nass, dated 5/1/01, 7 pp**
- D – HB 2348, written testimony submitted by Phil Schradle, dated 5/1/01, 4 pp**
- E – HB 2444, written testimony submitted by Larry Oglesby, dated 5/1/01, 1 pp**
- F – HB 2444, written testimony submitted by Sherry Pressler, dated 4/3/01, 1 pp**
- G – HB 2072, written testimony submitted by Ronelle Shankle, dated 5/1/01, 49 pp**