

SENATE COMMITTEE ON JUDICIARY

May 02, 2001 Hearing Room 343
1:00 p.m. Tapes 120 - 121

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 230 Work Session**
 SB 914 Work Session
 HB 2096A Public Hearing and Work Session
 HB 2663A Public Hearing
 HB 2094A Public Hearing and Work Session
 HB 2097 Public Hearing and Work Session
 HB 2099 Public Hearing and Work Session
 HB 2100 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 120, A		
004	Chair Minnis	Calls the meeting to order at 1:12 p.m. and opens a work session on SB 230.
<u>SB 230 WORK SESSION</u>		
007	Vice Chair Courtney	MOTION: Moves to ADOPT SB 230-5 amendments dated 3/30/01(EXHIBIT A).
014	Chair Minnis	Hearing no objection, declares the motion CARRIED.
017	Vice Chair Courtney	MOTION: Moves SB 230 to the floor with a DO PASS AS AMENDED recommendation.
020		VOTE: 6-1-0 AYE: 6 – Burdick, Duncan, Harper, Metsger, Courtney, Minnis NAY: 1 – R. Beyer
025	Chair Minnis	The motion CARRIED.
	Staff	SEN. DECKERT will lead discussion on the floor. Distributes written testimony from Glen Stonebrink, Oregon Cattlemen's Association (EXHIBIT B).
027	Chair Minnis	Closes the work session on SB 230 and opens a work session SB 914.
<u>SB 914 WORK SESSION</u>		
028	Vice Chair Courtney	MOTION: Moves to ADOPT SB 914-5 amendments dated 4/16/01 (EXHIBIT C).
031	Counsel Prins	Introduces SB 914 which relates to drug treatment services.

058	Chair Minnis	Talks about the –5 amendments (EXHIBIT C). Asks about the relationship of the Drug Prevention Education Fund and the property crimes element.
061	Sen. Ryan Deckert	Senate District 4
063	Chair Minnis	Says they are two very separate issues.
064	Sen. Deckert	Asks how the property crimes are treated. Responds that it allows a grant program and counties are allowed to compete for the grants; the language lays out the process to compete for the grants.
072	Chair Minnis	Reads language and asks if that is the nexus between property crimes and drug offenses.
073	Sen. Deckert	Concurs.
074		VOTE: 7-0-0
075	Chair Minnis	Hearing no objection, declares the motion CARRIED.
077	Vice Chair Courtney	MOTION: Moves SB 914 to the floor with a DO PASS AS AMENDED recommendation.
082		VOTE: 7-0-0
084	Chair Minnis	The motion CARRIED.
		SEN. DECKERT will lead discussion on the floor.
100	Chair Minnis	Closes the work session on SB 914 and opens a public hearing on HB 2096A
<u>HB 2096A PUBLIC HEARING</u>		
115	Nick Armenakis	Oregon Department of Corrections (DOC) Submits testimony and testifies in support of HB 2096A, which requires superintendent of the Department of Corrections institution where execution will take place to invite representatives from the media (EXHIBIT D).
133	Brian DeLashmutt	Association of Oregon Corrections Employees (AOCE) Testifies in support of HB 2096A.
154	Ken Strobeck	Oregon Association of Broadcasters Testifies in support of SB 2096A.
167	Andrea Meyer	American Civil Liberties Union (ACLU) Testifies in support of SB 2096A.
173	Chair Minnis	Asks Ms. Meyer to define “done correctly.”
174	Meyer	Responds the public needs to be assured that an execution is carried out safely and humanely.
181	Sen. Metsger	Confirms the closed circuit television does not allow for the recording of an execution.
192	Armenakis	Agrees.
196	DeLashmutt	Notes this was the same concern his organization had. Mentions it was very clear in the work group meetings that it would not be taped.
199	Strobeck	Explains the rules the Oregon Department of Corrections has that would prohibit the media representatives from bringing any equipment in with them; the media is issued paper and pencil.
204	Meyer	Adds support to comments already made – the intent was clear that there would be no recording.
208	Vice Chair Courtney	Inquires about protecting the identity of the physician who administers the injection kept confidential.
222	Armenakis	DOC would continue to attempt to protect that person’s identity; explains the process that would be used.
230	DeLashmutt	Describes how and where camera placement would be so the

identity of the participants is protected.

253 Chair Minnis Cites page 2, line 3 of the amended language as the language that allows for the control of the situation.

262 Vice Chair Courtney Clarifies the public policy “we are implementing” with HB 2096A.

264 Armenakis Says it is a decision of the DOC of having the media involved.

277 Chair Minnis Clarifies that everyone is happy with the language and intent. Closes the public hearing on HB 2096A and opens a work session on HB 2096A.

HB 2096A WORK SESSION

289 Sen. Duncan Speaks to his opposition to “capital punishment”, but notes that he will vote for the measure.

305 Chair Minnis Addresses the “real issue”, which is a constitutional issue, 1st amendment, free press, etc.

314 **Sen. Metsger** **MOTION: Moves HB 2096A to the floor with a DO PASS recommendation.**
Discussion of measure and issue of how public an execution should be needs to be addressed in another setting.

450 **VOTE: 6-0-1**
AYE: 6 – Burdick, Duncan, Harper, Metsger, Courtney, Minnis
EXCUSED: 1 - R. Beyer
The motion CARRIED.

454 **Chair Minnis** **SEN. MINNIS will lead discussion on the floor.**

460 Chair Minnis Closes the work session on HB 2096A and opens a public hearing on HB 2663A.

HB 2663A PUBLIC HEARING

462 **Rep. Tootie Smith** **House District 28**
Testifies in support of HB 2663A, which will extend the statute of limitations for rape and sodomy in the first and second degrees in specified circumstances.

515 Chair Minnis Asks if the intent is to have DNA as bona fide evidence.

517 Rep. T. Smith Agrees.

TAPE 121, A

051 Chair Minnis Asks why the twelve year limit.

054 Counsel Prins Explains it was originally twenty and was reduced to twelve on the House side.

057 Chair Minnis Notes that twelve is the number that is called “the statute of ultimate repose” in civil cases.

068 **Ingrid Swenson** **Oregon Criminal Defense Lawyers Association (OCDLA)**
Testifies in opposition to HB 2663A.

100 Chair Minnis Asks of an incident where this would apply and questions where the defendant would be disadvantaged.

112 Swenson Describes a situation involving a prostitute.

141 Chair Minnis Talks about questions asked during an investigation.

151 Swenson Speaks to the possibility of DNA identifying the defendant but may not be definitive.

168 Chair Minnis Questions if there is a similar circumstance with the statute of limitations for child sexual abuse.

170 Swenson Concurs and notes the same arguments apply to that case, but it is current law.

179 Counsel Prins Questions the language in the amendment, which he believes

		would limit the time for a minor victim to bring a claim; is unclear as to the intent of the measure is to calculate in the manner described.
195	Chair Minnis	Asks if this measure may have a conflict with an existing statute.
196	Counsel Prins	Cites lines 42 and 45, page 2, of the amended measure, which makes a “bright line rule” and notes for a minor victim, under current statute, it can be longer than twelve years.
211	Sen. Metsger	Asks Swenson if it does not remain the responsibility of the State to prove the guilt of the individual.
220	Swenson	Responds that the State decides when to bring a prosecution, but explains the “pitfalls” for a defendant.
246	Sen. Metsger	Notes the discussion has been about semen DNA, but the measure just addresses DNA; asks about items left at the scene that provide a DNA sample that may or may not have belonged to the perpetrator.
264	Swenson	Concurs and expands on the problems encountered in “after the fact evidence” and the farther you get from the evidence.
276	Chair Minnis	Reviews other measures dealing with DNA and how it must fit into the factual circumstances of the case.
300	Rep. Jackie Winters	House District 31
		Testifies in support HB 2663A.
365	Sen. Harper	Asks how did the proponents arrive at twelve year.
366	Rep. Winters	Explains the discussions that brought about the twelve-year figure.
381	Counsel Prins	Reviews the concern with the House amendments.
399	Virginia Vanderbilt	Legislative Counsel
		Concurs with Prins analysis.
414	Chair Minnis	Refers to line 42, page 2 of the amended measure, and asks if that language does not work
421	Vanderbilt	Responds that it does not get you to the same place so language similar to the introduced measure needs to be reinserted.
439	Sen. Duncan	Asks about the letter read by Rep. Winter and questions how many more years the sixteen year old in the letter had to go, two.
449	Chair Minnis	Explains statute of limitations and reporting requirements. Asks Ms. Vanderbilt to draft amendments.
469	Sen. Metsger	Notes in the current language the timeframe is set at the time it is reported to a government agency, and the new amendment is twelve years from the commission of the offense and that needs to be consistent.
482	Chair Minnis	Responds that the committee is trying to get to where the crime has been reported.
491	Vanderbilt	Concurs that is the direction in which the amendments were trying to go.
509	Sen. Burdick	Expresses concern with the bill as it is written now.
051	Dale Penn	Marion County District Attorney
		Testifies in support of HB 2663A.
087	Sen. Metsger	Asks about the measure not limiting DNA to semen; expresses concern about DNA that is linked to other evidence found at a crime scene.
097	Penn	Agrees. Mentions practicalities would need to come into play

TAPE 120, B

129	Counsel Prins	and cites an example.
135	Penn	Questions Penn about the defendant's right to a speedy trial and how this measure would apply.
168	Chair Minnis	Explains the right to a speedy trial law. Closes the public hearing on HB 2663A and opens a public hearing on HB 2094A.

HB 2094A PUBLIC HEARING

180 **Nick Armenakis**

Oregon Department of Corrections (DOC)

Submits testimony and testifies in support of HB 2094A which allows the Department of Corrections to enter into agreements to provide specified services and assistance to local governments with respect to local correctional and juvenile detention facilities (**EXHIBIT E**).

206 **Russ Spencer**

Oregon Sheriff's Association (OSA)

Testifies in support of HB 2094A.

229 Vice Chair Courtney
232 Spencer

Asks if this works both ways.
Replies the OSA would respond to any request by DOC. Notes the DOC requires statutory authorization in order to assist the OSA.

240 Armenakis

Talks about the current agreement between the DOC and the sheriffs.

248 Vice Chair Courtney
256 Spencer

Asks what is meant by "cell extraction".
Explains what "cell extraction" is.

274 Vice Chair Courtney
275 Armenakis
281 Sen. Metsger

Asks who handles "cell extraction" training.
Replies, the DOC.

299 Armenakis
306 Spencer

Questions if it is the intent that the provision of services be taken out of the budget expense for DOC.

Concurs.

Clarifies that health care services is an area the Sheriffs contemplate using these services and it would be a "fee for service" arrangement.

329 **Mary Botkin**

American Federation of State County Municipal Employees (AFSCME)

Testifies in support of HB 2094A.

363 Chair Minnis

Closes the public hearing on HB 2094A and opens a work session on HB 2094.

HB 2094A WORK SESSION

364 **Vice Chair Courtney**

MOTION: Moves HB 2094A to the floor with a DO PASS recommendation.

365

VOTE: 5-0-2

AYE: 5 – Burdick, Harper, Metsger, Courtney, Minnis

EXCUSED: 2 - R. Beyer, Duncan

368 **Chair Minnis**

The motion CARRIED.

383 Chair Minnis

SEN. COURTNEY will lead discussion on the floor.

Closes the work session on HB 2094A and opens a public hearing on HB 2097.

HB 2097 PUBLIC HEARING

385 **Scott Taylor**

Oregon Department of Corrections (DOC)

Submits testimony and testifies in support of HB 2097 which authorizes the Department of Corrections and the Oregon Youth Authority to provide specified ordinary and extraordinary medical treatment and services to persons under 18 years of age

409 Chair Minnis in their custody (**EXHIBIT F**).
Closes the public hearing on HB 2097 and opens a work session on HB 2097.

HB 2097 WORK SESSION

409 Sen. Metsger Lists medical care provided to inmates at DOC that are viewed as extraordinary care. Asks if those types of care would fall under the term “ordinary medical care”.

420 Taylor Replies, yes.

458 Sen. Burdick Asks if prisoners get more services than are available on the priority list of the Oregon Health Plan.

470 Taylor Says some services reviewed are different from the Oregon Health Plan because of court cases.

479 **Jeff VanValkenberg** **Oregon Department of Corrections (DOC)**
Explains the protection inmates have, both at state and local level, preventing the DOC from tying their provision of care to the Oregon Health Plan priorities.

TAPE 121, B

043 Vice Chair Courtney **MOTION: Moves HB 2097 to the floor with a DO PASS recommendation.**

055 **VOTE: 6-0-1**
AYE: 6 – Burdick, Duncan, Harper, Metsger, Courtney, Minnis
EXCUSED: 1 - R. Beyer

057 Chair Minnis **The motion CARRIED.**

058 Sen. Duncan **SEN. BURDICK will lead discussion on the floor.**
SEN. DUNCAN being excused when the roll was called, was granted unanimous consent to be recorded as voting AYE on HB 2094A. The vote will be recorded as 6-0-1.

069 Chair Minnis Closes the work session on HB 2097 and opens a public hearing on HB 2099.

HB 2099 PUBLIC HEARING

079 **Nick Armenakis** **Oregon Department of Corrections (DOC)**
Submits testimony and testifies in support of HB 2099 which allows the extradition of a person without Governor’s warrant under certain circumstances (**EXHIBIT G**).

104 **Ingrid Swenson** **Oregon Criminal Defense Lawyers Association (OCDLA)**
Testifies in opposition to HB 2099.
Questions and discussion regarding Oregon courts and clarifying Swenson’s testimony that she is referencing people in Oregon’s jurisdiction and demanded by another jurisdiction to be returned.

148 **Jeff VanValkenberg** **Oregon Department of Corrections**
 Restates the two issues, as presented by Armenakis, and the purpose of the measure is to provide uniformity among jurisdictions.

164 Chair Minnis
 Asks for VanValkenberg’s comments on Swenson’s testimony regarding the judicial process for people being extradited out of Oregon.

166 VanValkenberg
 Responds there are still limitations on the powers of the State in proceeding. Talks about the measures intent.

179 Chair Minnis
 Closes the public hearing on HB 2099 and opens a work session on HB 2099.

HB 2099 WORK SESSION

181 **Vice Chair Courtney** **MOTION: Moves HB 2099 to the floor with a DO PASS recommendation.**

189 **VOTE: 6-0-1**
AYE: 6 – Burdick, Duncan, Harper, Metsger, Courtney, Minnis
EXCUSED: 1 - R. Beyer
The motion CARRIED.

192 **Chair Minnis** **SEN. DUNCAN will lead discussion on the floor.**

194 Chair Minnis
 Closes the work session on HB 2099 and opens a public hearing on HB 2100.

HB 2100 PUBLIC HEARING

211 **Scott Taylor** **Oregon Department of Corrections (DOC)**
 Submits testimony and testifies in support of HB 2100, which provides flexibility in early release of a prisoner when the date of release from imprisonment falls on a weekend, or legal holiday. Talks about the –2 amendments (**EXHIBIT H & I**).

265 Sen. Harper
 Speaks in support of holding the people over the weekend and releasing on Tuesday.

268 Taylor
 Explains how Measure 11 and a specific release date dictate release.

291 Chair Minnis
 Recesses the hearing at 2:50 p.m.

293 Chair Minnis
 Reconvenes the hearing at 2:55 p.m. and adjourns the meeting at 3:00 p.m.

Submitted By,

Reviewed By,

Annola DeJong,
 Committee Assistant

Craig Prins,
 Counsel

Transcribed By,

Joan Green
Committee Assistant

EXHIBIT SUMMARY

A – SB 230, -5 amendments submitted by staff, dated 3/30/01, 3 pp.

B – SB 230, written testimony submitted by Glen Stonebrink, Oregon Cattlemen’s Association, 1 p.

C – SB 914, -5 amendments submitted by staff, dated 4/16/01, 4 pp.

D – HB 2096A, written testimony submitted by Nick Armenakis, Department of Corrections, dated 5/2/01, 1 p.

E – HB 2094A, written testimony submitted by Nick Armenakis, Department of Corrections, dated 5/2/01, 1 p.

F – HB 2097, written testimony submitted by Scott Taylor, Department of Corrections, dated 5/2/01, 1 p.

G – HB 2099, written testimony submitted by Nick Armenakis, Department of Corrections, dated 5/2/01, 2 pp.

H – HB 2100, written testimony submitted by Scott Taylor, Department of Corrections, dated 5/2/01, 2 pp.

I – HB 2100, -2 amendments submitted by Scott Taylor, Department of Corrections, dated 5/2/01, 10 pp.