

## SENATE COMMITTEE ON JUDICIARY

May 08, 2001 Hearing Room 343

1:00 p.m. Tapes 128 - 129

**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**  
                                     **Bill Taylor, Counsel**  
                                     **Annola DeJong, Committee Assistant**

**MEASURES HEARD:**        **HB 2355A Public Hearing**  
                                     **HB 2337A Public Hearing**  
                                     **HB 2340 Public Hearing and Work Session**  
                                     **HB 2343A Public Hearing**  
                                     **SB 365 Work Session**  
                                     **SB 722 Work Session**  
                                     **HB 2348A Work Session**  
                                     **HB 2351 Public Hearing**  
                                     **SB 542 Work Session**

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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 128, A</b>                    |                           |                                                                                                                                                                                                                                                           |
| 004                                   | Chair Minnis              | Calls the meeting to order at 1: 25 p.m. and opens a public hearing on HB 2355A.                                                                                                                                                                          |
| <b><u>HB 2355A PUBLIC HEARING</u></b> |                           |                                                                                                                                                                                                                                                           |
| 009                                   | <b>Michael Livingston</b> | <b>Oregon Department of Justice (DOJ)</b><br>Submits testimony and testifies in support of HB 2355A which will allow persons within the jurisdiction of the juvenile court to seek post-adjudication relief in juvenile proceedings ( <b>EXHIBIT A</b> ). |
| 051                                   | <b>Kathie Osborn</b>      | <b>Juvenile Rights Project</b><br>Testifies in support of HB 2355A.                                                                                                                                                                                       |
| 128                                   | Livingston                | Offers additional testimony in support of HB 2355A.                                                                                                                                                                                                       |
| 147                                   | Counsel Prins             | Refers to Section 3, subsection A, on page 1 and verifies the intent of HB 2355A.                                                                                                                                                                         |
| 153                                   | Livingston                | Agrees.                                                                                                                                                                                                                                                   |
| 168                                   | Sen. Beyer                | Asks why the current law is not sufficient.                                                                                                                                                                                                               |
| 172                                   | Livingston                | Discusses why HB 2355A is necessary legislation.                                                                                                                                                                                                          |
| 204                                   | Osborn                    | Offers an additional explanation in response to Sen. Beyer's                                                                                                                                                                                              |

251 Vice Chair Courtney

question.

Closes the public hearing on HB 2355A and opens a public hearing on HB 2337A.

**HB 2337A PUBLIC HEARING**

269 James Nass

**Oregon Department of Justice**

Submits testimony and testifies in support of HB 2337A which will require that a court determine at specified stages of proceeding whether request for waiver of counsel in criminal action is made knowingly and voluntarily (**EXHIBIT B**). Asks the committee not to move on HB 2337A today.

410 Vice Chair Courtney

Closes the public hearing on HB 2337A and opens a public hearing on HB 2340.

**HB 2340 PUBLIC HEARING**

416 Ann Christian

**Oregon Judicial Department**

Submits testimony and testifies in support of HB 2340 which will modify provisions relating to sentencing proceedings in aggravated murder cases when the death penalty is not sought (**EXHIBIT C**).

**TAPE 129, A**

001 Christian

Continues her testimony in support of HB 2340.

059 Vice Chair Courtney

Closes the public hearing on HB 2340 and opens a work session on HB 2340.

**HB 2340 WORK SESSION**

067 Sen. Beyer

**MOTION: Moves HB 2340 to the floor with a DO PASS recommendation.**

070

**VOTE: 7-0-0**

075 Vice Chair Courtney

**Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.**

079 Vice Chair Courtney

Closes the work session on HB 2340 and opens a public hearing on HB 2343A.

**HB 2343A PUBLIC HEARING**

090 Timothy Travis

**Oregon Judicial Department**

Testifies in support of HB 2343A which will modify the definition of abuse for the purposes of child abuse reporting. Refers to Subsection 2, line 15. Asks if the language is narrow enough to let people “off the hook” on the basis of presumption. Says he believes it is.

327 Sen. Burdick

Inquires about affirmative defense.

341 Travis

Explains how an affirmative defense works.

373 Sen. Burdick

Asks why the language regarding the “culture of the child” was deleted.

377 Travis

Responds he does not know.

419 Chair Minnis

Reads written testimony from Robert Walliker, who objects to HB 2343A (**EXHIBIT D**).

424 Travis

453 Chair Minnis

**TAPE 128, B**

021 Kathie Osborn

**Juvenile Rights Project**

Testifies in support of HB 2343A.

073 Chair Minnis

Closes the public hearing on HB 2343A and opens a work session on SB 365.

**SB 365 WORK SESSION**

083 Dianne Middle

**Director, Department of Public Safety Standards and Training (DPSST)**

|                                     |                            |                                                                                                                                                                                                                                                  |
|-------------------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     |                            | Testifies in support of SB 365 which will authorize DPSST to take title to real property. Talks about the –2 amendments <b>(EXHIBIT E)</b> .                                                                                                     |
| 122                                 | Sen. Harper                | Asks how much property the State of Oregon owns.                                                                                                                                                                                                 |
| 127                                 | <b>Bill Foster</b>         | <b>Department of Administrative Services (DAS)</b>                                                                                                                                                                                               |
|                                     |                            | Reports about 3 million acres.                                                                                                                                                                                                                   |
| 144                                 | <i>Unidentified Man</i>    | Says the Division of State Lands and the Department of Forestry own the majority of the acres. Mentions there are 18 agencies that own land.                                                                                                     |
| 161                                 | Sen. Beyer                 | Asks if there is material available that shows a breakdown of the acres.                                                                                                                                                                         |
| 165                                 | <i>Unidentified Man</i>    | Talks about the database at the Division of Administrative Services.                                                                                                                                                                             |
| 178                                 | <b>Vice Chair Courtney</b> | <b>MOTION: Moves to ADOPT SB 365-2 amendments dated 05/08/01.</b>                                                                                                                                                                                |
| 182                                 |                            | <b>VOTE: 7-0-0</b>                                                                                                                                                                                                                               |
| 183                                 | <b>Chair Minnis</b>        | <b>Hearing no objection, declares the motion CARRIED.</b>                                                                                                                                                                                        |
| 184                                 | <b>Vice Chair Courtney</b> | <b>MOTION: Moves SB 365 to the floor with a DO PASS AS AMENDED recommendation.</b>                                                                                                                                                               |
| 186                                 |                            | <b>VOTE: 6-1-0</b><br><b>AYE: 6 - Sen. Metsger, Sen. Courtney, Sen. Minnis, Sen. Duncan, Sen. Burdick, Sen. Harper</b><br><b>NAY: 1 - Sen. Beyer</b>                                                                                             |
| 187                                 | <b>Chair Minnis</b>        | <b>The motion Carries.</b><br><b>SEN. MINNIS will lead discussion on the floor.</b>                                                                                                                                                              |
| 204                                 | Chair Minnis               | Closes the work session on SB 365 and opens a work session on SB 722.                                                                                                                                                                            |
| <b><u>SB 722 WORK SESSION</u></b>   |                            |                                                                                                                                                                                                                                                  |
| 212                                 | Counsel Prins              | Introduces SB 722 which will prohibit the Oregon Board of Investigators from limiting entities that may provide professional education to governmental or nonprofit entities. Talks about the –2 and –3 amendments <b>(EXHIBITS F &amp; G)</b> . |
| 284                                 | <b>Vice Chair Courtney</b> | <b>MOTION: Moves to ADOPT SB 722-2 amendments dated 04/30/01.</b>                                                                                                                                                                                |
| 287                                 |                            | <b>VOTE: 7-0-0</b>                                                                                                                                                                                                                               |
| 288                                 | <b>Chair Minnis</b>        | <b>Hearing no objection, declares the motion CARRIED.</b>                                                                                                                                                                                        |
| 289                                 | <b>Vice Chair Courtney</b> | <b>MOTION: Moves SB 722 AS AMENDED to the committee on Ways and Means.</b>                                                                                                                                                                       |
| 294                                 | Counsel Prins              | Says there is no fiscal available for the –2 amendments.                                                                                                                                                                                         |
| 331                                 |                            | <b>VOTE: 7-0-0</b>                                                                                                                                                                                                                               |
| 333                                 | <b>Chair Minnis</b>        | <b>Hearing no objection, declares the motion CARRIED.</b>                                                                                                                                                                                        |
| 334                                 | Chair Minnis               | Closes the work session on SB 722 and opens a work session on HB 2348A.                                                                                                                                                                          |
| <b><u>HB 2348A WORK SESSION</u></b> |                            |                                                                                                                                                                                                                                                  |
| 342                                 | Counsel Taylor             | Introduces HB 2348A which will limit the judicial review of final orders of the State Board of Parole and Post-Prison Supervision. Talks about the –A4 amendments <b>(EXHIBIT H)</b> .                                                           |
| 400                                 | <b>Vice Chair Courtney</b> | <b>MOTION: Moves to ADOPT HB 2348-A4 amendments dated 05/07/01.</b>                                                                                                                                                                              |
| 405                                 |                            | <b>VOTE: 7-0-0</b>                                                                                                                                                                                                                               |

|                                      |                        |                                                                                                                                                                            |
|--------------------------------------|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 406                                  | Chair Minnis           | Hearing no objection, declares the motion CARRIED.                                                                                                                         |
| 408                                  | Vice Chair<br>Courtney | <b>MOTION: Moves HB 2348A AS AMENDED to the committee on Ways and Means.</b>                                                                                               |
| 411                                  |                        | <b>VOTE: 7-0-0</b>                                                                                                                                                         |
| 412                                  | Chair Minnis           | <b>Hearing no objection, declares the motion CARRIED.</b>                                                                                                                  |
| 414                                  | Chair Minnis           | Closes the work session on HB 2348A and opens a public hearing on HB 2351.                                                                                                 |
| <b><u>HB 2351 PUBLIC HEARING</u></b> |                        |                                                                                                                                                                            |
| 421                                  | Counsel Prins          | Introduces HB 2351 which will limit appeals and appellate review of appeals in criminal proceedings.                                                                       |
| 442                                  | James Nass             | <b>Oregon Department of Justice (DOJ)</b><br>Testifies in support of HB 2351.                                                                                              |
| 489                                  | Chair Minnis           | Closes the public hearing on HB 2351 and opens a work session on SB 542.                                                                                                   |
| <b><u>TAPE 129, B</u></b>            |                        |                                                                                                                                                                            |
| <b><u>SB 542 WORK SESSION</u></b>    |                        |                                                                                                                                                                            |
| 038                                  | Counsel Prins          | Introduces SB 542 which will create a crime of assisting a runaway child. Talks about the -1 amendments ( <b>EXHIBIT I</b> ).                                              |
| 062                                  | Vice Chair<br>Courtney | <b>MOTION: Moves to ADOPT SB 542-1 amendments dated 04/19/01.</b>                                                                                                          |
| 064                                  |                        | <b>VOTE: 6-0-1</b>                                                                                                                                                         |
| 066                                  | Chair Minnis           | <b>EXCUSED: 1 - Sen. Harper</b><br><b>Hearing no objection, declares the motion CARRIED.</b>                                                                               |
| 070                                  | Duncan                 | <b>MOTION: Moves SB 542 to the floor with a DO PASS AS AMENDED recommendation.</b>                                                                                         |
| 074                                  |                        | <b>VOTE: 2-4-1</b><br><b>AYE: 2 - Sen. Duncan, Sen. Metsger</b><br><b>NAY: 4 - Sen. Beyer, Sen. Courtney, Sen. Minnis, Sen. Burdick</b><br><b>EXCUSED: 1 - Sen. Harper</b> |
| 089                                  | Chair Minnis           | <b>The motion Fails.</b>                                                                                                                                                   |
| 091                                  | Chair Minnis           | Closes the work session on SB 542 and adjourns the meeting at 2:30 p.m.                                                                                                    |

Submitted By,

Reviewed By,

Annola DeJong,  
Committee Assistant

Craig Prins,  
Counsel

**EXHIBIT SUMMARY**

**A – HB 2355A, written testimony submitted by Michael Livingston, Department of Justice, dated 5/08/01, 2 pp.**

**B – HB 2337A, written testimony submitted by James Nass, Department of Justice, dated 5/08/01,**

**4 pp.**

**C – HB 2340, written testimony submitted by Ann Christian, Oregon Judicial Department, dated 5/08/01, 2 pp.**

**D – HB 2343A, written testimony from Robert Walliker, submitted by Sen. John Minnis, Senate District 11, 6 pp.**

**E – SB 365, -2 amendments submitted by Dianne Middle, Department of Public Safety Standards and Training, dated 5/8/01, 1 p.**

**F – SB 722, -2 amendments submitted by staff, dated 4/30/01, 20 pp.**

**G – SB 722, -3 amendments submitted by staff, dated 4/30/01, 20 pp.**

**H – HB 2348A, -A4 amendments submitted by staff, dated 5/07/01, 1 p.**

**I – SB 542, -1 amendments submitted by staff, dated 4/19/01, 1 p.**

**J – HB 2355, written testimony from David Kenagy, Oregon Law Commission, 4 pp.**