

SENATE COMMITTEE ON JUDICIARY

June 14, 2001 Hearing Room 343

7:15 a.m. Tapes 164 - 165

MEMBERS PRESENT: Sen. John Minnis, Chair
 Sen. Peter Courtney, Vice Chair
 Sen. Roger Beyer
 Sen. Verne Duncan
 Sen. Steve Harper
 Sen. Rick Metsger

MEMBER EXCUSED: Sen. Ginny Burdick

STAFF PRESENT: Marilyn Odell, Counsel
 Craig Prins, Counsel
 Annola DeJong, Committee Assistant

MEASURES HEARD: **HB 3680A Public Hearing and Work Session**
 HB 3461 Work Session
 HB 3912A Public Hearing and Work Session
 HB 2429A Work Session
 HB 2007A Public Hearing and Work Session
 HB 2394A Public Hearing and Work Session
 HB 2092A 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 164, A		
004	Chair Minnis	Calls the meeting to order at 7:20 a.m. and opens a public hearing on HB 3680A.
<u>HB 3680A PUBLIC HEARING</u>		
014	Gina Skinner	Oregon District Attorney's Association Submits testimony and testifies in support of HB 3680A which will allow introduction of evidence that the defendant has been convicted of certain crimes involving domestic violence and the defendant is witness (EXHIBIT A).
038	Chair Minnis	Closes the public hearing on HB 3680A and opens a work session on HB 3680A.
<u>HB 3680A WORK SESSION</u>		
038	Vice Chair Courtney	MOTION: Moves HB 3680A to the floor with a DO PASS recommendation.
041		VOTE: 4-0-3
042	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.

047	Chair Minnis	Closes the work session on HB 3680A and opens a work session on HB 3461.
<u>HB 3461 WORK SESSION</u>		
053	Counsel Prins	Introduces HB 3461 which deletes the cap on the total number of days of jail, or non-jail confinement that can be imposed as custodial sanctions. Talks about the –1 amendments (EXHIBIT B).
064	Vice Chair Courtney	MOTION: Moves to ADOPT HB 3461-1 amendments dated 06/12/01.
064		VOTE: 4-0-3
065	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED.
066	Vice Chair Courtney	MOTION: Moves HB 3461 to the floor with a DO PASS AS AMENDED recommendation.
068		VOTE: 4-0-3
069	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.
073	Chair Minnis	Closes the work session on HB 3461 and opens a public hearing on HB 3912A.
<u>HB 3912A PUBLIC HEARING</u>		
076	Richard Vial	Attorney, Vial – Fotheringham, LLP Submits testimony and testifies in support of HB 3912A which modifies provision relating to organized communities. Introduces the –A10 amendments (EXHIBITS C – E).
094	Chair Minnis	Closes the public hearing on HB 3912A and opens a work session on HB 3912A.
<u>HB 3912A WORK SESSION</u>		
097	Vice Chair Courtney	MOTION: Moves to ADOPT HB 3912A-10 amendments dated 06/14/01.
098		VOTE: 4-0-3
098	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED.
100	Vice Chair Courtney	MOTION: Moves HB 3912A to the floor with a DO PASS AS AMENDED recommendation.
102		VOTE: 4-0-3
103	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
109	Chair Minnis	Closes the work session on HB 3912A and opens a work session on HB 2429A.
<u>HB 2429A WORK SESSION</u>		
110	Vice Chair Courtney	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 2429A.
123		VOTE: 4-0-3
124	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick Hearing no objection, declares the motion CARRIED.
125	Vice Chair	MOTION: Moves to RECONSIDER the vote by which the

	Courtney	committee sent HB 2429A to the floor with a DO PASS recommendation.
126		VOTE: 4-0-3
127	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick
128	Counsel Odell	Hearing no objection, declares the motion CARRIED.
133	Vice Chair Courtney	Introduces the –A10 amendments (EXHIBIT F).
135		MOTION: Moves to ADOPT HB 2429-A10 amendments dated 06/13/01.
136	Chair Minnis	VOTE: 4-0-3
137	Vice Chair Courtney	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick
138		Hearing no objection, declares the motion CARRIED.
139	Chair Minnis	MOTION: Moves HB 2429A to the floor with a DO PASS AS AMENDED recommendation.
143	Chair Minnis	VOTE: 4-0-3
		EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick
		Hearing no objection, declares the motion CARRIED.
		SEN. COURTNEY will lead discussion on the floor.
		Closes the work session on HB 2429A and opens a public hearing on HB 2007A.
	<u>HB 2007A PUBLIC HEARING</u>	
151	Chip Lazenby	Legal Counsel, Governor's Office
175	Chair Minnis	Testifies in support of HB 2007A. Introduces the –A9 amendments (EXHIBIT G).
		Closes the public hearing on HB 2007A and opens a work session on HB 2007A.
	<u>HB 2007A WORK SESSION</u>	
176	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2007-A9 amendments dated 06/13/01.
178		VOTE: 4-0-3
179	Chair Minnis	EXCUSED: 3 - Sen. Metsger, Sen. Duncan, Sen. Burdick
181	Chair Minnis	Hearing no objection, declares the motion CARRIED.
		Closes the work session on HB 2007A and opens a public hearing on HB 2394A.
	<u>HB 2394A PUBLIC HEARING</u>	
200	Margaret Taylor	Marion County
209	Dale Penn	Testifies in support of HB 2394A which allows an investigator in civil commitment proceeding access to the Law Enforcement Data System (LEDS).
234	Andrea Meyer	Oregon District Attorney's Association
240	Chair Minnis	Testifies in support of HB 2394A.
242	Meyer	American Civil Liberties Union (ACLU)
303	Chair Minnis	Testifies in opposition to HB 2394A.
		Asks why it is wrong to have access to this information.
		Explains the ACLU's concerns regarding the release of LEDS information. States there are two issues: mental health providers access to the LEDS system, and having access over a seven-day period. Contends there would not be an assessment, or evaluation of the information given to a mental health provider in the middle of the night.
		Asks why access is different in a law enforcement context than a

		mental health situation.
311	Meyer	Cites the training and certification police officers have, specifically the ability to analyze the information. Remarks that the LEDS information is received by persons who are not trained.
330	Chair Minnis	Says he does not see the harm in making LEDS information accessible to mental health professionals.
332	Meyer	Explains the harm.
372	Chair Minnis	Remarks that LEDS information does not make the decision to hold someone.
377	Meyer	Says the ACLU disagrees.
395	Bill Houser	Oregon Criminal Defense Lawyers Association (OCDLA) Testifies in opposition to HB 2394A.
443	Chair Minnis	Verifies his understanding of why OCDLA objects to HB 2394A.
445	Houser	Agrees.
455	Bob Nikkel	Mental Health Division Testifies in opposition to HB 2394A.
480	Vice Chair Courtney	Asks who supported HB 2394A as it was originally drafted.
487	Nikkel	Says the Mental Health Division supported the original bill.
TAPE 165, A		
042	Counsel Odell	Talks about the participants in an interim work group.
063	Chair Minnis	Clarifies what the opponents of HB 2394A object to.
083	Taylor	Contends the information from LEDS is crucial. Explains the intent of HB 2394A.
122	Penn	Relates that civil commitment is an important decision. Observes HB 2394A allows mental health professionals to get a “better view” of someone’s life.
142	Char Minnis	Polls the committee for their view on HB 2394A.
152	Chair Minnis	Closes the public hearing on HB 2394A and opens a work session on HB 2394A.
<u>HB 2394A WORK SESSION</u>		
153	Sen. Beyer	MOTION: Moves HB 2394A to the floor with a DO PASS recommendation.
156		VOTE: 4-2-1 AYE: 4 - Sen. Beyer, Sen. Minnis, Sen. Duncan, Sen. Harper NAY: 2 - Sen. Metsger, Sen. Courtney EXCUSED: 1 - Sen. Burdick
157	Chair Minnis	The motion Carries. SEN. MINNIS will lead the discussion on the floor.
168	Chair Minnis	Closes the work session on HB 2394A and opens a work session on HB 2092A.
<u>HB 2092A WORK SESSION</u>		
183	Counsel Prins	Introduces HB 2092A which relates to crime. Talks about the – A8 and –A9 amendments (EXHIBITS H & I).
241	Vice Chair Courtney	MOTION: Moves to ADOPT HB 2092-A9 amendments dated 06/13/01.
242		VOTE: 6-0-1 EXCUSED: 1 - Sen. Burdick
243	Chair Minnis	Hearing no objection, declares the motion CARRIED.
248	Gary Oxley	Representing Fred Meyer, Safeway and Rite-Aid

273	Vice Chair Courtney	Testifies in support of the –A8 amendments. Verifies his understanding of the legal recourse stores have when an alarm goes off.
280	Oxley	Agrees.
282	Chair Minnis	Explains the –A8 amendments would prevent civil suits against these companies.
305	Dale Penn	Marion County District Attorney
		Testifies as neutral on HB 2092A.
319	Chair Minnis	Asks what stores are doing to regulate the behavior of their security personnel.
327	Oxley	Mentions security personnel go through extensive training, and follow procedures when making a stop.
336	Vice Chair Courtney	Observes that HB 2092A will not prevent a person from suing a store.
353	Chair Minnis	Discusses probable cause.
369	Vice Chair Courtney	Inquires if the stores are prevailing in the law suits.
373	Oxley	Reports they are.
380	Penn	Remarks that HB 2092A would allow stores to ask for pre-trial verdicts.
397	Bill Houser	Oregon Criminal Defense Lawyers Association (OCDLA)
		Testifies in opposition to HB 2092A.
421	Chair Minnis	Contends that stores need a legal defensible position for stopping someone.
TAPE 164, B		
005	Kathie Osborn.	Juvenile Rights Project
		Testifies in opposition to HB 2092A. Talks about the need for proper training of store employees. Discusses the differences between reasonable suspicion and probable cause. Addresses the issue of unnecessary physical force.
138	Houser	Says the –A8 amendments would give stores the right to go beyond simply stopping and asking questions.
159	Sen. Metsger	Voices concern about elevating reasonable suspicion to probable cause based on an electronic device.
196	Chair Minnis	Closes the work session on HB 2092A and recesses the meeting at 8:40 a.m.
200	Chair Minnis	Reconvenes the meeting at 5:10 p.m. and opens a work session on HB 2092A and HB 2007A.
HB 2092A & HB 2007A WORK SESSION		
201	Vice Chair Courtney	MOTION: Moves HB 2092A to the floor with a DO PASS AS AMENDED recommendation.
204		VOTE: 5-0-2
		EXCUSED: 2 - Sen. Burdick, Sen. Harper
205	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
206	Vice Chair Courtney	MOTION: Moves HB 2007A to the floor with a DO PASS AS AMENDED recommendation.
208		VOTE: 6-0-1
		EXCUSED: 1 - Sen. Burdick
209	Chair Minnis	Hearing no objection, declares the motion CARRIED. SEN. MINNIS will lead discussion on the floor.

Submitted By,

Reviewed By,

Annola DeJong,
Committee AssistantCraig Prins,
Counsel**EXHIBIT SUMMARY**

- A – HB 3680A, written testimony from Katy Yetter, submitted by Gina Skinner, Oregon District Attorney’s Association, date 6/12/01, 1 p.**
- B – HB 3461, -1 amendments submitted by staff, dated 6/12/01, 1 p.**
- C – HB 3912A, written testimony from Harriett Heisey, submitted by Richard Vial, Oregon State Bar, dated 6/12/01, 18 pp.**
- D – HB 3912A, written testimony submitted by Richard Vial, 29 pp.**
- E – HB 3912A, -A10 amendments submitted by Richard Vial, dated 6/14/01, 5 pp.**
- F – HB 2429A, -A10 amendments submitted by staff, dated 6/13/01, 1 p.**
- G – HB 2007A, -A9 amendments submitted by Chip Lazenby, Governor’s Office, dated 6/13/01, 1 p.**
- H – HB 2092A, -A8 amendments submitted by staff, dated 6/12/01, 1 p.**
- I – HB 2092A, -A9 amendments submitted by staff, dated 6/13/01, 6 pp.**