

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

March 10, 1999 Hearing Room 357

8:30 a.m. Tapes 80 - 83

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Hansen

Rep. Simmons

Rep. Sunseri

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

SB 35A Public Hearing and Work Session

SB 394A Public Hearing and Work Session

SB 350A Public Hearing

HB 2599 Public Hearing and 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		

005	Chair Mannix	Calls meeting to order at 8:35 a.m.
<u>SB 35A PUBLIC HEARING</u>		
011	Counsel Horton	SB 35A adds two categories of convictions and expands list of crimes that result in denial of teaching, personnel service or administrative license. SB 35A also includes the "attempt" to commit any of the listed crimes.
031	Chair Mannix	Discusses the chart on the Staff Measure Summary that was prepared for the committee. Closes the public hearing on SB 35A.
<u>SB 35A WORK SESSION</u>		
041	Rep. Prozanski	Asks for clarification on "attempted bigamy". How do you attempt to be married to a second person? I am wondering why SB 35A is being expanded to include "attempts". Can counsel tell us if a person had to be convicted for this to apply? If someone is convicted of the "attempt" to commit the crime, aren't they convicted of the crime?
054	Horton	If someone is convicted of the "attempt" to commit the crime, that is a conviction.
057	Rep. Prozanski	I thought the statute read if you attempt to commit the crime, you can be convicted of the crime based on that attempt. But this statute registers it as an "attempt" to commit the offense?
060	Horton	Yes.
062	Bowman	How long is this prohibition because some of the items listed are not horrendously bad crimes. What if the offender gets rehabilitation? Is there a time limit on keeping a person from teaching or is this a lifetime ban?
074	Chair Mannix	There does not appear to be any time limitation in the current law and SB 35A doesn't present any time limitation. Some problems listed could be a lifetime problem, but others could have been a one-time situation. We can decide to set this aside until the proponents of HB 35A can convince us this legislation is necessary.
<u>SB 35A PUBLIC HEARING</u>		
087	David Myton	Executive Director, Teachers Standards and Practices Commission Testifies in support of HB 35A.
097	Chair Mannix	Explains that they have already discussed what this bill does and that they have a

		graph to help explain this.
109	Myton	The department had suggested the retroactivity of similar crimes in other states and the attempt factor, and we support those. We wanted to add two crimes that did not appear on the list in 1997 and those are included in SB 35A.
117	Rep. Prozanski	Why are "attempts" being added to SB 35A and specifically, why add attempted public indecency and attempted bigamy? There is no time frame as to how long this prohibition would last. Why is there no exception to allow leeway on the less heinous crimes after time has passed?
136	Myton	We have never had a case of bigamy, but we have had an attempted rape charge. Discusses ORS 342.175 that allows the Commission to take action on individuals who have committed crimes. I would like to submit a list of 57 individuals whom the Commission sanctioned last year (EXHIBIT A). The Commission can take action, but the statutes do not allow the Department of Education to preclude a person from employment. Discusses the confusion of one statute saying a license could not be given if convicted and another statute saying a license could be reinstated if convicted.
187	Chair Mannix	What if we made reinstatement of the teaching license at the discretion of the Commission 15 years after the conviction?
195	Myton	That would be workable. Discusses the statute of limitations for sex abuse cases. Most of the revocation cases are 30 year olds, and it is unlikely they would apply for reinstatement in 15 years.
222	Rep. Bowman	Some of these cases are mistakes made in a person's youth. I think people who have cleaned up their life would be a great role model for students. Would the 15-year limitation be from the date they were suspended from teaching or the date of conviction of a crime?
263	Rep. Hansen	How does expunging of records apply to this?
266	Chair Mannix	Most sex crimes cannot be expunged.
272	Rep. Hansen	If you have had your record cleaned, is that a clean slate in terms of a teaching certificate?
275	Myton	Discusses the questions asked on the teaching application to determine the character of an applicant. If a person's record has been expunged, the applicant may answer "no" when asked if they have ever been convicted of a crime.
282	Rep. Hansen	What are the rules for expunging a record?
286	Chair Mannix	We could distinguish between felonies and misdemeanors with a 15-year prohibition from teaching if convicted of a felony and 7 years if convicted of a

		misdemeanor.
314	Rep. Prozanski	We need to add those new crimes to the existing statute. SB 35A will not only exclude certain individuals from teaching, but will also affect individuals in administrative support positions. Is that correct?
325	Myton	That is correct. Discusses the list (EXHIBIT A) that applies to teacher licensure, but the fingerprint requirement for a classified personnel also pertains to this list.
331	Chair Mannix	What does the committee think about a 15-year prohibition from the time of a felony conviction, and 5 years on a misdemeanor conviction?
340	Rep. Bowman	That is better than the current version of SB 35A.
341	Chair Mannix	I will ask LC to prepare amendments that will add a 15-year prohibition from the date of a felony conviction and a 5-year prohibition from the date of a misdemeanor conviction. After that, it will be at the discretion of the Teachers Standards and Practices Commission if they have their license re-instated. Could you check with the Department of Education, Mr. Myton, to make sure this is okay with them?
352	Myton	We have the same legal counsel, so I will inform them of these proposed changes.
365	Chair Mannix	Closes the public hearing on SB 35A.
<u>SB 394A PUBLIC HEARING</u>		
370	Horton	SB 394A allows the State Board of Parole and Post-Prison Supervision to postpone an inmate's release if the inmate has mental health problems that would render the prisoner a danger to the health or safety of the community.
420	Christine Chute	Department of Justice Discusses the statute prior to 1993 that would have permitted the Board of Parole to postpone a parole release date only if the person involved suffered from a present severe emotional disturbance as to present a danger to the community. The 1993 statute appeared to make the standard for postponing release dates more lenient because the Board needed less evidence to postpone an inmate's release. Then the statute became meaningless because it could not be applied retroactively. By adding, "present severe" we are trying to re-impose the more stringent, pre-1993, standard.
TAPE 81, A		
022	Chair Mannix	Would the stringent standards apply only on the convictions prior to 1993, not on convictions since then?

023	Chute	Yes.
030	Rep. Prozanski	Since the <u>Meadows v. Schiedler</u> case was decided in 1996, why did this problem with the law not come before us during the 1997 Session?
035	Chute	At the time, we had not decided what to do in terms of the decision.
041	Diane Rea	Chairman, Board of Parole and Post-Prison Supervision Testifies in support of SB 394A. The Board has been using the standard in effect at the time of their commitment offense ever since the Meadows case was decided. Discusses that cases were reviewed on parole decisions made between 1993 and 1996 to be sure that the standard for deferral was correctly applied.
047	Chair Mannix	Discusses that the new lawyer who picks up the statutes now could be misled about the standard.
050	Rea	Yes, plus this correction would make it easier for inmates, who can't afford counsel, to understand the statute.
055	Rep. Bowman	Did HB 2478 in the 1993 Session give the Parole Board additional authority to hold people based on emotional disturbances?
064	Chute	I do not remember the bill number but there was a 1993 legislation that changed the standard, and it applied only to people who served a matrix sentence and then went on parole.
072	Rep. Bowman	I have information when that bill was passed and that it was retroactive. It is my understanding that those inmates that are up for parole based on the matrix system can be held indefinitely if their psychological evaluation says that they have a severe emotional problem. But an inmate can also be held over if the evaluation says they don't present a current danger to the community. Why is there a necessity to change the current language if you are already holding these people longer?
089	Rea	SB 394A would not give the Board of Parole any additional authority that we didn't have at the time these people committed their crimes. The change in SB 394A will make the statute the correct legal standard that the Court of Appeals indicated it should be.
102	Rep. Bowman	If an inmate is coming up before the Board of Parole and they present a severe emotional disturbance, what do you recommend they do to correct that mental deficiency before they come back before the Board?
107	Rea	The Board's decision to defer release is explained to the offender, and the offender is told what the areas are that they can work on.

117	Rep. Bowman	Whether or not an inmate has a severe emotional disorder, you have the ability to hold that inmate for an additional two years. Does the Board of Parole specifically identify what an inmate has to do to get his/her release when they come before the Board after the additional two years?
134	Rea	I'll do my best to get you that information.
135	Rep. Bowman	There are currently 1,440 inmates serving time in the state penitentiary under the matrix system. Because of the Parole Board's current interpretation of this law, an inmate given release deferral is told to repeat their treatment programs. Since there are no programs inside the institution for people with severe emotional disturbances, some of those inmates have come before the Board 6-8 times with no hope for release.
152	Chair Mannix	SB 394A makes the letter of the law comply with practice. Does the Board of Parole provide the programs that Rep. Bowman referred to?
163	Rea	The Board does not have any control over the programs that are offered to inmates. Discusses programs within the institution that address the problems identified in psychological evaluations. We do see improvements in these inmates and we parole them. There are always programs that could be added to make this process better, but it is a case-by-case analysis.
186	Ingrid Swenson	<p>Oregon Criminal Defense Lawyer's Association</p> <p>Testifies neither in support of nor in opposition to SB 394A. The prisoners who continue to serve sentences under the pre-1989 law have brought to our attention two problems. 1) the significance of psychological testing with respect to the likelihood of their getting released; and 2) the lack of culturally appropriate psychological testing devices and the lack of people qualified culturally (with respect to minorities) to render a psychological evaluation. Discusses a suggested amendment (EXHIBIT C) where the Board of Parole could not postpone release without substantial and compelling evidence of a severe mental disturbance or a danger to society.</p>
254	Rea	Discusses if the decision to parole is governed by the psychological evaluation or is it a decision vested with the Board of Parole. The Court of Appeals says it is a decision vested in the Board. Therefore, this proposed amendment is opposed to the Court of Appeals decision that the Board determines parole or deferral, not the psychological evaluation as the deciding factor.
301	Chair Mannix	But we as a legislative body can make a policy decision that the deciding factor could be the psychological determination.
312	Rep. Prozanski	The court is reiterating what has come before it, but we could change this policy. Is a current psychological evaluation required each time a person comes before the board?

319	Rea	Yes.
326	Swenson	Discusses that the purpose of the amendment is to address the case that the Board of Parole could disregard a favorable recommendation for release. By statute, the Board is required to adopt rules and there are no rules in place as to how the Board exercises their discretion.
337	Chute	I disagree that the Board of Parole can ignore positive psychological evaluations, gives examples. I caution using the word "positive" to characterize a psychological report because this word is so arbitrary.
391	Chair Mannix	Under this proposed amendment, are we going to need rules to interpret the diagnosis?
402	Swenson	We purposely did not use the word "positive" because that is so open to misunderstanding or a difference of opinion. A psychologist in these cases is asked to make a determination that amounts to a legal determination, not a medical or psychological determination.
414	Rep. Prozanski	Who is actually doing the psychological or psychiatric evaluations?
TAPE 80, B		
001	Rea	The Board of Parole has five psychologists under contract to conduct these psychological evaluations. There have been instances where an inmate has had an independent psychological evaluation submitted.
005	Rep. Prozanski	What is the problem with putting rules in place, if they are not in place, so that everyone understands the guidelines or structure to be reviewed and considered before a decision is made?
022	Chute	Discusses litigation over the Board of Parole's rules that have been lost because of the <i>expos facto</i> claim of what rules applied at the time of the crime.
036	Chair Mannix	If we adopted substantive rules today, it might be questionable if they would apply retroactively.
041	Chute	The only rules the Board could adopt that would be constitutional would be rules that would let more people out by limiting the Board's discretion to keep people in prison.
047	Rep. Bowman	The issue is that the Parole Board hearing is so subjective based upon whom is in the room at the time. For consistency purposes it is important we understand how the Board of Parole is making parole and release decisions. Are there administrative rules that dictate how the Board of Parole makes parole and

		release decisions? Discusses that the tests may not be culturally appropriate for the people taking them.
084	Rep. Prozanski	If an inmate comes before the Board and is denied parole, is there any feedback to that inmate saying why they were denied parole?
089	Rea	After the Board of Parole makes their decision, there is an oral dialogue with the inmate discussing the Board's decision.
103	Chair Mannix	Do you dialog with the inmate and tell them why parole is denied?
104	Rea	Yes. Describes the type of dialog that would occur between the Board and the inmate at a parole hearing.
109	Chair Mannix	And that dialog is transcribed?
110	Rea	It is all on tape and can be transcribed.
111	Rep. Prozanski	Discusses inmate's perception of coming back before the Board after doing "XYZ" and being released. If the expectations for parole were put in writing, an inmate would know how they could get parole.
133	Rea	The doctor's evaluation provides a detailed explanation of what the inmate's problems are, and I feel the Board could not offer a better explanation. The problem is, the inmates do not always agree with the explanation whether it is given orally or in writing.
144	Chair Mannix	Closes public hearing on SB 394A.
<u>SB 350A PUBLIC HEARING</u>		
147	Counsel Horton	SB 350A modifies provisions relating to private security providers.
161	Rep. Prozanski	Discusses page 3, lines 16-18 of SB 350A, would keep someone who has a person felony from being able to apply for certification "except for assault in the second and third degrees". Are those two charges prohibitions or are they exceptions to the prohibition?
173	Counsel Horton	A person convicted of assault in the second or the third degree would not fall under the prohibition for licensure.
178	Karen Evans	Department of Public Safety Standards & Training (DPSST) Testifies and submits written testimony in support of SB 350A (EXHIBIT D).

		Discusses the definitions added so instructors know when they need to be certified and when they do not need to be certified. Explains that the proposed changes will not require any additional training or fees. Discusses corrections to inadvertent language changes made during the 1997 Session that permanently disqualified anyone convicted of a misdemeanor. The Board of Public Safety Standards and Training can establish, by rule, what the misdemeanants are and their time limitations (EXHIBIT E). Registered sex offenders would be disqualified.
239	Rep. Bowman	Discusses the list of misdemeanor disqualifiers. What was the thought process behind developing this list?
251	Evans	Discusses how the list and time frame were developed. These rules were developed in partnership with our private security constituents.
266	Rep. Bowman	It concerns me that if an applicant committed a misdemeanor in their youth, but had turned their life around, they would still be disqualified from this type of employment. Discusses the 10-year requirement being excessive when no "person" crime was involved.
297	Evans	It is our intent to show that after a reasonable period of time, with no record of re-offending, a person can be eligible for licensure as a private security provider.
315	Rep. Prozanski	Discusses page 3, lines 16-18 that makes an exception for assault offenders to become private security providers. Why was that exception put in there?
333	Evans	They were looking at the more serious "person" crimes like rape and homicide.
338	Rep. Prozanski	Assault in the second and third degrees are Class B & Class C felonies.
340	Chair Mannix	Assault in the second degree is a Measure 11 offense.
341	Evans	I am not sure of the history behind this.
344	Chair Mannix	How would you feel about that statute being changed?
347	Evans	I would be open to listen to any changes.
350	Rep. Prozanski	These changes in the statute would be a policy decision we would have to make as a committee.
362	Evans	We work closely with our constituents and these changes reflect their desires as well as the Department's.

369	Chair Mannix	Describes what assault in the third degree would be.
385	Rep. Bowman	That points out the inconsistencies in what we are trying to do here. Some people not involved in "person" crimes are excluded, but someone who commits an assault is allowed to apply for these positions.
401	Rep. Prozanski	Where would I find the proposed misdemeanor disqualifiers?
406	Rep. Bowman	It is the second page of Ms Evans' testimony (EXHIBIT E) .
416	Rep. Sunseri	I would not be opposed to Rep. Prozanski making changes with regard to the assault issue. Discusses the exceptions delineated.
TAPE 81, B		
007	Rep. Prozanski	Are the misdemeanors on this list of disqualifiers already in place or are we adding these to the list?
011	Chair Mannix	This is the list of disqualifying misdemeanors that DPSST is allowed by administrative rule.
014	Rep. Prozanski	Wonders how several of the misdemeanors listed would connect with being a security officer.
024	Evans	On the front of this list are the proposed disqualifiers by rule of the Board of Public Safety Standards and Training. The back of the page lists the specific crimes in ORS 181.875 (page 3, lines 22-24).
032	Chair Mannix	Is BPSST allowed to make the determination of disqualification by rule with misdemeanors?
034	Evans	Yes.
040	Rep. Prozanski	Could you please explain how the proposed misdemeanor disqualifiers by rule of the Board is going to interplay with what the Board is deciding?
043	Evans	The Board's authority is given on page 3, lines 30-34 of SB 350A.
045	Chair Mannix	That is the proposed authority. Your current authority is listed on page 3, lines 25-27. Would those lines be included in the proposed language on lines 30-34?
047	Evans	Yes.

050	Chair Mannix	How does negotiating a bad check connect with being a security officer?
051	Evans	We are looking at the issue of honesty and integrity and security officers frequently have to deal with funds and monies of their employer.
053	Chair Mannix	You wouldn't get to misdemeanor charges unless it was a serious situation, so it would probably be a quick civil matter.
055	Evans	That is correct. Many local jurisdictions will not even prosecute unless the case involves a major amount of money.
059	Rep. Prozanski	I question why ORS 166.115 (Interfering With Public Transportation) is on the list of disqualifiers.
062	Chair Mannix	Are you talking about interfering with the driver of a bus?
063	Rep. Prozanski	There is an assault statute for that.
069	Evans	There may have been a more serious incident that was plea-bargained down to this level. We want people who can control their temper.
078	Rep. Prozanski	I think the Department is throwing a net that is so broad that some people will not be able to gain employment just because of something that happened when they were having a "bad day".
094	Chair Mannix	Why did we empower DPSST to automatically disqualify for misdemeanors rather than have the legislature qualify or disqualify crimes to be considered?
100	Evans	I don't know.
106	Chair Mannix	How would you feel if we added a sentence to the disqualifying language that said, notwithstanding the disqualification for a misdemeanor conviction, DPSST "may" allow the certification or licensure for good cause shown?
123	Evans	We have over 10,000 private security constituents and if even one-third of those people said they were an exception, it would take an inordinate amount of staff time for these hearings.
128	Chair Mannix	How long has this law been in effect?
129	Evans	For 1 ½ years.
131	Chair Mannix	How many applicants have been denied licensure based on these misdemeanor

		statutes?
132	Evans	I am not sure, but I think it is in the hundreds.
134	Chair Mannix	Should the committee set SB 350A over until we get more information, or do you want to allow the exception clause upon application for good cause?
136	Rep. Sunseri	The exception clause is acceptable to me, but we also need to work with the issue of second and third degree assault being acceptable for employment.
142	Evans	So the committee is reviewing an exception clause as well as deletion of the second and third degree assault?
144	Chair Mannix	Yes.
146	Rep. Bowman	It would be helpful to know who has been excluded and why. If we're finding that most of the exclusions are for people that been involved in misdemeanor cases, then we may want to evaluate doing something different. It would be helpful to know if the law is working the way it should and people who really shouldn't be security officers are not being licensed.
152	Chair Mannix	I will request an LC draft of: 1) a discretion clause (as to the misdemeanor prohibition) that allows a previously denied applicant the right to present documentation that for good cause shown the DPSST may make an exception to allow certification, and 2) prohibit certification for assault in the second or third degree. Could you get back to us in the next few days with information as to the nature of misdemeanor refusals?
164	Evans	And felony as well?
165	Chair Mannix	No. The specific concern was the breakdown in the misdemeanor refusals. Closes the public hearing on SB 350A.
<u>SB 394A WORK SESSION</u>		
185	Rep. Simmons	MOTION: Moves SB 394A to the floor with a DO PASS recommendation.
189	Rep. Hansen	Discusses his concern with the issue of retroactivity.
211	Rep. Prozanski	Explains that SB 394A deals with a very small number of people under the old sentencing system. There should be something in writing how the rules of the Board of Parole are going to be applied so the inmate knows the expectations for

		his/her release. SB 394A does not seem to be the tool for future legislators as to individuals being sanctioned today under the post-prison supervision model v. the parole model.
257	Rep. Bowman	SB 394A pertains to inmates from 1993 and before so what we are doing is retroactive. I do not want to give the perception that what the committee is doing is from this day forward.
265	Chair Mannix	In 1993 the legislature did try to do something retroactively and that was taken to court and the court said you can't do that. For those folks, SB 394A puts the old language into place so the statute matches the court decision.
273	Rep. Bowman	So we are going back to pre-1993 language?
274	Chair Mannix	Only as to those pre-1993 convictions.
275	Rep. Sunseri	Discusses the broad relating clause in SB 394A and that further consideration needs to be given to any changes made to the bill.
306	Rep. Simmons	Does this committee have another bill with a similar relating clause so we could move SB 394A out of committee?
310	Chair Mannix	There are other bills that will address this issue.
312	Rep. Sunseri	This relating clause specifically speaks to release dates, and I am not sure that is what Rep. Bowman was talking about.
316	Rep. Prozanski	I do not think this would be a good relating clause because it speaks to parole.
317		VOTE: 6-1 AYE: 6 - Gianella, Hansen, Prozanski, Simmons, Sunseri, Mannix NAY: 1 - Bowman
	Chair Mannix	The motion CARRIES. REP. PROZANSKI will lead discussion on the floor.
<u>HB 2599 PUBLIC HEARING</u>		

331	Counsel Horton	HB 2599 expands conditions under which runaway child may be taken into protective custody.
347	Nancy Miller	State Court Administrator's Office Explains Section 3 (b) means that a youth would be placed in a detention facility as opposed to a shelter facility.
371	Kathie Osborn	Juvenile Rights Project A "runaway" would include a homeless youth so they are able to receive these services also.
383	Rep. Sunseri	Could either witness define "reasonably appears" to be a runaway?
388	Osborn	There is no legal definition for it, but "reasonably appears" does appear several times throughout the juvenile code and would be interpreted by the law enforcement officer coming into contact with the youth.
400	Chair Mannix	Is that ultimately left up to the court to decide if the circumstances were "reasonable"?
403	Osborn	Yes. A shelter hearing must be held within 24 hours after a child is taken into custody. At that time, the court could decide if the child was a runaway or homeless.
411	Rep. Sunseri	That does not seem to be the case with this bill. If an officer reasonably believes that a child is a runaway, they pick up the child and take them to their home and release them or take them to a shelter. Therefore, the court is never going to have the opportunity to determine the status of the child. It is just the judgment call of the policeman who picks up the child.
425	Counsel Horton	Discusses the contact between an officer and a runaway and what is going to be admissible in court. Explains that the term "reasonable" appears throughout the criminal and vehicular code, but is never defined in the codes.
TAPE 82, A		
018	Rep. Sunseri	The description in HB 2599 leaves the police to determine if a child "reasonably appears" to be a runaway.
023	Counsel Horton	That is true, Rep. Sunseri.
028	Miller	Discusses ORS 419B.165, on page 2, line 6 of HB 2599 that tells when the child should be released or should not be released. If a child is held in custody, a shelter hearing would be held within 24 hours and the court could decide if the

		child "reasonably appears" to have runaway.
038	Chair Mannix	The police are required to file a written report every time a child is picked up.
045	Osborn	Explains that juvenile court jurisdiction goes into effect as soon as a child is taken into protective custody. HB 2599 would give the services to youth who really want the services.
059	Rep. Prozanski	In HB 2599 there is a procedure to document that the child has been taken off the street and put into protective custody.
073	Rep. Bowman	If a child is taken into protective custody, is there a prohibition against proceeding with a criminal investigation?
087	Rep. Prozanski	If a youth is taken into protective custody, there will be a cursory search before the juvenile is put in the police car. Your question asks where does the case go if something like drugs are discovered on the child.
094	Counsel Horton	Discusses SB 936 (from the 1997 Legislature) and the fact that this type of question is litigated every day.
097	Chair Mannix	But we are speaking about a youth who has been taken into custody and if a crime has been committed, that youth would have to be read their Miranda rights.
103	Osborn	SB 936 doesn't apply to juvenile court until July 1, 1999 so there isn't a problem right now. Most departments would do a pat-down search of the juvenile before putting them in the vehicle. If the juvenile's belongings were stored in the trunk of the police car, the police would not be looking through them for contraband.
126	Rep. Bowman	Under those scenarios, is there a difference between someone being in protective custody and someone being picked up for curfew violation?
131	Osborn	No. When a juvenile is taken into custody for a serious felony or for a violation, it is all called protective custody.
139	Tim Travis	Juvenile Court Improvement Project The answer to your question, Rep. Bowman, is yes. If a knife is found in the process of a pat-down search on a juvenile, a petition can be filed for carrying a concealed weapon.
151	Chair Mannix	Closes the public hearing on HB 2599.
<u>HB 2599 WORK SESSION</u>		

153	Rep. Prozanski	Discusses the filing of a runaway report by a parent and the fact that the runaway report is cleared as soon as the juvenile is picked up. Discusses that the discrepancies between police departments throughout the state as to what they can or cannot do under current law need to be clarified.
194	Rep. Sunseri	What if we put a sunset clause on HB 2599 and have them check back at the next legislative session to see if this legislation provides the assistance that they think it will and see if any abuse of the measure occurs?
201	Chair Mannix	Discusses the lack of law enforcement being able to apprehend a runaway unless he/she is committing a crime. We heard 80% of the kids going into the shelter in Eugene accept the services offered. I worry about a sunset clause because that makes it look like we are testing a novel idea that may not work.
235	Rep. Sunseri	Discusses the rights of innocent people being violated if law enforcement is allowed to pick up youths indiscriminately.
256	Rep. Prozanski	Discusses that the sunset clause should apply only to new language.
275	Rep. Bowman	I support the recommendation for the sunset clause because it would be good to get a report back on how this law is working in the state. Will HB 2599 include homeless youth as well as runaways being taken into protective custody and offered these services?
293	Chair Mannix	Law enforcement could determine if the child has runaway or has been forced out of the home and is homeless.
303	Rep. Bowman	What liability are we opening up for law enforcement when a child is released into a parent's custody and it might not be safe for that child in the home?
322	Chair Mannix	HB 2599 would allow either the parent or a shelter as care options, but law enforcement would decide the best placement for the child.
336	Rep. Prozanski	Rather than require a sunset clause, we could ask the City of Eugene to report back on how this legislation worked in the community.
347	Rep. Hansen	I trust the people of Eugene and their credibility, but I am concerned about the liability issues if a child can walk away from protective custody. The sunset clause is good because it would require the Legislature to look at how the system is working and see if other steps need to be taken to help these youths.
418	Rep. Simmons	MOTION: Moves HB 2599 to the floor with a DO PASS recommendation.
TAPE 83, A		

003	Rep. Gianella	If I were a 14-year-old runaway, I would probably have a weapon on me for protection. I would support a sunset clause to see how many juveniles get in trouble for other crimes (like carrying a concealed weapon) when they are initially picked up as a runaway.
015	Chair Mannix	I feel law enforcement wants to help get these kids off the street and into a safe place. These juveniles are not being rousted off the streets they are being offered help. If it looked like they were being rousted off the streets, I am sure someone like the Juvenile Rights Project would let us know about that.
035	Rep. Mannix	MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment to HB 2599.
036	Rep. Bowman	MOTION: Moves to ADOPT a conceptual amendment to add a 1/1/2002 sunset clause to HB 2599.
38	Rep. Bowman	Unless we put in a mechanism to bring this legislation back to the next legislative session, we will not know how this legislation is working.
065	Rep. Sunseri	Will the sunset clause be drafted to affect only the new language?
066	Chair Mannix	It will only affect the authority of the officer to take the child into protective custody.
070	Rep. Prozanski	Do we need to remove the other sunset in Section 1, 1 (a)?
076	Rep. Bowman	My intent was just to sunset all the new language.
095		VOTE: 5-2 AYE: 5 - Bowman, Gianella, Hansen, Prozanski, Sunseri NAY: 2 - Simmons, Mannix
	Chair Mannix	The motion CARRIES.
106	Rep. Simmons	MOTION: Moves to WITHDRAW the motion moving HB 2599 to the floor DO PASS.
		VOTE: 7-0

	Chair Mannix	Hearing no objection, declares the motion CARRIED.
108	Rep. Hansen	MOTION: Moves to ADOPT an emergency clause.
		VOTE: 7-0
	Chair Mannix	Hearing no objection, declares the motion CARRIED.
119	Chair Mannix	Closes work session on HB 2599. Adjourns meeting at 11:05 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 35A, written testimony of David Myton, Teacher Standards and Practices Commission, dated 3-10-99, 6 pgs.

B - SB 394A, written testimony of Christine Chute, Assistant Attorney General, dated 3/10/99, 2 pgs.

C - SB 394A, proposed amendment submitted by Ingrid Swenson, Oregon Criminal Defense Lawyer's Association, dated 3/10/99, 1 pg.

D - SB 350, written testimony of Karen Evans, DPSST, dated 3-10-99, 2 pgs.

E - SB 350, list of Proposed Misdemeanor Disqualifiers submitted by DPSST, 3-10-99, 2 pgs.