

**HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW**

March 5, 1999 Hearing Room 357

8:30 a.m. Tapes 69 - 71

**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:**

**HB 2494 Public Hearing**

**HB 2596 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   |
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| <b>TAPE 69, A</b>   |                      |  |
| 005   | Chair Mannix         | Calls meeting to order at 8:34 a.m.  |
| <b><u>HB 2494 &amp; HB 2596 COMBINED PUBLIC HEARING</u></b> |                      |  |
| 023   | <b>Janet Metcalf</b> | <b>Attorney General's Office</b><br><br>Testifies and submits written testimony as neutral to HB 2494 and HB 2596 ( <b>EXHIBIT A</b> ). Discusses what other states have done in the area of spiritual |

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|     |                | treatment as defense in criminal proceedings. Studies have shown that Oregon has made this defense more available than most other states, so limiting the defense would not put Oregon out of step with other states. Discusses the constitutionality of taking away or limiting spiritual treatment as a defense.  |
| 058 | Rep. Prozanski | Was a good portion of this bill adopted during the 1995 Session?  |
| 062 | Metcalf        | Yes.  |
| 063 | Rep. Prozanski | What has the law been in this area of spiritual treatment as a defense?   |
| 066 | Metcalf        | I don't remember if the defense existed prior to 1995. I do know that there have been no challenges to the defense at the Appellate level.  |
| 075 | Rep. Sunseri   | Pertaining to the constitutionality issue, would you elaborate on your comment that the State's strong interest in protecting children would override the interpretation of the 1 <sup>st</sup> Amendment?  |
| 080 | Metcalf        | Assuming there would be some impingement on free exercise, a federal court would say that such an impingement is nevertheless permissible if the state has a compelling state interest. An example of a compelling state interest is the interest in protecting children from harm and abuse.   |
| 094 | Rep. Prozanski | Discusses that the state's interest is being able to intervene on behalf of the child through the juvenile court. We heard why the law may already be in place regarding the knowledge that comes to the court and the court's subsequent decision based upon the best interest of the child. Would you like to comment on that?  |
| 105 | Metcalf        | Again, assuming some impingement on free exercise, the state's great compelling interest in protecting children from harm and abuse would override any impingement that there might be. The parent of the child is free to bring in any evidence of their sincere religious beliefs to the juvenile court.  |
| 114 | Chair Mannix   | During the first 18 years of a child's life we are not doing anything to prohibit or restrict faith healing. However, faith healing has to be supplemented by medical care when available. After 18, the child is an adult and we let them decide the type of care they receive. In terms of balancing interests, does this proposed legislation follow a pattern consistent with other states? |
| 139 | Metcalf        | Yes.  |
| 143 | Chair Mannix   | Would it be unconstitutional if we prohibited faith healing?  |
| 145 | Metcalf        | Yes.  |
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| 148 | Rep. Sunseri   | Let's assume as a result of a religious practice, a child is bitten by a snake and the child dies. How does this proposed law affect that death?  |
| 165 | Metcalf        | The defendant in that situation would be free to introduce evidence to prove there was no intent to cause harm to the child.  |
| 183 | Chair Mannix   | Are we removing an artificial barrier by allowing the facts of the case and the circumstances of the child to come into the trial?  |
| 186 | Metcalf        | You have removed the debate on the validity of these statutes because the defense is available in some criminal homicide statutes and not in others. Secondly, you have removed the defense as an absolute defense to criminality and left it as a matter of evidence for the court to determine the defendant's mental state.  |
| 194 | Chair Mannix   | Have we empowered a broader range of faith? We are opening this up for discussion, but we're not setting up any artificial standard that would favor one approach over another.   |
| 197 | Metcalf        | Yes. Removing the affirmative defense may well make the evidentiary inquiry more open.  |
| 201 | Rep. Prozanski | Would intent become a mitigating factor as to how a defendant would be treated at sentencing?   |
| 207 | Metcalf        | Yes.  |
| 208 | Chair Mannix   | Doesn't the existence of these statutes constitute a state validation of the refusal of medical care before the fact? If we remove that state validation and say "you need to provide reasonable medical care under the circumstances", then some folks looking for permission will be given that permission to seek medical care given by removal of these statutory boundaries. |
| 219 | Metcalf        | There was considerable testimony along those lines that that would be true in some cases.   |
| 222 | Rep. Sunseri   | We are tampering with the religious liberty of people. Can a statute like this be construed that someone who is required to report child abuse is now going to be looking at "religious neglect" as being child abuse?  |
| 238 | Metcalf        | The prosecutor in adult court or the juvenile court would have to decide whether to prosecute or not. Most prosecutors will be reluctant to take a case to the grand jury or to trial unless there is real harm or a risk of real harm.   |
| 258 | Rep. Prozanski | If we did put religious defense into law in 1995, we could look at the law pre-   |

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|                                      |                           | 1995 and you stated there have been no cases impinging on someone's religious freedoms.  |
| 265                                  | Metcalf                   | I can't think of any change we've seen from prior to 1995 until after 1995. I would envision little change if you were to enact this legislation.  |
| 271                                  | Chair Mannix              | Except the protection of children as to medical care is not adequate?  |
| 274                                  | Metcalf                   | Yes. We should also be able to remove the problem some prosecutors have with the defense being in some statutes, but not others.   |
| 289                                  | <b>Victor Congleton</b>   | <b>Services to Children and Families</b><br><br>Testifies and submits written testimony in support of HB 2494 and HB 2596 ( <b>EXHIBITS B &amp; C</b> ). Oregon's child protection system currently has the capacity through investigation and juvenile court intervention to protect child who are at serious risk due to the lack of effective medical care. However, in order to provide that protection, we have to know about the situation before the child dies. This legislation would show Oregon's commitment to children's safety and health and encourage parents to seek medical treatment if needed. |
| 332                                  | <b>Rita Swan</b>          | <b>C.H.I.L.D., Inc.</b><br><br>Submits testimony that she hopes will answer additional questions raised in the hearing yesterday ( <b>EXHIBIT D</b> ).   |
| 356                                  | Chair Mannix              | Closes combined public hearing on HB 2494 & HB 2596.   |
| <b><u>HB 2394 PUBLIC HEARING</u></b> |                           |  |
| 373                                  | Counsel Horton            | HB 2394 expands murder to include deaths caused by person fleeing or attempting to elude police officer, or by person driving while under the influence of intoxicants. This bill is similar to HB 2534 that relates to vehicular assault. Introduces amendments to HB 2394: ñ1 ( <b>EXHIBIT E</b> ), -2 ( <b>EXHIBIT F</b> ), and ñ3 ( <b>EXHIBIT G</b> ).  |
| <b>TAPE 70, A</b>                    |                           |  |
| 011                                  | Chair Mannix              | Because we are blending HB 2394 and HB 2534, I will reference previous testimony to HB 2534 on February 17, 1999.  |
| 017                                  | <b>Keith Meisenheimer</b> | <b>Multnomah County Deputy District Attorney</b><br><br>Testifies in support of HB 2394. Discusses the ñ3 amendments that establish the affirmative defense relating to repeat driving under the influence and a death occurs. Discusses the death of a willing participant when a car is stolen and the driver is fleeing or attempting to allude a police officer. In this case, the participant would not be considered a victim and the felony murder statute  |

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|     |                | should not apply.  |
| 058 | Rep. Bowman    | How would you know beyond a reasonable doubt that the passenger in the vehicle was involved in the theft of the car? What if I stole a car and drove over to my best friend's house to take her for a ride. She may have no clue that the car was stolen; she might think I just bought a new car. |
| 065 | Meisenheimer   | The state would have to prove beyond a reasonable doubt that the passenger knew nothing about the stolen vehicle.  |
| 078 | Chair Mannix   | So there would have to be another passenger who wasn't killed who could testify that the passenger killed had no knowledge of the car being stolen?  |
| 081 | Meisenheimer   | Yes. The driver could admit that his passenger didn't know anything about the car being stolen.  |
| 090 | Rep. Hansen    | I'm concerned about the victim having to be at least 18 years of age. If you had two 17 year olds involved in an accident, would the penalty be higher for them than two 18 year olds?   |
| 097 | Meisenheimer   | We were thinking more along the lines of a five-year-old being in the car.   |
| 100 | Rep. Hansen    | I don't know if victim status would apply to a 17-year-old co-conspirator.   |
| 104 | Meisenheimer   | The age is applicable in the '03 amendments only as to the repeat driving under the influence. It is very unlikely to have a 17-year-old on his/her second DUII.   |
| 113 | Rep. Hansen    | How many citizens in Oregon have a drunk driving conviction on their record? One statistic I saw said 20,000 arrests were made each year.  |
| 120 | Meisenheimer   | I don't know, but I could find out.  |
| 123 | Chair Mannix   | Are you comfortable with changing the age on the affirmative defense to 12 or 14?  |
| 125 | Meisenheimer   | That makes some sense because at 14 you can consent to your own adoption. That would be consistent with the purpose of protecting those who couldn't make an informed, mature decision about whether or not to be in the car.  |
| 142 | Rep. Prozanski | I understand that we are setting up an affirmative defense and the victim must be a certain age or older and that they voluntarily were in the car.  |
| 148 | Meisenheimer   | That is just on the subsection dealing with the repeat DUII driver. The basic structure of the felony murder statute defines the victim as someone other than a  |

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|     |                | participant. Discusses language providing for affirmative defense for persons who are passengers.  |
| 162 | Rep. Prozanski | Were you involved in drafting the ñ1 amendments (Exhibit E)?   |
| 171 | Meisenheimer   | Yes.   |
| 174 | Rep. Prozanski | On line 8, subsection (iii), "a warrant for the personís arrest has been issued" is extremely broad. A municipal court could issue a warrant for failure to pay a fine, and if the person fails to show they are open to a minor warrant arrest. This is so broad that it would encompass anyone having any warrant for any purpose. |
| 185 | Meisenheimer   | The purpose of HB 2394 is to stop people from killing innocent bystanders when attempting to allude the police. Discusses the reasons why people might attempt to allude the police.   |
| 196 | Rep. Prozanski | Do courts issue warrants without the personís knowledge that a warrant has been issued for them?   |
| 202 | Meisenheimer   | Yes. It might be appropriate to insert in the amendment that the person is aware of the warrant.   |
| 208 | Rep. Prozanski | Discusses lines 12 and 13 on page 1 where a person has previously been convicted of DUII. Is there a time frame as to when that conviction occurred?   |
| 214 | Meisenheimer   | No.  |
| 214 | Rep. Prozanski | If someone were convicted 20 years ago of DUII in Oregon or another state, would they fall under these criteria being proposed?  |
| 218 | Meisenheimer   | Yes. A 15-year time frame has been discussed for insertion into HB 2394.   |
| 225 | Rep. Prozanski | Discusses (C) on lines 18-20 on page 1. If a person has previously been charged with DUII in any jurisdiction, and has failed to appear on that charge and the charge is still pending, wouldnít there be a warrant out for this person because they failed to appear?   |
| 242 | Meisenheimer   | I canít think of any situation where an individual would be charged with DUII and not be aware of that charge. Discusses a case where a woman had been charged with DUII, failed to appear, and 2 years later killed a man while she was driving intoxicated.  |
| 256 | Rep. Prozanski | Discusses that if the woman failed to appear on a previous charge, the warrant should have shown as still outstanding when she was later brought to trial. If we are going to say you can be charged because there is a warrant out for your   |

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|     |              | arrest, it doesn't seem like we need (C) on page 1 because it is duplicative in that area.   |
| 268 | Meisenheimer | You may be correct that if a person fails to appear a warrant is issued, but the intent of the bill amendments to HB 2394 is to be specific that if you have a DUII charge, you need to take care of it.   |
| 274 | Rep. Hansen  | What attempts had been made in that 2-year period to serve the warrant on that woman who failed to appear on DUII charges?   |
| 282 | Meisenheimer | I do not recall what attempts had been made to serve the warrant.  |
| 294 | Rep. Hansen  | If you really wanted to prevent people from being killed by drunk drivers, you would be asking this committee for increased resources to get warrants served. Discusses warrants not yet served in Multnomah County.   |
| 319 | Meisenheimer | We need more than one approach. The onus is on the person served with the warrant to appear. It would be a supportive approach to increase resources to serve warrants, especially on DUII drivers, but they are not mutually exclusive. Both are addressed at the same problem and both approaches are intended to help the community.                      |
| 337 | Rep. Hansen  | Except one approach protects the community before someone has been killed and the other one protects the community after a person is killed.   |
| 339 | Meisenheimer | I like the proactive approach, but I don't think they are mutually exclusive. Prevention is much better.   |
| 351 | Rep. Bowman  | Does ORS 811.540 (the statute that deals with attempting to allude a police officer) implicitly state that the officer has to be easily identifiable?  |
| 363 | Meisenheimer | The state has to prove beyond a reasonable doubt that the person "knowingly" attempted to allude a police officer.   |
| 366 | Rep. Bowman  | So the statute is clear about a police officer being easily identified?  |
| 367 | Meisenheimer | Yes. As part of your basic proof you have to prove that it is a marked car and that the person is in uniform.  |
| 370 | Rep. Bowman  | Discusses a conviction of an attempting-to-allude case in Multnomah County this past week where two people were killed. The person convicted was sentenced to 20 years mandatory minimum under Measure 11. Since we have the ability now to prosecute and successfully convict people who kill people, why do we need to add different categories of murder? |
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| 388               | Meisenheimer      | The effort here is to be proportionate. In the case you referred to, the sentence for 20 years was more severe because two people died. Discusses the other crimes covered under the felony murder statute, and the fact that not very many people are killed as a result of these crimes. There are more innocent bystanders, with no ability to protect themselves, being killed by drivers who choose to drive recklessly in an attempt to allude the police.  |
| <b>TAPE 69, B</b> |                   |   |
| 005               | <b>Dave Cook</b>  | <b>Director, Department of Corrections (DOC)</b><br><br>Testifies in support of the ñ2 amendments ( <b>EXHIBIT F</b> ) to HB 2394. The DOC believes that anyone on transitional leave is still in custody of the DOC and any unauthorized leave by these people should be a Class C felony. There are no inmates on temporary leave with the DOC, but 46 SUMMIT graduates are currently on transitional leave. Discusses statistics over the last several years involving the transitional leave program. Classifying unauthorized leave as a Class C felony sends a message to the inmates that violation of unauthorized leave is a very serious act with serious sanctions. The DOC would be in support of Section 5 (a) and (c). Section 5 (b) I do not support because people pending adjudication are not in the same situation as those serving a sentence or violating probation. |
| 046               | Chair Mannix      | Would "pending adjudication" apply to someone just out on bail?   |
| 054               | Cook              | Each county would treat the pre-trial adjudication differently. Discusses that his main concern is the fiscal impact.   |
| 064               | Chair Mannix      | Do you have a problem if we remove (b) from Section 5?  |
| 065               | Cook              | No. If you take out (b) and leave everything else, we would endorse HB 2394.  |
| 073               | <b>James Rice</b> | <b>Oregon Criminal Defense Lawyerís Association</b><br><br>Testifies in opposition to HB 2394. Others have already raised the issues I would have brought up.   |
| 081               | <b>Al French</b>  | <b>District Attorneyís Association</b><br><br>Testifies in support of HB 2394. I testified previously on this bill when it was in the form of HB 2303 and I wonít repeat my testimony.  |
| 085               | Chair Mannix      | The testimony presented for HB 2303 should be incorporated into the testimony for HB 2394. What is your position about Section 5 (b) of the ñ2 amendments?  |
| 092               | French            | I agree that there might be some fiscal impact. Someone pending adjudication would probably be in a local facility and someone in a state institution would   |



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|     |                | probably not be put on temporary leave.   |
| 101 | Chair Mannix   | Would you oppose deleting that section because it creates or has the ability to create a fiscal impact?   |
| 103 | French         | No.   |
| 106 | Chair Mannix   | We could defer HB 2394 to see if there is a fiscal impact. Does HB 2394 have a subsequent referral to Ways & Means?   |
| 109 | Counsel Horton | Not at this point.  |
| 110 | French         | Discusses unauthorized leave as a subcategory 6 under the sentencing guidelines, which is the same as escape in the second degree.  |
| 117 | Chair Mannix   | We will check out the fiscal impact before we make any decision.  |
| 127 | Rep. Prozanski | Discusses his concerns with the ñ1 amendments, subsection (iii), line 8, that include anyone who has a warrant issued for them, lines 10-13 which has no time frame as to accountability, and lines 18-20 relating to warrants. |
| 155 | Chair Mannix   | Would you want to see subsection (iii) on warrants deleted?   |
| 158 | Rep. Prozanski | I think that would be appropriate. Discusses instances of people panicking and fleeing because they know there has been a warrant issued.   |
| 162 | Chair Mannix   | Do you want it changed to read that a person knows or believes that a warrant has been issued?  |
| 164 | Rep. Prozanski | Discusses that a person should have the knowledge that there is a warrant issued for them, and whether this applies to every warrant issued no matter what the cause.   |
| 172 | Chair Mannix   | What if you included felonies and misdemeanors involving violence?  |
| 176 | Rep. Prozanski | That would be better.   |
| 177 | Chair Mannix   | Are you thinking of a 10 or 15-year time limit for the accountability?  |
| 180 | Rep. Prozanski | We are looking at 10 years because the Department of Motor Vehicles (DMV) records go back that far.   |
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| 183 | Chair Mannix   | And you would delete lines 18-20?  |
| 184 | Rep. Prozanski | Yes.   |
| 185 | Chair Mannix   | Counsel Horton will check on the fiscal impact of line 12 of the ñ2 amendments. We also need to look at the affirmative defense age, although the age of 14 has been suggested. Rep. Prozanski will consider the warrant for a felony or misdemeanor involving violence as well as a 10-year time limit. |
| 198 | Rep. Bowman    | Discusses line 13 of the ñ1 amendments to HB 2394 and whether the police could make a determination if someone had been convicted for DUII in another state. How do we find out this information?  |
| 211 | Chair Mannix   | There are national search methods that could be used to check out the records in other jurisdictions and the FBI has a national registry available. They are using the same system for firearms background checks.   |
| 216 | Rep. Bowman    | Would they be using something new in this case that we don't normally use in DMV cases?  |
| 217 | Chair Mannix   | No.  |
| 219 | Rep. Bowman    | I would suggest that as in other states, we use the same 10-year time limit here for previous DUII convictions.  |
| 222 | Rep. Hansen    | If we can't decide whether to use a 10 or 15-year time frame for DUII convictions, perhaps looking at cases with 2 previous convictions instead of one would give us better data to make that decision.  |
| 240 | Rep. Prozanski | Discusses that there are changes that need to be made to the ñ1 amendments before any decision can be made.  |
| 251 | Rep. Bowman    | In regards to the ñ3 amendments, what does "reasonable grounds" mean in determining intoxication?  |
| 259 | Chair Mannix   | Defines "reasonable grounds" and discusses who would be able to make the best determination of intoxication.   |
| 271 | Rep. Bowman    | Discusses her concerns with line 5 of the ñ3 amendments and how someone might be coerced into a vehicle because of peer pressure.  |
| 280 | Chair Mannix   | Would you like to get rid of the affirmative defense?  |
| 280 | Rep. Bowman    | I think it is something that we need to discuss further.   |

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| 292   | Counsel Horton        | I will get a written summary of what the ñ1, -2 and ñ3 amendments do to HB 2394.  |
| 315   | Chair Mannix          | Closes the public hearing on HB 2394.   |
| <b><u>HB 2494 &amp; HB 2496 COMBINED PUBLIC HEARING</u></b> |                       |   |
| 331   | <b>Michael Howden</b> | <b>Oregon Center for Family Policy</b><br><br>Testifies and submits written testimony in support of HB 2494 ( <b>EXHIBIT H</b> ). Discusses that the courts have historically supported the primacy of the parent in a child's life. HB 2494 doesn't place any additional requirements or burdens on the family than what the law already provides for all parents. |
| <b>TAPE 70, B</b>   |                       |   |
| 007   | Rep. Sunseri          | Why do we need this bill if most of our child abuse laws would prohibit this type of "abuse"?   |
| 010   | Howden                | With the exception of conditions of manslaughter, the death of a child supersedes the prosecution on the basis of the current child abuse laws.   |
| 014   | Rep. Sunseri          | There being no statute of limitations on murder, if HB 2494 were passed, it would allow for prosecution of people who have practiced spiritual healing in the past.   |
| 017   | Chair Mannix          | You cannot retroactively criminalize conduct, it can only apply prospectively.  |
| 021   | Rep. Sunseri          | Are the penalties connected with the crime of murder proportionate with death due to lack of medical treatment for spiritual reasons?   |
| 024   | Howden                | Discusses his "battle" with trying to determine that very question. The preservation of the life of a child is the superseding issue and how it applies to the prosecution issue is a hard question to answer.  |
| 045   | Rep. Prozanski        | Discusses his interpretation of HB 2494 as being reactive after a death occurs. Under the current juvenile court laws we can react proactively prior to the death by the hospital intervening to give care.   |
| 059   | Howden                | In order for the hospital to intervene, the child has to be in the care of the hospital so we would have to go out and find that child in this case.  |
| 070   | Rep. Prozanski        | I want to make sure there are rules in place now to deal with children needing  |

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|     |                             | <p>medical attention. What we don't have now is a way to hold someone accountable if a death is caused by lack of medical treatment.</p>  |
| 081 | Howden                      | <p>That is correct. The accountability is not available now, but when considering that prosecution, we would ask that consideration is given for the freedom of expression.</p>   |
| 086 | Rep. Sunseri                | <p>Are you familiar with any cases where the death of a child could be construed as some kind of abuse or are the people withholding medical treatment really convinced they are doing something that is right?</p>   |
| 097 | Howden                      | <p>The difficult part of this consideration is when the parents are sincere in their beliefs to withhold treatment rather than abusing the child. To my knowledge, the cases in Oregon would be hard to define as the classic abuse cases.</p>  |
| 113 | <b>Douglas Vande Griend</b> | <p><b>Western Center for Law and Religious Freedom</b></p> <p>Testifies in support of HB 2494 &amp; HB 2596. Discusses two specific areas of the law affected by this legislation: one has to do with juvenile jurisdiction and the other has to do with criminal jurisdiction. I would support the elimination of the exception as to the juvenile jurisdiction. Discusses protecting the concept of religious liberty. Discusses the justification for imposing criminal penalties as solely to deter people from committing crimes. The people refusing medical treatment for their child, based on their spiritual beliefs, believe they are doing the best thing they can do, and they believe the Creator of the universe will bless them and their child if they follow those beliefs. Discusses the fact that repealing spiritual treatment defense could open the door to a more full defense.</p> |
| 282 | Chair Mannix                | <p>By removing the spiritual treatment defense, aren't we showing people that on the adult side they will be held accountable if they are not willing to take advantage of the medical care provided on the juvenile side?</p>  |
| 306 | Vande Griend                | <p>Discusses what criminal penalties would be imposed on an adult.</p>  |
| 335 | Chair Mannix                | <p>Discusses the court's "filtering" process. The prosecutor making a decision to proceed is filter one; filter two is the grand jury in the case of felonies; filter three is the trial jury's decision. We want to error on the side of life and on the side of medical care because you can't bring back a person if they have died.</p>   |
| 364 | Vande Griend                | <p>To a certain extent I agree with that and that is why I favor the proactive approach, but I have a concern with the reactive side if the deterrent is not there.</p>   |
| 392 | Rep. Bowman                 | <p>Prior to 1995 when this affirmative defense was instituted, 74 children died due to lack of medical treatment. Can you name one case where a parent using the spiritual treatment defense was sentenced for murder?</p>  |
| 411 | Vande Griend                | <p>No.</p>  |
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| 412               | Rep. Bowman       | Discusses this fear of sentencing guidelines being appropriate for some people and inappropriate for others. The district attorney makes the first determination of what offense to charge a person. Why is it appropriate for us as legislators to determine that there is a particular charge that is not appropriate when that is not our function?   |
| <b>TAPE 71, A</b> |                   |  |
| 001               | Vande Griend      | I think, that by creating the criminal statutes in the first place, the Legislature always identifies what penalty criminal actions deserve. It is the Legislature who also creates the affirmative defenses.  |
| 021               | Chair Mannix      | You said you would support passage of HB 2494, but you had concerns about the criminal charges portion?  |
| 023               | Vande Griend      | Yes.   |
| 023               | Rep. Prozanski    | I think those concerns are based upon the potential sanctions that could be imposed upon these individuals.  |
| 032               | <b>James Rice</b> | <b>Oregon Criminal Defense Lawyeris Association</b><br><br>Testifies as neutral to HB 2494 & HB 2596. Discusses the "choice of evils" defense that was brought up by Mr. LaFrance on March 4, 1999. Discusses the limitations on the use of the "choice of evils" defense. Discusses the "intent elements" and "intentionally" abusing and much of this deals with reckless conduct. These are misguided people we are trying to confront, not evil people trying to harm someone. Defines the reckless statutes that now exist. |
| 075               | Chair Mannix      | Closes public hearing on HB 2494 & HB 2596. Adjourns meeting at 10:31 a.m.   |

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ HB 2494 & HB 2596, written testimony of Janet Metcalf, Department of Justice, dated 3/4/99, 3 pgs.**

**B ñ HB 2494, written testimony of Victor Congleton, Services to Children & Families, dated 3/4/99, 2 pgs.**

**C ñ HB 2596, written testimony of Victor Congleton, Services to Children & Families, dated 3/4/99, 2 pgs.**

**D ñ HB 2494, written testimony of Rita Swan, C.H.I.L.D., 4 pgs.**

**E ñ HB 2394, -1 amendments (LC 336), staff, 1 pg.**

**F ñ HB 2394, -2 amendments (LC 336), staff, 1 pg.**

**G ñ HB 2394, -3 amendments (LC 336), staff, 1 pg.**

**H ñ HB 2494, written testimony of Michael Howden, Oregon Center for Family Policy, dated 3/5/99, 7 pgs.**