

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

April 23, 1999 Hearing Room 357

8:00 a.m. Tapes 155 - 158

MEMBERS PRESENT: Rep. Mannix, Chair

Rep. Prozanski, Vice-Chair

Rep. Bowman

Rep. Gianella

Rep. Simmons

Rep. Sunseri

MEMBER EXCUSED: Rep. Hansen

STAFF PRESENT: John Horton, Counsel

Patsy Wood, Administrative Support

MEASURE/ISSUES HEARD:

HJM 10 Public Hearing

HB 3080 Public Hearing

HB 2426 Public Hearing

HB 3094 Public Hearing

HB 3458 Public Hearing

HB 3057 Public Hearing

HB 3586 Public Hearing

HB 3591 Public Hearing

HB 3395 Public Hearing

HB 2605 Public Hearing

HB 2996 Public Hearing

HB 2096 Public Hearing**HB 2397 Public Hearing****HB 3608 Public Hearing****HB 3208 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
TAPE 155, A		
008	Chair Mannix	Calls meeting to order at 8:13 a.m.
<u>HB 3080 PUBLIC HEARING</u>		
009	Rep. Jackie Taylor	State Representative, House District 1 Testifies in support of HB 3080 that includes a tribal police officer within the definition of police officer for purposes of the Oregon Vehicle Code. Describes the difficulties experienced by tribal police officers when attempting to enforce Oregon law on non-Indian people while they were on tribal lands. It is not the intent of HB 3080 to prosecute in tribal court, but to give tribal police the authority to enforce the Oregon Vehicle Code on any person while they are on the reservation.
034	Chair Mannix	Have you checked with other police departments on the impact of HB 3080?
036	Rep. Taylor	This legislation has the support of the Chiefs of Police and the Sheriffs Association, and the U. S. Attorney's office stated that it seemed appropriate.
057	Rep. Prozanski	By defining a "tribal police officer" are they then included in the Public Employees Retirement System (PERS)?
062	Rep. Taylor	That did not come up in our discussions, but that is not the intent of HB 3080.
066	Rep. Prozanski	Cities often adopt the State Vehicle Code as a city ordinance. Has the tribe considered adopting the State Vehicle Code as an ordinance on tribal land?
071	Rep. Taylor	I don't know.

075	Kevin Campbell	Oregon Association Chiefs of Police Testifies in support of HB 3080. Laws can get complicated when they relate to tribal lands. We want the tribal police to have authorization to patrol an area and have that area defined carefully. Discusses the concern of the tribal police having their evidence in a civil case suppressed in a state court because they are not considered "police officers" under State law. Cites the Court of Appeals decision on <i>State v. Darl Guy Pamperien</i> , Court of Appeals 95 CR 0289 CA A94761.
124	Kathy Thole	Resident from Grande Rhonde Testifies and submits written testimony in opposition to HB 3080 (EXHIBIT A). Believes this legislation is too vague, citing concerns about costs and definitions. Implementation of HB 3080 would abridge my civil rights and the civil rights of Indians.
153	Chair Mannix	The vagueness about what lands are affected and how this legislation would fit in with the Oregon Codes are shared concerns.
161	Chair Mannix	Closes the public hearing on HB 3080.
<u>HB 2996 PUBLIC HEARING</u>		
178	Rep. Bob Jenson	State Representative, House District 57 Testifies in support of HB 2996. Introduces his legislative assistant, Kristen Richert, to make the presentation.
194	Kristen Richert	Legislative Aide to Rep. Jenson Testifies and submits written testimony in support of HB 2996 (EXHIBIT B). HB 2996 fixes a loophole in Oregon law so that a juvenile sex offender that came to Oregon but was convicted in another state has to comply with Oregon statutes. Discusses the case of a juvenile sex offender currently under the supervision of the OYA.
262	Rep. Prozanski	If an Oregon youth is convicted of a Measure 11 sex crime within Oregon there is a duty for this individual to be registered as a sex offender.
267	Richert	They do have to register, but the area of concern is community notification.
269	Chair Mannix	You are attempting to address two separate issues in HB 2996. One issue is whether someone convicted in another state will be treated as someone in Oregon if a predatory sex offender. The second issue is whether the Oregon Youth Authority should have the same notification obligation as the Department of Corrections. Is this correct?
281	Richert	If the juvenile is under the supervision of the OYA, and they are 15, 16 or 17, under HB 2996 there would have to be notification of their sex offender status.

		An offender under age 15 would not qualify for notification purposes.
286	Chair Mannix	Is your second concern getting the OYA to notify communities if a juvenile predatory sex offender moves into a neighborhood?
291	Richert	Unless a juvenile was adjudicated in another state, the OYA doesn't have to perform the notification.
296	Chair Mannix	On page 1, Section 2 of HB 2996 you are adding the Oregon Youth Authority to the law in terms of notification of a predatory sex offender.
300	Richert	Section 2 has to be read with Section 1, but I don't believe the OYA has to notify for a predatory sex offender under HB 2996.
308	Counsel Horton	Section 2 on page 1 of HB 2996 adds the OYA to the list of other corrections agencies who have to make notification of a predatory sex offender.
314	Chair Mannix	You don't want to do that?
314	Richert	That wasn't our intent, and I don't think that is what this says. I worked with Legislative Counsel (LC) and I don't think an offender would come under the notification clause unless they were 15, 16 or 17 and had been adjudicated in a different state.
323	Chair Mannix	Check with the OYA about their interpretation and see what LC has to say. My interpretation is that you are adding the OYA to ORS 181.586.
336	Rep. Prozanski	That is also my understanding. Discusses the OYA having the authority to make sex offender notification only after the OYA accepts supervisory responsibility for a youth that committed a crime in another state. That is a very narrow intent, but the way HB 2996 is written it looks like it is adding the OYA to the agencies responsible for sex offender notification.
350	Rep. Sunseri	Is that what you are trying to accomplish?
351	Richert	Yes, I worked with Legislative Counsel on that narrow intent.
354	Chair Mannix	You might want to confer with LC about the impact of implementing only Section 1.
359	Rep. Prozanski	Also check with OYA on the language to keep the intent narrow.
365	Richert	The OYA comes into Section 2 because these juveniles, although adjudicated in another state, come under the supervision of the OYA.

372	Chair Mannix	In Section 2, page 1 of HB 2996, you are adding the Oregon Youth Authority to the notification network. If that is not what you intended, consult with OYA to get the proper language; if that was your intent, we have it in front of us.
382	Rep. Prozanski	A cursory reading of Section 2, page 1 of HB 2996 would apply to any youth, not only those transferred into the supervision of OYA from out of state, coming under the jurisdiction of this legislation. Therefore, language is needed to narrow this notification to juvenile offenders coming in from out of state.
392	Richert	The juvenile sex offenders coming in from out of state have missed the determination if the sex offender is "predatory" because the Department of Corrections or a community correctionis agency generally makes this determination while the youth is incarcerated in Oregon for a sex crime. The notification process applies to only "predatory" sex offenders.
430	Rep. Jenson	We want fairness, so people coming from other states should be treated the same as people in Oregon.
TAPE 156, A		
014	Chair Mannix	Recesses the public hearing on HB 2996.
<u>HB 2426 PUBLIC HEARING</u>		
019	Rep. Mike Lehman	State Representative, House District 47 Testifies in support of HB 2426 that redefines child sexual exploitation. Describes the case of a 17 year-old girl and an 18 year-old boy who were having a relationship, but the boy was turned into Child Services Division (CSD) for contributing to the delinquency of a minor because the boy was over 18 and the girl was under 18. While the case was awaiting investigation, the boy tried to enter the military and couldnit for 9 months. HB 2426 removes the sexual delinquency language from the statute.
056	Rep. Prozanski	Should a three-year age difference be allowed with regard to these cases?
064	Rep. Lehman	I donit know if we need to change the statute for a wider age difference because most of those cases donit even get prosecuted. Under subsection G, page 2, the three-year rule isnit as important as the fact that some type of abuse is occurring that threatens the health or welfare of a child, and a "public or private official" is required to report that.
074	Chair Mannix	Iive been told that SB 740 from this session addresses this issue and adds a three-year age gap to "contributing to the sexual delinquency of a minor".
081	Rep. Prozanski	Do we need to add language about the age difference to the juvenile sections as well as the adult sections in statute?

084	Capt. Bob Smit	Oregon State Police SB 740 does address this issue of age difference and has passed out of Senate Judiciary committee.
108	Chair Mannix	Closes the public hearing on HB 2426.
<u>HB 3458 PUBLIC HEARING</u>		
115	Rep. Kitty Piercy	State Representative, House District 39 Testifies and submits the ñ2 amendments in support of HB 3458 that establishes a county victim and offender reconciliation program (EXHIBIT C).
145	Alice Phalen	Appropriate Dispute Resolution Advisor, Oregon Judicial Department Testifies in support of HB 3458 and the ñ2 amendments and submits statistics (EXHIBITS D & E). Discusses appropriate dispute resolution options that are currently in place through the court system and in the community.
169	Susan Brody	Executive Director, Oregon Dispute Resolution Commission Testifies and submits written testimony in support of HB 3458 and the ñ2 amendments (EXHIBIT F).
182	Chair Mannix	Closes the public hearing on HB 3458.
<u>HB 3094 PUBLIC HEARING</u>		
196	Nancy Miller	State Court Administrator's Office Testifies as neutral to HB 3094 that allows a juvenile court to refer a youth to a peer court program. Discusses changes that need to be made in HB 3094 relating to "courts" and submits an amended version of HB 3094 (EXHIBIT G). The Juvenile Department Director's Association feels we don't need this legislation because peer court programs are already established. We are proposing a language change in this legislation that would authorize peer courts in statute.
237	Chair Mannix	How will those amendments be drafted?
238	Miller	If Rep. Morrisette is in favor of the changes, I assume that his office would make the request to Legislative Counsel.
248	Kathie Osborn	Juvenile Rights Project Testifies in support of HB 3094. Discusses subsection (e) on page 1 of Exhibit G asking that the old language be kept because peer courts are often very beneficial to a youth on probation.

277	Chair Mannix	Closes the public hearing on HB 3094.
<u>HB 3057 PUBLIC HEARING</u>		
295	Chair Mannix	Closes the public hearing on HB 3057.
<u>HJM 10 PUBLIC HEARING</u>		
307	Leland Berger	Voter Power Testifies in support of HJM 10 that urges Congress to reschedule marijuana from Schedule I. We would like the Oregon Legislature to recommend to Congress that marijuana be rescheduled from Schedule I because it has been shown to have a medically accepted use. A problem with the distribution of medical marijuana arises because physicians cannot prescribe Schedule I drugs. States reasons why HJM 10 is an appropriate measure to pass out of committee.
376	Chair Mannix	What if we told Congress that the citizens of Oregon voted to allow the medial use of marijuana and asked Congress not to interfere in legislation that Oregonians determined through their initiative process?
386	Berger	My main concern is telling Congress that marijuana ought to be moved out of Schedule I to be used for medical purposes.
395	Chair Mannix	Or Congress could allow those states to implement their medical marijuana legislation where the voters have approved it.
399	Berger	The roadblock to implementation is the Controlled Substances Act where marijuana is a Schedule 1 drug. Discusses the City of Oakland, California relying on the 9 th and 10 th Amendments whereby their Proposition 215 (like Ballot Measure 67 in Oregon) has created a fundamental liberty interest in having a right to be free from pain.
TAPE 155, B		
009	Rep. Prozanski	Rescheduling marijuana from a Schedule I to a Schedule II drug would allow physicians to prescribe it for medicinal purposes rather than have individuals grow it at their private residence.
018	Rep. Jo Ann Bowman	State Representative, House District 19 Testifies in support of HJM 10. Cites the Oregon Health Division as the agency appointed to issue registration cards to individuals who were eligible to legally use medical marijuana. Discusses the two extremes involved with the Medical Marijuana Act as law enforcement wanting only those people authorized to use

		<p>medical marijuana to do so, and those people who have to use the drug to maintain any quality of life during their debilitating illness. Discusses the \$150 cost to register to use medical marijuana being prohibitive for some people. Medical marijuana is the law in Oregon and doctors should be able to prescribe marijuana for people who need it for medical reasons.</p>
081	Rep. Simmons	What would be the practical effect for rescheduling marijuana from Schedule I to Schedule II?
082	Berger	Doctors could then prescribe the drug for medicinal purposes.
095	Amy Klare	<p>Oregonians for Medical Rights</p> <p>Testifies and submits written testimony in support of HJM 10 (EXHIBIT H). Also submits a letter from Sandee Burbank in support of HJM 10 (EXHIBIT I). States that it is preferable for patients who need medical marijuana to get it from a pharmacy where it is regulated rather than from the streets. An Institute of Medicine report stated that until marijuana is rescheduled out of Schedule I, research money will not be available to develop alternative methods of delivery systems such as inhalers and patches.</p>
128	Chair Mannix	Encourages sending Congress the message that laws of individual states should be respected. Submits the written testimony of Lt. Ed Mouery, Oregon State Police, in opposition to HJM 10 (EXHIBITS J & K).
149	Chair Mannix	Closes the public hearing on HJM 10.
<u>HB 2605 PUBLIC HEARING</u>		
152	Rep. Vic Backlund	<p>State Representative, House District 33</p> <p>Testifies in support of HB 2605 that imposes a mandatory life imprisonment for third or subsequent conviction for specified sex offenses. HB 2605 is being introduced because previous attempts to rehabilitate and treat these offenders have been unsuccessful.</p>
182	Rep. Bowman	We no longer provide treatment for sex offenders inside the Department of Corrections, but at some point warehousing people and putting them back on the street is not providing the treatment these people need. Would you care to comment on the treatment side of this bill?
200	Rep. Backlund	Discusses his counseling work done at McLaren and the discovery that some classes of criminal activity were more amenable to rehabilitation than others and that predatory sex offenders are quite resistant to treatment.

224	Rep. Bowman	This committee passed out a bill specifying post-prison supervision for life for predatory sex offenders. Would lifetime supervision control the people you are concerned about rather than lock them up for the rest of their lives?
241	Rep. Backlund	That would be one thing to consider.
255	Rep. Prozanski	Raises a concern with Section 1, subsection 2 (o), lines 28-29 on page 1 of HB 2605, that possession of sexually explicit materials would have the same sanction as sodomy or rape.
283	Rep. Backlund	Lines 24-29 on page 1 were eliminated in the ñ1 amendments (EXHIBIT L). Did the committee not get those amendments?
286	Chair Mannix	I have those amendments along with the ñ2 amendments that make public indecency a Class C felony, the ñ3 amendments that say no plea bargaining, and the ñ4 amendments requiring an annual polygraph examination (EXHIBITS M ñ O).
300	Rep. Simmons	I think there should be harsher sanctions after the third conviction for sex offenses.
332	Chair Mannix	Recesses the public hearing on HB 2605.
<u>HB 3591 PUBLIC HEARING</u>		
341	Rep. Kathy Lowe	State Representative, House District 26 Testifies and submits written testimony in support of HB 3591 that creates a crime of interference with making a report (EXHIBIT P). Discusses the incidence of telephones being disabled so an abused woman cannot call for help. Lists supporters of HB 3591.
412	Dale Penn	Oregon District Attorneyís Association Testifies in support of HB 3591. Disabling a telephone can be a crisis situation for someone living in a rural community. States the reasons for creating a crime of interference when trying to report a domestic violence situation.
TAPE 156, B		
006	Rep. Bowman	Would you prosecute this crime?
008	Penn	Yes. We would use it as an alternative when we could not prove the assault in a domestic violence case.

016	Rep. Bowman	We've heard about the choices that the District Attorney's office has to make with regards to prosecuting misdemeanors. Is this just an exercise to get it in the statutes or will people be held accountable?
023	Penn	We prosecute over 6,000 misdemeanor crimes a year, but there are about 2,000 misdemeanors we don't prosecute. First-offense, non-violent misdemeanors, we probably would not prosecute. We do prosecute all drunk driving, all violence, as well as any public indecency and prostitution that we can prove.
041	Rep. Prozanski	Discusses all domestic violence cases being prosecuted in his area whether the witnesses cooperate or not, and his work with the Domestic Violence Council. There is an existing law that covers the obstruction of governmental and judicial administration that would appear broad enough to cover someone being interfered with while trying to make a report of domestic violence. The Abuse Prevention Act (APA) standard should apply in these interference cases so that law enforcement officials would be making the decision on who goes to jail.
069	Lowe	This legislation would be an alternative to an APA arrest.
073	Rep. Prozanski	If a police officer has to determine who may have been the one in a dispute to pull the telephone out of the wall, they will have a difficult time determining who was at fault.
079	Penn	Discusses when mandatory arrest applies and that this proposed legislation would not change that statute. I do see this as an alternative, because every arrest by an officer is a discretionary arrest. Showing that a telephone had been disabled in a domestic violence situation would provide an alternative charge if the assault is not visible.
106	Rep. Prozanski	It would be hard to prove these interference charges in court beyond a reasonable doubt without the victim present giving an admission or a witness.
128	Penn	I know the challenge of trying to draft a statute that would apply to every situation, but usually the first step leading to a domestic violence altercation is disabling the telephone so the victim can't call for help. This legislation would allow for some type of intervention.
151	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies as neutral to HB 3591. Discusses ORS 162.235 that deals with obstruction and covers intentional interference with access to law enforcement. It would be necessary for a victim to testify how the telephone became disabled. Did the committee consider parents and teenagers with their own telephones and the parents' rights to control them? The language "an agency charged with the duty of taking reports" is too broad because most agencies are charged with the duty of taking reports about one thing or another.
180	Chair Mannix	Closes the public hearing on HB 3591.

HB 2605 RECONVENES PUBLIC HEARING

198	Jeff Collins	Sex Offender Supervision Network Testifies and submits written testimony in support of HB 2605 (EXHIBIT Q). We thought that there were too many crimes and too many convictions involved in the bill. It would be better to look at first degree crimes and the second conviction, rather than the third, with one caveat of a mandated treatment program while on parole or post-prison supervision. If the person commits another serious sex offense after going through the treatment program, then look at lifetime incarceration.
229	Rep. Prozanski	Can you provide information about what other states are doing in this area? Would this be two strikes and you're out?
232	Collins	Yes. I don't have specific data, but I know Arizona has lifetime supervision.
246	Rep. Prozanski	Has there been any discussion with the Criminal Justice Commission on the fiscal impact if HB 2605 applies to second-time offenders rather than third-time offenders?
254	Scott Taylor	Assistant Director, Department of Corrections (DOC) Testifies in support of HB 2605. We have looked at some numbers for the third-time conviction, but we do not have the numbers for second-time convictions.
262	Rep. Prozanski	What is the size of the population for third-time convictions?
264	Taylor	It would be 9-12 individuals. Asks for clarification if an individual commits three or more of the offenses listed on page 1 of HB 2605 in one event, is that an instant qualification for lifetime imprisonment or is that just one conviction?
285	Rep. Prozanski	Isn't there already legislation that deals with consecutive sentencing that you can break out separate incidents for sentencing purposes?
291	Chair Mannix	Yes. The 2 amendments would make public indecency a Class C felony (EXHIBIT M). What was your reasoning for that?
310	Collins	That was not our amendment so I am not familiar with it.
312	Chair Mannix	Do you want to comment on the offense of public indecency?
313	Collins	Public indecency is the most chronic sex crime in the country. This population is the most difficult for us to supervise. Also, having them as a misdemeanor is unfunded in our budget formula.

326	Chair Mannix	Wouldn't making public indecency a Class C felony get it into a funding formula for the state to pay for it?
328	Taylor	Yes.
330	Collins	Discusses public indecency being a pre-cursor crime to more serious offenses such as rape, sodomy, or sex abuse.
336	Chair Mannix	What if we said any prior conviction for a sex offense and a person is convicted for public indecency would be a Class C felony?
342	Collins	College kids mooning someone shouldn't be subject to lifetime registration. We want the person who sets out to commit this crime.
349	Chair Mannix	Should the third offense of public indecency be a Class C felony?
350	Collins	The second conviction would be fine.
371	Chair Mannix	Registration for public or private indecency on the second offense is handled in another bill.
386	Rep. Bowman	Could you provide data on lifetime supervision of sex offenders?
393	Collins	I have some information I can get for you, but I know that the state of Arizona has 70% of adult sex offenders on lifetime supervision.
399	Taylor	When I look into the population size for second-time convictions of sex offenses, should I look at the five crimes Mr. Collins used in his testimony (EXHIBIT Q) or the longer list in HB 2605?
405	Chair Mannix	The five crimes rather than the larger series on page 1 of HB 2605.
412	Ingrid Swenson	<p>Oregon Criminal Defense Lawyers Association</p> <p>Testifies in opposition to HB 2605. We feel judges currently have the tools to incarcerate people convicted of these sex offenses for very long periods of time. We are opposed to life sentences because there is no recognition for people who are rendered not dangerous to society or have gained the skills needed to be safe in the community. Discusses the work of an interim group that focused on dangerous sex offenders who would require supervision for the balance of their lives. Discusses HB 2327 and HB 2328 from this session that deal with sex offenders.</p>
TAPE 157, A		

044	Chair Mannix	Closes the public hearing on HB 2605.
<u>HB 3586 PUBLIC HEARING</u>		
047	Chair Mannix	Submits a letter from Rep. Shetterly that includes a court decision that HB 3586 is designed to address (EXHIBIT R). HB 3586 allows a person sentenced to life imprisonment for murder to be eligible for parole after serving a mandatory minimum sentence.
055	Diane Rea	Board of Parole and Post-Prison Supervision Testifies as neutral to HB 3586. I do have some suggestions that would make HB 3586 easier for the Board to implement, and these could be presented in amendment form at a later date. Discusses ORS 163.115 that gives a life sentence for murder with a 25-year minimum. The life sentence has been ruled invalid because there is no mechanism for parole release making the sentence for murder more rigid than the sentence for aggravated murder which has a possibility for parole release after 30 years.
075	Chair Mannix	Discusses the disproportionality of a greater sentence for a lesser offense.
091	Counsel Horton	Is this court case you have referred to an appellate case or a supreme court case?
092	Chair Mannix	It came from the Court of Appeals.
093	Counsel Horton	Could the Supreme Court render a different decision addressing the problem of the disproportionate sentence?
094	Dale Penn	Marion County District Attorney Testifies in support of HB 3586. There may be some need to fine tune the language, but we think the Supreme Court would arrive at the same conclusion that the sentence for murder is disproportionate.
116	Chair Mannix	Closes the public hearing on HB 3586.
<u>HB 2996 RECONVENES PUBLIC HEARING</u>		
126	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to HB 2996. Discusses the kinds of supervision that are currently in place for juvenile offenders. Juveniles under supervision coming in from another state would still be under supervision in Oregon to protect the public and control their behavior. For juveniles that come into Oregon who are not under supervision, the law already allows the State Police to do community notification.

181	Kathie Osborn	Juvenile Rights Project Testifies in opposition to HB 2996. I think Section 2 on page 1 of HB 2996 is broader than Rep. Jenson wanted. There could be a problem if a juvenile is coming into Oregon from a state that does not allow juveniles to have a jury trial. Discusses the quality of juvenile defense as reported by the American Bar Association (ABA).
234	Chair Mannix	Closes the public hearing on HB 2996.
<u>HB 3208 PUBLIC HEARING</u>		
239	Rep. Deborah Kafoury	State Representative, House District 18 Testifies in support of HB 3208 that requires the Department of Human Resources, Employment Department and Department of State Police to waive state fees charged for criminal background checks if the person being checked is a volunteer for a nonprofit organization.
259	Wendy Hunt	Big Brother/Big Sister Coordinator Testifies and submits written testimony in support of HB 3208 (EXHIBIT S). Discusses how important it is for non-profit agencies to do background checks on their volunteers, but the cost of this check is prohibitive to some individuals or groups.
292	Chair Mannix	If there is a package background check for firearms, you could use that same information to clear people who work for your organization.
320	Rep. Kafoury	Discusses an amendment that is proposed for HB 3208 eliminating the Department of Human Resources and Employment Department because non-profit agencies are already required to contract with the Department of State Police to perform background checks.
341	Laura Smith	Young Men's Christian Association (YMCA) Testifies in support of HB 3208.
346	Randy Lewis	Director, Salem YMCA Testifies and submits written testimony in support of HB 3208 (EXHIBIT T). We use a significant amount of volunteers and we are extremely concerned about the safety of our kids. HB 3208 would make sure that kids are safer because we would know the caliber of people they are interacting with from the background check. This bill would allow organizations to reach more kids through more volunteers.
360	Chair Mannix	Closes the public hearing on HB 3208.

HB 3395 PUBLIC HEARING

372	Joel Shapiro	Law Student at Lewis & Clark Law School Testifies and submits written testimony in support of HB 3395 that would modify rules of evidence relating to hearsay (EXHIBIT U). In domestic violence, reliable evidence is often excluded at trial and because of the prevalence of domestic assaults, a change in the hearsay rule was needed and wanted. Discusses the purpose of the hearsay rule in particular and the Evidence Code in general.
404	Doug Beloof	Lewis & Clark Law School Professor Testifies in support of HB 3395. Discusses the constitutionality of hearsay as evidence. HB 3395 is good policy because hearsay and the rules of hearsay are designed to address problems of reliability and often the first statement that a victim makes in a domestic violence dispute is the most reliable.
TAPE 158, A		
015	Rep. Bowman	I think this legislation should work both ways and hold people who file false charges of abuse accountable.
021	Beloof	There are laws on the books that address false statements and I think people should be prosecuted for lying to authorities.
032	Shapiro	The language of the bill gives the judge the discretion to decide if false statements have been presented on either side.
039	Rep. Bowman	My understanding is that we do not prosecute the person filing the report if in fact they did make a false statement.
054	Rep. Prozanski	Was there a time limit for the filing of statements?
057	Shapiro	The 24-hour time limit is on line 9 of page 6, but the bill refers to "the timing of the statement" in various places which is something the judge takes into account when deciding the reliability of the declarant.
067	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to HB 3395. Expresses her concern with making prior inconsistent statements substantive evidence in court. The second problem is that this legislation treats victims of domestic violence like children and mentally disabled people. Finally, it creates another hearsay exception. There is a residual hearsay exception in the law on page 6, beginning on line 26.
124	Kathie Osborn	Juvenile Rights Project

		Testifies in opposition to HB 3395. Describes the case of a juvenile boy whose mother kept filing false charges against him to get him removed from the home. Each time he was arrested the mother would not show up for court and the charges were dropped. Unfortunately, these arrests kept going on the boy's record. If HB 3395 was in effect, my client would probably have been convicted by the hearsay on those four charges of assault that had never occurred.
172	Dale Penn	Oregon District Attorney's Association HB 3395 has nothing to do with the admissibility of other crimes. This bill pertains only to a precise criminal act. Discusses that the hearsay has to have corroboration as stated on lines 19-20 of page 6.
190	Rep. Bowman	Wouldn't the arresting officer's statement be corroboration of the hearsay evidence?
195	Penn	The officer would have to see the evidence of injuries in order to corroborate the charge of assault. The only way that hearsay evidence would be admissible in court is if the judge made a determination that the hearsay evidence was reliable. Discusses what evidence would be considered to be substantive evidence in court.
252	Beloof	The proposed language of HB 3395 gives the jury the opportunity to determine the truth with adequate safeguards. There are no constitutionality problems with HB 3395. Lists scholars who feel this legislation is the better rule on hearsay.
265	Rep. Prozanski	Has Laird Kirkpatrick from the University of Oregon seen this at all?
266	Beloof	I am attempting to reach him in Washington, D.C., but I would guess that he is in accordance.
271	Rep. Prozanski	This is not the first time that hearsay evidence has been before the legislature. Do you know why it didn't make it through previous sessions?
277	Penn	I am not aware of an earlier proposal to allow impeachment to be substantive evidence or an expanded hearsay exception.
283	Beloof	When the Oregon Rules of Evidence were drafted these issues on hearsay were considered, but they were very new concepts. Since then, many states have had this provision and it has been upheld as constitutional.
296	Chair Mannix	Closes the public hearing on HB 3395.
<u>HB 2096 PUBLIC HEARING</u>		
298	Rep. Prozanski	Discusses the 11 amendments to HB 2096 that establishes that police investigative reports are not official records in a criminal case subject to being

		sealed pursuant to order to set aside conviction or arrest record (EXHIBIT V).
309	David Myton	Executive Director, Teachers Standards and Practices Commission Testifies in support of HB 2096. Discusses problems with establishing a prospective employee's criminal background when the police records have been sealed.
334	Joe McKeever	Department of Justice Testifies and submits written testimony in support of HB 2096 (EXHIBIT W). This legislation is necessary because the Oregon Supreme Court overruled an interpretation that police investigation reports are not part of "official records of the case" which means they can be sealed along with court records.
350	Rep. Prozanski	This is a policy shift as to the expungement of records. Discusses the procedure for re-opening criminal records that have been sealed.
368	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies in opposition to HB 2096. Because not everyone with a criminal record is eligible to have their records expunged, and especially not sex offenders, those records should be available when checking the background on a prospective employee.
407	Chair Mannix	Closes public hearing on HB 2096.
<u>HB 2397 PUBLIC HEARING</u>		
433	Chair Mannix	Closes the public hearing on HB 2397.
TAPE 157, B		
<u>HB 3608 PUBLIC HEARING</u>		
008	Rep. Juley Gianella	State Representative, House District 38 Testifies in support of HB 3608 that creates the crime of female genital mutilation.
014	Lynn Partin	Women's Rights Coalition Testifies and submits written testimony in support of HB 3608 (EXHIBIT X). The bill is aimed at attacking female mutilation that happens in other countries, but is migrating to the United States. This legislation would criminalize the practice in Oregon and allow the Oregon Health Division to implement appropriate education, prevention and outreach activities in at-risk communities. Describes the book <u>Desert Flower</u> that addresses the problem of female genital

		mutilation.
057	Chair Mannix	Do you have statistics on this procedure occurring in the U.S.?
059	Partin	Public Health Records estimate 168,000 procedures occurring each year in the entire U.S.
072	Chair Mannix	You want to say this is illegal and we don't want it done in this state?
073	Partin	Yes. Asks if "at the request of the Women's Rights Coalition" can be added to the bill.
081	Chair Mannix	That would require reprinting the bill, and unless you plan on amending the bill, it would not be reprinted. Do you want an emergency clause on this bill?
086	Partin	If we amend HB 3608 for some other reason, that is something we might want to consider.
092	Chair Mannix	We will request an emergency clause so the bill will be reprinted A-Engrossed. The committee will make a request that if the rules allow, the requestor, the Women's Rights Coalition, be printed on the bill.
097	Partin	Discusses an article relating to female genital mutilation that she couldn't get permission to reprint.
107	Chair Mannix	We are a government agency requesting a copy so we will get a copy.
112	Chair Mannix	Closes the public hearing on HB 3608.
112	Chair Mannix	Adjourns the meeting at 11:10 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

EXHIBIT SUMMARY

- A - HB 3080, written testimony of Kathy Thole, 1 pg.
- B - HB 2996, written testimony of Rep. Bob Jenson, dated 4/23/99, 2 pgs.
- C - HB 3458, -2 amendments (LC 3758), dated 4/16/99, Rep. Kitty Piercy, 1 pg.
- D - HB 3458, statistics submitted by Alice Phalen, Judicial Department, 1 pg.
- E - HB 3458, statistics submitted by Alice Phalen, Judicial Department, 2 pgs.
- F - HB 3458, written testimony submitted by Susan Brody, Dispute Resolution Commission, dated 4/23/99, 1 pg.
- G - HB 3094, conceptual amendments submitted by Nancy Miller, State Court Admin., 2 pgs.
- H - HJM 10, written testimony submitted by Amy Klare, Oregonians for Medical Rights, dated 4/23/99, 1 pg.
- I - HJM 10, written testimony of Sandee Burbank submitted by Amy Klare, dated 4/21/99, 1 pg.
- J - HJM 10, written testimony of Lt. Ed Mouery, Oregon State Police, dated 4/23/99, 2 pgs.
- K - HJM 10, Institute of Medicine Report, submitted by Lt. Ed Mouery, 19 pgs.
- L - HB 2605, -1 amendments (LC 2214), dated 4/9/99, Rep. Vic Backlund, 1 pg.
- M - HB 2605, -2 amendments (LC 2214), dated 4/9/99, Rep. Vic Backlund, 2 pgs.
- N - HB 2605, -3 amendments (LC 2214), dated 4/9/99, Rep. Vic Backlund, 1 pg.
- O - HB 2605, -4 amendments (LC 2214), dated 4/9/99, Rep. Vic Backlund, 1 pg.
- P - HB 3591, written testimony submitted by Rep. Kathy Lowe, dated 4/23/99, 8 pgs.
- Q - HB 2605, written testimony submitted by Jeff Collins, Sex Offender Supervision Network, 1 pg.
- R - HB 3586, written testimony submitted by Rep. Lane Shetterly, dated 4/22/99, 12 pgs.
- S - HB 3208, written testimony submitted by Wendy Hunt, Big Brother/Sister, 4 pgs.
- T - HB 3208, written testimony submitted by Randy Lewis, YMCA, dated 4/23/99, 2 pgs.
- U - HB 3395, written testimony submitted by Joel Shapiro, Lewis & Clark Law School, dated 4/23/99, 2 pgs.
- V - HB 2096, -1 amendments (LC 962), dated 3/30/99, Rep. Floyd Prozanski, 2 pgs.
- W - HB 2096, written testimony submitted by Joe McKeever, Department of Justice, dated 4/23/99, 3 pgs.
- X - HB 3608, written testimony submitted by Lynn Partin, Women's Rights Coalition, dated 4/23/99, 6 pgs.