

HOUSE COMMITTEE ON JUDICIARY - CRIMINAL LAW

May 14, 1999 Hearing Room 357

8:30 a.m. Tapes 195 - 196

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 443A Public Hearing

SB 506A Public Hearing

SB 685A Public Hearing

SB 686A 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 195, A		

004	Chair Mannix	Calls the meeting to order at 8:39 a.m.
<u>SB 686A PUBLIC HEARING</u>		
025	Sy Kornbrodt	Parole and Probation Officer Testifies and submits written testimony in opposition to SB 686A redefining a parole and probation officer (EXHIBIT A). Discusses the functions of the parole and probation officer and that an untrained person cannot perform those responsibilities. It may be cheaper to use uncertified personnel, but are you going to get the same judgements as a certified parole & probation officer?
108	Rep. Bowman	SB 686A does not say that paraprofessionals will be doing arrests or imposing sanctions, so why do you think that is the goal of SB 686A?
113	Kornbrodt	I know that is not the goal of SB 686A, but it has the same effect when an untrained individual is allowed to make judgements that only a certified parole & probation officer should be making.
128	Rep. Bowman	The paraprofessionals won't be doing home visits so how can they make recommendations to a parole officer?
131	Kornbrodt	They will be doing office check-ins with offenders of lower-level crimes.
160	Chair Mannix	Recesses the public hearing on SB 686A.
<u>SB 443A PUBLIC HEARING</u>		
198	Counsel Horton	SB 443A expands the offense of driving while under the influence of intoxicants (DUII) to include driving under the influence of vapor-releasing substances.
212	Debra Downey Gilmour	Governor's Advisory Committee on DUII Testifies and submits written testimony in support of SB 443A (EXHIBIT B). Discusses the increase in drug-impaired driving arrests and fatalities in Oregon and the need for intervention.
244	Rep. Bowman	At what level does a vapor-releasing substance show up in your system? Would using breath spray lead to an arrest under this bill?
251	Gilmour	The State Police could respond to that question better than I could.
	Lt. Chuck Hayes	Oregon State Police Testifies and submits written testimony in support of SB 443A (EXHIBIT C).

		Discusses the Drug Evaluation and Classification Program that is a national training program to train police officers in the detection of drug-impaired drivers and the increase in arrests for drug-impaired driving since this training.
318	Sen. Peter Courtney	State Senator, Senate District 17 Testifies and submits written testimony in support of SB 443A (EXHIBIT D). Discusses the different DUII laws Oregon has on the statutes and the need to expand DUII to include the use of inhalants. Discusses prescription drugs and inhalants being used while driving and the fact that breathalyzers do not detect their use.
TAPE 196, A		
001	Rep. Prozanski	Discusses that controlled substances are included under the law when driving a car.
014	Sen. Courtney	Are you saying the DUII laws in Oregon cover these drugs?
017	Rep. Prozanski	Yes, if they are a particular controlled substance
020	Lt. Hayes	If it is on the "controlled substance" list, we can convict someone for DUII. Discusses the fact that many substances that impair judgement are not on the "controlled substance" list.
036	Chair Mannix	Would "inhalant" be a better term than "vapor releasing substance"?
042	Sen. Courtney	If it would be more consistent with other bills.
050	Rep. Bowman	Discusses problems that could occur if this bill is expanded to inhalants because many of those substances are legal to buy and use.
074	Chair Mannix	Recesses the public hearing on SB 443A.
<u>SB 506A PUBLIC HEARING</u>		
079	Sen. Peter Courtney	State Senator, Senate District 17 Testifies and submits written testimony in support of SB 506A that establishes rehabilitation and an information program for youths who attempt to purchase, purchase or acquire alcoholic liquor (EXHIBIT E). This legislation tightens the law by tying suspension of a driver's license to Minor in Possession (MIP) of alcohol and mandates an education or rehabilitation program.
129	Rep. Bowman	Who would pay for the cost of the examination and rehabilitation program if the

		youth and parent couldn't afford these expenses?
132	Sen. Courtney	The public would pay.
133	Rep. Bowman	Does it say that in the bill?
134	Sen. Courtney	It may not, but that question came up on the Senate side and that is how our committee responded to it.
142	Chair Mannix	Discusses that there are program fees available for those youth who cannot afford to pay for mandated programs like this.
158	Chair Mannix	Recesses the public hearing on SB 506A.
<u>SB 443A RECONVENES PUBLIC HEARING</u>		
163	Chair Mannix	Were you involved in developing the list of inhalants?
166	Lt. Hayes	Yes.
168	Chair Mannix	Should we continue with the term "vapor releasing substances" rather than inhalants?
170	Lt. Hayes	Yes.
178	Rep. Gianella	On page 3 of your testimony you mention Kava-Kava. What is that?
182	Lt. Hayes	Kava-Kava is a natural herb relaxant produced in capsule-form that produces impairment if misused. The incident with the impaired drivers using Kava-Kava was dismissed in court because it is not a controlled substance.
204	Rep. Gianella	Is Kava-Kava sold in a grocery or health food store as a replacement for coffee?
206	Lt. Hayes	It is being marketed as a natural stress reliever or to calm a person, but overmedicating can cause intoxication. The Oregon State Police are trying to improve highway safety by keeping people who are impaired off the highway whether from intoxicants or inhalants.
261	Chair Mannix	Closes the public hearing on SB 443A.
<u>SB 506A RECONVENES PUBLIC HEARING</u>		

298	Counsel Horton	SB 506A allows the Department of Motor Vehicles to suspend or deny a driver's license to a person under 18 for one year if the person acquires or attempts to acquire alcohol and fails to appear in court or fails to complete a rehabilitation or education program.
317	Debra Downey Gilmour	Governor's Advisory Committee on DUII Testifies and submits written testimony in support of SB 506A (EXHIBITS F & G). This legislation holds youths accountable for their actions and provides the assessment and treatment necessary to address alcohol and drug abuse problems prior to the onset of addiction.
345	Sgt. Curt Curtis	Oregon State Police Testifies and submits written testimony in support of SB 506A (EXHIBIT H)
353	Bob Miller	Department of Human Resources Testifies and submits written testimony in support of SB 506A (EXHIBIT I). Discusses two concerns that would impede implementation of this legislation. First, there is no provision for funding services for indigent clients, and second, that to set up and certify a system of evaluators in every county would be expensive.
378	Chair Mannix	Suggests language that could be inserted in SB 506A to make sure that resources are available for the program in indigent cases or else the program should not be required.
390	Miller	Would you like an option in the bill that would allow access to another fund, like the Intoxicated Driver Program Fund?
395	Chair Mannix	Yes.
399	Rep. Bowman	Why couldn't we include funding for this legislation in the same rules as the diversion program?
413	Miller	Amending SB 506A to allow access to the Intoxicated Driver Program Fund is the same funding for DUII programs.
421	Rep. Simmons	Discusses a potential conflict between SB 506A and HB 2705 with the use of "may" vs. "shall" require an examination.
TAPE 195, B		
017	Kathie Osborn	Juvenile Rights Project

		Testifies in support of SB 506A. There is no conflict with HB 2705 because that bill pertains to individuals 18-21 years of age and SB 506A relates only to youth who are under 18 years of age.
053	Kelly Taylor	Oregon Department of Transportation (ODOT) Testifies and submits written testimony as neutral to SB 506A (EXHIBIT J). Discusses page 10, Section 5 which affects the ODOT
057	Chair Mannix	Are the problems: it costs money, the implementation date is too early, and a concern about some of the technical details?
058	Taylor	Correct, because you are treating people differently depending upon their driving status and driver's license. This is a "may" for the court, not a "shall" so not all MIPs will come before the court.
073	Nancy Miller	State Court Administrator's Office Suggests an amendment on page 2 of SB 506A that upon a youth failing to appear, the court can take jurisdiction and proceed "after a prima facie showing". A fiscal may need to be looked at depending upon who pays for the program.
099	Chair Mannix	Closes the public hearing on SB 506A.
<u>SB 686A RECONVENES PUBLIC HEARING</u>		
112	Elyse Clawson	Statewide Community Corrections Association Testifies and submits written testimony in support of SB 686A (EXHIBIT K). Discusses how this legislation clarifies procedures that are already being done in Oregon when paraprofessionals provide assistance to parole and probation officers.
158	Rep. Prozanski	If support staff is already assisting probation and parole officers, why do we need this legislation?
165	Clawson	Discusses a case in Multnomah County that stated paraprofessionals could not do what is current practice in Oregon. The judge in that case said it was poor public policy and needed to be revisited by the Legislature.
175	Rep. Prozanski	Is that case reported?
175	Clawson	Yes.
183	Rep. Prozanski	Is this case on appeal?

183	Clawson	It may go on appeal, but it is not on appeal at this time.
223	Roland Gangstee	Oregon Association of Community Correction Directors Testifies in support of SB 686A and discusses the ñ6 amendments (EXHIBIT L). This legislation codifies what the practice is in every parole and probation office in this state allowing parole and probation officers to be out in the field more. This bill is not intended to undermine the authority and responsibilities of parole and probation officers, but allows the counties to manage resources more effectively.
278	Tracy Pugliano	Multnomah County Domestic Violence Unit Testifies and submits written testimony in support of SB 686A (EXHIBIT M). Discusses what she does as a support officer in an office to facilitate a parole and probation officer.
325	Lucinda Carroll	Federation of Parole and Probation Officers Testifies and submits written testimony in opposition to SB 686A (EXHIBIT N).
389	Chair Mannix	Would you see SB 686A as an opportunity to revisit how we are approaching the issues in the parole and probation system with regard to workload?
TAPE 196, B		
004	Carroll	Yes. I use volunteers on a regular basis because of the burden upon parole and probation officers to see every person released from prison.
032	Jennifer Cameron	Linn County Parole and Probation Officer Testifies in opposition to SB 686A.
041	Pugliano	Discusses the benefit of having support staff assist parole and probation officers.
049	Rep. Bowman	We passed legislation last week to have parole and post-prison supervision on a local level. As we enlarge the list of those who need supervision, we will need more support staff.
071	Paul Frank	Testifies and submits written testimony in opposition to SB 686A (EXHIBIT O). Discusses proposed amendments to this legislation that are presented in his written testimony.
152	Barbara Simon	Oregon State Sheriffs Association Testifies in opposition to SB 686A. Discusses her concerns with home visits, notification of sex offenders, and how security is performed in custodial facilities

		where people have limited freedom and paraprofessionals will be asked to perform functions that they have not been trained for.
213	Brian DeLashmutt	Federation of Oregon Parole and Probation Officers (FOPPO) Testifies in opposition to SB 686A. Discusses the functions of a parole and probation officer vs. a paraprofessional.
235	Mary Botkin	American Federation of State, County, and Municipal Employees Testifies as neutral to SB 686A. Discusses the importance of protecting the probation technicians to make sure they retain their paraprofessional status and do not get downgraded to a clerical role. At the same time, we are concerned for the safety of paraprofessionals if they are sent into the field.
282	Chair Mannix	Closes the public hearing on SB 686A.
<u>SB 685A PUBLIC HEARING</u>		
287	Chair Mannix	SB 685A also deals with redefining a parole and probation officer. We will consider SB 685A and the testimony we heard on SB 686A and discuss both bills at a later time.
292	Chair Mannix	Closes the public hearing on SB 685A.
293	Chair Mannix	Adjourns the meeting at 10:24 a.m.

Submitted By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Administrator

EXHIBIT SUMMARY

A - SB 686A, written testimony submitted by Sy Kornbrodt, dated 5/14/99, 4 pgs.

B - SB 443A, written testimony of Peter Glazer, submitted by Debra Downey Gilmour, Governor's Advisory Committee on DUII, dated 5/14/99, 1 pg.

C - SB 443A, written testimony submitted by Lt. Chuck Hayes, OSP, dated 5/12/99, 4 pgs.

D - SB 443A, written testimony submitted by Sen. Peter Courtney, dated 5/14/99, 1 pg.

E - SB 506A, written testimony submitted by Sen. Peter Courtney, dated 5/14/99, 3 pgs.

F - SB 506A, written testimony of Peter Glazer, submitted by Debra Downey Gilmour, Governor's Advisory Committee on DUII, dated 5/14/99, 1 pg.

G - SB 506A, written testimony submitted by Debra Downey Gilmour, Governor's Advisory Committee on DUII, dated 5/14/99, 2 pgs.

H - SB 506A, written testimony submitted by Sgt. Curt Curtis, OSP, dated 5/14/99, 1 pg.

I - SB 506A, written testimony submitted by Bob Miller, DHR, dated 5/14/99, 2 pgs.

J - SB 506A, written testimony submitted by Kelly Taylor, ODOT, dated 5/14/99, 1 pg.

K - SB 686A, written testimony submitted by Elyse Clawson, Multnomah Co., 3 pgs.

L - SB 686A, A6 amendments (LC 2229), dated 5/13/99, Rep. Gary Hansen, 1 pg.

M - SB 686A, written testimony submitted by Tracy Pugliano, Multnomah Co., 1 pg.

N - SB 686A, proposed amendments submitted by Lucinda Carroll, FOPPO, 2 pgs.

O - SB 686A, written testimony submitted by Paul Frank, dated 5/12/99, 5 pgs.

P - SB 506A, written testimony of Michael Schrunk submitted by Staff, dated 5/13/99, 1 pg.

Q - SB 506A, written testimony of Michael Loy, Multnomah Co. Circuit Court, submitted by staff, dated 5/13/99, 1 pg.

R - SB 506A, written testimony submitted by Elyse Clawson, Multnomah Co., dated 5/13/99, 1 pg.

S - SB 685A, written testimony of Duane Terry, Washington Co., dated 4/30/99, staff, 2 pgs.