

**SENATE COMMITTEE ON JUDICIARY**

**March 22, 1999 Hearing Room 343**

**3:00 PM Tapes 85 - 87**

**MEMBERS PRESENT: Sen. Bryant, Chair**

**Sen. Courtney, Vice-Chair**

**Sen. Brown**

**Sen. Burdick**

**Sen. Nelson**

**Sen. Qutub**

**Sen. Tarno**

**STAFF PRESENT: Bill Taylor, Counsel**

**Kathy Courtney, Administrative Support**

**MEASURE/ISSUES HEARD: SB 620 - Public Hearing and Work Session**

**SB 604 - Public Hearing**

**HB 2302 - Public Hearing**

**HB 2304 - Public Hearing**

**SB 59 - Work Session**

**SB 240 - Work Session**

**SB 449 - Work Session**

**SB 506 - 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 85, SIDE A**

004	Chair Bryant	Calls meeting to order at 3:15 PM.
<b><u>SB 620 PUBLIC HEARING</u></b>		
009	Sen. Brown	Discusses history of SB 620 which is the product of workgroup dealing with teen pregnancy and statutory rape.
020	Ingrid Swenson	<b>Oregon Criminal Defense Lawyers Association</b>  Testifies in support of SB 620. Reviews legislative history of statutory rape statutes. Asserts that SB 620 provides an affirmative defense.
050	Bruce Janes	<b>Morrison Center</b>  Discusses professional background in juvenile sex offender work. Explains how early intervention and follow up treatment is crucial to stop juvenile sex offenses.
076	Kathie Osborn	<b>Juvenile Rights Project</b>  Testifies in support of SB 620. Discusses typical situation in which parents use existing statutory rape statutes to separate teen age couples.
097	Chair Bryant	Inquires about the federal statutes on recidivism rates for sex offenders.
100	Janes	Discusses how adult and juvenile sex offenders vary. Discusses the state's recidivism rates.
125	Sen. Courtney	How does one define "recidivism?"
126	Janes	It means to commit a subsequent crime.
127	Sen. Courtney	To commit another crime within what timeframe?
131	Janes	Explains that timeframes vary from study to study. Discusses standards used in crime recidivism studies.
164	Darin Tweedt	<b>Marion County District Attorneys Association</b>  Testifies with neutrality on SB 620. Explains the judicial ramifications of SB 620 as a means of stopping older teens from preying on youths.

189	Chair Bryant	Are these types of crimes currently prosecuted?
200	Sen. Brown	No. Discusses the history of SB 620. Explains the difference between statutory rape and contributing to the delinquency of a minor.
207	Tweedt	Discusses the 3-year affirmative defense in statutory rape cases. Explains that some people support mandatory sentences in these cases.
232	Chair Bryant	In what circumstances is the 3-year defense used?
234	Sen. Brown	Discusses the irony that the 3-year defense is used in a contributing to the delinquency of a minor but not in a statutory rape case.
247	Tweedt	Discusses the extenuating requirements of a statutory rape case that is not linked with contributing to the delinquency of a minor case.
255	Chair Bryant	Closes SB 620 Public Hearing.
<b><u>SB 620 WORK SESSION</u></b>		
258	Sen. Brown	<b>MOTION: Moves SB 620 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 - Brown, Burdick, Courtney, Nelson, Tarno, Bryant</b> <b>NAY: 1 - Qutub</b>
Chair Bryant		<b>The motion CARRIES.</b>  <b>SEN. BROWN will lead discussion on the floor.</b>
Chair Bryant		<b>The motion CARRIES.</b>
<b><u>SB 604 PUBLIC HEARING</u></b>		
272	Ingrid Swenson	Oregon Criminal Defense Lawyers Association

		Testifies in support of SB 604. Discusses which offenses SB 604 will remove from the statute requiring registration into the national database of sex offenders.
344	Chair Bryant	Discusses legislative history of SB 604 which was drafted in response to consensual sex between teenagers.
359	Sen. Brown	Suggests adding the 3-year defense language of SB 620 to SB 604.
368	Swenson	Disagrees with suggestion and explains that the 3-year defense also lifts the sex offender registration requirement from the offender.
380	Chair Bryant	What is sexual abuse in the third degree?
382	Swenson	Defines term.
<b>397</b>	<b>Kathie Osborn</b>	<b>Juvenile Rights Project</b>  Testifies in support of SB 604. Discusses sexual exploration of juveniles. Asserts that registration is a harsh penalty in these cases.
<b>TAPE 86, SIDE A</b>		
002	Osborn	Discusses that decisions regarding the potential public safety threat of juvenile sex offenders should be made after instead of before treatment.
010	Chair Bryant	Would you support an amendment requiring treatment for juvenile sex offenders?
014	Osborn	Yes.
020	Chair Bryant	Discusses formation of a work group on SB 604.
025	Sen. Qutub	Typically, who reports these types of crimes?
032	Swenson	Parents and counselors report the offenses.
040	Sen. Qutub	Asserts that juvenile sex offenders' behavior is not innocent sexual exploration but a crime which injures people. Explains that SB 604 sends a mixed message promoting reckless sexual behavior.
076	Sen. Burdick	Cautions that the Committee must be sure not to inadvertently expunge adult records in the SB 604 legislation.

089	Kent Zwicker	<b>Oregon State Police</b>  Testifies with neutrality on SB 604. Asserts that SB 604 fails to protect victims by removing the sex offender registration requirement.
100	Pam Wood	<b>Department of Justice</b>  Testifies with neutrality on SB 604. Discusses specific elements of sex abuse.
140	Chair Bryant	Closes SB 604 Public Hearing.
<b><u>HB 2302 PUBLIC HEARING</u></b>		
157	Scott Taylor	<b>Department of Corrections</b>  Testifies and submits written testimony in support of HB 2302. <b>(EXHIBIT A)</b> Discusses the HB 2302 proposed changes in post-prison supervision periods.
199	Diane Rae	<b>Department of Correction, Board of Parole</b>  Testifies in support of HB 2302. Discusses error in HB 2302 which provides for less post-prison supervision for longer sentences.
231	Darin Tweedt	<b>Oregon District Attorneys Association</b>  Testifies in support of HB 2302. Discusses specific offenses that do not include post-prison supervision requirements.
243	Rae	Discusses the formula for calculating post-prison supervision periods. Cites situations in which post-prison supervision periods would exceed sentencing guidelines.
320	Chair Bryant	Closes HB 2302 Public Hearing.
<b><u>HB 2304 PUBLIC HEARING</u></b>		
335	Darin Tweedt	<b>Oregon Defense Attorneys Association</b>  Testifies in support of HB 2304. Discusses 60-day custody exclusion situations.
<b>TAPE 85, SIDE B</b>		
002	Chair Bryant	Discusses need for an amendment to address situations where extraordinary circumstances are not defined.

007	Ingrid Swenson	<b>Oregon Criminal Defense Lawyers Association</b>  Testifies in opposition to HB 2304. Discusses the options to waive the 60-day rule. Explains that HB 2304 will circumvent the 60-day rule.
093	Chair Bryant	What is the current statutory notice on affirmative defense?
094	Swenson	It varies. Discusses insanity and alibi defenses with regard to statutory time frames.
113	Chair Bryant	Inquires about the role of the defense and prosecution to make a motion for a continuance.
117	Tweedt	Explains that HB 2304 does not specify which attorney can make a motion to waive the 60-day rule.
135	Chair Bryant	Discusses possible fiscal impact of HB 2304.
155	Sen. Brown	Inquires about the purpose of HB 2304. Is lack of resources the issue for the state?
169	Tweedt	Explains the difficulty for the courts to schedule so many cases.
190	Sen. Tarno	Expresses concern about the fiscal impact of HB 2304.
216	Chair Bryant	Closes HB 2304 Public Hearing.
<b><u>SB 59 WORK SESSION</u></b>		
219	Chair Bryant	Addresses accusation by Gun Owners of America letter that Chair Bryant held an unannounced SB 700 Work Session on Friday March 19, 1999. Explains that the work session was announced in advance. <b>(EXHIBIT B)</b>
254	Counsel Taylor	Introduces SB 59 that defines "weapon" in reference to the crime of possessing a weapon in a public building. Discusses possession of a weapon in a courthouse. Explains the ñ1 amendments. <b>(EXHIBIT C)</b>
274	Chair Bryant	<b>MOTION: Moves to RECONSIDER the SB 59 -1 amendment vote.</b>
		<b>VOTE: 6-0-1</b>  <b>EXCUSED: 1 - Sen. Courtney</b>

	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
292	Counsel Taylor	Discusses the SB 59 -3, -4 , and -5 amendments. <b>(EXHIBITS D, E and F)</b>
<b>354</b>	<b>Scott Crampton</b>	<b>State Court Administrator's Office (OSCA)</b> Discusses the rationale for OSCA proposing the -3 amendments.
382	Counsel Taylor	Explains the shortcomings of the ñ3 amendments.
404	Sen. Brown	Why are the ñ3 amendments necessary when the Uniform Trial Court Rules accomplish the same purpose?
409	Counsel Taylor	Discusses the importance of defining "dangerous weapon" by the use instead of by the nature of an object.
421	Sen. Brown	Discusses the strict bans on carrying weapons in Multnomah County courthouses.
<b>TAPE 86, SIDE B</b>		
006	Chair Bryant	Inquires if the ñ3 amendments address situations in which persons would be allowed to carry weapons into a courthouse.
030	Sen. Burdick	Discusses the ñ4 amendments which would allow new, unloaded firearms in original packaging to be carried into public buildings.
040	Sen. Tarno	Discusses the ñ6 amendments that address the issue of accessibility to ammunition when carrying an unloaded firearm.
070	Sen. Burdick	Inquires about the general plan for SB 59.
072	Counsel Taylor	I will review SB 59 and the proposed amendments in more detail.
080	Sen. Tarno	Expresses concerns about the ambiguity of the language in SB 59 that bans weapons on the grounds adjacent to a public building.
120	Counsel Taylor	Cites current statute regarding public buildings. Discusses the probable boundaries of grounds adjacent to a public building.

131	Chair Bryant	Closes SB 59 Work Session.
<b><u>SB 240 WORK SESSION</u></b>		
136	Counsel Taylor	Discusses SB 240 ñ1 amendments. <b>(EXHIBIT G)</b>
148	Chair Bryant	<b>MOTION: Moves to ADOPT SB 240-1 amendments dated 02/18/99.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Courtney, Sen. Nelson</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
152	Chair Bryant	<b>MOTION: Moves SB 240 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Courtney, Sen. Tarno</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
<b><u>SB 449 WORK SESSION</u></b>		
165	Chair Bryant	Discusses SB 449 ñ2 amendments. <b>(EXHIBITS H)</b>
	Chair Bryant	<b>MOTION: Moves to ADOPT SB 449-2 amendments dated 03/12/99.</b>
		<b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Sen. Courtney, Sen. Nelson</b>

	Chair Bryant	Hearing no objection, declares the motion CARRIED.
173	Counsel Taylor	Discusses SB 449 ñ3 amendments. (EXHIBIT I)
191	Chair Bryant	MOTION: Moves to ADOPT SB 449-3 amendments dated 03/12/99.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Courtney
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
194	Chair Bryant	MOTION: Moves SB 449 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Courtney
	Chair Bryant	Hearing no objection, declares the motion CARRIED.  CHAIR BRYANT will lead discussion on the floor.
<b><u>SB 506 WORK SESSION</u></b>		
209	Counsel Taylor	Discusses SB 506 ñ1 amendments. (EXHIBIT J)
246	Chair Bryant	Inquires about the contempt statute references in the SB 506 ñ1 amendments.
251	Counsel Taylor	Discusses the unnecessary details in SB 506 ñ1 amendments and proposes changes.
271	Chair Bryant	Adjourns at 4:55 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A. Testimony in support of HB 2302, Scott Taylor, 2pp**

- B. Gun Owners of America fax alert, Sen. Bryant, 1p**
- C. SB 59 ñ1 amendments, Bill Taylor, 2pp**
- D. SB 59 ñ3 amendments, Bill Taylor, 2pp**
- E. SB 59 ñ4 amendments, Bill Taylor, 2pp**
- F. SB 59 ñ5 amendments, Bill Taylor, 1p**
- G. SB 240 ñ1 amendments, Bill Taylor, 1p**
- H. SB 449 ñ2 amendments, Bill Taylor, 2pp**
- I. SB 449 ñ3 amendments, Bill Taylor, 2pp**
- J. SB 506 ñ1 amendments, Bill Taylor, 17pp**