

SENATE COMMITTEE ON JUDICIARY

March 29, 1999 Hearing Room 343

3:00 PM Tapes 97 ñ 99

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 700 - Work Session

SB 686 - Public Hearing

SB 685 - Public Hearing

SB 78 - Public Hearing and Work Session

SB 735 - Public Hearing

HB 2216 - Public Hearing

HB 2217 - Public Hearing and Work Session

HB 2219 - Public Hearing and Work Session

HB 2218A - Public Hearing and Work Session

HB 2480 - Public Hearing and Work Session

SB 318 - Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

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TAPE/#	Speaker	Comments
TAPE 97, SIDE A		
005	Chair Bryant	Calls meeting to order at 3:10 PM.
<u>SB 700 WORK SESSION</u>		
015	Chair Bryant	MOTION: Moves to RECONSIDER the vote by which SB 700 was adopted with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0-1 EXCUSED: 1 ñ Sen. Brown
		Chair Bryant Hearing no objection, declares the motion CARRIED.
020	Counsel Taylor	Discusses SB 700 ñ13 amendments that supersede the prior SB 700 amendments. (EXHIBIT A)
048	Sen. Burdick	Inquires about the status of the SB 700 ñ1 amendments.
050	Counsel Taylor	Explains that gun show dealers will follow the federal law. Clarifies the language of the ñ13 amendments.
069	Sen. Burdick	MOTION: Moves to ADOPT SB 700-13 amendments dated 03/29/99.
		VOTE: 7-0-0
		Chair Bryant Hearing no objection, declares the motion CARRIED.
071	Sen. Burdick	MOTION: Moves SB 700 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 4-3-0

		<p>AYE: 4 - Brown, Burdick, Courtney, Bryant</p> <p>NAY: 3 - Nelson, Qutub, Tarno</p>
	Chair Bryant	<p>The motion CARRIES.</p> <p>SEN. BURDICK will lead discussion on the floor.</p>
<u>SB 686 PUBLIC HEARING</u>		
090	Dennis Mullinhill	<p>Washington County Corrections</p> <p>Testifies in support of SB 686 which redefines parole and probation officer.</p>
100	Jim Rood	<p>Multnomah County Adult Community Justice</p> <p>Testifies and submits written testimony in support of SB 686. (EXHIBIT B) Discusses community corrections, case management and officer oversight.</p>
157	Chair Bryant	Explains that most counties use paraprofessionals. If unable to do so, substantial layoffs would occur.
168	Rood	Discusses the role, function and cost of paraprofessional staff.
177	Sen. Brown	Inquires about the origin and purpose of SB 686.
187	Rood	Discusses how SB 686 will enhance the efficiency of community corrections.
187	Sen. Brown	Does the Department of Public Safety Standards and Training (DPSST) support SB 686?
188	Rood	Yes.
190	Sen. Brown	SB 686 presents some liability issues, doesn't it?
201	Rood	Explains that counties limit the duties of paraprofessional staff.
230	Sen. Courtney	Asserts that there should be a standard set of tasks for paraprofessionals.

240	Chair Bryant	I will find out.
292	Sen. Burdick	I see no difference between the ñ1 amendments and the original bill.
321	Rood	Proposes recommendations on SB 686 section 1. Explains that a non-certified paraprofessional may not become the primary caseworker.
364	Brian Delashmutt	Oregon Council of Police Associations Testifies in opposition to SB 686. Asserts that the duties specified in the bill for a paraprofessional are the duties of a parole officer.
405	Lucinda Carroll	Washington County Parole Officer, Federation of Oregon Probation and Parole Officers Testifies and submits written testimony in opposition to SB 686. (EXHIBIT C) Asserts that paraprofessionals are not supervised and trained to monitor probationers.
TAPE 98, SIDE A		
005	Carroll	Continues discussion about the need to have qualified parole officers to ensure a successful outcome with probationers. Discusses budgetary constraints, public safety issues and expanding caseloads for paraprofessionals. Cites duties that paraprofessionals cannot perform.
052	Chair Bryant	Why can't paraprofessionals testify in court on their own behalf?
054	Carroll	Explains that parole officers take sworn oaths in an official swearing in ceremony whereas paraprofessionals do not.
073	Sen. Tarno	Expresses concern about a paraprofessional who works a case independent of a parole officer's knowledgeable oversight of the case.
088	Kim Drake	Washington County Parole Officer Testifies in opposition to SB 686. Discusses parole cases completely monitored by paraprofessionals.
122	Carroll	Discusses recent litigation results that limited the duties of paraprofessionals.
127	Sen. Courtney	What is a typical job description of a paraprofessional?
145	Carroll	Explains that the duties of a paraprofessional are clerical duties outside of the direct supervision of probationers.

177	Kim Drake	Explains the difficulty in assessing the risk involved in a case. Asserts that a paraprofessional should not make a judgement on who is high risk and who is not.
216	Reed Ritchie	Washington County Community Corrections Testifies in support of SB 686. Discusses the vital role of paraprofessionals in public safety. Suggests that SB 686 should exclude duties from the role of paraprofessionals.
305	Chair Bryant	Prefers to exclude duties instead of dictating each task.
333	Sen. Tarno	Is SB 686 designed to circumvent Judge Peterson's 1997 judgement?
339	Ritchie	Yes. Explains the need to alter the restrictive judgement.
373	Sen. Burdick	What criteria do you use to hire and train paraprofessionals?
375	Ritchie	Explains that a paraprofessional is an entry-level position with minimum requirements of college training, social service or case management experience.
391	Sen. Burdick	What training program does a paraprofessional follow?
396	Ritchie	Explains that a paraprofessional works under the supervision of a parole officer and learns on the job. There is no formal training.
442	Shadman Afzal	Multnomah County Probation Officer Testifies and submits written testimony in support of SB 686. (EXHIBITS D and E) Discusses valuable services provided by paraprofessionals which free probation officers for field work.
TAPE 97, SIDE B		
005	Afzal	Continues discussion about technical work performed by paraprofessionals.
042	Chair Bryant	Currently, do you lack paraprofessionals in your office because of the Judge Peterson decision? Did you gain clerical staff when you lost the paraprofessional staff?
044	Afzal	Explains that the staff's efficiency was hindered by the loss of paraprofessional staff.
067	Tracy Pugliano	Multnomah County Community Justice, Domestic Violence Unit

		Testifies and submits written testimony in support of SB 686. (EXHIBITS F and G) Discusses the paraprofessional's role in community corrections. Explains that her focus on technical aspects of corrections allows parole officers more freedom to pursue field work.
093	Scott Taylor	Department of Corrections (DOC) Testifies in support of SB 686 and explains the necessity to clarify a paraprofessional's role. Explains that paraprofessional tasks should not overlap with parole officer functions.
127	Paul Frank	Retired Multnomah County Parole/Probation Office Testifies and submits written testimony in opposition to SB 686. (EXHIBIT H) Asserts that SB 686 gives paraprofessionals the authority to work as parole officers whose function is defined in statute. Discusses training and qualifications of a parole officer.
223	Chair Bryant	Close SB 686 Public Hearing.
<u>SB 685 PUBLIC HEARING</u>		
232	Reed Ritchie	Washington County Community Corrections Testifies in support of SB 685. Explains that part-time parole officers accomplish vital staffing needs within money and time constraints.
267	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of SB 685, (EXHIBIT I) Explains that part-time positions allow retired parole officers the flexibility to return to work.
283	Sen. Tarno	When does the DOC certify an employee as a probation officer?
287	Ritchie	We certify employees after 9 months of experience as a probation officer and completion of the academy training in Monmouth.
285	Chair Bryant	Discusses the PERS work allowance for part-time retirees.
293	Sen. Tarno	Questions the phrase "who possesses the requisite qualifications" on page 3 of SB 685.
316	Ritchie	Discusses requirements for certification as a parole officer.
327	Brian Delashmutt	Federation of Oregon Parole and Probation Officers

		Testifies in opposition to SB 685. Clarifies that section 2 of SB 685 which refers to current Board members of DPSST.
375	Chair Bryant	Closes SB 385 Public Hearing.
<u>SB 78 PUBLIC HEARING</u>		
392	Judge Terry Ann Leggert	Circuit Court Judge, Marion County Testifies and submits written testimony in support of SB 78. (EXHIBIT J) Discusses the general waiver of youths to adult court on major traffic and fish and game violations.
TAPE 98, SIDE B		
020	Chair Bryant	Explains that the SB 78 -1 amendments replace the original bill. (EXHIBIT K) Closes SB 78 Public Hearing.
<u>SB 78 WORK SESSION</u>		
026	Sen. Courtney	MOTION: Moves to ADOPT SB 78-1 amendments dated 03/25/99.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Brown
Chair Bryant		Hearing no objection, declares the motion CARRIED.
028	Sen. Courtney	MOTION: Moves SB 78 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. SEN. BURDICK will lead discussion on the floor.

SB 735 PUBLIC HEARING

041	Reed Ritchie	Washington County Community Corrections Testifies in support of SB 735. Explains that SB 735 would relieve work release centers from the logistics of checking and storing money.
069	Rob Gates	Washington County Community Corrections Testifies in support of SB 735. Explains that storing money is cumbersome and costly.
090	Sen. Tarno	Inquires about the procedure for addressing an inmate who returns from a work release assignment with unaccounted for money.
092	Gates	Explains procedures for addressing work release inmate violations relating to contraband.
095	Sen. Tarno	Suggests clarifying language in SB 735: "authorized contraband."
115	Sen. Qutub	Agrees with Sen. Tarno's clarifying language. Explains that the opportunity to return from work release with unauthorized money exists.
138	Chair Bryant	Close SB 735 Public Hearing.

HB 2216 and HB 2217 PUBLIC HEARING

150	Mayor Mike Swaim	Mayor of Salem, Oregon Testifies in support of HB 2216. Suggests an amendment to eliminate crimes committed in penal institutions from the requisite residency determination.
177	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2216. (EXHIBIT L) States no opposition to Mr. Swaim's clarifying amendment. Discusses post-prison supervision.
216	Counsel Taylor	Suggests amending HB 2216 for the residency determination exclusion and parolees who are not on post-prison supervision.
221	Swaim	I agree.
226	Sen. Qutub	Inquires if DOC has rules that exclude crimes committed within a penal institution from the requisite residency requirement.

230	S. Taylor	Yes.
248	Scott Taylor	Department of Corrections Testifies and submits written testimony in support of HB 2217. (EXHIBIT M) Discusses "second look offenders" on conditional release. Explains that the county is responsible to supervise these offenders.
268	Chair Bryant	Explains that "second look" refers to non-Measure 11 offenses.
269	Sen. Nelson	Would HB 2217 place a burden counties to hire additional staff?
273	S. Taylor	No. Explains that counties currently manage this population.
280	Chair Bryant	Closes HB 2217 Public Hearing.
<u>HB 2217 WORK SESSION</u>		
281	Sen. Qutub	MOTION: Moves HB 2217 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1 EXCUSED: 1 - Sen. Brown
		Hearing no objection, declares the motion CARRIED. SEN. QUTUB will lead discussion on the floor.
<u>HB 2219 PUBLIC HEARING</u>		
294	Scott Taylor	Department of Corrections Testifies and submits written testimony in support of HB 2219. (EXHIBIT N) Discusses post-prison sanctions in relation to probation and post-prison supervision. Explains extension of jail sanction period.
329	Sen. Tarno	What is the sheriff's office position on HB 2219?
330	S. Taylor	Explains how HB 2219 allows the administrative process to move faster.

341	Sen. Nelson	Inquires if HB 2219 will require increased incarceration time and costs.
344	S. Taylor	No. Explains the administrative process in relation to incarceration.
364	Counsel Taylor	Compares the current administrative sanction and appeal procedures with HB 2219. Is the sanction appeal process handled through the court system?
376	S. Taylor	Yes. Explains the sanction appeal procedures.
385	Chair Bryant	Closes HB 2219.
<u>HB 2219 WORK SESSION</u>		
388	Sen. Courtney	MOTION: Moves HB 2219 to the floor with a DO PASS recommendation.
		VOTE: 7-0-0
Chair Bryant		Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.
<u>HB 2218A PUBLIC HEARING</u>		
401	Scott Taylor	Department of Corrections (DOC) Testifies and submits written testimony in support of HB 2218A. (EXHIBIT O) Discusses the return of violators to local correctional facilities.
TAPE 99, SIDE A		
003	S. Taylor	Discusses A-engrossed version of HB 2218A.
015	Chair Bryant	Closes HB 2218A Public Hearing.
<u>WORK SESSION 2218A</u>		
016	Sen. Tarno	MOTION: Moves HB 2218A to the floor with a DO PASS recommendation.

		VOTE: 7-0-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. TARNO will lead discussion on the floor.
<u>PUBLIC HEARING HB 2480</u>		
025	Phillip Lemman	Criminal Justice Commission Testifies and submits written testimony in support of HB 2480. (EXHIBIT P) Explains that non-commission Oregon Criminal Justice Commission sub-committee members are entitled to travel expenses. The Commission has never received funding for these expenses.
032	Chair Bryant	Closes HB 2480 Public Hearing.
<u>HB 2480 WORK SESSION</u>		
033	Sen. Courtney	MOTION: Moves HB 2480 to the floor with a DO PASS recommendation.
		VOTE: 7-0-0
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. TARNO will lead discussion on the floor.
<u>SB 318 WORK SESSION</u>		
037	Chair Bryant	SB 318 requires entry of certain protective orders into the National Protection Order Registry and the Law Enforcement Data System (LEDS).
070	Sen. Tarno	Discusses a discrepancy between federal and state statutes relating to domestic violence.
083	Counsel Taylor	Discusses SB 318's amendments. (EXHIBIT Q)

088	Sen. Qutub	Inquires about the legal standing of state statutes if the federal domestic violence law is ruled unconstitutional.
093	Chair Bryant	Explains the ramifications of drafting the Oregon domestic violence statutes without clarifying language.
097	Sen. Brown	Are there any pending Oregon challenges to the constitutionality of the federal domestic violence law?
104	Maureen McKnight	Oregon Legal Services Explains that the national challenges relate to misdemeanor domestic violence crimes. Discusses SB 318 which relates to restraining and stalking orders.
115	Chair Bryant	What are the notice requirements for stalking orders?
116	McKnight	Discusses divorce case restraining orders in contrast to restraining orders against non-related persons. Explains that SB 318 does not address notice.
153	Chair Bryant	Inquires how one could be guilty of stalking if he never received notice.
157	McKnight	Discusses HB 2330 which addresses restraining orders. Explains that SB 318 specifically relates to stalking in divorce cases. Discusses the state police citation form and content of notice.
207	Chair Bryant	What does the stalking notice include as it relates to firearms?
208	McKnight	Explains that SB 318 does not reference the Family Abuse Prevention Act, but HB 2330 does. The state police drafts the content of stalking notices.
218	Counsel Taylor	Inquires about the prohibition against someone possessing a firearm if he is under a stalking order.
221	McKnight	Discusses the necessity to address the inconsistency between ex-parte orders and the federal law.
242	Counsel Taylor	Can one violate a stalking order if he hasn't received notice of that order?
244	McKnight	Discusses how federal statutes make a distinction between a notice of hearing and a notice of the disability.
283	Sen. Nelson	Expresses concern about inefficiency in a cumbersome notification process.

299	Sen. Tarno	Discusses return verification of receipt of notice.
309	Sen. Brown	Explains that a sheriff isn't always able to locate a respondent in order to serve notice.
318	Chair Bryant	MOTION: Moves to ADOPT SB 318-1 amendments dated 02/15/99.
		VOTE: 7-0-0
Chair Bryant		Hearing no objection, declares the motion CARRIED.
330	David Nebel	Oregon Law Center Discusses the SB 318 -2 amendments. (EXHIBIT R)
347	Chair Bryant	MOTION: Moves to ADOPT SB 318-2 amendments dated 02/15/99.
		VOTE: 6-0-1 EXCUSED: 1 - Sen.Nelson
Chair Bryant		Hearing no objection, declares the motion CARRIED.
365	Sen. Bryant	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BROWN to BE RECORDED as voting AYE on SB 78.
		VOTE: 7-0-0
Chair Bryant		Hearing no objection, declares the motion CARRIED.
369	Chair Bryant	Closes Hearing at 5:25 PM.

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

EXHIBIT SUMMARY

- A. SB 700 ñ13 amendments, Bill Taylor, 2pp**
- B. Testimony in support of SB 685 and SB 686, Jim Rood, 5pp**
- C. Testimony in support of SB 686, Lucinda Carroll, 11pp**
- D. Testimony in support of SB 686, Shadman Afzal, 2pp**
- E. Testimony in support of SB 686, John Harlan, 1p**
- F. Testimony in support of SB 686, Tracy Pugliano, 1p**
- G. Testimony in support of SB 686, Maggie Miller, 1p**
- H. Testimony in opposition to SB 686, Paul Frank, 4pp**
 - I. Testimony in support of SB 685, Scott Taylor, 1p**
- J. Testimony in support of SB 78, Terry Ann Leggett, 2pp**
- K. SB 78 ñ1 amendments, Bill Taylor, 2pp**
- L. Testimony in support of HB 2216, Scott Taylor, 1p**
- M. Testimony in support of HB 2217, Scott Taylor, 6pp**
- N. Testimony in support of HB 2219, Scott Taylor, 1p**
- O. Testimony in support of HB 2218, Scott Taylor, 1p**
- P. Testimony in support of HB 2480, Phillip Lemman, 1p**
- Q. SB 318 ñ1 amendments, Bill Taylor, 2pp**
- R. SB 318 ñ2 amendments, Bill Taylor, 2pp**