

SENATE COMMITTEE ON JUDICIARY

April 26, 1999 Hearing Room 343

4:00 PM Tapes 148 - 149

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 1247 Work Session

SB 944 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 148, SIDE A		
004	Chair Bryant	Calls meeting to order at 4:05 PM.
<u>SB 1247 WORK SESSION</u>		
015	Kevin Ashburn	Corrections Corporation of America (CCA) Testifies and submits written testimony in support of SB 1247. (EXHIBIT A) Discusses the performance guidelines and costs of correctional facility privatization. Suggests guidelines relating to insurance, accreditation, and service provision requirements of a correctional facility provider.

055	Chair Bryant	How many states participate in the American Correctional Association (ACA) Accreditation program?
058	Ashburn	Estimates that only 1,000 of 10,000 correctional facilities in the United States are ACA accredited. Illinois, Pennsylvania, Florida, Louisiana and New Mexico are fully accredited.
076	Chair Bryant	How much does ACA accreditation cost?
079	Ashburn	It costs \$10, 000 per facility every three years.
084	Chair Bryant	What is the background of your agency?
087	Ashburn	Gives a brief overview of the Corrections Corporation of America which originated in response to the overcrowded prison conditions in Tennessee.
112	Chair Bryant	Does CCA manage any facilities on the West coast?
113	Ashburn	Cites facilities in California, Idaho, Montana and Arizona that CCA manages.
135	Sen. Qutub	Does the ACA dictate training standards?
139	Ashburn	Yes.
141	Sen. Qutub	Is the language in SB 1247 relating to liability adequate?
154	Ashburn	I suggest more specific language to avoid ambiguity.
159	Sen. Qutub	The legal contract between the OYA or the Commission and the correctional facility provider will address specific issues.
166	Ashburn	Encourages drafting specific language in SB 1247 to address employee compensation, training standards, and costs.
199	Sen. Brown	Would CCA provide alcohol/drug programs and manage a correctional facility in a cost efficient manner?
205	Sen. Qutub	Those specific issues would be cited in a legal contract, not in SB 1247.
209	Chair Bryant	Successful outcomes are a higher priority than costs.

220	Ashburn	Discusses recidivism rates of CCA facilities. States that Florida state managed facilities have lower recidivism rates than the CCA managed facilities.
260	Chair Bryant	Do you have specific measurement criteria to evaluate your programs?
265	Ashburn	No.
274	Sen. Qutub	These specifics will be resolved during contract negotiations.
294	Sen. Brown	Is "youth correctional facility" defined in statute?
309	Counsel Taylor	Defines youth correctional services.
333	Ashburn	Discusses youth offender facilities for ages 18-21 years.
393	Sen. Nelson	Are individual facilities accredited?
394	Ashburn	Yes, at a cost of \$10,000 per facility. Explains that the decision to accredit existing facilities must assess aspects of the physical structures.
414	Sen. Nelson	Do you advertise your prison citing services in the telephone book?
422	Ashburn	Yes, in the local telephone books, but we are well known throughout the industry.
TAPE 149, SIDE A		
015	Chair Bryant	Does CCA finance and provide its own educational programs in its correctional facilities? Does it actually own facilities?
018	Ashburn	It depends upon the service contract.
022	Sen. Qutub	Discusses options for closing a contract with a correctional facility provider.
025	Chair Bryant	Have you had any conflicts with a state relating to the management of a correctional facility?
025	Ashburn	Yes. Discusses a volatile situation resulting from the Washington, D.C. prison closings.
060	Sen. Qutub	Are the public and private facilities within a state usually ACA accredited?

065	Ashburn	Not necessarily.
075	Sen. Qutub	Explains that SB 1247 does not require ACA accreditation for private correctional facility providers since public facilities are not accredited.
085	Chair Bryant	Closes SB 1247 Work Session.
<u>SB 944 PUBLIC HEARING</u>		
090	Gina McClard	The Oregon Coalition Against Domestic and Sexual Violence Testifies and submits written testimony in support of SB 944. (EXHIBITS B and C) Discusses forcible compulsion, earnest resistance, and the victim's attire in relation to current rape statutes. Explains why rape is the most under-reported crime.
142	Loretta Harwood	Rape Survivor Testifies in support of SB 944. Relates the story of her kidnapping, rape and suicide attempt. Encourages legislators to remove the requirement of "earnest resistance" to an attacker from the rape statutes. Asserts that she was afraid and did not resist to preserve her life.
265	Phyllis Barkhurst	Sexual Assault Support Services Testifies in support of SB 944. Discusses the demoralizing nature of the justice system for rape victims. Explains the necessity to focus on the perpetrator's behavior, not the victim's.
331	Dale Penn	Oregon District Attorneys Association Testifies in support of SB 944. Explains that SB 944 does not remove the burden for the state to prove its case. Discusses rape as the only crime in the criminal code in which the victim is required to actively resist the perpetrator.
TAPE 148, SIDE B		
009	Chair Bryant	Under SB 944, can the issue of the victim's attire ever be relevant?
010	Penn	Yes. Explains the circumstances and procedure to pursue the issue of a victim's attire.
076	Sen. Burdick	If someone is raped at gunpoint and fails to resist, is there a basis for legal prosecution?

082	Penn	Yes. Discusses the requirements of Oregon law, earnest resistance and implied or expressed threat.
099	Counsel Taylor	What is "earnest resistance?"
101	Penn	A jury decides if a victim earnestly resisted a rapist. The prosecution should focus on forcible compulsion, not on the victim's behavior.
133	Claudia Weber	Rape Crisis Center, Washington County Discusses how the criminal justice system traumatizes rape victims. Compares the ambiguity between rape and the crime of burglary in relation to how victims must respond.
232	Arney Green	Community Works Testifies in support of SB 944. Cites story about woman who did not resist a rapist because her two children were asleep in another room.
270	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Testifies and submits written testimony in opposition to SB 944. (EXHIBIT D) Discusses stranger to stranger rape and acquaintance rapes. Discusses a victim's attire as it relates to conveying consent and rebuttal evidence.
TAPE 149, SIDE B		
013	Chair Bryant	Discusses the physical nature of sex in relation to a perceived or implied threat.
027	Penn	Compares Oregon's rape statutes with other states' statutes.
042	Chair Bryant	What is rape in the first degree?
049	Swenson	It is forcing someone to have sexual intercourse.
056	Penn	Cautions the Committee against replacing "earnest resistance" with placing another burden on the victim.
082	Sen. Brown	Discusses law enforcement training regarding sexual crimes.
110	Sen. Courtney	Closes SB 944 Public Hearing. Adjourns hearing at 5:35 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson,

Administrative Support Office Coordinator

EASHBURNHIBIT SUMMARY

- A. Quietly Going About the Business of Public Safety, Kevin Ashburn, 2pp**
- B. Written testimony in support of SB 944, Gina McClard, 2pp**
- C. Sexual Assault, A National Perspective, Gina McClard, 2pp**
- D. Written testimony in opposition to SB 944, Ingrid Swenson, 2pp**