

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CRIMINAL LAW**

**June 5, 1997 Hearing Room 137**

**8:30 A.M. Tapes 138 - 139**

**MEMBERS PRESENT:**

**Rep. Larry Wells, Chair**

**Rep. Jo Ann Bowman**

**Rep. Floyd Prozanski**

**STAFF PRESENT:**

**Scott Lumsden, Counsel**

**Lisa Fritz, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 443, Work Group 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 138, A</b>		
<b><u>SB 443</u> <u>Work</u> <u>Session</u></b>		
003	Chair Wells	Calls the meeting to order at 8:37 a.m. Discusses concerns, brought to the committee's attention, and objectives of the work group. Discusses written testimony, submitted by the Oregon State Police <b>(EXHIBIT A)</b> . Comments that the committee will be working with the -A2 amendments <b>(EXHIBIT B)</b> .
044	Bob Mink	Deputy Director, Department of Human Resources (DHR), and Larry Young, Assistant Attorney General for DHR. Says we have had over 20 people working on this. We weren't the proponents of SB 443, Association of Oregon Counties sponsored that bill; we were the proponents of HB 2176. There needs to be consistency regarding criminal records checks. We need to have flexibility to decide if the crime should prevent the person from obtaining certain employment. We need to have more unity with seniors and on disability issues. Currently, we cannot tell the "hiring entity" what the crime is. We can

		tell an employer that they can't hire someone, but we can't tell them why.
091	Chair Wells	Asks if the goal is to have all state agencies coordinate through DHR.
098	Mink	Says the intent for criminal records check in SB 443 is for the DHR clients.
129	Mink	We need to have something that is uniform that we can do as a department.
135	Chair Wells	Asks how the language is going to affect agencies other than DHR.
147	Margaret Carley	Oregon Health Care Association, says a variety of rules would result from this statute. Discusses how SB 443 will change or not change the current situation.
179	Rep. Bowman	Asks about the LEDS criminal background checks in different agencies.
185	Carley	Says for adult foster home providers, residential care, and assisted living. Says the statute speaks to children and foster providers. There is nothing that speaks generically to seniors and disabled adults.
192	Rep. Bowman	Asks if staff will be hired within DHR that would do criminal records checks full time.
196	Mink	Says there is already staff doing this, and they do not expect to hire more to do this.
199	Rep. Bowman	What's the difference between what you do now and what you will do under the -A2 amendments?
204	Carley	Says the agencies will likely expand the number of persons who are subject to criminal record checks.
215	Mink	Agrees that there would be more people checked. This provides a registry that is confidential. This registry minimizes the number of checks that have to be done.
241	Rep. Bowman	Asks why don't we just have the State Police do the additional backgrounds rather than expanding DHR's authority.
247	Mink	Says we do the LEDS checks. The State Police let us use their system.
252	Rep. Bowman	Says instead of expanding DHR to have more locations and systems, why not have the State Police do this.
256	Carley	Says DHR is just hooked into the State Police computer system. If it were not, that would add work to the State Police information system, but not disrupt their access to it.
267	Rep. Prozanski	Says there should be assurance as to who will be accessing these records. There should be some control over the registry for confidentiality and security reasons as to number, location, and make-up of people using the system in DHR and other agencies.
305	Mink	Says he does not have that information. Says the number who have access is very limited. Discusses how the LEDS check is done through DHR.
324	Rep. Prozanski	Says we need some coordination with the Association of Counties.
	Mike	Association of Oregon Counties (AOC), says AOC has the same outcome

339	McCracken	desired as the committee. Says they will support SB 443.
366	Chair Wells	Asks about the language in the A2 amendments concerning the registry.
385	Carley	Says the bottom of page 5 starts.
390	Chair Wells	Would you discuss the registry further?
391	Carley	Says the elimination of duplicity of checks as individuals move around is sought.
<b>TAPE 139, A</b>		
392	Chair Wells	Asks if there is a certificate that these people have like child care providers.
002	Rep. Bowman	Says it is good for two years.
008	Chair Wells	Asks what shows they are registered or certified or approved.
012	Larry Young	Says this registry does not envision a certificate issued to individual providers such as the Employment Department envisions. Says when a person moves from one nursing home job to another, the nursing home would check DHR's registry. If it was within the required time period, DHR would not access the FBI system.
020	Chair Wells	Asks if a time period is determined
022	Young	Says the DHR has not determined that yet.
023	Young	Says there is additional language in the bill that DHR can promulgate rules.
032	Chair Wells	Asks about probationary hires, while waiting for FBI checks.
037	Mink	Says pending the FBI check which may take three or four months, a probationary hire is provided in this bill. The probationary hires would have to be actively supervised.
060	Rep. Bowman	Asks about services DHR provides in local counties, page one of the A2 amendments. Says it appears that anyone in Multnomah County that would at some time work with one of these agencies would go through a background check.
077	McCracken	Responds that counties will subcontract for services.
092	Rep. Bowman	Asks who would fall under the category in the -2 amendments. Who do the background check requirements include.
101	McCracken	I don't think there is anything in this bill that would require background checks for subcontractors from the county. From the state, yes.
110	Rep.	Says the goal is not to trickle down from state to local organizations.

	Bowman	
113	McCracken	Says if the subcontract agency wanted that it would be provided.
114	Chair Wells	Asks about county employment purposes.
118	Mink	Says that would be new hires. The bill deals with new hires.
147	Chair Wells	Says the legislators need information to address on the floor.
150	Carley	Says language was added to address the concern about too many FBI checks which is the costly part.
172	Rep. Bowman	Says the issue of how many people should have access to the State Police background checks is the overall question.
184	Mink	Says his staff will get these answers to the committee today.
123	Carley	Says the State Police have criteria regarding qualification of LEDS checkers.
197	Chair Wells	Asks about the capacity of the State Police in obtaining criminal offender information.
199	Mink	Says DHR has access to their terminals. Says he does not know about the load on the system.
210	Carley	Says the work group participants from State Police did not indicate an overload at the present.
223	Rep. Bowman	Asks if DHR will be the state agency for background checks at some point in the future.
236	Mink	Says, no. The DHR system and the people they deal with are the ones being considered.
242	Rep. Bowman	Says how many state agencies should have the authority to make these inquiries through the State Police system.
255	Mink	Says other agencies make criminal record check, such as the Lottery.
260	Young	Says they have a list. List is read and discussed.
290	Chair Wells	Asks about the administrative rules list that says "limited."
306	Scott Lumsden	Counsel, says that perhaps this is an issue for an interim task force.
317	Chair Wells	Says Criminal Sub Committee scheduled for Monday can continue a review if the additional information is furnished
346	Mink	Gives background information on why background checks have become so important. DHR has had to develop a policy to protect its clients.
354	Rep. Prozanski	Says on page 9 of the -A2 amendments, line 4, insert the words "and developmental disability" following the words "community mental health."
374	Rep. Bowman	Asks if the group is comfortable with the -2 amendments replacing the original bill.
377	Chair Wells	Says we will have to redraft the -2's as a replacement to the original bill.

384	Chair Wells	Adjourns at 9:30 a.m.

Submitted by, Reviewed by,

Nancy Massee for

Lisa Fritz, Scott Lumsden,

Administrative Support Counsel

### **EXHIBITS**

**A - SB 443, written testimony, Oregon State Police, 14 pp**

**B - SB 443, A2 amendments, Legislative Counsel, 18 pp**

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CRIMINAL LAW**

**June 5, 1997 Hearing Room 357**

**1:00 P.M. Tapes 140 - 142**

**MEMBERS PRESENT:**

**Rep. John Minnis, Chair**

**Rep. Jo Ann Bowman, Vice-Chair**

**Rep. Floyd Prozanski**

**Rep. Lane Shetterly**

**Rep. Ron Sunseri**

**Rep. Larry Wells**

**MEMBER EXCUSED:**

**Rep. Peter Courtney**

**STAFF PRESENT:**

**Scott Lumsden, Counsel**

**Lisa Fritz, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 423 Public Hearing**

**SB 424 Public Hearing**

**HB 2963 Work Session**

**SB 277 Public Hearing**

**SB 978A Public Hearing and Work Session**

**SB 1049A Public Hearing**

**SB 1164 Public Hearing and Work Session**

**SB 425 Public Hearing**

## SB 301 Work Session

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Tape/#	Speaker	Comments
<b>TAPE 140, A</b>		
008	Chair Minnis	Convenes meeting at 1:51 PM and opens public hearing on SB 423.
<b><u>SB 423 - PUBLIC HEARING</u></b>		
015	Eric Carter	Officer, Albany Police Department. Submits and discusses written testimony in support of SB 423 ( <b>EXHIBIT A</b> ).
043	Rep. Wells	Discusses language on page 1, line 8 of bill. Asks for definition of "refusing to obey lawful order."
050	Carter	Discusses resisting arrest circumstances.
065	Brian DeLashmutt	Oregon Council Police Association. States support for SB's 423 and 424.
068	Rep. Bowman	Discusses language on page 1, lines 5 and 6 of bill. Asks for definition of "other public servant."
074	Rep. Prozanski	States that "other public servant" language was previously deleted by other committee. States that bill originates from City of Eugene.
086	Chair Minnis	Closes public hearing on SB 423 and opens public hearing on SB 424.
<b><u>SB 424 - PUBLIC HEARING</u></b>		
096	Kevin Campbell	Oregon Association Chiefs of Police. Submits and discusses written testimony for Chief Steve Winegar of Tualatin Police Department ( <b>EXHIBIT B</b> ). Explains bill and discusses need for bill.
119	Rep. Shetterly	Asks why "at an intersection" language is necessary on page 1, line 16 of bill.
120	Campbell	Discusses need for language.
127	Ingrid Swenson	Oregon Criminal Defense Lawyers Association. Discusses concerns about bill and proposes conceptual amendments on page 1, line 15 of bill.
150	Rep. Shetterly	Asks how bill relates to photo radar.
159	Rep. Wells	Comments on arrest procedures.
165	Swenson	Discusses arrest procedures.
192	Rep. Sunseri	Asks if both officers have to be in court; the officer who cited and

		the officer who observed offense.
194	Swenson	States that officer who observed the behavior would have to appear in court unless probable cause issue was challenged.
195	Rep. Sunseri	Asks what probable cause would be for officer who did not observe offense.
197	Swenson	Discusses probable cause issue.
210	Chair Minnis	Closes public hearing on SB 424 and opens work session on HB 2963.
<b><u>HB 2963 - WORK SESSION</u></b>		
219	Rep. Sunseri	<b>MOTION: Moves HB 2963 to the full committee with a DO PASS recommendation.</b>
		<b>VOTE: 5-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 2 - Courtney, Prozanski</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. BOWMAN will lead discussion on the floor.</b>
230	Chair Minnis	Closes work session on HB 2963 and opens public hearing on SB 277.
<b><u>SB 277 - PUBLIC HEARING</u></b>		
240	Chair Minnis	Closes public hearing on SB 277 and opens public hearing on SB 978A.
<b><u>SB 978A - PUBLIC HEARING</u></b>		
240	Karen Brazeau	Oregon Youth Authority. Submits and discusses written testimony in support of SB 978A ( <b>EXHIBIT C</b> ).
274	Rep. Wells	Asks how different states' track migrant parolees.
279	Brazeau	Discusses parolee tracking.
289	Rep. Bowman	Asks why bill has emergency clause.
284	Brazeau	Explains need for emergency clause.
296	James Ragon	Detective, Oregon Department of State Police. Submits and discusses written testimony in support of SB 978A ( <b>EXHIBIT D</b> ). Explains need for bill.
314	Rep.	Asks if juvenile sex offenders are registered the same way as adult



	Bowman	sex offenders.
316	Ragon	Discusses sex offender registering process.  *NOTE: SOUND FADES IN AND OUT DUE TO TECHNICAL DIFFICULTIES.
358	Chair Minnis	Closes public hearing and opens work session on SB 978A.
<b><u>SB 978A - WORK SESSION</u></b>		
360	Rep. Shetterly	<b>MOTION: Moves SB 978A to the full committee with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. SUNSERI will lead discussion on the floor.</b>
379	Chair Minnis	Closes work session on SB 978A and opens public hearing on SB 1049A.
<b><u>SB 1049A - PUBLIC HEARING</u></b>		
370	Chief Mike Cahill	Junction City Police Department. Explains need for bill and states support for bill. Discusses ORS 161.565.
<b><u>TAPE 141, A</u></b>		
001	Cahill	Continues testimony in support of bill.
011	Fred Avera	Oregon District Attorneys Association. Explains need for bill and states support for bill.
046	Chair Minnis	Comments on perceived impact of bill passage.
047	Avera	Discusses bill impact.
080	Rep. Prozanski	Discusses bill impact.
093	Avera	Discusses anecdotal evidence in support of bill.
096	Rep. Prozanski	Discusses Municipal Court proceedings.
109	Avera	Discusses need for written declaration.
115	Rep. Prozanski	Discusses past legislation relating to issue.
132	Avera	Discusses anecdotal evidence in support of bill.
152	Cahill	Discusses section 2 of bill.

157	Rep. Prozanski	Discusses section 2 of bill.
185	Rep. Shetterly	Discusses Justice Court proceedings.
187	Avera	Discusses need for section 5 of bill.
205	Chair Minnis	Discusses existing law relating to issue.
213	Avera	Discusses Court of Appeals proceedings.
235	Rep. Shetterly	Suggests conceptual amendments.
245	Avera	Suggests conceptual amendments.
270	Ingrid Swenson	Oregon Criminal Defense Lawyers Association. Discusses work of past legislative sessions relating to issue.
290	Rep. Prozanski	Discusses past legislation relating to issue.
305	Chair Minnis	Closes public hearing on SB 1049A and opens public hearing on SB 1164.
<b><u>SB 1164 - PUBLIC HEARING</u></b>		
314	Karen Brazeau	Oregon Youth Authority. Submits written testimony ( <b>EXHIBIT E</b> ) and explains bill.
330	Chair Minnis	Closes public hearing and opens work session on SB 1164.
<b><u>SB 1164 - WORK SESSION</u></b>		
331	Rep. Prozanski	<b>MOTION: Moves SB 1164 to the full committee with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Minnis	<b>The motion CARRIES.</b>  <b>REP. PROZANSKI will lead discussion on the floor.</b>
345	Chair Minnis	Closes work session on SB 1164 and opens public hearing on SB 425.
<b><u>SB 425 - PUBLIC HEARING</u></b>		
353	Les Youngbar	Oregon Association Chiefs of Police. Submits written testimony in support of bill ( <b>EXHIBIT F</b> ). Explains need for bill.

398	Rep. Bowman	Asks for clarification regarding need for bill.
402	Youngbar	Provides anecdotal evidence in support of bill.
428	Rep. Prozanski	Discusses traffic offense issues.
431	Youngbar	Explains need for bill.
450	Rep. Prozanski	States concern about broadness of traffic offense definition. Discusses traffic offense issues.
<b>TAPE 142, A</b>		
010	Youngbar	Discusses traffic offense issues.
042	Chair Minnis	Discusses other states' laws regarding traffic offenses.
075	Chair Minnis	Closes public hearing on SB 425 and opens work session on SB 301.
<b><u>SB 301 - WORK SESSION</u></b>		
078	Scott Lumsden	Committee Administrator submits -1 amendments ( <b>EXHIBIT G</b> ).
080	Rep. Prozanski	Explains -1 amendments. Contrasts SB 301 to HB 3002. Explains need for bill.
117	Rep. Bowman	Asks for definition of "foreign restraining order."
118	Rep. Prozanski	Discusses foreign restraining orders and need for bill's emergency clause.
130	Rep. Wells	Asks for clarification regarding section 3 of bill.
141	Lumsden	Explains bill and -1 amendments.
<b>153</b>	<b>Rep. Bowman</b>	<b>MOTION: Moves to ADOPT SB 301-1 amendments dated 06/05/97.</b>
	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>159</b>	<b>Rep. Bowman</b>	<b>MOTION: Moves SB 301 to the full committee with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Courtney</b>
	<b>Chair Minnis</b>	<b>The motion CARRIES.</b>  <b>REP. PROZANSKI will lead discussion on the floor.</b>
173	Chair Minnis	Closes work session on SB 301 and adjourns meeting at 3:01 PM.

Paul Zolezzi, Sarah Watson,

Administrative Support Judiciary

**EXHIBIT SUMMARY**

**A - SB 423 written testimony, Eric Carter, 1 p.**

**B - SB 424 written testimony, Kevin Campbell, 2 pp.**

**C - SB 978A written testimony, Karen Brazeau, 1 p.**

**D - SB 978A written testimony, James Ragon, 1 p.**

**E - SB 1164 written testimony, Karen Brazeau, 1 p.**

**F - SB 425 written testimony, Les Youngbar, 3 pp.**

**G - SB 301 proposed amendments, staff, 44 pp.**