

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

March 17, 1997 Hearing Room 357

1:00 PM Tapes 50 - 52

**MEMBERS PRESENT:**

Rep. JOHN MINNIS, Chair

Rep. JO ANN BOWMAN, Vice-Chair

Rep. PETER COURTNEY

Rep. FLOYD PROZANSKI

Rep. LANE SHETTERLY

Rep. RON SUNSERI

Rep. LARRY WELLS

**MEMBER EXCUSED:**

**STAFF PRESENT:**

SCOTT LUMSDEN, Counsel

ANDREA TERRY, Administrative Support

**MEASURE/ISSUES HEARD: HB 2940, HB 2983, HB 2992, HB 2240, HB 2951**

**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 50, A</b>		
004	Chair Minnis	opens meeting at 3:22pm
<b><u>HB2940--PUBLIC HEARING</u></b>		
009	Minnis	opens public hearing on HB 2940
013	Bob Tartiff	Chief Police of Newberg
025	Tartiff	this should be a class C felony

030	Tom Mason	Eugene Police Department
043	Mason	we support HB2940 EXHIBIT A
058	Mason	discusses percentage of people who flee
067	Mason	right now the penalty is a class A misdemeanor
079	Mason	discusses group called STOP
110	Rep. Shetterly	what about criminals who elude on foot
120	Mason	the greatest level of our concern is that of eluding in a vehicle
131	Lt. Rader	Oregon State Police we support this bill EXHIBIT B we had 194 arrests last year for attempting to elude a police officer
144	Rep. Bowman	what about unmarked police car being a female driving alone at night, I would not stop unless I saw a huge sticker on the side of the car that indicated that I was being followed by the Police
159	Rader	we are very cognoscent about your concern we have very strict guidelines about how to handle this if the car has not sped up or put anyone's life in danger we try to bring in a marked patrol car
168	Rep. Shetterly	looking at the current statute
175	Rep. Prozanski	discusses HB 2983 and difference with HB 2940
210	Dale Penn	District Attorneys Association we support HB 2940
240	Prozanski	what about eluding on foot
243	Penn	I agree with the previous witness; I see no problem with leaving the person fleeing on foot as an A misdemeanor
256	Minnis	close public hearing on HB 2940 open public hearing on HB 2983
<b><u>HB 2983--</u></b> <b><u>PUBLIC</u></b>		

<b><u>HEARING</u></b>		
270	Ingrid Swenson	Criminal Defense Lawyers Association does making this a felony encourage violence
298	Rader	we can do a number of things, however we do not ever shoot out the window at an eluding vehicle discusses other methods that are used
340	Mason	use of force, reference to court case which determined under what circumstances deadly force can be used
368	Mason	we teach use of force to our officers
382	Mason	there are six other state that have elevated this crime to felony status
Tape 51, A		
008	Minnis	close public hearing on HB 2983
<b><u>HB 2992-- PUBLIC HEARING</u></b>		
014	Minnis	open public hearing on HB 2992
020	Prozanski	explains HB 2992
032	Penn	we don't have any problem with the bill, this would be a positive step forward
045	Rep. Shetterly	is "booking" a widely used term
054	Prozanski	it is, Virginia Vanderbilt and I worked on the language
057	Policeman	the bill allows a police officer to warn a person and file a charge if necessary, if the person in custody acts inappropriately
068	Minnis	close public hearing on HB 2992
<b><u>HB 2240--WORK SESSION</u></b>		
070	Minnis	open work session on HB 2240 EXHIBIT C
094	Ingrid Swenson	gives history of HB 2240
127	Cliff Damer	State Police discusses fiscal impact
142	Minnis	I have a statement that says no fiscal impact
150	Swenson	confusion over -1 and -2 amendments
157	Minnis	close work session on HB 2240

<b>HB 2951-- PUBLIC HEARING</b>		
165	Minnis	open public hearing on HB 2951
170	Staff	EXHIBIT D
172	David Fidanque	Executive Director ACLU of Oregon
197	David Fidanque	EXHIBIT E
235	Fidanque	gives history of HB 2951
282	Fidanque	continues testimony on HB 2951
291	Minnis	have the courts been doing something inappropriate this entire time
300	Fidanque	the vast majority of these cases never get to court
323	Minnis	my understanding is most of the time judges go out of their way to assure that person's rights are being guaranteed
330	Fidanque	discusses EXHIBIT D
377	Fidanque	when we saw that report, we began asking questions
Tape 50, B		
007	Rep. Bowman	how long have you been on this forfeiture committee
012	Fidanque	I was appointed in 1989 we haven't met in this biennium under the statute we are supposed to meet quarterly
017	Bowman	what is the mission of this committee
023	Fidanque	it appears in section 14, subsection 4
053	Dale Penn	Oregon District Attorneys Association
060	Penn	we believe this is a very important and good bill the ability to forfeit we believe that there is judicial review many safeguards built into this bill
101	Penn	discusses sunset law
108	Bowman	the fact that the oversight committee hasn't met for three years, doesn't lead me to believe that we don't need this group this concerns me that this has been going on this entire time without any oversight
		discusses where forfeitures come from

128	Penn	huge numbers come out of sale operations explains seizures
160	Bowman	not receiving mailings on this committee
168	Sunseri	concern about sunseting the entire law citizens who get involved in this who have no recourse for getting their property back
190	Dale Penn	if the committee believes that there has to be an oversight committee we could work on this
225	Penn	explains judicial process
232	Penn	civil liability is also an issue
242	Minnis	lets talk about the money issue
246	Penn	State Police is handled a bit differently
264	Bowman	I would like to talk about the sunset law
305	Penn	explains finances
319	Sunseri	is it possible to show how these funds are distributed
336	Penn	where the money goes in local forfeitures
356	Rep. Wells	we were talking last week about an impoundment bill last week
371	Penn	that would only apply to arrests
Tape 51, B		
003	Tim Colohan	DA for Harney County
007	Colohan	we use three different forms regarding the property that was seized
029	Colohan	that information is available
033	Ed Mouery	Lieutenant, Sate Police EXHIBIT F
040	Brenda Rockland	Assistant Attorney General
065	Kathleen Payne	Counsel for Forfeiture
080	Payne	discusses what happens if the time period passes there is judicial review on all of these cases
124	Jenny Cooke	Criminal Defense Lawyer in Portland what can the committee do that the judge can't do--the important thing that the committee does that a judge can't do is generalize from the information

161	Minnis	question about forms that are filed
165	Cooke	the form recites that there is probable cause
173	Rep. Shetterly	do you know why the oversight committee has not met in three years
181	Cooke	somebody is compiling the information, but no one is looking at it it is my understanding that the asset forfeiture committee has not met because it has not been funded
189	Rep. Prozanski	I'm frustrated as to why we haven't met and why we received info concerning this today I have had different people ask me what is going on
224	Cooke	my main concern is how the money gets spent
239	Shawn McRea	Private Practice Attorney in Eugene don't repeal the sunset rule and not abolish the oversight committee discusses these two issues gives example of case she recently took on
310	Cooke	the composition of the asset forfeiture committee is very valuable (half legislative and half private citizen)
330	Minnis	you should be arguing about the judicial process
340	Sunseri	you said you take on "tons" of cases, describe "tons"
345	McRea	in my practice I see many cases that involve small amounts of money and possessions
370	Mike Cahill	Police Chief for Junction City
372	Cahill	EXHIBIT G
Tape 52, A		
002	Cahill	continues testimony
050	Rep. Sunseri	yes we can make a great case for this, but what about the innocent victims what about the abuse
059	Minnis	I haven't seen cases of abuse
070	Prozanski	one of the attorneys who testified is a constituent of mine, I don't think we should be pointing fingers at anyone
080	Russ Spencer	Oregon State Sheriff's Association if you commit the crime you are going to pay the price gives example of asset forfeiture

133	Minnis	forfeiture is an action against property I am concerned as to the direction that we are going with this
145	Spencer	in terms of repealing the sunset we would like to see this done
153	Minnis	adjourns meeting at 5:30pm

Submitted By, Reviewed By,

ANDREA TERRY, SCOTT LUMSDEN,

Administrative Support Counsel

**EXHIBIT SUMMARY**

**A - Memo on HB 2940 - introduced by T. Mason - 2 pages**

**B - Memo on HB 2983 - introduced by G. Rader - 2 pages**

**C - -1 amendments to HB 2240 - introduced by Legislative Counsel - 1 page**

**D - Seizure Data - introduced by staff - 7 pages**

**E - Policy on Civil Forfeitures - introduced by D. Fidanque - 1 page**

**F - Memo on HB 2951 - introduced by E. Mouery - 2 pages**

**G - Testimony in support of HB 2951 - introduced by M. Cahill - 1 page**