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SENATE COMMITTEE ON CRIME & CORRECTIONS

April 28, 1997 Hearing Room B

1:00 P.M. Tapes 87 - 90

MEMBERS PRESENT:

Sen. Shirley Stull, Chair

Sen. Jeannette Hamby, Vice-Chair

Sen. Avel Gordly

Sen. Eileen Qutub

Sen. Veral Tarno

Sen. Cliff Trow

STAFF PRESENT:

Nikola Jones, Counsel

Julie Clemente, Administrative Support

MEASURE/ISSUES HEARD: Public Hearing: SB 1076, SB 753, SB 691, SB 1119, SB 318

Work Session: SB 693, SB 1163

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
Tapes 87, A		
003	Chair Stull	Calls meeting to order at 1:20 P.M.
<u>OPENS PUBLIC HEARING ON SB 1076</u>		
007	Nikola Jones	Reviews bill for committee
010	Diana Godwin	<p>Representing the law firm of Williams and Troutwine. Testifies in support of SB 1076. Gives Committee some background on the bill.</p> <p>>nudity or partial state of nudity</p> <p>>defines what constitutes `places and circumstances'</p> <p>>definition of nudity is taken from Oregon's law on obscenity</p> <p>>two exceptions: legitimate medical procedure & activity undertaken in the course of a bonafide law enforcement activity</p>
061	Sen. Qutub	Clarifies for the record: you believe by adding "or in the partial state of nudity" would then cover situations previously discussed.
	Godwin	Absolutely. Continues.
081	Sen. Hamby	Questions for clarification regarding the lack of Legislative Counsel (LC) drafts.
	Godwin	No LC draft for amendment Sen. Qutub referred to.
	Sen. Hamby	Comments for clarification regarding deletions.
	Godwin	Replies.
090	Jones	Comments for clarification.
	Godwin	Refers to SB 1076-1 [Exhibit C]
098	Sen. Hamby	Questions for clarification.
	Godwin	Replies. - Legitimate medical procedures.
108	Chair Stull	Have you looked at the -2 amendments? [Exhibit D] Continues to question for clarification.
	Godwin	Replies. Did briefly.
131	Chair Stull	Comments of citizen concerns.
	Godwin	Visual recording without sound - not against the law. Explains.
		Administrator, Oregon OSHA. Comments that the SB

161	Peter DeLuca	1076-2 amendments [Exhibit D] probably not necessary. Explains.
174	Sen. Qutub	Do you have permission when you do your recordings?
	DeLuca	No permission - collecting evidence.
	Sen. Qutub	Continues questioning.
	DeLuca	Replies.
188	Sue Hiloick	Director of Government Relations, Oregon Health Sciences University. Testifies in support of SB 1076 with -1 amendments. [Exhibit C] Submits written testimony of Rodney Norton, Office of Legal Affairs, Oregon Health Sciences University requesting language changes. [Exhibit E]
218	David Fidanque	Director, ACLU of Oregon. Unable to support bill in current form. Explains things of concern. >agrees type of activity that took place should be a crime and would like to see that happen >video cameras now used in numerous places >language was added regarding nudity
254	Fidanque	Suggests changing on line 6, 'knowingly' to 'intentionally'. Explains. >concern is not to have one rule for everyone and a different rule for law enforcement
288	Marcia Latta	Women's Rights Coalition. Submits written testimony in support of SB 1076. [Exhibit F]
307	Sen. Qutub	Questions for clarification.
	Fidanque	Still a need to deal with the jail and prison situation. Continues.
<u>CLOSES PUBLIC HEARING ON SB 1076</u>		
<u>OPENS PUBLIC HEARING ON SB 318</u>		
350	Jessica Harris	Legislative Assistant, Senator Jeannette Hamby. Submits statistics and statues for information. [Exhibit G]
		Daughter, Requester of Bill. Submits information regarding SB 318

357	Karen Heldt	>36 states have laws >those who chose to ignore - be held accountable
419	Harris	Speaks that this would bring over-the-counter drugs in line with a DUII driving >in Oregon we define drugs more broadly - [Exhibit G] >refers to other states' statutes attached
465	Sen. Tarno	We are talking about pharmaceuticals as opposed to over-the-counter drugs.
TAPE 88, A		
	Harris	Drug would be defined broadly.
033	Sen. Tarno	Continues to question for clarification.
	Harris	Replies. 'Controlled substance' as been replaced with 'drug'.
041	Nikola Jones	Refers to information in packet.
	Sen. Gordly	Questions for clarification regarding a similar list that would show us various over-the-counter drugs.
049	Chair Stull	Comments for clarification.
	Harris	Replies. There have been questions raised about the definition - will be defined more clearly. Other states define drug just as you see there. >similar on a national level
061	Sen. Hamby	Any OTC that is clearly marked on the bottle or box that warns you would be included under this broad definition.
	Chair Stull	Comments for clarification regarding subject. >How would a citizen be able to make good choices?
092	Harris	I know what that medicine will do to my body. Explains.
108	Sen. Gordly	Questions for clarification the sentence following the word drive.
	Harris	Replies. With every reference to drug it also includes alcohol.
121	Sen. Trow	Questions for clarification regarding taking of medication. How would I know when it is safe to drive?
	Harris	Much the same as the decision is made with alcohol. Continues.
	Sen. Trow	Continues questioning for clarification.
154	Heldt	Pharmacist will answer and give advice.
	Sen. Trow	Questions for clarification

166	Sen. Hamby	Comments for clarification.
180	Chair Stull	Comments for clarification. >effect from time to time varies - hard to judge
231	Ingrid Swensen	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 318. Understand what bill is attempting to do, recognize that it is difficult to do. Would appreciate the opportunity to work on that effort. Discusses problems. >definition of drug >criminal liability is treated differently
<u>CLOSES PUBLIC HEARING ON SB 318</u>		
<u>OPENS PUBLIC HEARING ON SB 753</u>		
290	Larry Oglesby	Director, Marion County Juvenile Department Submits written testimony in support of SB 753. [Exhibit H]
343	Sen. Gordly	Share the compelling reason that we need to do this.
	Oglesby	Another way of dealing with juveniles. Continues.
367	Sen. Trow	Questions for clarification.
	Oglesby	Replies: Single decision to accept - not a case-by-case decision
	Sen. Trow	Continues questioning witness for clarification.
414	Chair Stull	Comments for clarification. Not a dumping ground, means there was no limitation of those kinds of cases. Continues.
442	Sen. Trow	Can see some of the rational. Continues.
TAPE 87, B		
021	Sen. Hamby	Directed at Mayor Ken Hecktor. Have you worked with your local school districts, etc.
	Ken Hecktor	Mayor, City of Silverton. Replies. Have had some discussions.
	Sen. Hamby	Continues to question for clarification.
037	Ken Hector	Mayor, City of Silverton. Submits written testimony in support of SB 753. [Exhibit I]
<u>CLOSES PUBLIC HEARING ON</u>		

SB 753		
OPENS PUBLIC HEARING ON SB 961		
	Nikola Jones	Committee Counsel. Explains the bill. Changes the qualifications for election or appointment to the office of sheriff.
086	Russ Spencer	Oregon State Sheriffs. Testifies in support of SB 961. Been before legislature previously. Did not make it out of committee. Goal of the bill is seeking to further professionalize the office of sheriff. >highly qualified, trained personnel in the office of sheriff >sets reasonable and attainable standards >allows Board on Public Safety Standards and Training (BPSST) to recognize training
125	Spencer	>election procedures >grandfather clause
133	Jim Spinden	Sheriff, Washington County. Testifies in support of SB 961. Our attempt to recognize the challenges of a modern day sheriff. >eliminates the good old boy >minimum standards >education, experience and training important > sizes of different counties
157	Spinden	>recognizes complexities of the job
186	Sen. Tarno	Questions for clarification regarding staff and budget.
	Spinden	Replies.
194	Sen. Gordly	Questions why there is a grandfather clause if the management credentials are so critical.
	Spinden	Appropriate for a sheriff to finish a term. Continues.
	Spencer	That sheriff has been elected by a vote of that county.
204	Sen. Gordly	Continues questioning witness for clarification.
231	Spinden	Replies - Our citizens want us to screen and have some minimum requirements. Continues.
		Several cases already where we look for specific

	Spencer	<p>qualifications:</p> <p>>district attorney, judges, auditors</p> <p>>In Oregon we believe we are under trained. - 8 weeks average - other states require 16 weeks</p>
254	Sen. Hamby	Questions witness for clarification regarding qualifications.
327	Spencer	These are the minimum standards.
	Sen. Hamby	Continues questioning witness.
	Spencer	Replies.
349	Sen. Gordly	Continues to question for clarification regarding what the bill does.
	Spinden	That is an option. Gives example.
383	Sen. Trow	Questions regarding BPSST setting certification standards. Already exist.
TAPE 88, B		
012	Spinden	Have no idea how many women - will try to get that information
026	Spencer	These apply to specific geographic constraints. Explains.
042	Sen. Gordly	Questions for clarification regarding women and people of color providing training.
	Spencer	States very clearly for the record. The Oregon State Sheriff's Association does not condone any type of discrimination.
053	Sen. Trow	Replies
	Spencer	Wants to be very clear - sensitive issue.
060	Sen. Gordly	Comments regarding the Oregon State Sheriff's Association not having a formal mentoring program for women and people of color.
	Spencer	Glad to meet and hear her suggests for achieving that issue.
076	Spencer	Comments on information regarding last year.
084	Sen. Hamby	How does this bill differ from HB 2866?
	Spencer	Final version - don't believe any differences. Must check. Continues.
105	Spencer	The Oregonion is wrong. Continues
115	Spinden	Might find some states that wished they had minimum qualifications for governor. Continues
122	Sen. Trow	Comments on information from the Marion County Law Enforcement Association. [Exhibit K]
	Spinden	In my organization, I am the final authority on who goes to training. Explains.

141	Spencer	Nothing that a sheriff can do. BPSST makes that determination.
156	Spinden	Tells of his personal experience.
163	Sen. Tarno	Comments regarding schooling. Done at taxpayer's expense. Continues to explain.
<u>CLOSES PUBLIC HEARING ON SB ON 961</u>		
<u>OPENS PUBLIC HEARING ON SB 753</u>		
181	Dale Penn	Oregon District Attorney's Association. Testifies in support of SB 753. Allows a local choice. Hopefully convince children not to get farther into juvenile crime. >Responds to Sen. Trow's question regarding municipal court control - everything is controlled by the juvenile court >municipal court still has to notify the juvenile court >juvenile court controls - requirement of an agreement between the two
217	Doug Bray	Deputy State Court Administrator. Submits proposed amendments to SB 753. [Exhibit J] Explains the amendments.
272	Sen. Hamby	Questions for clarification regarding revenue impact.
	Bray	Replies. Generally juvenile courts don't impose fines. Continues.
301	Chair Stull	Questions for clarification on Line 5. Delete the word `all'?
	Bray	Explains current interpretation. Not sure that would change significantly.
330	Sen. Trow	Comments for clarification.
336	Penn	Comments on proposed amendments. >going to be an administrative device - explains >good impact on juvenile departments >facilitates the administration of the state courts system
		Juvenile Rights Project. Testifies in opposition of SB 753. Primarily nothing happens to these kids. Build a

363	Timothy Travis	juvenile court system that gives you prompt intervention. >this is not a tool, but a cop-out >juvenile system is going to be driven by money
394	Travis	Prevention - who is going to review cases >we need to re-parent kids who are on the verge >two separate systems; one for kids, one for adults >misdemeanor sex crimes
443	Travis	Difference between speed and delinquency >we are sending a message to destroy juvenile courts by not funding them
TAPE 89,A		
032	Travis	Where is this going to stop?
040	Sen. Tarno	Questions for clarification.
	Travis	Replies.
050	Ingrid Swenson	Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 753. See this bill as a chipping away of the juvenile court system. Not the direction you want to go. >no age limit here >concurs with Travis that not good public policy
<u>CLOSES PUBLIC HEARING ON SB 753</u>		
<u>OPENS PUBLIC HEARING ON SB 1076</u>		
065	Diana Godwin	Representing the law firm of Williams and Troutwine. Regarding substituting 'intentionally' for 'knowingly' which further narrows bill. Concerned that it would be harder for the district attorney to prove. >'knowingly' should be the standard - continues
115	Godwin	I don't want to prevent the police from investigating that legitimately.
<u>CLOSES</u>		

<u>PUBLIC HEARING ON SB 1076</u>		
	Chair Stull	Adjourns Committee at 3:15 p.m.
	Chair Stull	Reconvenes Committee at 5:20 p.m.
<u>OPENS PUBLIC HEARING ON SB 961</u>		
137	Jeff Holland	Candidate for Sheriff in Polk County. Testifies in opposition to SB 961. Discusses his concerns regarding taking the decision-making process out of the hands of the voters and placing it in the hands of BPSST. >voters should decide who is going to be leadership
157	Sen. Tarno	Comments for clarification. Encourages Holland to continue his education.
	Holland	I qualify under this bill. Concerned for the public in general. Explains.
184	Sen. Tarno	Comments further regarding standard setting for the office.
194	Alan Scharn	Presents written testimony from Tom Dougarian, President, Marion County Law Enforcement Association. [Exhibit K]
255	Scharn	>Agrees with Jeff Holland. Needs to be the voter's decision.
327	Sen. Tarno	Questions for clarification regarding filing.
357	Scharn	Replies. Still makes those same demands on the certification for sheriff.
397	Sen. Gordly	Questions for clarification regarding women in supervisory rolls in Marion County.
	Scharn	Replies. Clarifies.
<u>CLOSES PUBLIC HEARING ON SB 961</u>		
<u>OPENS PUBLIC HEARING ON SB 1119</u>		
428	Jessica Harris	Legislative Assistant to Sen. Jeannette Hamby. Testifies in support of SB 1119. Refers to SB 1119-1 amendments. [Exhibit M] Speaks of the bill saving money in cases where impoundment is allowed.

TAPE 90, A		
046	Sen. Qutub	Basically the savings is in the space taken up when a vehicle is impounded?
	Harris	Yes. County by county.
059	Sen. Qutub	Continues questioning for clarification.
	Harris	Replies.
073	Sen. Tarno	One of the problems I have with the boot is that it prohibits another family member from using the car.
	Harris	Replies. Could apply for hardship. Continues.
090	Sen. Gordly	Bill sounds like a good idea. Missing piece of information. What would the impact be around the state.
107	Sen. Hamby	Comments for clarification. >counties will vary >troopers hesitate to impound because of the cost >stand as a symbol for the entire neighborhood >hardship clauses remain the same as for impoundment
146	Chair Stull	Comments for clarification regarding use of alternative methods.
	Sen. Hamby	Rental from a towing firm.
176	Sen. Tarno	Questions for clarification regarding application of the 'boot'
	Harris	Replies.
191	Sen. Trow	Questions for clarification regarding complications of ownership.
	Harris	Yes. Continues.
216	Chair Stull	Refers to Amendments SB 1119-1. [Exhibit M]
	Harris	Replies.
236	Chair Stull	Continues to question for clarification regarding proposed amendments.
	Harris	Replies
248	Sen. Qutub	Have you talked to the Banker's Association regarding this?
	Harris	No
	Additional testimony received from Judge Kimberly C. Frankel in support of SB 1119. [Exhibit L]	

**CLOSES
PUBLIC
HEARING ON
SB 119**

**OPENS WORK
SESSION ON
SB 693**

268	Kevin Campbell	<p>Oregon Association Chiefs of Police. Testifies in support of SB 268 amendments. Speaks of previous discussions and topics reviewed.</p> <p>>not advisable to send to Ways & Means</p> <p>>hope that the Committee will send it to the floor</p>
302	Campbell	Bill under -1 does not require funding but would be available in the future for funding.
316	Sen. Trow	Did we amend the bill last time with the -1?
	Campbell	No
	Sen. Trow	Continues questioning for clarification.
	Campbell	Belief that the language makes that expenditure almost impossible from the county perspective. Continues.
344	Campbell	<p>>insured families could use alternative transport</p> <p>>people in an indigent situation</p>
359	Sen. Trow	Who pays for the transports now?
	Campbell	Currently, the costs fall heavily on law enforcement agencies throughout the state
386	Sen. Tarno	Questions for clarification regarding the court ordering transfer to state facility.
	Campbell	System different now. Mental Health can make that decision.
429	Madeline Olson	<p>Assistant Administrator, Mental Health Services, Mental Health & Developmental Disability Services Division.</p> <p>Specific transport for persons being committed and sent to the state hospital is paid for by the state. State hospital no longer does the shorter term acute psychiatry treatment. Continues.</p> <p>>change in the nature of the transportation</p>
TAPE 89, B		
037	Sen. Trow	Comments for clarification regarding costs.

	Campbell	From the SB 784 work group
	Sen. Trow	Continues his comments.
066	Sen. Tarno	Comments for clarification regarding mental patients
091	Sen. Gordly	Questions Chair's intent.
	Chair Stull	Comments for clarification on expectations of funding. Committee continues to discuss bill's progress through system.
122	Campbell	Discusses reasoning behind the constructing of the -1 amendments.
142	Sen. Qutub	Questions for clarification regarding third party payers.
150	Sen. Tarno	Question for clarification regarding relatives requesting the state's assistance.
	Olson	Most of the transporting is done by family members. >narrow group of people who cannot be safety transported by family. >transported against their will by law enforcement
170	Sen. Trow	Does the Governor's office support this legislation?
	Olson	Replies.
<u>CLOSES WORK SESSION ON SB 693</u>		
<u>OPENS WORK SESSION ON SB 1163</u>		
192	Nikola Jones	Committee Counsel. Refers SB 1163 -2 amendments. [Exhibit B] Comments on misunderstanding of what Ms. Brazeau wanted. >intent was to keep all changes in Section 1. >delete any changes in Sections 2, 3 and 4. Amendments before you only delete changes on Sections 2 & 3. >deleting lines 36 through 44, page 4 of the bill
221	Sen. Trow	Questions for clarification regarding page 2, lines 21 through 23.
		Deputy Director, Oregon Youth Authority. The portion of the bill that the Youth Authority would like to retain would remove from statute the pilot project for

	Karen Brazeau	older youth offenders. >youth who committed crimes prior to age 18 >county is the proper place for shelter care
265	Brazeau	Will of the group was to leave everything the same this session.
273	Sen. Trow	Do you want some of this bill once it is amended?
	Brazeau	Yes. Continues.
282	Jones	No work was done previously.
	Sen. Trow	-1 amendments still relevant?
	Jones	Replies.
300	Committee continues discussing changes with Ms. Brazeau.	
335	Sen. Qutub	MOTION: Moves to amend SB 1163-2 amendments dated 04/24/97 on page 4, line 37, by deleting "subsection 1 (1) and lines 41 through 44".
377	Sen. Trow	Questions for clarification regarding the motion.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Stull	The motion CARRIES.
		.
	Chair	The motion CARRIES.
391	Sen. Qutub	MOTION: Moves to ADOPT SB 1163-2 amendments dated 04/24/97 as amended.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye
	Chair Stull	The motion CARRIES
408	Sen. Qutub	MOTION: Moves SB 1163 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 AYE: In a roll call vote, all members present vote Aye.

	Chair Stull	The motion CARRIES.
		SEN. STULL will lead discussion on the floor.
<u>CLOSES WORK SESSION ON SB 1163</u>		
	Chair Stull	Declares meeting adjourned at 6:32 p.m.

Submitted by, Reviewed by,

Julie Clemente, Nikola Jones,

Administrative Support Counsel

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EXHIBIT SUMMARY

A - Proposed SB 753-1 Amendments - Staff - 2 pgs

B - Proposed SB 1163-2 Amendments - Staff - 1 pg

C - Proposed SB 1076-1 Amendments - Staff - 1 pg

D - Proposed SB 1076-2 Amendments - Staff - 1 pg

E - Testimony of Rodney K. Norton on SB 1076 - Presented by Sue Hiloick - 2 pgs

F - Testimony in Support of SB 1076 - Marcia Latta - 1 pg

G - Statistical Information regarding SB 318 - Jessica Harris - 4 pgs

H - Testimony in Support of SB 753 - Larry Oglesby - 1 pg

I - Testimony in Support of SB 753 - Ken Hector - 1 pg

J - Proposed Amendments to SB 753 - Doug Bray - 1 pg

K - Testimony in Opposition to SB 961 - Tom Dougarian - 5 pgs

L - Testimony in Support of SB 1119 - Judge Kimberly C. Frankel - 1 pg

M - Proposed SB 1119-1 Amendments - Jessica Harris - 4
