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**SENATE COMMITTEE ON CRIME & CORRECTIONS**

**May 28, 1997 Hearing Room B**

**1:00 P.M. Tapes 127-130**

**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: Work Session: SB 1125, SB 1046, HB 2229**

**Public Hearing & Work Session: HB 2266, HB 3569A, HB 2158**

**Public Hearing: HB 2787**

**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 127, A		
003	Chair Stull	Opens meeting at 1:17 p.m.
<b>OPENS PUBLIC HEARING ON SB 2158</b>		
009	<b>Les Dolecal</b>	<b>Inspector General, Oregon Department of Corrections.</b> Testifies in support of HB 2158. Discusses the feasibility of one point of contact from the Department of Corrections'(DOC) point of view. There are current mechanisms for handling inmate and civilian complaints pertaining to DOC. Elimination of the office will not cut off avenues of relief for citizens and inmates. Many of the functions have been adopted by the current Public Safety Advocate.
036	Sen. Gordly	Questions for clarification regarding one point of access. >One person reviewing all of the complaints?
	Dolecal	No, not one person. Combination. Explains. >check and balance system
061	Sen. Gordly	Directs question to Sheila Reed. Describe your function.
	<b>Sheila Reed</b>	<b>Governor's Advocate for Public Safety.</b> Replies. Responsibility for answering any question that comes to the Governor's office having to do with the DOC, Board of Parole, State Police, Military, Fire Marshall and Youth Authority. Reviews procedure.
078	Sen. Trow	Questions regarding position. Ever filled?
	Reed	Position was filled during the Goldschmidt administration. Continues. >more people than needed - not sufficient funds >didn't get rid of the ORS that said that the Governor 'shall' appoint
097	Sen. Trow	Continues to question for clarification.
	Reed	Correct. Continues. Very confident needs are being met.
	Sen. Trow	Questions abuse of a prisoner. Avenue for grievances to be heard and addressed?
	Reed	Replies. I don't need to go to the DOC, I have access to the State Police. Continues.
120	Chair Stull	Comments on personal use of the services offered by Reed's office.
123	Sen. Hamby	Questions regarding receipt of mail from an inmate speaking of abuse toward another inmate. Questions assurance of no retaliation.
	Dolecal	DOC takes it very seriously. Continues.
144	Sen. Hamby	Continues her line of questioning.

	Dolecal	Encourages to always to send those letters on. Continues.
158	Sen. Gordly	Comments on Sen. Hamby's questions. What is my point of access?
	Dolecal	Either one or the state police. We all try to coordinate. Continues.
226	Sen. Gordly	Continues regarding investigating issues.
	Dolecal	On an as need basis. Explains.
	Reed	Provide a monthly report to all of the agency directors.
252	<b>Ingrid Swensen</b>	<p><b>Oregon Criminal Defense Lawyers Association.</b> States that they were opposed to bill in the House. Asks that the Committee consider simply making it optional that the governor `may appoint' but not `require' him to do so instead of removing the scheme from the statute.</p> <p>&gt;statutory scheme that is well though out - process to occur when needed</p> <p>&gt;been there for a long time, only periodically funded</p>
<p><b><u>CLOSES PUBLIC HEARING ON HB 2158</u></b></p>		
<p><b><u>OPENS WORK SESSION ON HB 2158</u></b></p>		
289	Sen. Hamby	Comments regarding her thoughts on the measure.
	Chair Stull	Comments regarding Governor having many options available.
	Sen. Hamby	Comments on the need of having the option.
310	Sen. Gordly	Comments that lack of funds should not be what drives us on this one. May need to leave that option in place.
320	Sen. Tarno	Could this be done through administrative rule?
333	<b>Kevin Mannix</b>	<p><b>Attorney and Former State Representative.</b> Very sensitive all along to issues involving the DOC.</p> <p>&gt;establishment of the Office of Inspector General - separate entity within the department - reports to the Governor</p> <p>&gt;serves as the person on the spot with direct authority</p> <p>&gt;Ombudsman position was not an authoritative position, only to point out problems.</p> <p>&gt;issues of corruption or mistreatment of inmates, there is that independent operation available with authority to act, not just to inquire</p>

364	Sen. Gordly	Comments that Ombudsman roll was to point out problems.
	Mannix	Inspector General has authority to do that. Continues.
390	Sen. Hamby	Questions his confidence that the Inspector General is truly independent.
	Mannix	Replies. Inmates felt that way.
441	<b>Sen. Hamby</b>	<b>MOTION: Moves HB 2158 to the floor with a DO PASS recommendation.</b>
423	Sen. Gordly	States she will vote no. Gives her reasons. >questions independence of the roll of Inspector General
	Sen. Trow	States he will vote no.
		<b>VOTE: 4-2</b> <b>AYE: 4 - Hamby, Qutub, Tarno, Stull</b> <b>NAY: 2 - Gordly, Trow</b>
	<b>Chair Stull</b>	<b>The motion CARRIES.</b>  <b>SEN. TARNO will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON HB 2158</u></b>		
<b><u>OPENS PUBLIC HEARING ON HB 3569A</u></b>		
490	<b>Mike Caldwell</b>	<b>Colonel, Oregon National Guard.</b> Introduces Lt. Colonel Richard Williams, Counterdrug Coordinator. Testifies in support of HB 3569A. Measure corrects two things for the Oregon National Guard: >changes current statute to provide the ability for a more efficient and up-to-date system to pay members who are called to active duty >allows members to be designated for asset forfeiture purposes supporting counterdrug operations by federal, state and local authorities.
<b>Tape 128, A</b>		
073	<b>Richard D. Williams</b>	<b>Lt. Colonel, Oregon National Guard, Counterdrug Coordinator.</b> Submits written testimony and exhibits in support of HB 3569A. <b>[Exhibit E]</b>
116	Sen. Trow	Questions calling the national guard to active duty.

	Caldwell	Correct. Explains.
	Sen. Trow	Continues to question for clarification. >don't want to get authorities mixed
	Caldwell	Current statute remains in place. Doesn't change. >governor has right to call for state, but not federal active duty
	Sen. Trow	Comments on intent for the record.
	Caldwell	Agrees.
166	<b>Jane Lokan</b>	<b>Representative, House District 25.</b> Submits written testimony in support of HB 3569A. <b>[Exhibit F]</b>
	Sen. Trow	Comments regarding opposition.
	Caldwell	Discussed with Governor's personnel. No opposition.
	Chair Stull	Calls attention to fiscal statement. Measure is included in Governor's budget.
<b><u>CLOSES PUBLIC HEARING ON HB 3569A</u></b>		
<b><u>OPENS WORK SESSION ON HB 3569A</u></b>		
216	Sen. Trow	<b>MOTION: Moves HB 3569A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Sen. Hamby, Sen. Qutub</b>
	Chair Stull	<b>The motion CARRIES.</b>  <b>SEN. TROW will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON HB 3569A</u></b>		
<b><u>OPENS PUBLIC HEARING ON HB 2266</u></b>		

250	<b>Nancy Miller</b>	<b>Director, Citizens Review Board (CRB).</b> Submits written testimony in support of HB 2266. <b>[Exhibit F]</b> Measure extends sunset for two additional years on provisions that allow local citizen review boards to review cases of delinquent youth offenders in custody of the Oregon Youth Authority.
287	<b>Karen Brazeau</b>	<b>Deputy Director, Oregon Youth Authority (OYA).</b> Submits written testimony in support of HB 2266. <b>[Exhibit G]</b>
297	Sen. Trow	Questions witness for clarification.
	Brazeau	Replies.
320	Miller	Discusses cross training.
	Sen. Trow	Continues to question training.
	Miller	Certainly hope that it happens. Continues.
355	Sen. Gordly	Questions training - dependent on funding?
	Miller	No. Explains.
	Brazeau	Further explains.
370	<b>Timothy Travis</b>	<b>Juvenile Rights Project.</b> Testifies in support of HB 2266. Discusses former distrust of CRB by OYA.  >Services to Children and Families (SCF) has become more comfortable with the CRB process  >CRB is about oversight - checks and balances  >CRB very good for the OYA and visa/versa - all better off in this process  >relationship with CRB & OYA gets people involved with kids and with the juvenile system
448	Miller	Roll of the CRB is dual. Explains.  >kids moving through the foster care system  >advocacy for change in the system
<b><u>CLOSES PUBLIC HEARING ON HB 2266</u></b>		
<b><u>Tape 127, B</u></b>		
<b><u>OPENS WORK SESSION ON HB 2266</u></b>		
043	Sen. Trow	<b>MOTION: Moves HB 2266 to the floor with a DO PASS recommendation.</b>

		<p><b>VOTE: 5-0</b></p> <p><b>AYE: In a roll call vote, all members present vote Aye.</b></p> <p><b>EXCUSED: 1 - Sen. Hamby</b></p>
	Chair Stull	<p><b>The motion CARRIES.</b></p> <p><b>SEN. GORDLY will lead discussion on the floor.</b></p>
<p><b><u>CLOSES WORK SESSION ON HB 2266</u></b></p>		
<p><b><u>OPENS PUBLIC HEARING ON HB 2787</u></b></p>		
057	Nancy Miller	<p><b>Director, Citizen Review Board Program</b> . Submits written testimony in support of HB 2787. <b>[Exhibit H]</b></p>
103	Miller	<p>Continues her testimony.</p> <p>&gt;Wants the agency to consider this very valuable tool in every case.</p>
160	Miller	<p>Continues her testimony.</p> <p>&gt;family plan protects the child</p> <p>&gt;puts a burden on the agency</p> <p>&gt;families involved when child placed in foster care</p>
193	Sen. Gordly	<p>Questions for clarification regarding decision making.</p>
	Miller	<p>Yes, it does. What is not included in the policy is the requirement of the written plan. Continues.</p>
	Sen. Gordly	<p>Thought the agency had a policy?</p>
219	Sen. Trow	<p>Family decision-making new?</p>
	Miller	<p>No. Explains.</p>
	Sen. Trow	<p>Questions what would be inappropriate.</p>
	Miller	<p>Replies. Gives examples.</p>
243	Sen. Trow	<p>Continues questioning witness.</p>
	Miller	<p>Other sections of the Oregon Revised Statutes that make it very clear. Explains.</p>
296	Miller	<p>Responds to Sen. Gordly's question regarding documentation.</p>

		>family plan part of that service plan
309	Sen. Trow	Questions fiscal impact.
	Miller	There have been discussions with the agency about that. Explains. >nothing in the bill that mandates them to use their resources in that manner
330	<b>Liz VanLeeuwen</b>	<b>Representative, House District 37.</b> Testifies in support of HB 2787. Gives background regarding the House discussions. Worked out the best bill you could possibly have, passing the House unanimously. Explains. >agency is already doing this >placed with a family member, there will be a savings >variety of family meetings could be held >urges passage without amendments
403	Sen. Hamby	Questions why it is so difficult to write a plan and distribute it.
	Miller	Have argued that it is good case work practice.
	Chair Stull	Questions witness for clarification.
	Miller	Documentation and review.
	Chair Stull	Normal course of review.
<b>Tape 128, B</b>		
015	<b>Victor Congleton</b>	<b>Program Manager, State Office for Services to Children and Families.</b> Presents testimony in opposition to HB 2787 together with proposed amendments. <b>[Exhibit I]</b>
044	Sen. Hamby	Questions for clarification regarding amendments.
	Congleton	Replies. We did not introduce amendments on the House side.
060	Congleton	Reviews proposed amendments included in his testimony. <b>[Exhibit I]</b> >amendments needed to make bill workable
106	Sen. Gordly	Questions witness regarding fiscal impact.
	Congleton	Referring to current administrative rule. Explains.
135	Sen. Gordly	Continues questioning witness. Lack of resources an issue now?
	Congleton	Replies. Absolutely, it is. >training and motivational issues - staff time >significant conflicts within the family >takes a lot of time - limits on what we can do



183	Sen. Trow	Questions substitute care?
	Congleton	That is the jest of the meaning of permanency. Continues.
	Sen. Trow	Continues questioning witness regarding placement of the child.
	Congleton	Replies. If safe and appropriate, place with relatives.
212	Sen. Trow	Questions commitment to the plan.
	Congleton	It has been a requirement in each case that a social service plan be produced and reviewed. Continues. >family decision-making process simply one tool
242	Sen. Hamby	Questions 2,500 meetings conducted last year. Cost of each meeting?
	Congleton	Not prepared to discuss fiscal impact.
	Sen. Hamby	Continues questioning the witness regarding costs.
282	Sen. Hamby	Continues questioning for clarification.
	Congleton	Replies. When we get into case planning elements, it gets more confusing. >those definitions aren't clarified
326	Sen. Trow	Questions refusal to sign off.
	Congleton	Replies. Case planning responsibilities - doesn't change - that is what the judge is for.
349	Sen. Qutub	Questions family decision-making meetings. What are we left with then. Nothing?.
	Congleton	Not at all. Explains. What are the limits on the utilization of this tool? >takes time and energy to do this well
427	Sen. Qutub	Continues. Dealing with the family's responsibility. Continues.
<b><u>Tape 129, A</u></b>		
<b><u>CLOSES PUBLIC HEARING ON SB 2787</u></b>		
<b><u>OPENS WORK SESSION ON SB 1125</u></b>		
038	<b>Duane Fletchall</b>	<b>Sergeant, Marion County Sheriff's Office.</b> Testifies in support of SB 1125. Gives examples. >In Marion County - revolving door for these people
		Questions bed space problems in Marion County. Where would you

067	Sen. Hamby	place them all?
	Fletchall	We cannot allow these people to continually commit these crimes.
	Chair Stull	Comments for clarification regarding Marion County bed space.
	<b>Recesses Committee at 3:15 p.m.</b>	
	<b>Reconvenes Committee at 5:55 p.m.</b>	
091	<b>Frances Baker</b>	<b>Project Coordinator, Effective Incarceration Project, Citizens Crime Commission.</b> Testifies in opposition of SB 1125. Reads statement into the record prepared by Ray Mathis, Executive Director. <b>[Exhibit L]</b>
148	Sen. Gordly	Questions testimony regarding "unduly complicating a sentencing structure that is already holding serious offenders accountable." Please speak to that issue with more detail.
	Baker	Replies. Discusses the sentencing guidelines - grid system. >criminal history score >SB 1125 not necessary
200	<b>Phil Lemman</b>	<b>Criminal Justice Commission.</b> Submits Legislative Impact Assessment regarding SB 1125. <b>[Exhibit K]</b> >Bill Summary >Impact Assessment
280	Sen. Gordly	Questions for clarification regarding problems in terms with misdemeanor convictions.
	Lemman	-5 amendments include misdemeanors involving violence - qualifies for this enhanced sentence. Continues.
309	Sen. Trow	Would all of these beds be prison beds?
	Lemman	Yes. Continues.
324	<b>Kevin Mannix</b>	<b>Former State Representative, Attorney from Salem.</b> Testifies regarding statistical facts just presented. >bed impacts always high - worst case scenario >positive impact for county jails >fiscal impact - annual cost - \$20 million per year operational costs
455	Mannix	Submits testimony explaining key features of Senate Bill 1125 as revised by -5 amendments. <b>[Exhibit J]</b>
<b>Tape 130, A</b>		

039	Mannix	Major reduction in fiscal impact.
045	Sen. Hamby	Comments regarding prison dollars.
	Mannix	Replies. Discusses per day cost. Continues.
068	Sen. Hamby	Need to start concentrating effort now to divert some of these kids early from entering our criminal justice system.
	Mannix	Agrees. Continues.
081	Sen. Trow	Comments regarding length of prison time as a deterrent.
	Mannix	Time to help these kids is at a very early age. >rehabilitation - longer length of time - aggressive
110	Sen. Trow	Continues to comment - drug and alcohol treatments are being diminished.
	Mannix	Going to take us another 5 years.
121	Sen. Gordly	If this is the best you can do, am concerned.
138	Chair Stull	Do you recall the original projections on Measure 11 and where they are today?
	Lemman	Running about 60% of the original projection. Continues.
181	Chair Stull	Comments for the record. >victims >about accountability >about policy
206	Sen. Tarno	<b>MOTION: Moves to ADOPT SB 1125-5 amendments dated 05/23/97.</b>
		<b>VOTE: 3-3</b> <b>AYE: 3 - Qutub, Tarno, Stull</b> <b>NAY: 3 - Gordly, Hamby, Trow</b>
	Chair Stull	<b>The motion FAILS.</b>
<b><u>CLOSES</u></b>		
<b><u>WORK</u></b>		
<b><u>SESSION ON</u></b>		
<b><u>SB 1125</u></b>		
<b><u>OPENS</u></b>		
<b><u>WORK</u></b>		
<b><u>SESSION ON</u></b>		
<b><u>SB 1046A</u></b>		
211	Wayne Shuyler	<b>Assistant Director, Oregon State Marine Board.</b> Submits proposed SB 1045-A4 amendments. <b>[Exhibit B]</b>

	Nikola Jones	Committee Counsel. Calls attention to hand engrossed version of bill in Committee packet. >reviews the bill together with its amendments
251	Sen. Trow	Tell us briefly what the bill does.
	Jones	Reviews measure for the Committee. Authorizes peace officer to order boat operator to terminate voyage and move boat to nearest safe moorage if officer finds certain especially hazardous conditions. >creates crime of refusing to terminate a voyage >authorization does not apply to commercial fishing boats >punishes by a Class A misdemeanor
270	Sen. Trow	-4 amendments, good amendments
	Shuyler	Yes. Board supports amendments.
271	Sen. Trow	<b>MOTION: Moves to ADOPT SB 1046A-4 amendments dated 05/21/97.</b>
		<b>VOTE: 5-1</b> <b>AYE: 5 - Gordly, Hamby, Tarno, Trow, Stull</b> <b>NAY: 1 - Qutub</b>
	Chair Stull	<b>The motion CARRIES.</b>
278	Sen. Trow	<b>MOTION: Moves SB 1046A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-1</b> <b>AYE: 5 - Gordly, Hamby, Tarno, Trow, Stull</b> <b>NAY: 1 - Qutub</b>
	Chair Stull	<b>The motion CARRIES.</b>  <b>SEN. DUKES will lead discussion on the floor.</b>
<b><u>CLOSES</u></b> <b><u>WORK</u></b> <b><u>SESSION ON</u></b> <b><u>SB 1046A</u></b>		
<b><u>OPENS</u></b> <b><u>WORK</u></b> <b><u>SESSION ON</u></b>		

<b><u>HB 2229</u></b>		
297	<b>Michael Marcus</b>	<b>Multnomah County District Judge.</b> Discusses that proposed amendments proposed by Mr. Snider and Mr. Lockwood have been withdrawn. Urges adoption of bill without amendments.
299	Sen. Trow	Comments for clarification regarding passage without amendments.
322	Sen. Trow	<b>MOTION: Moves HB 2229 to the floor 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>Chair Stull</b>	<b>The motion CARRIES.</b>  <b>SEN. HAMBY will lead discussion on the floor.</b>
<b><u>CLOSES WORK SESSION ON HB 2229</u></b>		
339	Chair Stull	Declares meeting adjourned at 6:45 p.m.

Submitted by, Reviewed by,

Julie Clemente, Nikola Jones,

Administrative Support Counsel

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**EXHIBIT SUMMARY**

**A - Proposed SB 1024-A3 Amendments - Staff - 1 pg**

**B - Proposed SB 1046-A4 Amendments - Staff - 2 pgs**

**C - Proposed SB 1125-5 Amendments - Staff - 3 pgs**

**D - Testimony in Support of HB 3569 - Jane Lokan - 1 pg**

**E - Testimony in Support of HB 3569 - Richard D. Williams - 4 pgs**

**F - Testimony in Support of HB 2266 - Nancy Miller - 2 pgs**

**G - Testimony in Support of HB 2266 - Karen Brazeau - 1 pg**

**H - Testimony in Support of HB 2787 - Nancy Miller - 4 pgs**

**I - Testimony in Opposition of HB 2787A together with proposed Amendments - Victor Congleton - 4 pgs**

**J - Proposed SB 1125 - 5 Amendments - Kevin Mannix - 1 pg**

**K - Legislative Impact Assessment, SB 1125-4 - Phil Lemman - 2 pgs**

**L - Testimony in Opposition to SB 1125, Ray Mathis - Presented by Frances Baker - 1 pg**

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