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SENATE COMMITTEE ON CRIME & CORRECTIONS

February 3, 1997 Hearing Room B

1:00 P.M. Tapes 7 - 8

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:

Introduction of LC Drafts LC's 351, 1369, 1370

Public Hearing SB 301

SB 157

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 7, A		
008	Chair Stull	Opens meeting at 1:05 p.m.
		Reviews agenda for the week
		>2/5 no meeting scheduled >2/7 tour of the Women's Correctional Institution and the Santiam Correctional Institution >2/12 tour of the Oregon State Penitentiary
017	Nikola Jones	Committee Counsel >The following LC's become part of the record: LC 351, LC 1369, LC 1370
024	Chair Stull	MOTION: Moves LC's: 351, 1369 & 1370 BE INTRODUCED as committee bills.
		VOTE: 5-0 EXCUSED: 1 - Sen. Trow
	Chair Stull	Hearing no objection, declares the motion CARRIED. (LC 351 introduced as SB 423 dated 02/05/97) (LC 1369 introduced as SB 425 dated 02/05/97) (LC 1370 introduced as SB 424 dated 02/05/97)
<u>OPENS PUBLIC HEARING ON SB 301</u>		
032	Sen. Hamby	How late can we introduce LC committee bills?
	Jones	February 18th for the Senate
	Sen. Hanby	Comments on information received from the NCSL regarding juvenile issues holding parents accountable for their children's actions
		Assistant County Counsel, Lincoln County presents testimony in support of SB 301 [Exhibit A]

057	Rob Bovett	Introduces Christie Meister, Chief Civil Deputy from the Lincoln County Sheriff's office for technical questions
		Discusses:
		>technical changes to statutes providing for the enforcement of restraining orders >clarify some procedural ambiguities
096	Sen. Gordly	Questions use of the language "foreign"
	Bovett	Historically, treat everything from outside as "foreign." Explains
109	Sen. Trow	Anyone opposed to this change?
	Bovett	No Continues answering questions from Sen. Trow
122	Chair Stull	Regarding \$5,000 - just making it consistent.
131	Ingrid Swenson	Oregon Criminal Defense Lawyers Association Comments: >would like to talk to the sponsor regarding several issues >section 2 - adds juvenile restraining orders to the domestic violence restraining orders >bail amount - reasonable - standard bail >LC's way of cleaning up language in the statutes
161	Bovett	Responds to Swenson's comments
		>need to delete language
<u>CLOSES PUBLIC HEARING ON SB 301</u> -		
<u>OPENS PUBLIC HEARING ON SB 157</u>		
179	Dianne Middle	Chairperson, Board of Parole and Post-prison Supervision testifies in support of SB 157 [Exhibit B]
		Discusses: >purpose of SB 157 - amends ORS 144.102 - allows the Board to continue enforcement of payment of restitution ordered on an expired offense

		<ul style="list-style-type: none"> >responsibility to pay restitution would be attached to the offender >allows sentencing court to remedy judgment orders >intent not to foreclose other options open to victims
254	Sen. Hamby	Amendment issue
	Middle	<p>Comments on meeting with District Attorney's Association regarding HB2427 which adds language "determined by the courts"</p> <ul style="list-style-type: none"> >language will be significant >insertion of exact amount at a later date
283	Chair Stull	Someone drafting an amendment or do we need to make that request?
294	Middle	<p>Appreciate your making that request; continues:</p> <ul style="list-style-type: none"> >Penn will probably withdraw HB 2427 as everything was accomplished with SB 157 and more.
306	Chair Stull	Continues asking for clarification if HB 2427 is withdrawn
311	Sen. Trow	Questions studies regarding restitution
	Middle	<p>Responds:</p> <ul style="list-style-type: none"> >when offenders accept responsibility, it is a good indication they are changing their thinking >no statistics
329	Michael Bouchard	<p>Parole Client, former Corrections Client - testifies in opposition to SB 157</p> <p>Discusses issue from a Parole/Corrections Client's point of view</p> <p>Discusses issue of revoking parole just because restitution is not made</p> <ul style="list-style-type: none"> >puts burden on tax payers of Oregon >other civil measures available to victims >comments on particular ruling in Georgia
402	Bouchard	Urges Committee to make similar changes
407	Sen. Tarno	Restitution is a condition of early release
	Bouchard	Depends on judgment made solely by the court. Continues
TAPE 8, A		

021	Bouchard	Continues to support local sanctions or civil judgments but not revocation
034	Sen. Tarno	You agreed to accept that condition as part of parole.
039	Bouchard	Civil avenues for recourse
044	Sen. Qutub	Several questions - Not understanding what you mean by moving something to another crime
	Bouchard	>refers to language Section 4(B)(b) >requires payment of restitution as a condition of post-prison if ordered to pay as a result of another conviction or has not fully paid by the time he has completed the period of post-prison supervision
066	Sen. Qutub	Continues for clarification
	Bouchard	Responds: > can be done through courts/collection agencies >opposed to Parole Board control
082	Sen. Qutub	Who pays for the civil action?
	Bouchard	Judge can order the irresponsible person to pay
093		Continues - >irresponsibility as far as financial debt is civil in nature not criminal >Supreme Court agrees
103	Sen. Tarno	Don't follow your idea of a civil action as opposed to having a sanction imposed
116	Bouchard	Responds: >Criminal conviction - judge will order restitution as part of the conviction and sentence. Not necessarily an agreement to pay restitution. >person has the right to use the civil courts
128	Sen. Qutub	The person that was victimized in the first place remains a victim. Continues.
	Bouchard	How can a large sum of money be repaid in a short period of time?
	Sen. Qutub	It can't. That is why this law is a good law. Continues
150	Bouchard	The issue that I bring to this committee is: >back to prison because of non-payment, the victim is not getting paid

		>tax payers are made to pay
172	Sen. Gordly	When the bill was drafted, did LC explore possible legal challenges?
181	Middle	Portions will have to take affect from the date forward, not retroactively. Continues.
199	Jim Russell	Assistant Attorney General, Oregon Department of Justice - speaks to question raised by Sen. Gordly >have not researched issues that could be raised >if judge follows provisions of ORS 137.071, the order for payment of restitution will become a money judgment >don't see legal challenges with any probability of success >statute of limitations could be a problem
233	Sen. Gordly	Is this legislation unique to Oregon?
	Middle	Responds: >result of a number of complaints from very frustrated victims >forced victims to go to court with their own money >not a logical position for the state when there was another way
251	Sen. Gordly	No revenue or fiscal impacts?
	Nikola Jones	Those reports will be obtained when a work session is scheduled.
262	Sen. Trow	Relates scenario for clarification.
276	Middle	Responds:. >payment of restitution is not always reasonable >would pick up previous during another period of supervision
298	Sen. Trow	Shouldn't that decision be in the hands of the court.
	Middle	Offenses come from different counties. Continues: >amount of remaining restitution does not show on criminal history >cannot tell at a glance what all prior conditions were
316	Sen. Trow	States concerns: >at what point does repayment of restitution become unreasonable
332	Middle	Except for a complete refusal for paying restitution, the restitution itself would not be extending a person's sentence.

		>prevents person from avoiding payment - continues
354	Sen. Trow	continues asking questions for clarification
	Middle	Upon completion of that term, the civil judgment begins
367	Sen. Gordly	How many people are in jail for failure to pay restitution?
	Middle	Very few - explains
	Sen. Gordly	How many victims have gone without restitution because the crime expired?
	Middle	Not sure it is tracked. Will attempt to get numbers.
<u>CLOSES PUBLIC HEARING ON SB 157</u>		
423	Chair Stull	Adjourns meeting at 2:00 p.m.

Submitted by, Reviewed by,

Julie Clemente, Nikola Jones,

Administrative Support Counsel

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EXHIBIT SUMMARY

A - Testimony in Support of SB 301 - Rob Bovett, Assistant County Counsel, Lincoln County - 1 pg

B - Testimony in Support of SB 157 - Dianne Middle, Chairperson, Board of Parole and Post-prison Supervision - 2 pgs
