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SENATE COMMITTEE ON CRIME & CORRECTIONS

February 26, 1997 Hearing Room B

1:00 P.M. Tapes 18 - 21

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 & Work Session: SB 466

HB 2329

Public Hearing: SB 155

SB 156

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 18, A		
003	Chair Stull	Opens meeting at 1:07 p.m.
<u>OPENS PUBLIC HEARING ON SB 466</u>		
008	Sen. David Nelson	State Senator representing District 29. Testifies in support of SB 466 which would increase fines for a minor in possession of alcoholic liquor at the request of municipal court judges in his district. Submits written testimony of Robert E. Ridgway, Municipal Court Judge [Exhibit A]
023	Sen. Gordly	Is it your understanding that judges don't have the discretion to order alcohol education programs?
	Sen. Nelson	Not sure. Judge Ridgway would use it as a tool to force a greater compliance. Continues.
038	Sen. Gordly	States concerns about resources. Are there programs that could provide the service to folks who might be referred by the court?
	Sen. Nelson	Yes there are. Continues. >directed to a certain age group
056	Sen. Hamby	Comments to the last time fees had been adjusted.
067	John Gervais	Representing the Municipal Court Judges in Oregon testifies in support of SB 466. Discusses that this is another tool to save lives and to take drinking and driving seriously. >fines have not been adjusted in some time >some cities have raised to \$500
	Testimony in support of SB 466 submitted by Walter McAllister, Youth	

	Program Manager, Department of Transportation [Exhibit N]	
<u>CLOSES PUBLIC HEARING ON SB 466</u>		
<u>OPENS WORK SESSION ON SB 466</u>		
091	Sen. Tarno	MOTION: Moves SB 466 to the floor with a DO PASS recommendation.
	Chair Stull	Hearing no objection, declares the motion CARRIED. SEN. TARNO will lead discussion on the floor.
		VOTE: 5-0 EXCUSED: 1 - Sen. Trow
<u>CLOSES WORK SESSION ON SB 466</u>		
<u>OPENS PUBLIC HEARING ON HB 2329</u>		
108	Rep. Peter Courtney	Representing Distric 33. Presents written testimony in support of HB 2329. [Exhibits B & C] >makes penalty for fleeing scene of a boating accident comparable to crime committed by operators of other motor vehicles >gives history of bill in the House
143	Rep. Courtney	Continues. >references [Exhibit C]
155	Sen. Hamby	Questions negative votes in the House.
	Rep. Courtney	Replies.

173	Sen. Qutub	Questions for clarification. >accident
	Rep. Courtney	Knowingly left the scene when someone is injured >if injury not known, would not apply
190	Sen. Gordly	Notes for the record that the bill is endorsed by the Oregon District Attorney's Association
203	Jason Carlile	Oregon District Attorney's Association testifies in support of HB 2329. >allows boating to parallel what is there for motor vehicles
	Chair Stull	Asks for clarification regarding "the knowing"
	Carlile	Would have to be a mental element to prove this crime.
217	Paul Donheffner	Director, State Marine Board testifies in support of HB 2329. >makes sense to bring up penalty for accidents that involve personal injury or death and make it consistent with motor vehicle code
230	Lindsay A. Ball	Captain, Oregon State Police, Fish and Wildlife Division. Submits written testimony in Support of HB 2329. [Exhibit D]
<u>CLOSES PUBLIC HEARING ON HB 2329</u>		
<u>OPENS WORK SESSION ON HB 2329</u>		
254	Sen. Hamby	MOTION: Moves HB 2329 to the floor with a DO PASS recommendation.
		VOTE: 4-0 EXCUSED: 2 - Sen. Tarno, Sen. Trow
	Chair Stull	Hearing no objection, declares the motion CARRIED. SEN. GORDLY will lead discussion on the floor.
<u>CLOSES</u>		

WORK
SESSION ON
HB 2329

OPENS
PUBLIC
HEARING
ON SB 155

270	Dianne L. Middle	<p>Chair, Board of Parole and Post-Prison Supervision. Submits written testimony in support of SB 155</p> <ul style="list-style-type: none">>Gives overview of both SB 155 & 156 stating the need and showing their relationship to one another. Also to aid in the understanding of where they fit in the plan of inmate management and public safety concerns. Discusses the history of paroling and paroling authority and its various systems of sentencing.> Discretionary System from 1939 to `77 - - overcrowding problems>Matrix System from 1977 to `89 - developed a range and graph that compared a person's criminal history with the crime of incarceration>Sentencing Guidelines from 1989 to date - created a mandated term that was set by the sentencing court removing the ability to reduce or extend a sentence from the Board of Parole.
350	Middle	<p>Continues:</p> <ul style="list-style-type: none">>Post-prison supervision - could not return the prisoner to custody to finish the remainder of a sentence>Sanctioning terms, maximum could be 180 days - for some individuals 180 days is not adequate>SB 1145's passage - terms of less than 12 months is being served at the local level in the community - unable to return dangerous people from the community back into custody. <p>Discusses SB 155. [Exhibit E]</p> <ul style="list-style-type: none">>designed to give the Board, for the most dangerous offenders only, the ability to return them to custody.

		Explains. >how the bill works >how long are the extensions
447	Middle	Continues. >extend further if deemed appropriate > 24 months - designed to work with most serious offenders
TAPE 19, A		
035	Middle	Now, if someone is too dangerous to be in the community, they have to be released. There is no way to prevent it.
042	Chair Stull	How does the bill address valid inquiries?
	Middle	Does not change the Board's current rules. Explains. >developed a work group >assessment scale - initial screening process
062	Chair Stull	Are they allowed to participate in your decision making process?
		Yes.
065	Sen. Gordly	Questions work group composition.
	Middle	Explains its composition >designed to come to terms with fiscal impact and bed management issues >SB 155 is designed for joint administrative rules drafted between the Board, Department of Corrections and local supervisory authorities. Continues
080	Sen. Gordly	References findings of Chief Justice Carson's task force regarding racial and ethnic bias in our judicial system. Asks if issues raised by that task force regarding people of color receiving harsher treatment has been a subject of discussion in the framing of both SB 155 & 156?
	Middle	In the discussion of assessment issues - continues
101	Sen. Gordly	Am I hearing that you are planning to have the type of discussion that I am raising?
	Middle	Replies. Those discussions are essential. Continues
111	Sen. Hamby	Relates her strong support for both bills. Comments on the fact that SB 156 carries an emergency clause.

125	Sen. Trow	Questions a possible constitutional problem with this bill. >function of the Court
	Middle	Replies.
134	Sen. Qutub	Refers to recent newspaper article - Singleton. Would he have been someone who had been supervised under this bill should it become law?
	Middle	"Exactly the type of individual we are focused on." >cannot be applied retroactively
154	Chair Stull	With this law in place, are there any other remedies available to the victim?
	Middle	Right now, none. Explains.
180	Chair Stull	Comments for clarification. >bound by the laws that this body creates
	Middle	Exactly the case. We don't have the ability to extend sentences.
194	Middle	Continues: >allows us to look at them at the end - sometimes a very different person Submits proposed amendments to SB 155 [Exhibit O]
241	Sen. Hamby	Questions for clarification regarding medication. >involuntary medication given
	Middle	Correct. Explains. >rely on medical people
261	Sen. Hamby	Agrees with hearing both sides. Relates concerns.
	Middle	Agrees. Continues. >psychiatric treatment and medication have come a long way
279	Sen. Qutub	Questions certain acting out of prisoners - Isn't that a crime and can't you use that as a tool?
	Middle	It is used. Explains
305	Billy F. Wasson	Director, Marion County Corrections Department representing Oregon Community Corrections Directors Association. Submits written testimony in Support of SB 155 [Exhibit F] >Explains what happens in the current system without

		<p>this legislation.</p> <p>>SB 155 would prevent this process from occurring</p> <p>>safer community release plan</p>
361	Kent Zwicker	Detective, Oregon State Police Criminal Investigation Services Division. Submits written testimony in support of SB 155. [Exhibit G]
393	Chair Stull	I would agree with you. Continues.
407	Stan Robson	<p>Sheriff, Benton County representing Oregon State Sheriff's Association testifies in support of SB 155. Has a 14-year background investigating child abuse and sexual life exploitation cases. Discusses an offender he has been dealing with for 20+ years coming back into the community after serving maximum sentence knowing full well he will offend boys again in the very near future.</p> <p>>parole board knows - no choice to bring back to the community</p>
TAPE 18, B		
030	Jim Arneson	<p>Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 155. Discusses his organization's position on SB 155 and divides same into three parts.</p> <p>First - provision that would allow the Corrections Department to have control over inmates for whom a mandatory minimum sentence has been imposed -</p> <p>>prefers allowing good time for Measure 11 inmates</p> <p>>no serious reservations regarding engaging in serious conduct</p> <p>Second - provision allows Board to extend/delay the release of a person for 60 days if medication has not begun to work</p> <p>>no serious objections</p> <p>Concern with section directed towards "Singleton" provision</p> <p>>when this section is discussed, people have in mind someone like Mr. Singleton - very serious offenders who are a severe risk to society</p> <p>>develop legislation that is too broad and includes people</p>

		far beyond Mr. Singleton References the Dangerous Offender Statute - 161.725 [Exhibit H]
112	Arneson	You are making a very significant change in Oregon sentencing law. Continues.
120	Sen. Trow	You are saying there is sufficient authority in the statutes.
	Arneson	No. Explains.
		Rather than making it this broad - - Explains. >narrower group of people
144	Sen. Gordly	Are you prepared to offer amendments to the language before us?
	Arnesson	I could do it within a fairly short period of time.
151	Chair Stull	Refers to "casualty list" and states concerns.
178	Jason Carlile	Linn County District Attorney representing the District Attorney's Association. Testifies in support of SB 155. Discusses system in Linn County for notifying prosecutors and victims when guidelines people come up for release. >not bound so tightly by the guidelines in Measure 11
200	Sen. Qutub	Questions "those guys"
	Carlile	Replies - gives an example >would now take more effort to make sure more information was received by the Parole Board >might make a difference now
221	Scott Taylor	Assistant Director for Community Corrections, Oregon Department of Corrections submits written testimony in support of SB 155. [Exhibit I] Emphasize two points: >6-month sanction if found in violation - locally >bill would allow to address in a different way >primary concern - - scope and size of this population >population has to be focused to a small group of individuals or cost becomes prohibitive
253	Sen. Trow	How would we do that?

265	Taylor	Replies. Work group uses various means to determine a criteria. Continues.
		Continues for clarification.
288	Sen. Trow	The bill is allowing Board to identify someone who has a guidelines sentence and extend that sentence towards the maximum.
	Taylor	Replies for clarification. Under the current system - - continues.
312	Sen. Trow	Why is it that you would like to limit that number?
	Taylor	Make sure that they are people who legitimately are a risk to the community. Continues
334	Chair Stull	Reviews for clarification.
	Taylor	Unable to give fiscal impact until grid is defined. Continues.
357	Sen. Gordly	What is the time line for developing the grid?
	Taylor	Replies. Out intent as a Department is to work on it as rapidly as possible during this session.
375	Sen. Trow	Does the language in bill now give you the latitude to restrict this population?
	Taylor	We believe it does . Always concern that administrative rules may not be as strong as statute. Explains.
<u>CLOSES PUBLIC HEARING ON SB 155</u>		
<u>OPENS PUBLIC HEARING ON SB 156</u>		
402	Dianne Middle	Chair, Board of Parole and Post-Prison Supervision. Submits written testimony in support of SB 156. [Exhibit J] >allows Board to return certain offenders to the Department of Corrections for greater than 12 months when they are too dangerous to be supervised in the community >allows for adjustment in roles between the community and the Board
<u>TAPE 19, B</u>		
		Local authorities should be able to continue managing without the Board's permission

032	Middle	>out of the business of 30/60 day sanctions >reduce that part of the budget
051	Middle	>jail management >correction practices >immediate movement into treatment centers Offers proposed amendments to SB 156 [Exhibit P]
113	Chair Stull	Refers to projected savings. Is there any revenue stream?
	Middle	Currently, a little. Continues >eliminates the need for a large number of hearings
126	Chair Stull	Discusses concerns. Comments for clarification. >oversight retained - able to bring hearings back or have they been eliminated altogether?
	Middle	Replies. Does partially eliminate a big group of those hearings. Explains. >provision does exist for the Board to come back and pick up jurisdiction >Board still remains as Administrative Review Agency
160	Chair Stull	Point of clarification. >returned to closed custody environment - would be at a local level?
	Middle	Correct. Explains.
	Chair Stull	Number of individuals affected?
	Middle	Work group working on that. Explains.
185	Chair Stull	Continues questioning for clarification.
205	Chair Stull	Continues for clarification.
	Middle	Replies.
218	Billy Wasson	Director, Marion County Corrections Department. Submits written testimony in support of SB 156 on behalf of the Oregon Association of Community Correction Directors. [Exhibit K]
282	Chair Stull	Questions effect Measure 47 issue will have if this measure becomes law.
		Replies. Not sure I fully understand your questions. Continues.

	Wasson	>yes, there are going to be Measure 47 impacts
320	Chair Stull	That answers part of it. Continues. >a lot of unknowns >Will you still be able to carry out the mission?
	Wesson	Yes, we have had some discussions among ourselves. Continues >don't see any problem in carrying out our mission >wait and see
386	Chair Stull	Continues with concerns.
416	Wesson	We fully intend to keep our agreements. Continues >doing community forums in Marion County and found citizens were not attacking government in response to Measure 47 >preferred local government over state and state over federal >attacking their tax bills >didn't understand what we do >didn't agree that what we were doing was common sense
TAPE 20, A		
034	Wesson	Continues: >these 2 bills place the discretion back to the Parole Board allowing them to make common sense decisions
043	Sen. Qutub	Questions discussion regarding a formula. What is that formula?
	Wesson	85% workload - 15% population >recommended a collaborative process to arrive at what the formula would be
057	Kent Zwicker	Detective, Oregon State Police Criminal Investigation Services Division. Submits written testimony in support of SB 156. [Exhibit L]
		Linn County District Attorney representing Oregon District Attorney's Association. Testifies in support of SB 156.

0073	Jason Carlile	<ul style="list-style-type: none"> >encourages use of SB 156 as part of the implementation of SB 1145 >some very dangerous people who are 1145 offenders >one tool to deal with those folks >efficiency will be vastly improved >with responsibility ought to come resources
104	Chair Stull	Asks for clarification.
	Carlile	<p>Bound by the sentencing guidelines. Continues.</p> <ul style="list-style-type: none"> >this gives us a little discretion for those special cases
118	Stan Robson	<p>Sheriff, Benton County representing Oregon Sheriff's Association. Testifies in support of SB 156.</p> <ul style="list-style-type: none"> >eliminates time and makes things much more efficient >hearings a bit more informal - some impact >have become extremely creative in what is done in community corrections
155	Scott Taylor	<p>Assistant Director, Community Corrections, Oregon Department of Corrections. Submits written testimony in support of SB 156. [Exhibit M]</p> <ul style="list-style-type: none"> >concerned with size of this population >makes sense, adds to the continuum and ability to respond >some local costs of doing these hearings - ability to transfer funds to follow responsibility >for clarification - explains his interpretation of the way the bill is written concerning 12 month sentencing and the return to prison >responds to Sen. Qutub's question regarding the 85/15 formula. There is another section to that formula. Explains. >clarifies "rent-back" - chose to rent from the Department of Corrections they are charged \$53.73 per day rate.
238	Chair Stull	Troubled with the variances in the 1145 situations around the state. Continues.

279	Taylor	When using the Multnomah County example, press releases on that might tell a different story. Explains.
343	Carlile	Multnomah County has some unique situations. Explains. >1145 being blamed unjustly >other issues that need to be addressed
354	Chair Stull	1145 very much dependent on local choices. Continues to question for clarification and relates her concerns.
389	Taylor	Replies. It is critical for us that it works.
	Chair Stull	Continues comments. >hope you are considering the ripple effect
435	Paul N. Snider	Association of Oregon Counties. Encourages Committee to take a look at the situation with respect to SB 1145 and Measure 47 along with Measure 40. Unable to tell what the impact on counties will be.
TAPE 21, A		
037	Snider	Continues: >marked improvement over what we had before >keep this goal in mind
CLOSES PUBLIC HEARING ON SB 156		
REOPENS PUBLIC HEARING ON SB 155		
054	Phillip Lemman	Executive Director, Oregon Criminal Justice Division. Discusses two points regarding fiscal impact on SB 155. >impact assessments are based on the language of the bill >consider amendments >principles of sentencing guidelines >don't create penalties that we cannot live up to >release valve - had ways to accommodate - no longer

		exist
071	Chair Stull	Reasons for sentencing guidelines again.
	Lemman	Replies for clarification. >average felon served only 25% of sentence >restore truth in sentencing to the process >sentence imposed resemble time served >whatever judge says will be the sentence >second principle - make sure we have correctional capacity - sentences match correctional impact
127	Chair Stull	Predictability went out the window?
	Lemman	Replies. Seen some huge changes.
CLOSES PUBLIC HEARING ON SB 155		
	Chair Stull	Declares meeting adjourned at 3:30 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 466 Submitted by Sen. David Nelson on behalf of Municipal Court Judge Robert E. Ridgway - 1 pg

B - Testimony in Support of HB 2329 - Rep. Peter Courtney - 3 pgs

C - Newspaper Article in Support of HB 2329 - Rep. Peter Courtney - 1 pg

- D - Testimony in Support of HB 2329 - Lindsay A. Ball - 3 pgs**
 - E - Testimony in Support of SB 155 - Dianne Middle - 3 pgs**
 - F - Testimony in Support of SB 155 - Billy F. Wasson - 1 pg**
 - G - Testimony in Support of SB 155 - Kent Zwicker - 2 pgs**
 - H - Statute Examples in Opposition of SB 155 - Jim Arneson - 4 pgs**
 - I - Testimony in Support of SB 155 - Scott Taylor - 1 pg**
 - J - Testimony in Support of SB 156 - Dianne Middle - 4 pgs**
 - K - Testimony in Support of SB 156 - Billy F. Wasson - 1 pg**
 - L - Testimony in Support of SB 156 - Kent Zwicker - 2 pgs**
 - M - Testimony in Support of SB 156 - Scott Taylor, 1 pg**
 - N - Testimony in Support of SB 455 - Walter McAllister - 1 pg**
 - O - Proposed Amendments, SB 155 - Dianne L. Middle - 2 pgs**
 - P - Proposed Amendments, SB 156 - Dianne Middle - 1 pg**
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