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**SENATE COMMITTEE ON CRIME & CORRECTIONS**

**April 23, 1997 Hearing Room B**

**1:00 P.M. Tapes 83 - 84**

**MEMBERS PRESENT:**

**Sen. Shirley Stull, Chair**

**Sen. Avel Gordly**

**Sen. Eileen Qutub**

**Sen. Veral Tarno**

**Sen. Cliff Trow**

**MEMBER EXCUSED: Sen. Jeanette Hamby, Vice Chair**

**STAFF PRESENT:**

**Nikola Jones, Counsel**

**Julie Clemente, Administrative Support**

**MEASURE/ISSUES HEARD: Public Hearing & Work Session: SB 614**

**Public Hearing: SB's 1076, 258, 606, 681,738, 753, 765, 777, 965, 962, 975, 1003, 1120, 1195, 779, 910, 961, 976, 1010, 1066, 1125**

**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   |
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| <b>Tape 83, A</b>                            |              |  |
| 004  | Sen. Qutub   | Calls meeting to order at 1:15 p.m.  |
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| <b><u>OPENS PUBLIC HEARING ON SB 614</u></b> |              |  |
| 010  | Steve Doell  | <p><b>President, Crime Victims United of Oregon.</b> Testifies in support of SB 614. Discusses the purpose of the bill and submits exhibit to show this is not a new idea. <b>[Exhibit D]</b></p> <p>&gt;changes the statutes for the intentional murder of a child to an aggravated incident</p> <p>&gt;murder by abuse to felony murder</p> <p>&gt;change statute of limitations on aggravated murder and manslaughter</p>                                   |
| 047  | Sen. Gordly  | Asks that staff describe the bill.   |
|  | Nikola Jones | Committee Counsel. Replies. SB 614 expands offense of aggravated murder. <b>[Exhibit I]</b>  |
| 086  | Sen. Trow    | Questions the differences and penalties between aggravated murder and capital murder.  |
| 097  | John Bradley | <b>First Assistant to Mike Shrunk, District Attorney for Multnomah County.</b> Replies to Sen. Trow's question.  |
| 099  | Sen. Trow    | Continues questioning.   |
|  | Bradley      | Replies.   |
| 106  | Bradley      | <p>Testifies in support of SB 614. Explains his background and his relationship to the bill. Reviews bill and goes through various sections explaining; gives examples and associated penalties:</p> <p>Section 1: intentionally kills a child - aggravated murder - under age of 14</p> <p>&gt;two situations: generally a male who decides to kill the children</p> <p>&gt;somebody wants to kill the children because it interferes with a relationship</p> |

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| 174               | Bradley     | Section 2: felony murder<br>>intentionally decides to inflict serious physical injury to a child<br>>assault in the second degree: deadly weapon or dangerous weapon<br>>intentionally or knowingly cause serious injury                                   |
| 221               | Bradley     | You engage in this type of activity - inherently dangerous to the child<br>>murder by abuse - pattern of prior abuse or neglect<br>>reduce prior abuse from two or more to one - child doesn't live long enough to have a documentation of abuse           |
| 274               | Bradley     | We go from murder down to manslaughter 2. Continues to explain history.<br><br>Statute of limitations: 3 years<br>>attempted murder is one of the hardest cases to prosecute<br>>asking for an extension of the statute of limitations on attempted murder |
| 338               | Bradley     | Offers SB 614-1 amendments. <b>[Exhibit B] &amp; [Exhibit C]</b>   |
|                   | Sen. Trow   | What will the amendments do?   |
|                   | Bradley     | What I just testified. Continues   |
| 367               | Sen. Gordly | Asks that Bradley comment on the amendments from the Christian Science Committee on Publication for Oregon.  |
|                   | Bradley     | I think they are withdrawing those. Continues.   |
| 396               | Sen. Gordly | Comments on testimony and that there is even a need for a bill like this.  |
| 420               | Doell       | Clarifies standing of other groups who support.<br>>Oregon Association Chiefs of Police  |
| 439               | Chair Stull | Comments for clarification regarding other bills on the agenda.  |
| <b>TAPE 84, A</b> |             |  |
| 020               | Sen. Trow   | Comments on bills listed for public hearings   |

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|     | Chair Stull              | Replies for clarification. Only a partial list. Continues. There for purpose of remaining part of the process.  |
| 034 | Sen. Gordly              | Questions number of bills - expanded hearings   |
|     | Chair Stull              | Replies for clarification.  |
| 053 | Sen. Qutub               | Comments for clarification on previous practices.   |
| 074 | <b>Jason Carlile</b>     | <b>District Attorney, Linn County Oregon, representing Oregon District Attorney's Association.</b> Testifies in support of SB 614.<br><br>Association is fully in support of SB 614.  |
|     | <b>Kent Zwicker</b>      | <b>Detective, Oregon State Police Criminal Investigation Services Division.</b> Presents written testimony in support of SB 614. <b>[Exhibit E]</b>   |
| 100 | <b>Jacquelyn Bellamy</b> | <b>Mother of a murdered child.</b> Presents written testimony in support of SB 614. <b>[Exhibit F]</b>  |
| 165 | Chair Stull              | Speaks to Ms. Bellamy and offers support.   |
| 167 | <b>Ted Buckley</b>       | <b>Grandfather of victim Jordan Rodgers.</b> Submits written testimony in support of SB 614. <b>[Exhibit G]</b>   |
| 214 | Buckley                  | Continues testimony.  |
| 248 | Chair Stull              | Comments and thanks witness for testifying.   |
| 264 | <b>DeeDee Kouns</b>      | <b>President, Crime Victims United.</b> Testifies in support of SB 614. Gives reasons behind the bill. Victims feel abandon by society, government, leadership and sometime their place of worship. Do not understand why these crimes would be seen as anything but intentional.<br><br>>30 children lost their lives to abuse in Oregon last year<br><br>>attackers are rewarded for being successful in taking lives - cannot be prosecuted if avoid apprehension for 3 years<br><br>>investigation is dropped because of statute of limitations |
| 316 | <b>Bob Kouns</b>         | <b>Legislative Representative, Crime Victims United.</b> Testifies in support of SB 614. Ongoing struggle between issues of good and evil. Important that the concept of justice occur. Continues.  |

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| 339              | <b>Terry Jentz</b>       | <p>Testifies in support of SB 614. Tells her story about what happened while traveling by bicycle across Oregon in 1977 with a friend.</p> <p>&gt;Around midnight a truck rammed their tent. Driver drove off, came back and started hitting her with an ax.</p> <p>&gt;Rescued by two teenagers - both survived</p>   |
| 396              | Jentz                    | <p>Not the same person after the attack.</p> <p>&gt;Returned to Oregon. Met Mr. &amp; Mrs. Kouns who opened doors through Crime Victims United</p> <p>&gt;investigating her own case for 5 years</p> <p>&gt;believes she knows attacker who still lives in Oregon</p>  |
| 436              | Jentz                    | Everyone is astonished that this crime cannot be prosecuted  |
| <b>TAPE 83,B</b> |                          |  |
| 021              | Chair Stull              | Calls next witnesses.  |
| 030              | <b>Charlene C. Woods</b> | <b>Senior Deputy District Attorney, Multnomah County Child Abuse Team.</b> Presents written testimony in support of SB 614. <b>[Exhibit H]</b>   |
| 085              | <b>Donna Kelly</b>       | <p><b>Prosecutor of Child Abuse Cases in Hood River, Sherman &amp; Wasco Counties.</b> Testifies in support of SB 614. People who assault and torture children are among the most dangerous people walking the streets of our society. Discusses an abuse case she recently prosecuted.</p> <p>Jonathan's life consisted of 21 days of hell.</p> <p>&gt;death was caused by a violent shaking by his father turning his brain to liquid</p> <p>&gt;agonized a lot about current status of Oregon law - very limited by the murder by abuse statute - frightened they could not prove pattern of abuse</p> <p>&gt;many more options if this statute were in place</p> |
| 149              | Kelly                    | Urges making this bill a law   |
|                  |                          | <b>Oregon Sheriff's Association.</b> Testifies in  |

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| 154 | <b>Russ Spencer</b> | support of SB 614. Association is overwhelmingly behind this bill.   |
| 163 | <b>Jim Arneson</b>  | <p><b>Oregon Criminal Defense Lawyers Association.</b> Testifies in opposition to SB 614. Speaks of a rational discussion about the proportionality in the law and about what this bill does in comparison to the stories just heard.</p> <p>&gt;SB 614 casts a net that is far broader than the horrible stories heard today</p> <p>&gt;design the law to be proportional to other offenses</p> <p>Addresses SB 614-1 amendments <b>[Exhibit B]</b></p> <p>&gt;page 1, adds additional aggravating factor - oppose the death penalty or any process that would increase the death penalty</p> <p>&gt;adds the basis of being under a certain age for the death penalty</p> <p>&gt;already subject to death penalty if committed in certain ways</p> |
| 226 | Arneson             | <p>Legislature needs to develop proportional responses to the various kind of horrors that follow for murders.</p> <p>&gt;need to pay particular attention to the technical issues</p> <p>&gt;<b>[Exhibit C]</b> page 2, line 39 - 'neglect' is added - Comments.</p>  |
| 262 | Arneson             | Neglect - all of those children would qualify under the terms of this bill   |
| 270 | Sen. Tarno          | Questions for clarification regarding a minor baby totally dependent for nourishment.  |
|     | Arneson             | Replies. If the death of the child is caused by neglect and person has a prior pattern of abuse, would fit under the murder by abuse statute. Continues.   |
| 293 | Arneson             | This particular part of the bill would elevate what are now basically neglect cases to murder by abuse. Significant change in the law.   |

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|                   |   | >page 2, Section 2 - felony murder statute - discusses common law history of felony murder  |
| 344               | Arneson   | Asks to exercise caution based on antidotes where persons have lost cases and think they should have won. Continues<br><br>>page 3, lines 41 through 45 - increase manslaughter in the second degree to manslaughter in the first degree - Continues.<br><br>>changing the statute of limitations - one of the main reasons for this statute is to tell a person that they will not need to put together a defense for something that happened so long in the past that it is difficult to put a defense together |
| 424               | Arneson   | Innocent people can be convicted.   |
|                   | Chair Stull   | Calls John Bradley to answer questions for clarification.   |
| <b>TAPE 84, B</b> |   |   |
| 018               | Bradley   | Addresses the proportionality issue - other states have decided to do the same thing - no constitutional attack<br><br>>children under 14 are very vulnerable<br><br>>severe neglect is not physical abuse  |
| 048               | Sen. Tarno  | Questions for clarification regarding the statute of limitations.   |
|                   | Bradley   | Replies. Section 5, page 4. Non-existing law. Currently 3 years.  |
| 055               | Sen. Gordly   | Questions for clarification regarding the current definition of neglect in the law.   |
|                   | Bradley   | Neglect is defined by the statute.  |
|                   | Woods   | Page 3, Section 2, line 23. Neglect means a violation - failure to provide adequate food, clothing, shelter or medical care - continues.  |
| 066               | Bradley   | Involved in dependency cases - explains.<br><br>>neglect - severe neglect   |
| 077               | Woods   | Continues to explain while providing examples.  |
|                   | Additional testimony submitted by Kathleen Pugh, Chair, Oregon Coalition to Abolish the |   |

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|   | Death Penalty in opposition to SB 614. [Exhibit A] |   |
| <b><u>CLOSES PUBLIC HEARING ON SB 614</u></b> |  |   |
| <b><u>OPENS WORK SESSION ON SB 614</u></b>    |  |   |
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| 095   | Sen. Qutub   | <b>MOTION: Moves to ADOPT SB 614-1 amendments dated 04/23/97.</b>   |
|   |  | <b>VOTE: 5-0</b><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><b>EXCUSED: 1 - Sen. Hamby</b>                              |
|   | Chair Stull  | <b>The motion CARRIES.</b>  |
| 106   | Sen. Qutub   | <b>MOTION: Moves SB 614 to the floor with a DO PASS AS AMENDED recommendation.</b>  |
| 109   |  | <b>VOTE: 5-0</b><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><b>EXCUSED: 1 - Sen. Hamby</b>                              |
|   | Chair Stull  | <b>The motion CARRIES.</b><br><br><b>SEN. STULL will lead discussion on the floor.</b>  |
| <b><u>CLOSES WORK SESSION ON SB 614</u></b>   |  |   |
| <b><u>OPENS PUBLIC HEARING ON SB 1076</u></b> |  |   |
| 112   | Chair Stull  | Comments for clarification regarding bills remaining on schedule.   |
| 124   | Jeff Merrick                                       | Lawyer. Testifies in support of SB 1076. Reviews history of SB 1076 and shares examples pertinent to the bill.<br><br>>caused disruption in lives |
|   |  | Testifies in support of SB 1076. She is one of the women secretly video taped at Savage Tan. Relates her story for the Committee.                 |



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| 149                                     | <b>Kara Schmidt</b>  | <p>&gt;thought she was going to a safe environment - business had a great reputation</p> <p>&gt;found out about taping through the nightly news</p> <p>&gt;cannot explain her feelings - embarrassment, shame</p>  |
| 190                                     | Schmidt              | <p>Called the police - not a crime</p> <p>&gt;not illegal - must file something civil</p> <p>&gt;did not want the experience to be forgotten - strongly urges passage so it won't happen to others</p>   |
| 216                                     | <b>Darlene Basye</b> | <p>Testifies in support of SB 1076. Explains her story as a customer of the tanning salon. Videos are missing.</p> <p>&gt;should be against the law</p>  |
| 237                                     | Schmidt              | Remarks about not knowing how the videos will be/were used.  |
| 257                                     | Chair Stull          | Comments on outrages conduct that occurs and that Oregon doesn't have a law to protect its citizens.   |
| 274                                     | <b>John Bradley</b>  | <p><b>First Assistant to Mike Shrunk, District Attorney for Multnomah County.</b> Testifies in support of SB 1076. Speaks of an additional case - video in the bottom of an outhouse. Searched for a crime for prosecution - couldn't find one.</p> <p>&gt;legislative history - personal privacy - Not the intent that undress means completely disrobes or partially disrobes. Continues.</p> <p>&gt;understands the ACLU is asking that lines 2 &amp; 3 be deleted, removed or modified</p> <p>&gt;if removed, would be opposed. Gives reasons.</p> |
| <b>CLOSES PUBLIC HEARING ON SB 1076</b> |                      |  |
| <b>RECESS COMMITTEE AT 3:15 P.M.</b>    |                      |  |
| <b>RECONVENES</b>                       |                      |  |

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| <b>COMMITTEE AT 3:40 P.M.</b>                 |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 753</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 753</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 258</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 258</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 606</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 606</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 681</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 681</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 738</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 738</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 765</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 765</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 777</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 777</u></b> |  |  |

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| <b><u>OPENS PUBLIC HEARING ON SB 965</u></b>   |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 965</u></b>  |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 692</u></b>   |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 692</u></b>  |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 975</u></b>   |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 975</u></b>  |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 1003</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 1003</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 1120</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 1120</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 1195</u></b>  |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 1195</u></b> |  |  |
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| <b><u>OPENS PUBLIC HEARING ON SB 779</u></b>   |  |  |
| <b><u>CLOSES PUBLIC HEARING ON SB 779</u></b>  |  |  |
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| <b><u>OPENS PUBLIC</u></b>                     |  |  |

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| <b><u>HEARING ON SB 910</u></b>  |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 910</u></b>  |             |                               |
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| <b><u>OPENS PUBLIC HEARING ON SB 961</u></b>   |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 961</u></b>  |             |                               |
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| <b><u>OPENS PUBLIC HEARING ON SB 976</u></b>   |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 976</u></b>  |             |                               |
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| <b><u>OPENS PUBLIC HEARING ON SB 1010</u></b>  |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 1010</u></b>   |             |                               |
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| <b><u>OPENS PUBLIC HEARING ON SB 1066</u></b>  |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 1066</u></b>   |             |                               |
|  |             |                               |
| <b><u>OPENS PUBLIC HEARING ON SB 1125</u></b>  |             |                               |
| Written Testimony received in support of SB 1125 from Sen. Jeannette Hamby [Exhibit J] |             |                               |
| <b><u>CLOSES PUBLIC HEARING ON SB 1125</u></b>   |             |                               |
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|  | Chair Stull | Adjourns meeting at 3:42 p.m. |

Submitted by, Reviewed by,

**Julie Clemente, Nikola Jones,**

**Administrative Support Counsel**

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**EXHIBIT SUMMARY**

**A - Testimony in Opposition to SB 614 - Kathleen Pugh - 1 pg**

**B - Proposed SB 614-1 Amendments - Staff - 4 pgs**

**C - Proposed SB 614 Amendments - Multnomah County District Attorney's Office - 6 pgs**

**D - SB 614, Exhibit - Steve Doell - 4 pgs**

**E - Testimony in Support of SB 614 - Kent Zwicker - 1 pg**

**F - Testimony in Support of SB 614 - Jacquelyn Bellamy - 3 pgs**

**G - Testimony in Support of SB 614 - Ted Buckley - 6 pgs**

**H - Statement in Support of SB 614 - Charlene Woods - 1 pg**

**I - Staff Measure Summary on SB 614 - Staff - 1 pg**

**J - Testimony in Support of SB 1120 - Sen. Jeannette Hamby - 1 pg**

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