

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes 158-161

MEMBERS PRESENT:

SEN. NEIL BRYANT, Chair  
SEN. RANDY MILLER, Vice-Chair  
SEN. KEN BAKER  
SEN. JEANNETTE HAMBY  
SEN. PETER SORENSON  
SEN. DICK SPRINGER  
SEN. SHIRLEY STULL

STAFF PRESENT:

BILL TAYLOR, Committee Counsel  
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

Work Session on House Bill 2806  
Work Session on House Bill 2334  
Public Hearing and Work Session on House Bill 2884  
Public Hearing and Work Session on House Bill 3344  
Work Session on House Bill 2883  
Public Hearing on HJR 32  
Public Hearing and Work Session on House Bill 2683  
Public Hearing and Work Session on House Bill 2573  
Public Hearing and Work Session on House Bill 3027  
Work Session on House Bill 2163  
Work Session on House Bill 2378  
Work Session on House Bill 2208  
Work Session on House Bill 2357  
Work Session on House Bill 2683  
Work Session on House Bill 2137

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 158, SIDE A

03 CHAIR BRYANT: Calls the meeting to order at 3:00 p.m.

OPENS WORK SESSION on HB 2806

10 REP. PROZANSKI, SPONSOR OF THE BILL: This bill is to deal with the names, address and phone number of victims that are given to defendants.

43 We have come up with some amendments to modify the procedure that was passed through the House.

64 The current forms make reference in several places to the victims address and phone number.

68 Giving the discovery to the defendant or the defendant's attorney takes place at the discovery state and not the initial stage.

78 Time must be allotted to make the changes at the police level.

84 Many of these departments have traditional police reports that would have to be modified.

86 CHAIR BRYANT: Don't you think the phase in would be the best approach?

91 REP. PROZANSKI: We would have to get some kind of date for certain for the change over to be completed, at least a year.

103 CHAIR BRYANT: I am reluctant to force a time frame and expense on these people.

111 REP. PROZANSKI: The effect on the indigent defense account would be negligible.

138 CHAIR BRYANT: Ann Christen has provided some amendments [EXHIBIT K].

147 SEN. STULL: I support what you are trying to do. But, a time limit may limit some of the creativity.

179 REP. PROZANSKI: Most victims at some point will have access to the police reports.

191 MOTION CHAIR BRYANT: MOVES the conceptual amendments submitted by Christian, with and addition of the words: an effective date of July 1, 1997. Ann

203 VOTE: CHAIR BRYANT: Objections? Hearing none, so amended.

195 MOTION: CHAIR BRYANT: MOVES House Bill 2806, as amended, to the flo  
with a DO PASS recommendation.

205 VOTE: CHAIR BRYANT: Objections? Hearing none, the MOTION  
Senator Sorenson will carry.

CLOSES WORK SESSION ON HB 2806

OPENS WORK SESSION ON HB 2334

210 REP. PROZANSKI: Testifies and submits written testimony [EXHIBIT A] in support of House Bill 2334. We want to add, as a friendly amendment, the definitions that would include as a peace officer, "an investigator of a district attorney's office so long as these individuals have previously or currently been certified a peace officers in Oregon or another state within the United States".

255 I propose changes to the following statutes: ORS 161.015, sub-paragraph four, noting that a peace officer would include the added definition. And in the following ORS's: 133.005, 133.525 and 181.610, paragraph eight, sub b, A : the addition of the district attorney's office to allow them to be considered a police force or organization. In that same ORS you would have to include the new definition of a peace officer.

292 CHAIR BRYANT: What I would like to do is adopt what you have just described conceptually. You and Mr. Taylor will need to work on the language.

295 MOTION: CHAIR BRYANT: Any objection to that amendment to House Bill 2334? Hearing none so ordered. MOTION CARRIES.

299 CHAIR BRYANT: There is a conceptual amendment from Ingrid Swenson that there was no objection to. It broke down the proposed law in a better form. Would you be in agreement with that?

302 REP. PROZANSKI: Yes.

313 INGRID SWENSON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: The amendments [EXHIBIT L] have changed. They are being copied and will be down hear shortly.

353 CHAIR BRYANT: I will close the session and wait for the new amendments from Ingrid.

414 This bill makes it a felony to use tear gas or a stun gun.

440 MOTION: SEN. MILLER: MOVES the dash A amendments to House Bill 2334.

471 VOTE: CHAIR BRYANT: Any objections? Hearing none so ordered.  
CARRIES.

472 MOTION: SEN. MILLER: MOVES House Bill 2334, as amended, to the floor  
with a DO PASS recommendation.

475 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

CLOSES WORK SESSION ON HB 2334

OPENS PUBLIC HEARING ON HB 2884

Witnesses: Mike Lehman

TAPE 159, SIDE A

47 REP. MIKE LEHMAN: Testifies in support of House Bill 2883.

51 One set of the amendments that we object to, broadens the terms, and puts more problems on the local courts and agencies.

86 We did not want to burden local jurisdiction with more rules and hoops to go through.

106 Parents have the right to say that they will not enter into the contract.

OPENS WORK SESSION ON HB 2884

160 MOTION: SEN. HAMBY: MOVES the dash A3 amendments to House Bill 2884.

162 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.

180 MOTION: SEN. HAMBY: MOVES House Bill 2884, as amended, to the floor with a DO PASS recommendation.

190 VOTE: CHAIR BRYANT: MOVES House Bill 2883, as amended, to the floor  
a DO PASS recommendation. MOTION CARRIES. Senator Hamby will carry the  
bill.  
CLOSES WORK SESSION ON HB 2884  
OPENS PUBLIC HEARING ON HB 3344  
Witnesses: Rep. Uherbelau  
Bill Johnson  
David Fidanque  
200 REP. UHERBELAU: Testifies on HB 3344.  
244 BILL JOHNSON: Testifies and submits written testimony in support of  
House Bill 3344 [EXHIBIT F].  
278 DAVID FIDANQUE, EXECUTIVE DIRECTOR, AMERICAN CIVIL LIBERTIES UNION:  
Testifies in opposition to House Bill 3344.  
294 There was a recent Oregon Supreme Court decision regarding field  
sobriety tests.  
304 Blood tests are more intrusive than breath tests.  
326 SEN. SORENSON: Is it fair to say that this bill doesn't require a  
blood test?  
334 JOHNSON: Only the verbal field sobriety tests are in question, not the  
physical part.  
373 SEN. SORENSON: Does the bill require a person to submit to a blood  
test?  
394 FIDANQUE: It does not require it, but it forces an un-constitutional  
choice.  
CLOSES PUBLIC HEARING ON HB 3344  
OPENS WORK SESSION ON HB 3344  
396 MOTION: SEN. SORENSON: MOVES Senate Bill 3344 with a DO PASS  
recommendation.  
425 VOTE: CHAIR BRYANT: Any objections? Hearing no objection, MOTION  
CARRIES. Sen. Springer and Sen. Miller are excused. Chair Bryant will  
carry the bill.  
CLOSES WORK SESSION ON HB 3344  
OPENS WORK SESSION ON HB 2883  
462 MOTION: SEN. HAMBY: MOVES the dash A-2 amendments to House Bill 2883  
466 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.  
467 MOTION: SEN. HAMBY: MOVES House Bill 2883, as amended, to the  
floor with a DO PASS recommendation.  
469 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES. Sen. Hamby will carry the bill.  
CLOSES WORK SESSION ON HB 2883  
OPENS PUBLIC HEARING ON HJR 32  
Witnesses: Jack Morris  
Jim Arneson  
Ingrid Swenson  
Fred Avera  
Stephen Kantor  
David Fidanque  
TAPE 158, SIDE B  
30 CHAIR BRYANT: This is a resolution that is a referral to the people  
dealing with consequences of a case in Oregon dealing with the  
interpretation of the Oregon constitution. The case is Brown v. Multnomah  
County.  
63 JACK MORRIS OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies  
against HJR 32.  
105 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies and  
submits written testimony in opposition to HJR 32 [EXHIBIT G].  
150 INGRID SWENSON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies  
in opposition to HJR 32.  
SEN. MILLER AND SEN. STULL RETURN TO THE HEARING.  
180 FRED AVERA, POLK COUNTY DISTRICT ATTORNEY: Testifies with no position  
on HJR 32.

230 Currently we have the federal constitution standard on when counsel must  
be appointed.

273 CHAIR BRYANT: Do you think it would take more time?

280 AVERA: It goes both ways. Argument is without layers it gets bogged  
down.

300 STEPHEN KANTOR: Testifies against HJR 32.

319 The proposed amendment is tantamount to a repeal of one clause of the  
Oregon Bill of Rights.

362 The federal bill of rights is a least common denominator.

390 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION: Testifies in opposition  
to HJR 32. This legislation is an attempt to repeal the Bill of Rights.

450 SEN. SORENSON: Are we in danger of loosing the 6th and 7th Bill of  
Rights?

TAPE 159, SIDE B

040 KANTOR: In the near term it is not likely.

CLOSES PUBLIC HEARING ON HJR 32

OPENS PUBLIC HEARING ON HB 2683

Witnesses: Jeff Collins  
Fred Avera  
Faye Fagel

80 JEFF COLLINS, PROBATION AND PAROLE OFFICER WITH THE DEPARTMENT OF  
CORRECTIONS: Testifies against House Bill 2683. [EXHIBIT H].

103 AVERA: The House Judiciary Committee added amendments to this bill that  
has all of us raising concerns.

110 FAYE FAGEL, DEPARTMENT OF CORRECTIONS: Testifies in opposition to HB  
2683. Provides written testimony [EXHIBIT I]. Discusses the amendments  
that have raised concern.

145 SEN. BAKER: Is the question money?

148 FAGEL: I do not think there is a concern about the money.

CLOSES PUBLIC HEARING ON HB 2683

OPENS PUBLIC HEARING ON HB 2573

Witnesses: Jim Arneson

184 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies  
against House Bill 2573.

CLOSES PUBLIC HEARING ON HB 2573

OPENS PUBLIC HEARING ON HB 3027

Witnesses: Betty Uchytal  
Rick Hill

208 BETTY UCHYTIL, ASSISTANT ADMINISTRATOR, CHILDREN'S SERVICES:  
Testifies on House Bill 3027. Provides written testimony [EXHIBIT N].

258 RICK HILL ASSISTANT ADMINISTRATOR FOR JUVENILE CORRECTIONS:  
testifies on HB 3027. I Believe this is the wrong way to go.

261 SEN. BAKER: Who has the ultimate say of where a child is?

291 UCHYTIL: I believe that right now under statute we are required to come  
up with a treatment plan in fourteen days and to keep the division on point  
for the plan. That law does do what the bill wants.

340 SEN. HAMBY: You could forward this to my Ways and Means Committee.

OPENS WORK SESSION ON HB 3027

368 MOTION: CHAIR BRYANT: MOVES the amendment, as addressed in the letter of  
May 11th.

370 VOTE: CHAIR BRYANT: Any objections? Hearing none so  
ordered. MOTION CARRIES.

RECESS SENATORS HAMBY, SPRINGER AND SORENSON ARE EXCUSED

OPENS WORK SESSION ON HB 2163

405 MOTION: SEN. MILLER: MOVES House Bill 2163 to the floor with a DO

PAS

recommendation.

413 VOTE: CHAIR BRYANT: Objections? Hearing none, so ordered. MOTION  
CARRIES. Sen. Baker will carry.

CLOSES WORK SESSION ON HB 2163

OPENS WORK SESSION ON HB 2378

431 MOTION: SEN. MILLER: MOVES House Bill 2378 to the floor with a DO PASS  
recommendation.

435 VOTE: CHAIR BRYANT: Objections? Hearing none, so ordered. MOTION  
CARRIES. Sen. Baker will carry this bill.

CLOSES WORK SESSION ON HB 2378

OPENS WORK SESSION ON HB 2208

475 MIKE DINGINHAM, OREGON STATE POLICE: Testifies to the dash five  
amendments on House Bill 2208. Provides amendments [EXHIBIT P].

TAPE 160, SIDE A

80 MOTION: SEN. MILLER: MOVES the dash five amendments to House Bill 2208.

81 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

82 MOTION: SEN. MILLER: MOVES House Bill 2208, as amended, to the floor with  
a DO PASS recommendation.

83 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

CLOSES WORK SESSION ON HB 2208

OPENS WORK SESSION ON HB 2357

97 MOTION: SEN. BAKER: MOVES House Bill 2357 to Ways and Means with a  
PASS recommendation.

DO

98 VOTE: CHAIR BRYANT: Any discussion? Hearing none, so ordered.  
CARRIES.

CLOSES WORK SESSION ON HB 2357

OPENS WORK SESSION ON HB 2683

118 CHAIR BRYANT: Discusses the amendments[EXHIBIT Q] and some amendments  
that he would like to propose.

158 INGRID SWENSON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Discusses  
the original amendments and why they are against them.

177 DICK GINSBURG, ATTORNEY: Testifies on House Bill 2683. The dash two  
amendments are a preference to me.

225 CHAIR BRYANT: We cannot wait for the Attorney Generals opinion.

267 MOTION: SEN. MILLER: MOVES the dash two amendments to House Bill 2683

283 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

275 CAPTAIN BOB SMIT, OREGON STATE POLICE: I am in agreement that there is  
confusion among the law enforcement agencies about providing assistance.

299 TAYLOR: Explains the dash three amendments

HAMBY RETURNS

321 CHAIR BRYANT: The Oregon Criminal Defense Lawyers Association does not  
like this language. This will have a fiscal impact.

365 SEN. BAKER: Will the jury be instructed to consider the original  
charge?, when they find him not guilty and that you will re-charge him on a  
lesser included offense?

359 TAYLOR: This will eventually be part of the uniform jury instructions.

403 MOTION: SEN. MILLER: MOVES amendments to the amendments, which are the  
Chair's suggest language to House Bill 2683.

407 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

409 MOTION: SEN. MILLER: MOVES The amendments House Bill 2683.

410 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

415 MOTION: SEN. MILLER: MOVES House Bill 2683, as amended, to the floor  
with a DO PASS recommendation.

416 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES. Sen. Stull will carry the bill.

CLOSES WORK SESSION ON HB 2683

OPENS WORK SESSION ON HB 2163

432 CHAIR BRYANT: We will now suspend the rules to bring back House Bill  
2163.

447 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.

CARRIES

451 MOTION: CHAIR BRYANT: MOVES House Bill 2163 to the Government  
and Tax Policy Committee with a DO PASS recommendation..

Fin

452 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

CLOSES WORK SESSION ON HB 2163

OPENS WORK SESSION ON HB 2137

TAPE 161, SIDE A

32 TAYLOR: Goes over the amendments [EXHIBIT U] to House Bill 2137.

40 SEN. STULL: The dash A-3 amendments are mine. Let me go over them. Tim

Travis suggested the following changes: A person being eighteen years or  
older intentionally or knowingly causes physical injury to a child ten  
years of age or younger.

57 MOTION SEN. STULL: MOVES The dash A-three amendments, as amended, to  
House Bill 2137.

59 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
MOTION CARRIES.

65 MOTION: CHAIR BRYANT: MOVES the A-2 amendments to House Bill 2137.

66 VOTE: CHAIR BRYANT: Any objections? Hearing none, so ordered.  
CARRIES.

67 SEN. BAKER: I object to the bill. The whole statute is poorly  
structured.

72 MOTION: SEN. STULL: MOVES House Bill 2137, as amended, to the floor  
with a DO PASS recommendation. Sen. Stull will carry the bill.

78 CHAIR BRYANT: Meeting is adjourned at 6:53 p.m.

Submitted by, Reviewed by,

Paula Gilmer-Purcell M. Max Williams II  
Committee Assistant Committee Counsel

#### EXHIBIT SUMMARY:

A - Amendments to House Bill 2334, submitted by Rep. Prozanski  
B - Amendments to House Bill 2334, submitted by staff  
C - Testimony on House Bill 2334, submitted by Lloyd Clodfelter  
D - Amendments to House Bill 2884, submitted by staff  
E - Amendments to House Bill 2884, submitted by staff  
F - Testimony on House Bill 3344, submitted by William Johnson  
G - Testimony on HJR 32, submitted by Jim Arneson  
H - Testimony on House Bill 2683, submitted by Jeffrey Collins  
I - Testimony on House Bill 2683, submitted by Faye Fagel  
J - Amendments to House Bill 2883, submitted by OCDLA  
K - Amendments to House Bill 2806, submitted by Ann Christian  
L- Amendments to House Bill 2883, submitted by OCDLA  
M - Testimony on SJR32, and House Bill 2573, submitted by Nancy Campbell  
N - Testimony on House Bill 3027, submitted by Betty Uchtyl  
O - Amendments to House Bill 2682, submitted by staff  
P - Amendments to House Bill 2208, submitted by staff  
Q - Amendments to House Bill 2682, submitted by staff  
R - Amendments to House Bill 2682, submitted by staff  
S - Testimony on House Bill 2682, submitted by Linda Friedman Ramirez  
T - Amendments to House Bill 2163 submitted by staff  
U - Amendments to House Bill 2137, submitted by staff