

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes - 18

MEMBERS PRESENT:

SEN. NEIL BRYANT, Chair  
SEN. KEN BAKER  
SEN. JEANNETTE HAMBY  
SEN. PETER SORENSON  
SEN. SHIRLEY STULL

MEMBER EXCUSED:

SEN. RANDY MILLER, Vice-Chair  
SEN. DICK SPRINGER

STAFF PRESENT:

BILL TAYLOR, Committee Counsel

DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

PUBLIC HEARING - SB 226  
PUBLIC HEARING - SB 227  
WORK SESSION - SB 65

PUBLIC HEARING - SB 219

WORK SESSION - SB 66  
WORK SESSION - SB 79  
WORK SESSION - SB 228

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 , A

005 CHAIR BRYANT: Calls the meeting to order at 3:08 p.m.  
Announcements on future scheduling: Subcommittee on Juvenile Justice,  
chaired by Sen. HAMBY with SENS. SPRINGER and STULL will meet on Thursdays.

Civil Procedures subcommittee with SENS. BAKER, MILLER, SORENSON, and  
BRYANT will also meet on Thursdays.  
Opens the PUBLIC HEARING on SB 65

Witnesses:

Carl Myers, Oregon State Bar  
Jim Arnenson, Oregon Criminal Defense Lawyer's Association

040 CARL MYERS, Oregon State Bar: Presents testimony in favor of SB 65,  
which attempts to alleviate problems of hospitals and practitioners by  
amending ORS 136.600.

095 MYERS: Continues with testimony.

111 CHAIR BRYANT: Your recommendation is to incorporate this into ORS  
136.600.

130 MYERS: That would be my suggestion.

170 SEN. SORENSON: Are there any evidence issues, for use of hospital



records in civil cases?

Any confrontation clause or jury trial right issues in criminal proceeding?

182 MYERS: Can't answer as I am not an expert.

215 CHAIR BRYANT: This allows hospital to respond by mail, rather than send keeper of records to court.

220 SEN. SORSENSEN: Does it effect determination of trial court on relevancy or privilege waiver contained in hospital record?

225 MYERS: Changes in 55H addresses problem civil and criminal practitioners had in subpoena not being answered by hospital.

255 JIM ARNENSON, Oregon Criminal Defense Lawyer's Association: Takes no position on modification recommended by Mr. Myers. This eliminates the need for custodian of record to come to court.

300 TAYLOR: Explains 55H changes.  
Closes the PUBLIC HEARING on SB 65  
Opens the WORK SESSION on SB 65

CHAIR BRYANT: Proposes conceptual amendment for SB 65 [EXHIBIT O].

MOTION: CHAIR BRYANT moves to ADOPT the amendment.

VOTE: CHAIR BRYANT: Hearing no objection the amendment is ADOPTED.  
SENS. MILLER AND SPRINGER are EXCUSED.

MOTION: SEN. HAMBY moves SB 65, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objections the motion CARRIES. SENS. MILLER and SPRINGER are EXCUSED. SEN. STULL will carry bill to the Floor.

Opens the PUBLIC HEARING on SB 66

WITNESS:

Carl Myers, Oregon State Bar

385 CARL MYERS, Oregon State Bar: SB 66 is sponsored by Criminal Law Section to eliminate problem that arose with raising minimum fines in criminal cases last session.  
Tape 18, A

014 TAYLOR: Gives history on last sessions increases on fines for felonies and misdemeanors. This will would correct issue of whether district court has jurisdiction over Class A misdemeanors.  
Closes the PUBLIC HEARING on SB 66  
Opens the WORK SESSION on SB 66

MOTION: SEN. BAKER: Moves that SB 66 be sent to the Floor with a DO PASS recommendation.

VOTE: Hearing no objections the motion CARRIES. SENS. MILLER and SPRINGER are EXCUSED. SEN. SORENSON will carry the bill to the Floor.

Opens the WORK SESSION on SB 79

050 TAYLOR: Original bill as drafted does same thing as Mr. Brawner's amendment.

060 CHAIR BRYANT: In summary, the recommendation is to use original language.

WITNESS:

Frank Brawner, Oregon Banker's Association



070 FRANK BRAWNER, Oregon Banker's Association: We endorse the original bill if emergency clause is included.

073 CHAIR BRYANT: The amendment includes the emergency clause.

MOTION: CHAIR BRYANT: Moves to ADOPT the amendment.

VOTE: Hearing no objections the amendment is ADOPTED. SENS. MILLER and

SPRINGER are EXCUSED.

MOTION: SEN. HAMBY: Moves SB 79, AS AMENDED be sent to the Floor with a DO PASS recommendation.

VOTE: Hearing no objection the motion CARRIES. SENS. MILLER and SPRINGER

are EXCUSED. SEN. BAKER will carry bill to the Floor.

Opens the PUBLIC HEARING on SB 228

WITNESSES:

Virginia L. Linder, Solicitor General, Department of Justice

Sally L. Avera, State Public Defender

Submitted for the record: Fiscal Impact Statement on SB 228 [EXHIBIT Q].

115 VIRGINIA L. LINDER, Solicitor General, Department of Justice:

Provides testimony in favor of SB 228, [EXHIBIT P].

139 SALLY L. AVERA, State Public Defender: Provides testimony in favor of SB

228. Joins in expansion of time for correction of judgments.

193 SEN. SORENSON: Questions how anyone will known judgment has been fixed.

224 TAYLOR: Asks for definition of "notice to all parties" on line 7.

Closes the Public Hearing on SB 228

Opens the WORK SESSION on SB 228

240 CHAIR BRYANT: Any objections to amendment on line 9 to the word "written" which will appear after the word "after" and before the word "notice"?

MOTION: CHAIR BRYANT: Moves to ADOPT the amendment.

VOTE: Hearing no objections the amendment is ADOPTED. SENS. MILLER and

SPRINGER are excused.

249 SEN. SORENSON: Expresses interest in the effect of this legislation on expungements.

275 SEN. SORENSON: I ask the carrier of the bill to make a legislative history of the bill.

279 LINDER: Expugment hasn't been considered in this bill, judgments remain in system.

MOTION: SEN. HAMBY: Moves that SB 228, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: CHAIR BRYANT: All members present vote AYE. SENS. MILLERS and

SPRINGER are EXCUSED. SEN. HAMBY will carry bill to the Floor.

Opens the PUBLIC HEARING on SB 226

WITNESSES:

Virginia L. Linder, Solicitor General, Department of Justice

Bradd Swank, State Court Administrator

Sally Avera, State Public Defender

Submitted for the record: Fiscal Impact Statement on SB 226 [EXHIBIT R].

310 VIRGINIA L. LINDER, Solicitor General, Department of Justice: Provides



testimony in support of SB 226, [EXHIBIT S].  
Tape 17, B

020 BRADD SWANK, State Court Administrator: Doesn't oppose bill, but raises  
one policy question and 2 technical concerns on bill. Policy  
consideration question is on page 1, line 30.

060 SWANK: Language in section 3 is a concern.

105 SALLY AVERA: Testifies in opposition to SB 226.

150 SEN. SORENSON: How many meritless habeus corpus petitions do you  
have?

200 AVERA: Our office doesn't become involved in this. Discusses habeus  
corpus petitions. Believes Court of Appeals is place for review of these  
cases.

Closes the PUBLIC HEARING on SB 226

Opens the PUBLIC HEARING on SB 227

WITNESSES:

Virginia L. Linder, Solicitor General, Department of Justice  
Bradd Swank, State Court Administrator  
Sally Avera, State Public Defender

Submitted for the record: Fiscal Impact Statement on SB 227 [EXHIBIT T].

258 VIRGINIA L. LINDER, Solicitor General, Department of Justice:  
Provides testimony in favor of SB 227, [EXHIBIT U].

300 LINDER: Continues with testimony.

326 BRADD SWANK, State Court Administrator: Raises policy consideration; a  
new issue of restitution in criminal judgments at Court of Appeals on  
trial level hasn't been totally addressed. The question is how will Court  
of Appeals addresses that deficiency.

350 CHAIR BRYANT: This will be a vehicle to address the restitution  
issue.

364 SWANK: The other issue is summary; language in section 2 or 3 isn't  
tracking with way Court of Appeals handles its motions. It's a technical  
issue.  
Tape 18, B

011 SEN. SORENSON: Would appellate court vacate a judgment, and is that both  
civil and criminal?

017 LINDER: Only criminal judgments.

022 SALLY AVERA, State Public Defender: Presents testimony in opposition  
to SB 227, [EXHIBIT V]. Supports Section 3 of bill.

Closes the PUBLIC HEARING on SB 227

Opens the PUBLIC HEARING on SB 219

062 TAYLOR: SB 219 comes from Department of Justice. It's similar to SB  
191 Justice asks that bill be put off

Closes the PUBLIC HEARING on SB 219

065 CHAIR BRYANT: Adjourns the meeting at 4:40 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR



## EXHIBIT SUMMARY:

(There are no exhibits A-N. Exhibits begin with O)

O-- Amendments on SB 65--8 pages  
P-- Testimony on SB 228--Virginia L. Linder--2 pages  
Q-- Fiscal Impact Statement on SB 228--1 page  
R-- Fiscal Impact Statement on SB 226--1 page  
S-- Testimony on SB 226--Virginia L. Linder--5 pages  
T-- Fiscal Impact Statement on SB 227--1 page  
U-- Testimony on SB 227--Virginia L. Linder - 4 pages  
V-- Testimony on SB 227--Sally Avera - 2 page