

SENATE COMMITTEE ON
JUDICIARY

January 31, 1998 3:00 P.M.

Hearing Room C
Tapes 23 -2S

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: LC 1232 - BILL INTRODUCTION
LC 1623 - BILL INTRODUCTION
LC 1624 - BILL INTRODUCTION
LC 1625 - BILL INTRODUCTION
LC 1626 - BILL INTRODUCTION
LC 1942 - BILL INTRODUCTION
LC 1944 - BILL INTRODUCTION
LC 1946 - BILL INTRODUCTION
LC 2078 - BILL INTRODUCTION
LC 2079 - BILL INTRODUCTION
SB 58 - PUBLIC HEARING
SB 59 - PUBLIC HEARING
SB 116 - PUBLIC HEARING
SB 117 - PUBLIC HEARING
SB 119 - PUBLIC HEARING
SB 191 - PUBLIC HEARING
SB 219 - PUBLIC HEARING
SB 58 - WORK SESSION
SB 116 - WORK SESSION
SB 140 - WORK SESSION
SB 219 - WORK SESSION

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 23, A

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

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BILL INTRODUCTIONS: LC 1232, LC 1623, LC 1624, LC 1625, LC 1626, LC 1942, LC 1944, LC 1946, LC 2078, and LC 2079.

MOTION: CHAIR BRYANT: Moves the committee introduce LC 1232, LC 1623, LC 1624, LC 1625, LC 1626, LC 1942, LC 1944, LC 1946, LC 2078, and LC 2079

3 VOTE: CHAIR BRYANT: Hearing no objection, the motion CARRIES. All members are present.

Opens PUBLIC HEARING on S1,

WITNESS: Bill Richardson, Chief Judge, Oregon Court of Appeals

6 BILL RICHARDSON, Chief Judge, Oregon Court of Appeals: SB 58 is identical to one section of SB 191

Closes PUBLIC HEARING on SB 58

Opens PUBLIC HEARING on SB 191

WITNESS: Bill Richardson, Chief Judge, Oregon Court of Appeals
Bradd Swank, State Court Administrator's Office
Sally Avera, State Public Defender
Harrison Latto, Department of Justice
Jim Arneson, Oregon Criminal Defense Lawyer's Association

8 BILL RICHARDSON, Chief Judge, Oregon Court of Appeals: Testifies in favor of SB

191 which eliminates appeals in prison discipline cases. Deals with limiting review of parole board orders. Changes procedure for certification of court appointed attorney fees; same as SB 58.

10 - Gives overview of prison discipline cases.
13 - Explains limitation of review of parole orders.
14 - Explains setting of court appointed fees.
17 - Bill seeks authority for chief justice to appoint someone to do task administratively and develop guidelines.

21 SEN. HAMBY: Questions review of the validity of hours worked

23 CHAIR BRYANT: I assume if SB 191 is passed then need for SB 58 is also taken care of.

24 BRADD SWAN~ State Court Administrator's Office. Testifies and submits written testimony with proposed amendment in favor of SB 191 [E=IIBlT A1.

27 - Explains proposed amendments to SB 191-1 attached to exhibit.

29 JIM ARNESON, Oregon Criminal Defense Lawyers Association: Issue that is same in SB 119 as SB 58 is attorney fees. Concern is need for clear guidelines that establish normal fees for particular type of case.

TAPE 24, A

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3 SALLY AVERA, SHB Public Defender: Presents testimony in opposition to SB 191.

Supports work load measure of bill. Has problem with Section 3, which further limits jurisdiction of parole review matters.

5 - SB 191 doesn't allow for appeal of effective sentence for crimes predating operational date of guidelines. No opportunity to challenge release date.

7 - Section 2 eliminates appellate jurisdiction for review of disciplinary sanctions. At this time there is no right to appointed counsel

11 HARRISON LATTO, Department of Justice, Appellate Review: Discusses case load of Board of Parole orders on review. Public funds are spent to defend these cases. Board of Parole has discretion to set initial release date

15 CHAIR BRYANT: Questions how effective date will affect petitions on appeals.

16 LATTO: Pending appeals do affect the jurisdiction of the court.

Closes PUBLIC HEARING on SB 191

Opens PUBLIC HEARING on SB 219

WITNESSES: Mike Reynolds, Department of Justice, Appellate Division

Jeff Vanvalkenburgh, Department of Justice

Daniel Duten, Department of Justice
John Foote, Deputy Director, Department of Justice

19 MIKE REYNOLDS, Department of Justice: Testifies and submits written testimony in favor of SB 219 [EXHIBIT B1.

23 - Explains philosophy behind secure confinement; IMU placement and disciplinary segregation.
27 - Explains summary affirmance process and preservation questions.

29 SEN. SPRINGER: Is there any distinction for the inmates between mnfi_ conditions for disciplinary reasons or security classification?

30 JEFF VANVALKENBURH, Department of Justice: It is primarily a punishment mechanism, IMU (Intensive Management Unit) is programming unit with four levels of programs.

TAPE 23, B

4 - Explains institutional transfer for disciplinary reasons and custody classification which changes following misconduct.

9 JOHN EYOTE, Deputy Director Department, Department of Corrections, Inspector General: Testifies and submits written testimony from himself and Dan Duren in favor of SB

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219 [EXHIBIT C]. Has some concerns in eliminating inmate direct appeals on disciplinary cases.

Closes PUBLIC HEARING on SB 219

Opens WORK SESSION on SB 219

13 SEN. SPRINGER: Arlen Smith, an inmate, involved with inmate legislative committee, intends to submit written testimony.

14 TAYLOR: Mr. Smith also called my office. He will be submitting written testimony.

15 CHAIR BRYANT: I believe SB 191 has a broader perspective than SB 219. If we didn't enact SB 191, I presume the committee would have no objection with moving ahead with SB S8.

16 CHAIR BRYANT: Judge Richardson, in regard to your information do you have comments on what savings SB 219 would be for the court?

17 RICHARDSON: Difficult to predict. The things I talked about were prison discipline cauc. Probably would still be involved in same process. Don't know if SB 219 could cut those motion'; off earlier.

18 SEN. SORENSON: What are your views on a special panel that separates criminal from civil matters? Could court divide itself into those panels?

20 RICHARDSON: Value of having each judge look at cases is you get different viewpoints. Allocating work load would differ.

23 SEN. SORENSON: Discusses possibility of expanding the number of judges on court to cope with work problem.

Closes WORK SESSION on SB 219

Opens PUBLIC HEARING on SB 9

WITNESSES: Bradd Swank, State Court Administrator's Office Sally Avera,
State Public Defender

25 BRADD SWAMK, State Court Administrator: Testifies and submits written
testimony in favor of SB 59 tEXHIBlT D]. Sees need for mechanISMto allow judicial
discretion to require update of information. Would like to narrow down "previously"
qualified for court counsel.

28 SALLY AVERA: Testifies in favor of SB 59. It will allow public defenders
to provide better services for clients by reducing time for appeals by 30 days.

Closes PUBLIC HEARING on SB 59

Opens PUBLIC HEA~ING on SB 119

WITNESS:

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Greg Willeford, Commander, Oregon State Police Gaming Enforcement Section,
Assistant Director for Oregon State Lottery

29 GREG WHI~DRD, Commander of Oregon State Police, Gaming Enforcement
Section: Testifies and submits written testimony tEXHIBIT J1 with proposed
amendment [EXHIBIT I1 in favor of SB 119.

TAPE 24, B

3 CHAIR BRYANT: Do you have a problem if amendment states lottery game
retailer would not include the grocer group, your standard lottery contractors?

4 WILLEFORD: Would hate to see restrictions on checlc of traditional lottery
retailer.

5 CHAIR BRYANT: Questions what kind of checlc is done currently when someone
applies for lottery retailer's license.

5 WILLEFORD: Video lottery side is more thorough. Checks include credit, and
criminal history. Certain key individuals must submit fingerprint cards if video or
a contractor.

9 SEN. HAMBY: Is it the department's intention to fingerprint every
employee?

9 WILLEFORD: Only lrey employees.

Closes PUBLIC HEARING on SB 119

Opens PUBLIC HEARING on SB 148

WITNESS: Marva Fabien, Chairperson, Parole Board

13 MARVA FABIEN, Chairperson, Parole Board: Testifies and submits written
testimony in favor of SB 140 [EXHIBIT F]

Closes PUBLIC HEARING on SB 140
Opens WORK SESSION on SB 140

16 MOTION: SEN. SPRINGER: Moves that SB 140 be sent to the Floor with a DO
PASS recommendation.

VOTE: Hearing no objection the motion CA~. All members are present. SEN.

SPRINGER will carry the bill to the Floor.

Opens PUBLIC HEARING on SB 116

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WITNESS: Tom Dixson, Captain, Oregon State Police, Forensics Services
Division

17 TOM DIXSON: Testifies and submits written testimony in favor of SB 11C
[E=IB1T G1.

- Change in definition of expert witness for Oregon State Police.

Closes PUBLIC HEARING on SB 116

Opens WORK SESSION on SB 116

19 MOTION: SEN. MILLER: Moves that SB 116 be sent to the Floor with a DO
PASS recommendation.

VOTE: Hearing no objection the motion CARRIES. All members are present.
SEN. MILLER will carry bill to the Floor.

Closes WORK SESSION on SB 116

Opens PUBLIC HEARING on SB 117

WITNESS:

Tom Dixson, Captain, Oregon State Police, Forensics Services Division
Daina Vitulins, Deputy District Attorney, Polk County
Jim Arneson, Oregon Criminal Defense Lawyer's Association
Fred Avera, District Attorney, Polk County

20 TOM DIXSON: Oregon State Police: Testifies and submits written testimony
in favor of SB 117 [EXHIBIT H1. Discusses electronic retrieval of documents.

23 - The proposed amendment cleans up language in original bill [EXHIBIT
J1

26 DAINA VITULILINS, Deputy District Attorney, Polk County: Explains how she
uses intoxilyzer reports in her work with DUI's

27 FRED AVERA, District Attorney, Polk County: Testifies in favor of SB 117.
It would be a time and money saver.

31 JIM ARNESON, Oregon Criminal Defense Lawyers Association: We didn't review
bill from context of DUI bill, and retrieval of documents seems to be much
broader. Sees new Subsection 25 page 4, as creating "hearsay" exception for information
contained in LEDS.

TAPE 25, A

5 - Don't think proposed amendment would eliminate concerns on court
documents, or using computer generated criminal history as alternative to
using certified copies in court.

7 - Wasn't aware bill was designed to just deal with intoxilyzer document.
I am concerned over not having access to LEDS.

Closes PUBLIC HEARING on SB 117

Opens PUBLIC HEARING on SB S8

11 CHAIR BRYANT: I Believe witnesses have been heard.

Closes PUBLIC HEARING on SB S8

Opens WORK SESSION on SB 58

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12 MOTION: CHAIR BRYANT: Moves to ADOPT the amendment deleting the word
"appellate" and inserting the words "attorneys seeking compensation" on
page 2, line 23.

VOTE: CHAIR BRYANT: Hearing no objection, the amendment is ADOPTED. All
members are present

MOTION: SEN. MILLER moves SB 58, AS AMENDED, be sent to the Floor with a
DO PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objection, the motion CARRIES. All
members are present. SEN. BRYANT will carry the bill to the Floor.

13 CHAIR BRYANT: Adjourns meeting at 5:15 p.m.

Submitted by,

DIANE DUSSLER Committee Assistant

Reviewed by,

BILL TAYLOR
Committee Counsel

EXHIBIT SUMMARY:

- A - Testimony on SB 191 - Bradd Swank - 7 pages
- B - Testimony on SB 219 - Michael Reynolds - 3 pages
- C - Testimony on SB 219 - John Foote - 2 pages
- D - Testimony on SB 59 - Kingsley Click- 2 pages
- E - Testimony on SB 119 - Greg Willeford - 2 pages
- F - Testimony on SB 140 - Marva Fabien - 1 page
- G - Testimony on SB 116 - Tom Dixson - 2 pages
- H - Testimony on SB 117 - Tom Dixson - 6 pages
- I - Proposed Amendment to SB 119-1 - Staff - 1 page
- J - Proposed Amendment to SB 117-1 - Staff- 1 page