

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 106

MEMBERS PRESENT:

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

MEMBER EXCUSED:

SEN. JEANNETTE HAMBY

STAFF PRESENT:

BILL TAYLOR, Committee Counsel
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

SB 188 - PUBLIC HEARING
SB 193 - PUBLIC HEARING
SB 215 - PUBLIC HEARING
SB 225 - PUBLIC HEARING
SB 853 - WORK SESSION
SB 60 - WORK SESSION
SB 504 - WORK SESSION
SB 609 - WORK SESSION
SB 641 - 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

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

Opens PUBLIC HEARING on SB 188

WITNESSES: Kingsley Click, Acting State Court Administrator
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association
Janet Hoffman, Oregon State Bar, Board of Governor's Task Force

010 KINGSLEY CLICK, Acting State Court Administrator: Testifies and submits

written testimony with a proposed conceptual amendment in favor of SB 188
[EXHIBIT A].

066 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association:
Testifies in favor of SB 188. Expresses concern for indigent clients.
- suggests amendment to establish federal standard to appoint counsel in
criminal cases

120 JANET HOFFMAN, Oregon State Bar Board of Governor's Task Force:
Testifies and submits written testimony in favor of SB 188 [EXHIBIT B].

150 CHAIR BRYANT: When will your task force report be ready?

155 HOFFMAN: We had hoped it was a one year task force.

190 CHAIR BRYANT: Will Ms. Click's proposed amendments encompass the task
force's recommendation?

200 HOFFMAN: It sounds like they are in accord.

Closes PUBLIC HEARING on SB 188

Opens PUBLIC HEARING on SB 215

WITNESSES: John Ellis, Department of Justice
David Nebel, Oregon Legal Services

226 JOHN ELLIS, Department of Justice: Testifies and submits written
testimony in favor of SB 215 [EXHIBIT C].

264 SEN. SORENSON: How many cases will you have?

268 ELLIS: We estimate several hundred a year.

325 SEN. SORENSON: Would it be possible for minors to reverse the decision
if they were properly served?

333 ELLIS: If we make this age 17 there would be less than a year to
establish paternity under their minority.

380 SEN. SPRINGER: Have you hear from the Council on Court Procedures on this issue?

383 ELLIS: No.

420 DAVID NEBEL, Oregon Legal Services: Testifies and submits written testimony from Maureen McKnight in opposition to SB 215 [EXHIBIT E].
465 - suggest only eliminate guardian requirement cases whey they are in agency forum

Submitted for the record testimony from Sally Avera. [EXHIBIT D]
Submitted for the record testimony from Clark Seeley [EXHIBIT L]
Closes PUBLIC HEARING on SB 215

Opens PUBLIC HEARING on SB 193

TAPE 105, A

WITNESS: Bradd Swank, State Court Administrator's Office

040 BRADD SWANK, State Court Administrator's Office: Testifies and submits written testimony with proposed amendments in favor of SB 193 [EXHIBIT F].
080 - resolves issues of no shows at requested hearings as court can take default
097 - discusses issue of notice to victims
128 - recommends language be changed to "maximum amount of fines"

Closes PUBLIC HEARING on SB 193

Opens WORK SESSION on SB 193

144 MOTION: CHAIR BRYANT: Moves to ADOPT the amendments to SB 193.

147 VOTE: Hearing no objections, the amendments are
ADOPTED. All members present vote AYE.

150 MOTION: CHAIR BRYANT: Moves SB 193 AS AMENDED be sent to the Floor with a DO PASS recommendation.

152 VOTE: Hearing no objections, the motion CARRIES. All members present
vote AYE. SENS. MILLER, SPRINGER are EXCUSED.
Chair Bryant will carry the bill to the Floor.

Closes WORK SESSION on SB 193

Opens PUBLIC HEARING on SB 225

WITNESSES: Lynn Larsen, Corrections Litigation Unit, Oregon Department of Justice
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association

158 LYNN LARSEN, Corrections Litigation Unit, Oregon Department of Justice:

Testifies and submits written testimony with proposed amendments in favor of SB 225. [EXHIBIT G]
200 - explains provision of bill

242 SEN. BAKER: Are there any constitution barriers to legislature eradicating post conditional releases?

247 LARSEN: Congress has a federal habeus corpus procedure.

304 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association: Testifies

in opposition to SB 225. Discusses issues you can address in post conviction relief.

320 - substantial denial in proceedings which render conviction void
- lack of jurisdiction of court
- sentence in excess of sentences authorized by law
- unconstitutional statute

336 SEN. BAKER: Those four things can be brought up on appeal.

338 SWENSON: Yes, however, these are things that come to your attention after the fact.

350 - discusses issue of incompetent counsel
385 - discusses limited access for inmates being housed out of state or at State Hospital

430 SEN. SORENSON: Can an inmate raise all issues that could be raised in an appeal in post conviction?

439 SWENSON: I don't believe so, as you can only address statutory basis for post conviction.

TAPE 104, B

040 SEN. SORENSON: Are we talking about federal habeus corpus as a separate area?

050 SWENSON: Last session had a provision on meritless petitions.

Closes PUBLIC HEARING on SB 225

Opens WORK SESSION on SB 225

070 CHAIR BRYANT: Attorney General is in favor of the change.

120 MOTION: CHAIR BRYANT: Moves to ADOPT the amendments.
122 VOTE: Hearing no objections, the amendments are ADOPTED.
125 MOTION: CHAIR BAKER: Moves SB 225 AS AMENDED be sent to the
Floor with a DO PASS recommendation.
127 VOTE: 5-1 MOTION PASSES
AYE: Baker, Bryant, Miller, Sorenson, Stull
NAY: Springer
SEN. BAKER will carry the bill to the Floor.

Opens WORK SESSION on SB 853

WITNESS: Bradd Swank, State Court Administrator's Office

150 SEN. BAKER: We pulled out two areas of contention to run as separate
bills in Transportation.

189 BRADD SWANK, State Court Administrator's Office: Testifies and
submits amendments on SB 853. [EXHIBITS H & I]
208 - explains SB 853-5 and SB 853-6 amendments

250 MOTION: Moves to ADOPT SB 853-5 and 853-6 amendments.

VOTE: Hearing no objections, the amendments are ADOPTED. All members
present vote AYE.

258 CHAIR BRYANT: This is a bill that will reduce our revenue because fines
will be reduced.

272 SWANK: We weren't sure it would have a negative result, as it is
difficult to project revenue loss.

280 MOTION: SEN. BAKER: Moves SB 853 AS AMENDED be sent to the
Floor with a DO PASS recommendation.

306 SEN. MILLER: Is it fair to say some fines, that the public found
offensive, have been rolled back?

315 CHAIR BRYANT: Yes

340 VOTE: Hearing no objections, the motion CARRIES. All members present
vote AYE. Sen. Stull will carry the bill to the Floor.

Closes WORK SESSION on SB 853

Opens WORK SESSION on SB 60

WITNESS: Bill Campbell

350 BILL CAMPBELL: Discusses the consensus reached on amending bill.

390 SEN. BAKER: How do we define business?

392 CHAIR BRYANT: We don't have a definition.

399 CAMPBELL: The term licensee might fit.

400 SEN. BAKER: Can't we eliminate the words "on a person"?

402 CAMPBELL: That would work.

420 MOTION: SEN. STULL: Moves to ADOPT the amendments.

422 VOTE: Hearing no objections, the amendments are ADOPTED. All
members present vote AYE.

425 MOTION: SEN. STULL: Moves SB 60 AS AMENDED to the Floor with a DO
recommendation.

PASS

426 VOTE: Hearing no objections, the motion CARRIES. All
members present vote AYE. SEN. STULL will carry the bill to the Floor.

Closes WORK SESSION on SB 60

Opens WORK SESSION on SB 504

460 SEN. SORENSON: Introduces Ms. Lessor and Mr. Clark who worked out
proposed amendment [EXHIBIT J]
473 - suggest putting in a date certain

TAPE 105, B

045 CHAIR BRYANT: Section 2 would begin with statement "on or before
January 5, 1999".

044 SEN. SORENSON: Suggests changes: a comma then word "the" deleting
every thing between the 1999 legislation session.

062 CHAIR BRYANT: It might suit your purposes to have it read " before the
1999 Legislative Session commences".

068 CHAIR BRYANT: Sponsors agree to this.

072 SEN. MILLER: Suggests using different date.

095 MOTION: CHAIR BRYANT: Moves to AMEND SB 504 by having Section 2 read "before the 1999 legislative session".

103 VOTE: 5-1 MOTION PASSES
 AYE: Baker, Bryant, Miller, Sorenson, Springer
 NAY: Stull
 SEN. SORENSON will carry the bill to the Floor.

108 MOTION: CHAIR BRYANT: Moves to SUSPEND RULES to bring back SB 853 to add a date.

109 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE.

110 SEN. BAKER: Proposed SB 1135 in Transportation Committee would double fines in highway work zone.
 - need emergency clause saying fines are doubled in work zone.

129 - suggests coordinating SB 853 and SB 1135 so both start at same date

137 - add a firm date in Section 122

141 SEN. MILLER: Typically, have these been date certain?

141 TAYLOR: It depends.

152 SEN. MILLER: Do you see any problem in making it July 1?

161 SEN. BAKER Suggests July 1, 1995.

170 MOTION: SEN. MILLER: Moves to AMEND SB 853 by adding a date certain of July 1, 1995.

172 VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. CHAIR BRYANT IS EXCUSED.

178 MOTION: SEN. MILLER: Moves SB 504 AS AMENDED be sent to the Floor with a DO PASS recommendation.

180 VOTE: Hearing no objections, motion CARRIES. All members present vote AYE. CHAIR BRYANT is EXCUSED.

Closes WORK SESSION on SB 504

Opens WORK SESSION on SB 641

200 TAYLOR: Explains SB 641-2 amendments. [EXHIBIT K]

213 SEN. SORENSON: Would the campus safety officers be the same as SB 504?

234 TAYLOR: No, they are not. They are seeking these powers.

250 SEN. SORENSON: What is meant by the term campus?

252 TAYLOR: I assume "on campus" means on the property that the college owns or rents. If they were off the campus they would not have special powers.

269 PHIL CURTAIN, Lewis and Clark College: We own a boat dock which does attract younger people. We report crimes on any property that is rented.

294 SEN. SORENSON: Question if we are putting police power in hands of religious organizations in church related colleges.
 - discusses issue of state commissioning private individuals as police officers

310 CURTAIN: The first issue has always been a conflict.

325 -13 other states have provision in state law to extend police authority to private campuses

Closes WORK SESSION on SB 641

Opens WORK SESSION on SB 609

375 TAYLOR: Explains proposed amendments to SB 609 [EXHIBIT L]. The amendments are the bill.

420 - this means that both parents would be potentially liable

425 SEN. STULL: Does not agree with issue that a non-custodial parent should be liable as this parent is prohibited from controlling child's care and behavior.

457 SEN. BAKER: Suggests we leave Section 2 alone as this is a different thing.

485 MOTION: SEN. BAKER: Moves to AMEND SB 609 by deleting Section 2, lines 15-24 on page 1 and 1-7 on page 2.

490 SEN. STULL: In Section 2, line 22, we discussed a fixed amount. Do we want to delete the entire section?

TAPE 106, A

043 TAYLOR: That amount is the current law.

046 SEN. BAKER: Expresses concern with new bolded language, lines 1-14,
as there is no cap and it is limited liability. Suggests same cap as
line 24.

064 VOTE: Hearing no objections, the amendment is ADOPTED. All members
present vote AYE. CHAIR BRYANT IS EXCUSED.

070 MOTION: SEN. BAKER: Moves SB 609 AS AMENDED to the Floor
with a DO PASS recommendation..

VOTE: Hearing no objections, the motion CARRIES. All members present vote
AYE. CHAIR BRYANT IS EXCUSED.

Closes WORK SESSION on SB 609

Re-Opens WORK SESSION on SB 641

086 TAYLOR: SB 641-2 amendments have been proposed with the deletion of
line 19.

094 SEN. SORENSON: Suggests amending bill to define campus as "all
property owned or controlled by the college".

100 TAYLOR: That may be too broad, as they may patrol street outside their
campus.

105 CHAIR BRYANT: You also have leased property.

100 SEN. SORENSON: We can use "owned or leased"

116 MOTION: CHAIR BRYANT: Moves to ADOPTED SB 641-2 amendments.

119 VOTE: 5-1 MOTION CARRIES
AYE: Baker, Bryant, Miller, Sorenson, Springer
NAY: Stull

120 MOTION: SEN. BRYANT: Moves to conceptually AMEND SB 641 by defining
campus as "property owned or leased by the college".

122 VOTE: 5-1 MOTION CARRIES
AYE: Baker, Bryant, Miller, Sorenson, Springer
NAY: Stull

124 MOTION: SEN. MILLER: Moves SB 641 AS AMENDED to the Floor with a
DO PASS recommendation.

125 VOTE: 4-2 MOTION CARRIES
AYE: Baker, Bryant, Miller, Sorenson, Springer
NAY: Sorenson, Stull

140 CHAIR BRYANT: Adjourns meeting at 5:14 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 188 - Kingsley Click - 7 pages
B - Testimony on SB 188 - Janet Hoffman - 23 pages
C - Testimony on SB 215 - John Ellis - 1 page
D - Testimony on SB 188 - Sally Avera - 11 pages
E - Testimony on SB 215 - Maureen McKnight - 1 page
F - Testimony on SB 193 - Bradd Swank - 6 pages
G - Testimony on SB 225 - David Larsen - 4 pages
H - Proposed Amendments on SB 853 - Bradd Swank - 1 page
I - Proposed Amendments on SB 853 - Bradd Swank - 1 page
J - Proposed Amendments on SB 504 - Jane Lessor - 1 page
K - Proposed Amendments on SB 641 - Staff - 1 page
L - Testimony on SB 215 - Clark Seeley - 2 pages