

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes - 119

MEMBERS PRESENT:

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

MEMBER EXCUSED:

SEN. RANDY MILLER, Vice-Chair

STAFF PRESENT:

BILL TAYLOR, Committee Counsel  
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

SB 646 - PUBLIC HEARING  
SB 652 - PUBLIC HEARING  
SB 913 - PUBLIC HEARING  
SB 933 - PUBLIC HEARING  
SB 1053 - PUBLIC HEARING  
SB 1096 - PUBLIC HEARING  
SB 1138 - PUBLIC HEARING  
SB 1145 - PUBLIC HEARING  
SB 212 - WORK SESSION  
SE 220 - WORK SESSION  
SB 652 - WORK SESSION  
SB 993 - WORK SESSION  
SB 1053 - WORK SESSION  
SB 1145 - 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 , A

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

Opens PUBLIC HEARING on SB 1053

WITNESSES:

Michael Gillepsie, District Court Judge, Coos County  
Gilbert Feibleman, Family and Juvenile Law Section, Oregon State Bar  
Sy Kornbrodt, Parole and Probation Officer  
Layne Barlow, Oregon Men's Political Action Committee  
David Nebel, Oregon Legal Services

010 MICHAEL GILLEPSIE, District Court Judge, Coos County: Testifies and  
submits written testimony with proposed amendments in support of SB 1053  
[EXHIBITS A & B].

070 GILBERT FEIBLEMAN, Family and Juvenile Law Section, Oregon State Bar,  
Former Chair of Section: Testifies in support of SB 1053.

097 - most significant changes are in forms which are now simplified  
128 - tries to take care of house keeping inconsistencies

155 SEN. BAKER: On page 5, of SB 1053-2 amendments, why didn't you make  
that mutual restraint for the respondent or petitioner not to use or  
possess a firearm?

160 GILLESPIE: Law doesn't provide restraining orders for mutual restraint.

200 SEN. BAKER: Don't you have the authority to say neither one of you can  
possess a weapon?

206 GILLESPIE: Not under the existing statutory scheme.

220 FEIBLEMAN: This is the relief that court grants at initial filing of  
petition.

270 SEN. HAMBY: Refers to page 6, lines 14-16, how would that be enforced?

280 FEIBLEMAN: This is typical language in divorce cases. The party who  
feels order is in their favor seeks relief and provides the evidence.

320 SY KORN BRODT, Parole and Probation Officer: Testifies and expresses  
concerns with SB 1053.

- cautions against streamlining procedures for sexual abuser to have  
contact with victim

350 LAYNE BARLOW, Oregon Men's Political Action Committee: Testifies and  
submits written testimony in opposition to SB 1053 [EXHIBIT C].

400 - expresses concern with custody issue in Section 9, page 21

430 DAVID NEBEL, Oregon Legal Services Family Law Practitioners, Oregon  
Coalition against Domestic and Sexual Violence: Testifies in support of SB

1053 and proposed amendments.

460 SEN. SORENSON: Would you oppose adding the language "this order will  
stay in effect until you request a hearing in writing"?

TAPE 117, A

040 NEBEL: Suggests the language should be the "notice stays in effect  
until further order of the court and you have the right of a hearing".

060 SEN. SORENSON: Refers to form for respondents to request a hearing on  
page 20.

087 GILLESPIE: The language is there on page 28, line 30.

Closes PUBLIC HEARING on SB 1053

Opens WORK SESSION on SB 1053

110 GILLESPIE: Suggests changes: on page 36, line 18, delete the  
period and insert a comma and language would read "except  
for intentional torts outside the scope of the peace officer's duty"

119 - would provide civil immunity

117 MOTION: CHAIR BRYANT: Moves to ADOPT SB 1053-2 amendments,

and deleting the period and inserting a comma, on page 36, line 28, so  
language reads "except for intentional torts outside the scope of the peace  
officer's duty".

125 VOTE: Hearing no objections, the amendments are ADOPTED. All members  
present vote AYE. SEN. BAKER IS EXCUSED.

130 SEN. STULL: Expresses concern with bill.

143 CHAIR BRYANT: What happens if someone has been in jail?

145 GILLESPIE: Jail time doesn't count in the 180 days.

153 SEN. STULL: Refers to page 6, line 5, language is "order of the court  
may include". I suggest it read "shall" include.

164 GILLESPIE: I don't think all of these provisions should be mandatory  
all of the time.

210 SEN. SORENSON: Considers offering conceptual amendment.

228 GILLESPIE: This is the same type of language used in a summons.

254 CHAIR BRYANT: Would you be satisfied with bold type?

300 SEN. SORENSON: I am just concerned that it is in front.

310 CHAIR BRYANT: Expresses concern that if it is made a law and isn't on  
the front page it can raise legal issue of being properly served.

320 MOTION: CHAIR BRYANT: Moves to ADOPT conceptual amendment that the  
notice requirement on page 31 of SB 1053-2 is in bold print.

328 VOTE: Hearing no objections, the amendment is ADOPTED. All members  
present vote AYE. SEN. BAKER IS EXCUSED.

335 SEN. SORENSON: Can we put the form on page 31 on the cover of all the  
papers to be served?

340 CHAIR BRYANT: I'm concerned the clerk of the court could be liable if  
it wasn't done right.

349 CHAIR BRYANT: Is it possible to give those instructions with out  
putting it in the bill?

350 GILLESPIE: Yes. You could add language "you have a right to a  
hearing, see notice attached", on page 24 of SB 1053-2, between lines  
21-22.

372 MOTION: CHAIR BRYANT: Moves to ADOPT conceptually amendment to add

language "you have rights to a hearing, see notice attached, on page 24,  
line 21.

374 VOTE: Hearing no objections, the amendment is ADOPTED. All members  
present vote AYE. SEN. BAKER IS EXCUSED.

387 MOTION: SEN. HAMBY: Moves SB 1053 AS AMENDED to the Floor with a DO  
PASS recommendation.

390 VOTE: Hearing no objections, the motion CARRIES. All members present  
vote AYE. SEN. BAKER IS EXCUSED. Sen. Hamby will carry the bill to the  
Floor.

Closes WORK SESSION on SB 1053

400 MOTION: CHAIR BRYANT: Moves to SUSPEND RULES to bring SB 1145  
reconsideration.

back for

402 VOTE: Hearing no objections, the motion CARRIES. All members present

vote

AYE.

Opens PUBLIC HEARING on SB 1145

WITNESSES: Jim Kiely, Federation of Parole and Probation Officers  
Sy Kornbrodt, Parole and Probation Officer  
Laurie English, Multnomah County  
Tamara Holder, Multnomah County, Director of Community Relations

424 JIM KIELY, Federation of Parole and Probation Officers: Testifies in  
opposition to SB 1145. Expresses concern with Section 16 and with language

that precludes transfer rights. Gives reasons for opposition to bill.  
445 - disparate treatment of parole officers in transition to county  
employment  
450 - language disregards state employees with many years on job

TAPE 116, B

046 - experienced work force can help control liability in search and  
seizure

082 SY KORN BRODT, Parole and Probation Officer, Columbia County: Testifies  
in opposition to SB 1145.  
120 - opposes eliminating system and regressing back to system that doesn't  
work

140 CHAIR BRYANT: This plan has been worked out with Governor, Attorney  
General, and district attorneys.

175 SEN. SORENSON: Are you concerned that senior state parole and probation  
officers will not be hired by the counties at the same level?

180 KIELY: Yes.

240 LAURIE ENGLISH, Staff of Chair's Office, Board of County Commissioners,  
Multnomah County: Introduces Ms. Holden.

250 TAMARA HOLDEN, Director of Community Corrections, Multnomah County:  
Testifies on SB 1145.  
280 - gives examples of other states who have local jurisdiction of  
offenders  
313 - expresses concern for having adequate funds and a true partnership for

this purpose

360 SEN. SORENSON: Who determines if offenders get house arrest, work  
release, or work camp?

380 HOLDEN: Legislation does provide for individual being sentenced to  
local authority who determines best use of their resources.

395 SEN. SORENSON: What is your opinion of deleting Section 16?

407 HOLDEN: Community Corrections Act provides that employee can determine  
if they transfer. For employees who choose not to transfer, no required  
state oversight would be available.

436 SEN. SPRINGER: What will the impact be with ability to provide  
community supervision?

452 HOLDEN: We recognize there may be some displacement.

473 SEN. SPRINGER: In reference to local authority, who is in charge as  
sheriff's in various counties may not agree.

TAPE 117, B

040 HOLDEN: Authority will be determined by how each local criminal justice  
system is set up. We estimate in Portland it would be one of two agencies  
or possible two agencies.

063 SEN. SPRINGER: Is the local public safety council advisory only?

067 BILL CAREY, Department of Corrections: This body will coordinate  
local planning for community corrections and are advisory to the county  
commissioners.

100 SEN. SORENSON: If counties decide to opt out what happens to a jail  
that the state helped to build?

108 CAREY: It depends upon when they opt out.

Closes PUBLIC HEARING on SB 1145

Opens PUBLIC HEARING on SB 933

WITNESSES: Jim Kiely, Federation of Parole and Probation Officers  
Duncan Pierce, Clackamas County, Federation of Parole and Probation  
Officers  
Dick Powell, President of Marion County Chapter, Federation of Parole and  
Probation Officers

124 JIM KIELY, Federation of Parole and Probation Officer's: Testifies  
and submits written testimony in support of SB 933 [EXHIBIT D].

176 DICK POWELL, President of Marion County Chapter, Federation of Parole

and Probation Officers: Testifies in support of SB 933.  
200 - describes firearms training class  
220 - members would prefer to avoid paper work of getting a permit

225 DUNCAN PIERCE, Parole and Probation Officer, Clackamas County:  
Testifies in Support of SB 933.  
250 - officers are reimbursed for expenses of obtaining a permit so bill  
would save money

267 KIELY: Reads from exhibit.

290 SEN. BAKER: Are you saying your special deputy statute doesn't protect  
you on your way to and from work?

300 KIELY: Some of the people can't obtain special deputy status in some  
counties.

310 SEN. BAKER: Why is the psychological screening necessary?

316 KIELY: It is in most of our policies.

335 SEN. HAMBY: How many have failed the psychological exam?

340 POWELL: Two.

400 SEN. HAMBY: Would you object to deleting "when deemed appropriate"  
prior to a psychological screening?

402 KIELY: No.

430 SCOTT TAYLOR, Administrator of Community Supervision, Department of  
Corrections: Testifies and submits written testimony on SB 933 [EXHIBIT  
E].  
465 - expresses concern as it appears to limit authority of employer to  
establishing policies on arming employee

TAPE 118, A

045 - recommends deletion of Section 1, including sub 1 and 2

055 CHAIR BRYANT: Do you have a problem if we amend bill to when  
authorized by their employer?

060 KIELY: If a sheriff doesn't want certain deputies to carry a firearm,  
then they don't carry them.

Closes PUBLIC HEARING on SB 933

Opens WORK SESSION on SB 933

095 MOTION: SEN. HAMBY: Moves to ADOPT an amendment to SB 933 by  
deleting "when" deemed appropriate" on page 1, line 8 of the bill.

097 VOTE: Hearing no objections, the amendment is ADOPTED. All members  
present vote AYE.

097 MOTION: SEN. SPRINGER: Moves SB 933 AS AMENDED be sent to the  
floor with a DO PASS recommendation.

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

Closes WORK SESSION on SB 933

Opens WORK SESSION on SB 1145

100 MOTION: CHAIR BRYANT: Moves SB 1145 AS AMENDED be sent to Ways  
and Means with a DO PASS recommendation.

107 VOTE: 4-2 MOTION CARRIES  
AYE: Baker, Bryant, Hamby, Stull  
NAY: Sorenson, Springer

Closes WORK SESSION on SB 1145

Opens PUBLIC HEARING on SB 652

WITNESSES: Ray Gribbling, Oregon Cemetery Association  
Oreita Turner, Coalition for Funeral Service Accountability

130 RAY GRIBBLING, Oregon Cemetery Association: Testifies and submits  
written testimony with proposed amendments in support of SB 652 [EXHIBITS  
F & G].

170 OREITA TURNER, Coalition for Funeral Service Accountability: Testifies  
in support of SB 652.

Closes PUBLIC HEARING on SB 652

Opens WORK SESSION on SB 652

198 MOTION: SEN. HAMBY: Moves to ADOPT SB 652-1 amendments.

199 VOTE: Hearing no objections, the amendments are ADOPTED. All members  
present vote AYE. SEN. BAKER IS EXCUSED.

200 MOTION: SEN. HAMBY: Moves SB 652 AS AMENDED be sent to the Floor  
with a DO PASS recommendation.

202 VOTE: Hearing no objections, the motion CARRIES. All members present  
vote AYE. SEN. BAKER IS EXCUSED. Sen. Hamby will carry the bill to the  
Floor.

Closes WORK SESSION on SB 652

Opens WORK SESSION on SB 212

WITNESSES: John Ellis, Support Enforcement Division, Department of Justice  
Ed Patterson, Oregon Association of Hospital and Health Systems

220 JOHN ELLIS, Support Enforcement Division, Department of Justice:  
Submits proposed amendments to SB 212 [EXHIBITS I & J]. The dash 1  
amendments are not controversial, the dash 2 amendments are moot, and we  
would like to have the dash 3 amendments adopted. We are in support of Mr.

Patterson's amendments.

230 ED PATTERSON: Oregon Association of Hospital and Health Systems:  
Testifies and submits proposed amendments in support of SB 212 [EXHIBIT H].  
235 - discusses amendment to Section 3

245 SEN. HAMBY: Would this weaken the pursuit of establishing paternity?

250 PATTERSON: We do not believe so.

269 MOTION: CHAIR BRYANT: Moves to ADOPT SB 212-1, SB 212-3, and  
Oregon Association of Hospitals and Health Systems amendments.

272 VOTE: Hearing no objections, the amendments are ADOPTED. All members  
present vote AYE. SEN. BAKER IS EXCUSED.

280 MOTION: SEN. HAMBY: Moves SB 212 AS AMENDED be sent to the Floor  
with a DO PASS recommendation.

281 VOTE: Hearing no objections, the motion CARRIES. All members present  
vote AYE.  
SEN. BAKER IS EXCUSED. Sen. Sorenson will carry the bill to the Floor.

Submitted for the record testimony with proposed amendments from Russ  
Lipetzky [EXHIBIT K].

Closes WORK SESSION on SB 212

Opens WORK SESSION on SB 220

WITNESSES: Lana Butterfield, SAIFCO  
Jeanine Robbin, Department of Justice

300 LANA BUTTERFIELD, SAIFCO: Testifies in support of SB 220. SAIF is  
covered in this bill and we would like private insurance companies to have  
the same opportunity

310 JEANINE ROBBIN, Department of Justice: Describes changes in bill:  
deleted reference to circumstantial evidence and added language to  
aggregation.

Submitted for the record testimony from Dale Pen [EXHIBIT U]

Closes WORK SESSION on SB 220

Opens PUBLIC HEARING on SB 913

WITNESSES: Rod Harder, Executive Director, Oregon Sportsmen Defense Fund  
John Nichols, Oregon Gun Owners Inc.  
Sarah Hacketts, League of Oregon Cities

359 ROD HARDER, Executive Director, Oregon Sportsmen Defense Fund:  
Testifies in support of SB 913.  
365 - proposes amendments to page 2, line 12 to read "mechanically unsafe"  
- suggests language "altered in a manner to make it mechanically unsafe"

380 JOHN NICHOLS, Oregon Gun Owners Inc.: Testifies in support of SB 913.

390 SARAH HACKETTS, League of Oregon Cities: Testifies in opposition to SB

913, expresses concerns and suggests committee not adopt bill in present  
form.

440 CHAIR BRYANT: Questions what type of firearms would be resold under  
this bill, as he doesn't want machine guns resold.

450 NICHOLS: You must have a tax stamp to possess machine guns, sawed off  
rifles and shot guns, and unlawful possession is a 10 year federal felony.

TAPE 119, A

042 SEN. SORENSON: Do the cities opposes the legislation or would you work  
together?

060 HACKETT: Currently law allows local governments to destroy or sell.

067 NICHOLS: Decision on local level is made philosophically for ownership  
of firearms.

084 HACKETT: Shares written testimony from Phillip Lemman, city of Eugene  
[EXHIBIT L].

Closes PUBLIC HEARING on SB 913

Opens PUBLIC HEARING on SB 1096

WITNESSES: Cliff Daimler, Lieutenant, Director of the Identification  
Services Section, Oregon State Police  
John Nichols, Oregon Gun Owners, Inc.  
Bob Dell, Willamette Valley Sportsman  
Rod Harder, National Rifle Association Representative in Oregon  
Kevin Starett, Gun Owners of America

100 CLIFF DAIMLER, Lieutenant, Director of the Identification Services  
Section, Oregon State Police: Testifies and submits written testimony with

proposed amendments in support of SB 1096 [EXHIBITS M & N].

140 JOHN NICHOLS, Oregon Gun Owners Inc.: Testifies in support of SB 1096.

This bill concerns public policy. Purchasers of handguns need to supply  
higher standard of proof than for other activities.

150 - suggests use of thumb prints as Oregon ranks 4th nationally for fake  
I.D.'s issued by DMV

156 CHAIR BRYANT: Could you explain the importance of the thumb print.

158 DAIMLER: A thumb print is a positive identification.

166 CHAIR BRYANT: What process would be used to identify the person?

173 DAIMLER: We suggest use of a fax machine and staff could compare it  
with what we have on file.

185 - thumb prints would be taken at time of sale

192 BOB DELL, Willamette Valley Sportsman: Testifies in favor of SB 1096,  
and supports the instant check.

240 SEN. SORENSON: What is involvement of county sheriff's in this  
legislation?

250 NICHOLS: They would not be involved directly.

262 DAIMLER: We felt that this would give us a jump on the Brady Bill.

272 ROD HARDER, National Rifle Association Representative in Oregon:  
Testifies and submits written testimony with proposed amendments to SB 1096

[EXHIBITS O & P].

290 - support bill as written

295 - has concerns with instant check provided in SB 1096-1 amendment

326 - unlimited access to records is invasion of privacy

380 - we support fee change

390 KEVIN STARETT, Gun Owners of America: Testifies in opposition to SB  
1096. We oppose instant background check in any form.

400 - believes amendments make it a gun control bill to harass people who  
haven't committed any crimes

Closes PUBLIC HEARING on SB 1096

Opens PUBLIC HEARING on SB 646

WITNESSES: Jim Arneson, Oregon Criminal Defense Lawyer's Association  
Michael Purcell, Oregon Criminal Defense Lawyer's Association  
Jim Henning, Metropolitan Public Defender, Portland, Oregon  
Brenda Rocklin, Assistant Attorney General, Department of Justice  
Fred Avera, Polk County District Attorney

440 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Testifies  
in support of SB 646 and submits proposed amendments [EXHIBIT Q].

470 - explains amendments

TAPE 118, B

040 MICHAEL PURCELL, Oregon Criminal Defense Lawyer's Association:  
Testifies and submits written testimony in favor of SB 646 [EXHIBIT R].

070 - creates disability that court can waive for district attorney to  
testifying

115 JIM HENNING, Metropolitan Public Defender, Portland, Oregon: Testifies

in favor of SB 646. The policy question is who controls the grand jury.

126 - ORS has nothing in statutes

153 - need statement on independence of grand jury

210 SEN. SORENSON: Should we have a policy statement to read, or an  
audio/video tape as to what their responsibilities are?

223 PURCELL: I believe the Uniform Jury Duty Committee is capable of  
drafting that.

260 BRENDA ROCKLIN, Assistant Attorney General, Criminal Justice Division,  
Department of Justice: Testifies in behalf of Department of Justice and  
Oregon District Attorney's Association in opposition to SB 646.

270 - delays grand jury process

280 - post indictment costs are too high

288 - could be attacked on exculpatory evidence

320 FRED AVERA, Polk County District Attorney, Oregon District Attorney's  
Association: Testifies in opposition to SB 646.

335 - amendments don't improve bill

350 - charge to grand jury is wonderful idea

Closes PUBLIC HEARING on SB 646

Opens PUBLIC HEARING on SB 1138

WITNESSES: John Ellis, Support Enforcement Division, Department of Justice  
Maureen McKnight, Oregon Legal Services

400 JOHN ELLIS, Support Enforcement Division, Department of Justice:  
Testifies and submits written testimony in support of SB 1138 [EXHIBIT S].

This is a federal compliance issue and most important child support bill  
before legislative session.

465 MAUREEN MCKNIGHT, Oregon Legal Services: Testifies and submits written  
testimony in support of SB 1138 [EXHIBIT T].

Closes PUBLIC HEARING on SB 1138

480 CHAIR BRYANT: Adjourns meeting at 6:25 P.m.

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR  
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 1053 - Michael Gillespie - 8 pages  
B - Proposed Amendments on SB 1053 - Staff - 50 pages  
C - Testimony on SB 1053 - Layne Barlow - 4 pages  
D - Testimony on SB 933 - Jim Kiely - 9 pages  
E - Testimony on SB 933 - Scott Taylor - 1 page  
F - Testimony on SB 652 - Ray Gribbling - 5 pages  
G - Proposed Amendments on SB 652 - Staff - 1 page  
H - Proposed Amendments on SB 212 - Ed Patterson - 1 page  
I - Proposed Amendments to SB 212 - Staff - 1 page  
J - Proposed Amendments to SB 212 - Staff - 1 page  
K - Testimony on SB 212 - Russ Lipetzky - 2 pages  
L - Testimony on SB 913 - Phillip Lemman - 2 pages  
M - Testimony on SB 1096 - Clifford Daimler - 34 pages  
N - Proposed Amendments on SB 1096 - John Nichols - 13 pages  
O - Proposed Amendments on SB 1096 - Rod Harder - 3 pages  
P - Testimony on SB 1096 - Rod Harder - 2 pages  
R - Testimony on SB 646 - Jim Arneson - 4 pages  
Q - Proposed Amendments to SB 646 - 9 pages  
T - Testimony on SB 1138 - Maureen McKnight - 1 page  
S - Testimony on SB 1138 - John Ellis - 10 pages  
U - Testimony on SB 220 - Dale Pen - 1 page