

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes 35-138

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

MEMBER EXCUSED:

STAFF PRESENT:

BILL TAYLOR, Committee Counsel
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

HB 2137 - PUBLIC HEARING
HB 2334 - PUBLIC HEARING
HB 2883 - PUBLIC HEARING
HB 2884 - PUBLIC HEARING
HB 2809 - PUBLIC HEARING
HB 2806 - PUBLIC HEARING
HB 2807 - PUBLIC HEARING
HB 2811 - PUBLIC HEARING
HB 2813 - PUBLIC HEARING

SB 870 - WORK SESSION
HB 2809 - WORK SESSION
HB 2811 - WORK SESSION
HB 2813 - 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 135, A

003 CHAIR BRYANT: Opens meeting at 3:00 p.m.

Opens PUBLIC HEARING on HB 2813

WITNESSES: Rep. Floyd Prozanski, District 40
Rep. Kevin Mannix, District 32

032 REP. PROZANSKI, District 40: Testifies in support of HB 2813.
075 - responds to Sen. Baker's inquiry on District Attorney's authorizing
more than one deputy to handle this function

100: REP. KEVIN MANNIX, District 32: Testifies in support of HB 2813. Sen.

Stull will be introducing proposed amendments HB 2813-1 from the Oregon
District Attorneys Association which I support.

Closes PUBLIC HEARING on HB 2813

Opens WORK SESSION on HB 2813

WITNESSES: Dale Penn, Oregon District Attorneys Association
Jim Arneson, Oregon Criminal Defense Lawyer's Association
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association

124 SEN. STULL: Introduces the proposed amendments to HB 2813-1 [EXHIBIT
A].

127 DALE PENN, Oregon District Attorneys Association: Testifies in support

of HB 2813.

150 - explains bill and relating statutes
190 - believes "good cause exception" should be shown

205 - discusses discovery statutes
263 - responds to Sen. Sorenson's inquiry that he supports this bill

270 REP. PROZANSKI, District 40: Responds to Sen. Springer's inquiry on the amendments that he hopes it doesn't affect the bill.

300 MOTION: SEN. SORENSON: Moves HB 2813 be sent to the Floor with a DO PASS recommendation.

318 SEN. STULL: Will you include an amendment to your motion to include the dash 1 amendments?

324 SEN. SORENSON: I am not in favor of doing that. There hasn't been an opportunity to review the amendments which are not relevant to the bill.

340 SEN. MILLER: The amendments could possibly be placed in another bill. I can invite others to give testimony on the amendments.

360 SEN. SPRINGER: I would feel uncomfortable until other folks could testify.

376 REP. MANNIX: HB 2326 was introduced but did not receive a hearing. This is a rescue attempt.

392 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Protests using this method to attempt to get change in legislation that affects 4 areas of law.
410 - need full hearing on substantive changes
428 - protests lack of notice in having copies of material

430 SEN. STULL: I apologize if you were missed in the loop. It was not the intention to create a problem for you.

440 ARNESON: I am referring to the District Attorneys who know how they can share information with us.

455 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association: Testifies in opposition to HB 2813.
470 - expresses concern with Section 4 which talks about DA's being able to challenge for background information

TAPE 136, A

045 - haven't had opportunity to discuss amendments
060 - believes it is DA's who don't disclose in a timely manner
090 - responds to Sen. Miller's inquiry on the duty to disclose with respect to defendant that the state may believe they should have received discovery before they do
104 - responds to Sen. Miller's inquiry on sanctions that there are no similar provisions for prosecutors
123 - responds to Sen. Miller's inquiry that the action is extraordinary in the scope of the changes

130 MOTION: SEN. STULL: Moves to withdraw her amendments.

144 SEN. SPRINGER: Cautions against going around other committees in action on bills at this point in session.

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

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

Closes WORK SESSION on HB 2813
Opens PUBLIC HEARING on SB 2809

WITNESSES: Rep. Floyd Prozanski, House District 40
Mike Reinecke, Lieutenant, Station Commander Florence, Oregon State Police
Chris Mathieson, Chief of Police, Florence, Oregon

190 REP. FLOYD PROZANSKI, District 40: Testifies in support of HB 2809.

200 MIKE REINECKE, Station Commander Florence, Lieutenant, Oregon State Police: Testifies in support of HB 2809.
225 - transmission by telecast of testimony would save time and money

239 CHRIS MATHIESON, Chief of Police of Florence, Oregon: Testifies in
support of HB 2089.
250 - explains costs of his officers testifying before grand Jury in Eugene

270 REINECKE: Responds to Sen. Hamby's inquire that he sees a potential to
use this method for testimony in abuse cases.

342 REP. PROZANSKI: Responds to Sen. Hamby's inquiry that he did not
introduce his amendments in the House.
403 - responds to Sen. Sorenson's inquiry on the use of videos that there is
no limitations on this legislation

460 SEN. HAMBY: Indicates she would like to see this expand to dispositions
by interactive video.

Closes PUBLIC HEARING on HB 2809

Opens WORK SESSION on HB 2809

470 MOTION: SEN. BAKER: Moves HB 2809 be sent to the Floor with a DO PASS
recommendation.

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

Closes WORK SESSION on HB 2809

TAPE 135, B

Opens PUBLIC HEARING on HB 2806

WITNESSES: Rep. Floyd Prozanski, District 40
Jim Arneson, Oregon Criminal Defense Lawyer's Association
Randall Vogt, Oregon Criminal Defense Lawyer's Association
Dee Dee Kouns, President of Crime Victim's United

050 REP. FLOYD PROZANSKI, District 40: Testifies in support of HB 2806.

080 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Testifies
and submits written testimony with proposed amendments on HB 2806 [EXHIBITS

C & D]. Does not oppose the bill.

095 - concern is who is going to pay for removal of name

125 REP. PROZANSKI: Responds to Chair Bryant's inquiry that using white out
on the name would be a burden upon the DA's office staff.

149 RANDALL VOGT, Oregon Criminal Defense Lawyer's Association: Testifies
on HB 2806.

Questions whether bill is necessary as there is system in place to address

problem.

164 - explains fiscal impact of removing of name and address

187 - suggests change in form at police report level

204 ARNESON: Responds to Sen. Baker's concern with the language of lines
7-8 as trial by ambush which he doubts was the intent of the bill.

217 DEE DEE KOUNS, President of Crime Victim's United: States she
sponsored initiative petition not to have victim's name and address given
to criminal defendant.

259 - criminal defendants are not the client

Closes PUBLIC HEARING on HB 2806

Opens PUBLIC HEARING on HB 2811

WITNESSES: Rep. Floyd Prozanski, District 40
Paul Synder, Association of Oregon Counties

300 REP. PROZANSKI, District 40: Testifies and submits proposed amendments
in support of HB 2811 [EXHIBIT E].

330 - explains HB 2811-1 proposed amendments

370 - under current law victims can't recoup their damages or restitution
except by charging an additional crime

417 PAUL SYNDER, Association of Oregon Counties: We have no position on
this bill.

Expresses concern with cumulative effect of penalties upon criminal justice
system.

TAPE 136, B

047 SYNDER: Responds to Sen. Sorenson's inquiry on misdemeanors that inadequate enforcement is not a problem that can be solved by enhancing the penalty.

Closes PUBLIC HEARING on HB 2811

Opens WORK SESSION on HB 2811

060 CHAIR BRYANT: I asked for HB 2811-2 to be prepared for 872 so they are withdrawn [EXHIBIT F].

064 MOTION: CHAIR BRYANT: Moves to ADOPT HB 2811-1 amendments.

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

066 MOTION: SEN. SORENSON: Moves HB 2811 AS AMENDED be sent to the Floor with a DO PASS recommendation.

082 REP. PROZANSKI: Responds we don't have trespass upon a vehicle to Sen.

Baker's inquiry on crawling into a car at night to sleep.

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

Closes WORK SESSION on HB 2811

Opens PUBLIC HEARING on HB 2334

WITNESSES: Rep. Floyd Prozanski, District 40
Bill Johnson, Lieutenant, State Police, Patrol Services Division
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association
Dale Pen, Marion County District Attorney

120 REP. PROZANSKI, District 40: Testifies and submits conceptual amendment on HB 2334 .

125 BILL JOHNSON, Lieutenant, State Police, Patrol Services Division: Testifies and submits written testimony in support of HB 2334 [EXHIBIT G].

160 TAYLOR: Refers to the language of concern on page 2, lines 2-3.

175 CHAIR BRYANT: Would the current statutory defenses work or were you trying to change those self defenses?

185 REP. PROZANSKI: The concern was not to make this too broad.

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

and submits proposed amendments to HB 2334 [EXHIBIT I].

235 - suggests creating new crime; unlawful use of stun gun, tear gas, or mace

250 - suggests taking it out of assault on public safety officers section as

it is not an assault

275 REP. PROZANSKI: Explains proposed conceptual amendment [EXHIBIT H].

325 - continues

365 - responds to Sen. Springer's inquiry on the definition of investigator's duties

386 DALE PEN, Marion County District Attorney: There are a variety of things that peace officers get involved in.

425 SWENSON: Responds to Sen. Baker inquiry on use of stun guns on public safety officers.

TAPE 137, A

040 SEN. BAKER: Discusses broadening areas of assault to both public and private citizens.

050 JOHNSON: Intent was to enhance the penalty against police officer and make it a specific crime.

Closes PUBLIC HEARING on HB 2334

Opens PUBLIC HEARING on HB 2807

WITNESS: Rep. Floyd Prozanski, District 40

050 REP. PROZANSKI, District 40: Testifies in support of HB 2807.

080 CHAIR BRYANT: We have handled this in a Senate bill and made it tougher.

Closes PUBLIC HEARING on HB 2807

Opens PUBLIC HEARING on HB 2137

WITNESSES: Rep. Kevin Mannix, District 32
Jim Markee, Amalgamated Transit Union
Dale Pen, Oregon District Attorneys Association
Timothy Travis, Juvenile Rights Project
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association

100 REP. KEVIN MANNIX, District 32: Testifies in support of HB 2137, A2 and A3 amendments [EXHIBITS J, K, and L].

158 JIM MARKEE, Amalgamated Transit Union: Testifies in support of HB 2137.

161 DALE PEN, Oregon District Attorneys Association: Testifies in support of HB 2137.

199 TIMOTHY TRAVIS, Juvenile Rights Project: Testifies on HB 2137 suggests adding language "being 18 years of age or older" after g.

215 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association: Testifies in opposition to HB 2137.

220 - expresses concern with elevating juvenile worker above other officials in extending protection

Closes PUBLIC HEARING on HB 2137

Opens PUBLIC HEARING on HB 2883

WITNESSES: Rep. Mike Lehman, District 47
Rep. Brian Johnston, District 31

265 REP. MIKE LEHMAN, District 47: Testifies in support of HB 2883.

297 REP. BRIAN JOHNSTON, District 31: Testifies in support of HB 2884.
320 - we are trying to create an early warning system for children in trouble

337 REP. LEHMAN: Responds to Chair Bryant's inquiry on the distinction between legal and lawful guardian.
380 - responds to Sen. Springer's inquiry on the definition of "probation contract"

437 REP. JOHNSTON: Responds to Mr. Taylor's inquiry on the parent's right to refuse a contract.

Closes PUBLIC HEARING on SB 2883

Opens PUBLIC HEARING on SB 2884

470 CHAIR BRYANT: Could CSD be the person lawfully charged?

TAPE 138, A

030 JOHNSTON: Yes.

Closes PUBLIC HEARING on SB 2884

Re-opens PUBLIC HEARING on HB 2137

WITNESSES: Rick Hill, Assistant Administrator, Office of Juvenile Corrections, Children's Services Division
Rick Pepper, OPEU
Jim Markee, Amalgamated Transit Union
Ron Heintzman, President, Amalgamated Transit Union
Tina Wilson, Emergency Medic, Amalgamated Transit Union
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association
Dale Pen, Marion County District Attorney

065 RICK HILL, Assistant Administrator, Office of Juvenile Corrections, Children's Services Division: Testifies and submits written testimony in support of HB 2137 [EXHIBIT M].

097 RICK PEPPER, OPEU: Testifies in support of HB 2137.
109 - juveniles perceive there are no consequences from causing injury

130 JIM MARKEE, Amalgamated Transit Union: Testifies in support of HB

2137.

147 RONALD HEINTZMAN, President, Amalgamated Transit Union: Testifies and submits written testimony in support of HB 2137 [EXHIBIT N].

166 TINA WILSON, Emergency Medic, Amalgamated Transit Union: Testifies in support of HB 2137.

185 INGRID SWENSON, Oregon Criminal Defense Lawyer's Association: Testifies in opposition to HB 2137.

204 - institution needs to develop incentives for juveniles not to commit additional injuries

233 - expresses concern with proposed amendments as physical force can be mild

262 DALE PEN, Marion County District Attorney: Discusses assault when assaulter is not legal custodian of child.

282 - issue is what to do with assaults on staff that are misdemeanors

302 CHAIR BRYANT: Why are you reluctant to prosecute crimes already available?

309 PEN: Misdemeanor assaults have no impact on these children as they are there on a violent felony.

Closes PUBLIC HEARING on HB 2137

Re-opens PUBLIC HEARING on HB 2883

WITNESSES: Timothy Travis, Juvenile Rights Project
David Fidanque, Executive Director, American Civil Liberties Union

360 TIMOTHY TRAVIS, Juvenile Rights Project: Testifies and submits written testimony in opposition to HB 2883 [EXHIBIT O].

420 - fining parents isn't effective; supervision of child is more effective

441 DAVID FIDANQUE, Executive Director, American Civil Liberties Union: I'm here on HB 2884.

Closes PUBLIC HEARING on HB 2883

Re-opens PUBLIC HEARING on HB 2884

WITNESSES: Timothy Travis, Juvenile Rights Project
David Fidanque, Executive Director, American Civil Liberties Union

465 TIMOTHY TRAVIS, Juvenile Rights Project: Testifies on HB 2884.

470 - expresses concern as it removes juvenile issues and puts them in municipal court

TAPE 137, B

045 DAVID FIDANQUE, Executive Director, American Civil Liberties Union: Testifies in opposition to HB 2884, as it is a violation of due process.

060 - supports Section 2 which eliminates a provision of state curfew statute

Closes PUBLIC HEARING on HB 2884

Opens WORK SESSION on SB 870

100 TAYLOR: Explains issue of victim impact statement.

115 FRED AVERA, Polk County District Attorney: Suggests changes to the amendment from the Department of Justice as follows: on line 13, page 2, strike phrase "as described in ORS 137013" and insert "relating to personal

characteristics of the victim or the impact of the crime on the victim's family".

120 - responds to Sen. Hamby's inquiry that they did request an emergency clause

125 MOTION: SEN. BAKER: Moves to ADOPT the proposed amendment with the emergency clause, to strike phrase "as described in ORS 137013 and insert "relating to personal characteristics of the victim or the impact of the crime on the victim's family".

127 VOTE: Hearing no objections, the amendments is ADOPTED. All members present vote AYE. SENS. BRYANT, MILLER, SPRINGER ARE EXCUSED.

139 MOTION: SEN. BAKER: Moves SB 870 AS AMENDED to the Floor with a DO PASS recommendation.

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

vote AYE.

SENS. BRYANT, MILLER, SPRINGER ARE EXCUSED.
Sen. Stull will carry the bill to the Floor.

Closes WORK SESSION on SB 870

180 SEN. HAMBY: Adjourns meeting at 6:07 p.m.

Submitted by, Reviewed by,

DIANE DUSSLER BILL TAYLOR
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Proposed Amendments to HB 2813 - Shirley Stull - 6 pages
B - Testimony on HB 2809 - Michael Reinecke - 2 pages
C - Proposed Amendments to HB 2806 - Jim Arneson - 1 page
D - Testimony on HB 2806 - Jim Arneson - 17 pages
E - Proposed Amendments to HB 2811 - Floyd Prozanski - 1 page
F - Proposed Amendments to HB 2811 - Staff - 3 pages
G - Testimony on HB 2334 - William Johnson - 2 pages
H - Proposed Amendments to HB 2334 - Floyd Prozanski - 3 pages
I - Proposed Amendments to HB 2334 - Ingrid Swenson - 2 pages
J - Proposed Amendments to HB 2137 - Staff - 1 page
K - Proposed Amendments to HB 2137 - Staff - 1 page
L - Proposed Amendments to HB 2137 - Shirley Stull - page
M - Testimony on HB 2137 - Rick Hill - 2 pages
N - Testimony on HB 2137 - Ronald Heintzman - 2 pages
O - Testimony on HB 2883 - Tim Travis - 4 pages