

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
p.m. Tapes 43 - 146

MEMBERS PRESENT:  
SEN. NEIL BRYANT, Chair  
SEN. RANDY MILLER, Vice-Chair  
SEN. KEN BAKER  
SEN. JEANNETTE HAMBY  
SEN. PETER SORENSON  
SEN. SHIRLEY STULL

MEMBER EXCUSED:  
SEN. DICK SPRINGER

STAFF PRESENT:  
BILL TAYLOR, Committee Counsel  
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:  
SB 917 - PUBLIC HEARING  
HB 2163 - PUBLIC HEARING  
HB 2164 - PUBLIC HEARING  
HB 2316 - PUBLIC HEARING  
HB 2596 - PUBLIC HEARING  
HB 2910 - PUBLIC HEARING  
HB 2975 - PUBLIC HEARING  
HB 3023 - PUBLIC HEARING  
SB 401 - WORK SESSION  
HB 2164 - WORK SESSION  
HB 2316 - WORK SESSION  
HB 2596 - WORK SESSION  
HB 2910 - WORK SESSION  
HB 2975 - WORK SESSION  
HB 3023 - 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 143

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

Opens PUBLIC HEARING on HB 2975

WITNESSES: Rep. John Schoon, District 34  
Timothy Travis, Juvenile Rights Project  
Laurie Wimmer, Commission for Women

010 REP. JOHN SCHOON, District 34: Testifies in support of HB 2975.

030 CHAIR BRYANT: This will go to Ways and Means.

064 TIMOTHY TRAVIS, Juvenile Rights Project: Testifies on HB 2975.  
Expresses concern with line 16, page 1, and line 15, page 2.  
080 - suggests perpetrator be over 18 years of age

099 LAURIE WIMMER, Commission for Women: Testifies and submits written  
testimony in support of HB 2975 [EXHIBIT A].

115 VIETTA HELMLE, Director, Women's Crisis Service, Legislative Chairperson  
of Coalition Against Domestic, Sexual Violence: Testifies in support of HB  
2975.

Closes PUBLIC HEARING on HB 2975

Opens PUBLIC HEARING on SB 917

WITNESSES: Sen. Ron Cease, District 10

140 SEN. RON CEASE, District 10: Testifies in support of HB 917.  
150 - discusses HB 2316  
180 - explains proposed amendments [EXHIBIT B]

Closes PUBLIC HEARING on SB 917

Opens PUBLIC HEARING on HB 2316

WITNESSES: Rep. Kevin Mannix, District 32  
Rep. Floyd Prozanski, District 40  
Robert Atkinson, Assistant Attorney General, Department of Justice  
Russ Lipetzky, Family and Juvenile Law Section, Oregon State Bar

John Tapp  
Laurie Wimmer, Commission for Women  
David Fidanque, Executive Director, American Civil Liberties Union  
Vietta Helmle, Oregon Coalition Against Domestic, Sexual Violence

200 REP. KEVIN MANNIX, District 32: Expresses support for HB 2316-A9  
proposed amendment.  
260 - suggests proceeding with HB 2316-A11

277 REP. FLOYD PROZANSKI, District 40: Testifies in support of HB 2316  
[EXHIBIT C].  
289 - suggests removal of police protective order  
320 - suggests removal of bad faith language

349 SEN. SORENSON: Asks for clarification on what is to be removed.

356 REP. MANNIX: The key is the opportunity to offer a citation on the  
spot.

393 REP. PROZANSKI: The dash 11 amendments seem to be appropriate.

411 ROBERT ATKINSON, Assistant Attorney General, Appellate Division  
Department of Justice: Testifies in support of HB 2316.  
420 - discusses telephonic harassment  
450 - All amendments add reasonable requirements to the speech related  
elements only

TAPE 144, A

057 RUSS LIPETZKY, Family and Juvenile Law Section, Oregon State Bar:  
Testifies on HB 2316 [EXHIBIT D].  
082 - has procedures to immediately obtain stalking order upon showing  
probable cause  
110 - suggests SB 78 page 1, line 4 through page 2, line 8 replace page 6,  
line 27 through page 7, line 25 of HB 2316

120 CHAIR BRYANT: Refers to page 6, sub 2 to compare to language of SB 78.

130 REP. MANNIX: Refers to language on page 6.

164 LIPETZKY: Expresses concern over date being expressed in hearing order.

182 JOHN TAPP: Testifies and submits written testimony in opposition to HB  
2316 [EXHIBIT E].  
222 - believes too many people are being charged under stalking bill  
254 - nothing in the bill pertains to damage to property

300 LAURIE WIMMER, Commission for Women: Testifies and submits written  
testimony in support of HB 2316 [EXHIBIT F].

335 DAVID FIDANQUE, Executive Director, ACLU: Testifies on HB 2316.  
366 - supports taking out bad faith language  
381 - suggests moving bill without All amendments

427 VIETTA HELMLE, Oregon Coalition Against Domestic and Sexual Violence:  
Testifies and submits written testimony in support on HB 2316 [EXHIBIT G].  
440 - suggests getting rid of bad faith language

467 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Testifies on  
HB 2316. Expresses concerns with bill.

TAPE 143, B

060 - discusses phrase "reasonable apprehension regarding personal safety of  
victim"

084 CHAIR BRYANT: Can you address coming into the visual contact, Mr.  
Atkinson.

086 ATKINSON: Responds to Chair Bryant's inquiry on visual contact.  
130 - responds to Mr. Taylor's inquiry on someone standing outside as we may  
be able to prosecute them for their presence.

153 REP. MANNIX: Expresses concern with definition of stalking in All  
amendments.

192 ATKINSON: Fears that without All amendments imminent harm will be too  
hard to prove.

Closes PUBLIC HEARING on HB 2316

Opens PUBLIC HEARING on HB 3023

WITNESSES: Rep. Floyd Prozanski, District 40  
Charles Ryer, Assistant Director, Department of Youth Services, Lane County

Vic Mann, Lieutenant, Department of Public Safety, Eugene, Oregon  
Timothy Travis, Juvenile Rights Project

265 REP. PROZANSKI, District 40: Testifies in support of HB 3023. Explains  
bills.

290 CHARLES RYER, Assistant Director, Department of Youth Services, Lane  
County: Testifies in support of HB 3023.

323 - municipal court in Eugene has options of fines or community service

335 VIC MANN, Lieutenant, Department of Public Safety, Eugene, Oregon:  
Testifies in support of HB 3023 [EXHIBITS H & I].

350 SEN. BAKER: Not all communities in Oregon have municipal courts, so  
bill only affects cities.

375 REP. PROZANSKI: Intent was an attempt to make it available to higher  
volume areas.

430 - responds to Sen. Hamby's inquiry on the consideration of other  
ordinances as we were trying to deal with what we thought we could  
control, such as property misdemeanors.

450 SEN. HAMBY: Were you concerned with individuals not being eligible for  
appointed counsel?

460 REP. PROZANSKI: Responds to Sen. Hamby's inquiry on being concerned  
with individuals not being eligible for appointed counsel.

TAPE 144, B

045 SEN. SORENSON: What is your opinion of broadening this to include  
justice courts?

050 REP. PROZANSKI: Responds to Sen. Sorenson's inquiry of including  
justice courts as I have no objection to that as long as it is has the  
court's agreement and is optional.

125 TIMOTHY TRAVIS, Juvenile Rights Project: Testifies in opposition to HB  
3023 [EXHIBIT J].

150 - expresses concerns with constitutional rights, and double jeopardy  
200 - discusses automatic waivers

240 CHAIR BRYANT: Dealing with any disposition, would that be appropriate  
for line 25, and how would you clarify that?

244 TRAVIS: I would suggest "impose any disposition available to the court  
under the ORS".

270 SEN. SORENSON: Discusses ways to eliminate double jeopardy.

300 TRAVIS: Relates how need for option of juvenile court assistance may  
occur in the middle of a juvenile mischief case.

Closes PUBLIC HEARING on HB 3023

Opens WORK SESSION on SB 401

WITNESSES: John Penn, Deputy Director, Department of Corrections  
Suzanne Townsend, Assistant Attorney General, Department of Justice

353 JOHN PENN, Deputy Director, Department of Corrections: Testifies and  
submits proposed amendments in support of SB 401 [EXHIBIT K].

380 - proposes to rent beds while we are building  
385 - available empty beds are in private prisons out of state  
400 - suggests delete "within this or" Section 2, subsection 1, line 5  
402 - suggests delete "whether located within this or" Section 3, line 7

423 SUZANNE TOWNSEND, Assistant Attorney General, Department of Justice:  
Responds to Sen. Baker's inquiry on reciprocal agreements.

430 SEN. SORENSON: Discusses inmate capacity problem in the state.

450 PENN: Responds to Sen. Sorenson's inquiry on inmate capacity.

TAPE 145, A

058 SEN. MILLER: Are you confident that private facilities will be  
satisfactory?

063 PENN: Responds to Sen. Miller's inquiry on private facilities.

088 TOWNSEND: Responds to Sen. Stull's inquiry on inmates rights and  
privileges.

097 MOTION: CHAIR BRYANT: Moves to ADOPT SB 401-1 amendments with the  
deletion of "within this or" in Section 2 and "whether located within this  
or" in Section 3.

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

107 SEN. SORENSON: Discusses putting a sunset on this bill.

129 MOTION: CHAIR BRYANT: Moves to send SB 401 AS AMENDED to the Floor with

a DO PASS recommendation.

131 VOTE: 5 - 1 MOTION CARRIES  
AYE: Baker, Bryant, Hamby, Miller, Stull  
NAY: Sorenson  
Sen. Baker will carry the bill to the Floor.

Closes WORK SESSION on SB 401

Opens PUBLIC HEARING on HB 2164

WITNESSES: Larry Lewman, MD, Oregon State Medical Examiner  
Jim Willis, Major, Oregon State Police  
Fred Avera, Polk County District Attorney

164 LARRY LEWMAN, MD, Oregon State Medical Examiner: Testifies and submits  
written testimony in support of HB 2164 [EXHIBITS M, N & O].  
195 - task force recommends placing the medical examiner's office with a  
public safety agency

215 CHAIR BRYANT: This bill will go to Ways and Means; it has a subsequent  
referral. I presume there is no opposition to the proposed amendment  
attached to Mr. Swank's testimony.

220 JIM WILLIS, Major, Oregon State Police: Indicates that he is in  
agreement in response to Chair Bryant's inquiry.

235 SEN. MILLER: I'm not in favor expanding the size of the board.

241 LEWMAN: Indicates expansion of the board was the suggestion of the task

force in response to Chair Bryant's inquiry.

260 - indicates a dinner, 3 to 4 times a year, in response to Chair Bryant's  
inquiry on adding members

270 FRED AVERA, Polk County District Attorney: I'm a member and I receive  
mileage and a few meals a year.

335 CHAIR BRYANT: Sen. Miller is suggesting having 8 members as before:  
deleting I, J, and b.

Closes PUBLIC HEARING on HB 2164

Opens WORK SESSION on HB 2164

360 MOTION: SEN. MILLER: Moves to ADOPT an amendment to HB 2164 to reduce  
the board members from 10 to 8 on page 3, delete lines 23-27,  
corresponding language in lines 31-32, and any other conforming language.

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

379 MOTION: SEN. MILLER: Moves HB 2164 AS AMENDED be sent to the Floor with  
a DO PASS recommendation.

381 VOTE: Hearing no objections, the motion CARRIES. All members present  
vote AYE. SEN. SORENSON IS EXCUSED.

Closes WORK SESSION on HB 2164

Opens WORK SESSION on HB 2316

WITNESS: Rep. Kevin Mannix, District 32

400 REP. MANNIX: Discusses Moel case which was a free speech case involving

harassment.

415 - explains bill deals with repeated stalking conduct  
420 - language is "objectively reasonable" which another person agrees is  
reasonable  
445 - indicates a conference hearing is a possibility on this

TAPE 146, A

025 MOTION: SEN. BRYANT: Moves to ADOPT HB 2316-9 amendments.

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

028 TAYLOR: Refers to SB 78, deleting lines 42-44 on page 6, deleting lines  
1-11 on page 7, and inserting lines 19-27.

050 MOTION: CHAIR BRYANT: Moves to ADOPT the amendment from SB 78: deleting  
lines 42-44 on page 6, deleting lines 1-11 on page 7, and inserting lines  
19-27.

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

052 MOTION: CHAIR BRYANT: Moves HB 2316 AS AMENDED be sent to the Floor with  
a DO PASS recommendation.

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

SEN. SORENSON IS EXCUSED. Sen. Cease will carry the bill to the Floor.

Closes WORK SESSION on HB 2316

Opens PUBLIC HEARING on HB 2975

WITNESS: Jim Arneson, Oregon Criminal Defense Lawyer's Association

065 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Suggests  
lines 9-11 be re-labeled as harassment with 2 degrees of harassment.

Closes PUBLIC HEARING on HB 2975

Opens WORK SESSION on HB 2975

075 TAYLOR: Mr. Travis has submitted amendments adding language after victim "and the assailant is over 18 years of age" on page 1, line 17.

080 MOTION: CHAIR BRYANT: Moves to ADOPT amendments to HB 2975 by adding on page 1, line 17, after victim "and the assailant is over 18 years of age".

082 VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SENS. HAMBY, SORENSON ARE EXCUSED.

090 TAYLOR: Explains Mr. Arneson's conceptual amendment.

131 MOTION: CHAIR BRYANT: Moves to ADOPT a conceptual amendment to HB 2975 by re-labeling lines 9-11 as harassment with two degrees of harassment.

132 VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SENS. HAMBY, SORENSON ARE EXCUSED.

133 MOTION CHAIR BRYANT: Moves HB 2975 AS AMENDED to the Floor with a DO PASS recommendation.

135 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE. SENS. HAMBY, SORENSON ARE EXCUSED. Sen. Stull will carry the bill to the Floor.

Closes WORK SESSION on HB 2975

Opens PUBLIC HEARING on HB 2596

WITNESS: John Greisen, Portland Police Bureau

140 JOHN GREISEN, Portland Police Bureau: Testifies and submits written testimony in support of HB 2596 [EXHIBITS Q & R ].  
190 - continues

Closes PUBLIC HEARING on HB 2596

Opens WORK SESSION on HB 2596

200 MOTION: SEN. HAMBY: Moves HB 2596 be sent to the Floor with a DO PASS recommendation.

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

Closes WORK SESSION on HB 2596

Opens PUBLIC HEARING on HB 2910

WITNESS: Ella Mendoza, Oregon Legal Services  
Russ Lipetzky, Family and Juvenile Law Section, Oregon State Bar

240 ELLA MENDOZA, Oregon Legal Services: Testifies and submits written testimony in support of HB 2910 [EXHIBIT S].

270 CHAIR BRYANT: We have two proposed amendments. Kingsley Click suggests adding the phrase "or as soon thereafter as practical" [EXHIBIT U]. Judge Madison suggests adding "but not later than 21 days after receipt of the request for hearing [EXHIBIT T].

281 MENDOZA: In response to Chair Bryant's inquiry on the proposed changes states that 14 days is the smallest amount of time for court houses to meet and 21 days is reasonable in most counties.

300 RUSS LIPETZKY, Family and Juvenile Law Section, Oregon State Bar: Testifies in support of HB 2910. Share concerns with leaving time frame to court.

Closes PUBLIC HEARING on HB 2910

Opens WORK SESSION on HB 2910

310 MOTION: CHAIR BRYANT: Moves to ADOPT an amendment to HB 2910 adding, "if practical the court shall hold a hearing within 14 days but no later than 21 days after receipt of the request for the hearing" to page 2, line 7.

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

330 MOTION: SEN. HAMBY: Moves HB 2910 AS AMENDED be sent to the Floor with a DO PASS recommendation.

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

Closes WORK SESSION on HB 2910

Opens WORK SESSION on HB 3023

350 MOTION: CHAIR BRYANT: Moves to ADOPT the hand engrossed amendments to HB  
3023 to Section 1, (3), (b). [EXHIBIT V]

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

357 MOTION: SEN. HAMBY: Moves HB 3023 AS AMENDED be sent to the Floor with  
a DO PASS recommendation.

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

SEN. SORENSON IS EXCUSED. Sen. Sorenson will carry the bill to the

Floor.

Closes WORK SESSION on HB 3023

Opens PUBLIC HEARING on HB 2163

WITNESSES: Steve Doell  
John Bradley, First Assistant to the District Attorney, Multnomah County  
Jim Arneson, Oregon Criminal Defense Lawyer's Association  
Bill Mason  
Linda Batty

380 CHAIR BRYANT: This bill will go to Government Finance and Tax. We  
have been given changes that are quite different from the bill. The  
amendments are from Sen. Stull [EXHIBIT W].

420 STEVE DOELL: Testifies in support of HB 2163. Relates murder of  
daughter Lisa, who was killed in hit and run case.  
450 - when jury comes to an impasse they can debate lesser charges  
460 - asked Multnomah County District Attorney to draft bill

TAPE 145, B

040 JOHN BRADLEY, First Assistant to the District Attorney, Multnomah  
County: Testifies in support of HB 2163.

070 - amendment will allow jury to go to the second offense if they can't  
decide offender is guilty on the first [EXHIBIT X]

103 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Testifies  
on HB 2163.

- explains how association selects bills to testify on  
150 - relates State Vs Odgen case and decision

200 BILL MASON: Testifies and submits written testimony in support of HB  
2163 [EXHIBIT Y].

240 - juries don't get same instructions

250 LINDA BATTY: Testifies in support of HB 2163.

Closes PUBLIC HEARING on HB 2163

268 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 HB 2975 - Laurie Wimmer - 3 pages  
B - Proposed Amendments to HB 2316 - Staff - 10 pages  
C - Testimony on HB 2316 - Floyd Prozanski - 8 pages  
D - Testimony on HB 2316 - Russ Lipetzky - 3 pages  
E - Testimony on HB 2316 - John Tapp - 14 pages  
F - Testimony on HB 2316 - Laurie Wimmer - 1 page  
G - Testimony on HB 2316 - Vietta Helmle - 1 page  
H - Testimony on HB 3023 - Floyd Prozanski - 1 page  
I - Testimony on HB 3023 - Vic Mann - 1 page  
J - Testimony on HB 3023 - Tim Travis - 4 pages  
K - Proposed Amendments to SB 401 - Staff - 1 page  
L - Proposed Amendments to SB 401 - Staff - 2 pages  
M - Testimony on HB 2164 - Bradd Swank - 3 pages  
N - Testimony on HB 2164 - Larry Lewman - 5 pages  
O - Testimony on HB 2164 - Larry Lewman - 1 page  
P - Testimony on HB 2975 - Vietta Helmle - 22 pages  
Q - Testimony on HB 2596 - John Greisen - 3 pages  
R - Testimony on HB 2596 - John Greisen - 1 page  
S - Testimony on HB 2910 - Ellen Mendoza - 5 pages  
T - Testimony on HB 2910 - Peter Sorenson - 1 page  
U - Testimony on HB 2910 - Kingsley Click - 5 pages  
V - Testimony on HB 3023 - Floyd Prozanski - 2 pages  
W - Proposed Amendments to HB 2163 - Staff - 2 pages  
X - Proposed Amendments to HB 2163 - Staff - 1 page  
Y - Testimony on HB 2163 - William Mason - 2 pages  
Z - Testimony on HB 2163 - Staff - 7 pages