

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL
ADMINISTRATION

April 22, 1993 Hearing Room 357 1:00 p.m. Tapes 83 - 86

MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Ken Baker

Rep. Jim Edmunson Rep. Tom Mason

STAFF PRESENT: Carole Souvenir, Committee Counsel Holly
Robinson, Committee Counsel Sarah May, Committee Clerk

VISITING MEMBERS: Rep. Courtney Rep. Tiernan Rep. Parks

MEASURES CONSIDERED: HB 3066 - Relating to minors HB 2994 -
Relating to juveniles HB 2517 - Not Heard HB 3011 - Not Heard

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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. [--- Unable To Translate
Graphic ---]

TAPE 83, SIDE A

004 CHAIR BRIAN: Calls meeting to order at 1:16 P.M.

HB 3066 - WORK SESSION

Witnesses: Rep. Lisa Naito, District 15 Dan McCulloch, Seventh
Day Adventist Lloyd Athearn, Legislative Liaison for Health Division Tom
Johnson, Administrator for Health Divisions Jim Carlson, Oregon Medical
Association Brenda Niblock, American Lung Association

(HB 3006 would prohibit smoking in public places with certain
exceptions. EXHIBIT A, EXHIBIT B, EXHIBIT C)

046 REP. NAITO: Testifies in support of amendments to 3066.
Consider removing that exception of non-smoking in public places
provisions.

Cites examples of mall stores.

059 CHAIR BRIAN: Exception was there for small businesses that
comprise most of the employment in the state, owner operated business.
HB 3066

without this exception would not allow smoking in their own business in
their home.

067 REP. NAITO: Agree's

071 REP. BAKER: How would you feel if they were employing fewer than five full-time employees?

075 REP. NAITO: The issue in my mind is ventilation issue. Some premises linked up with larger facility. Not worried about smaller businesses

with own ventilation.

083 REP. EDMUNSON: Should it matter if the public is admitted to the premises? Very few employees, but a great number of customers. Danger

not only to employees.

091 REP. NAITO: That ultimately should be the test. Some are open to the public and some aren't.

098 DAN MCCULLOCH, SEVENTH DAY ADVENTIST: Supports amendments to HB 3066. Concern for young people, tobacco use, and availability. Publish

temperance magazine called, "Listen".

127 LLOYD ATHEARN, LEGISLATIVE LIAISON FOR HEALTH DIVISION: Testifies in support of amendments to HB 3066. Concerned about environmental tobacco smoke and health hazards to public.

149 TOM JOHNSON, ASSISTANT ADMINISTRATOR FOR HEALTH DIVISION: Testifies in support of amendments to HB 3066. Health Division would be the ones

enforcing the provisions of this amendment. Testifies in support of amendments to 3066. There would be a 1-2 year time that we would need about 1 FTE to go out and help people implement provision, then we would drop back to standard.

167 CHAIR BRIAN: What would you estimate in terms of making signs available? Any idea of the cost?

169 JOHNSON: \$110,000 over the next biennium.

172 CHAIR BRIAN: Why wouldn't you have an on-going enforcement cost?

173 JOHNSON: We would hope that during the two year period that people would be accustomed, that we would get to those people who do need to

have it explained, that they do need to comply. With existing resources now, on-going enforcement, it would not require an on-going position.

180 CHAIR BRIAN: How is it currently enforced? 182 JOHNSON: At present, we have no single position to answer questions. It has dropped back to periodic calls, but we are sure that if this bill goes into effect there will be a big bulge of people with questions.

192 CHAIR BRIAN: What is the enforcement action that you would contemplate taking?

193 JOHNSON: It calls for penalties to be imposed. We would find that there were situations of violations of the statutes, it would be our

responsibility to issue fines.

211 CHAIR BRIAN: Is any of your enforcement capability now currently a misdemeanor under the Clean-Air Act?

213 JOHNSON: I'm not sure that it is a misdemeanor under the current act. I believe that it is a civil penalty.

222 CAROLE SOUVENIR, COMMITTEE COUNSEL: The penalty part is being amended under the -2 amendments. It gives Health Division authority to enforce

penalties under ORS 433.850. Violation is punishable with no more than \$100, in a 30 day period.

234 CHAIR BRIAN: So this is not an increase in a misdemeanor type activity?

236 CAROL SOUVENIR, COMMITTEE COUNSEL: No, all it did was tie in the amendments to the current penalty procedures that are already outlined

in the Indoor Clean-Air Act.

239 REP. BAKER: If I understand right, the maximum penalty is \$100? Within any 30 day period.

240 CAROL SOUVENIR, COMMITTEE COUNSEL: For a violation of ORS 433.850.

241 CHAIR BRIAN: Are the references to the misdemeanors then pertaining to something other than the smoking areas?

244 CAROLE SOUVENIR, COMMITTEE COUNSEL: Right, that does not refer to ORS 433.850. It is a different part of that chapter. Exhibit B.

252 REP. EDMUNSON: Questions exceptions in the Clean-Air Acts.

258 JOHNSON: No there is not.

259 EDMUNSON: Basically Health Law applies regardless of size of the work force?

260 JOHNSON: That's correct.

267 JIM CARLSON, OREGON MEDICAL ASSOCIATION: Testifies in support of HB 3006-2 amendments. It updates Oregon Clean-Air Act. Comparing aSB estos

to smoking. With businesses of fewer than 10 employees, we don't have

laws saying you can expose people to aSB estos. Should have similar exemption that if you expose something, it is the same Class A equivalent.

308 BRENDA NIBLOCK, AMERICAN LUNG ASSOCIATION: Submits written testimony in support of HB 3006-2 amendments. (EXHIBIT D) We need to be concerned

with people with other respiratory health conditions. Recommend ban of any kind of smoking in public place. Refers to section 2, it doesn't deal with second hand smoke. All it does is tell where the people must go to smoke, but the smoke goes other places.

344 CHAIR BRIAN: Would this prohibit sole operator from smoking in their office?

351 CARLSON: If you were willing to propose some language dealing with sole occupancy situations, I think proponents would be willing to sit down

and look at those and be supportive. Publicly accessible areas is what we are worried about.

371 REP. MASON: Would this non-smoking in the work place apply to your office?

376 Carlson: OMA's entire office is smoke free. The people that choose to use tobacco products have to leave the building. We are trying to deal

with public areas that children have access to.

391 REP. MASON: Under this bill if I had a private dining room, with a private party, they couldn't smoke there could they?

396 Carlson: In the existing Clean-Air act, private dining rooms are exempt. This repeals that exemption, if there is a concern, I would be

willing to take a look at them. Main focus is children who don't chose to be around smoke.

415 CHAIR BRIAN: Can you tell me more about the work place issue?

418 Carlson: SB 760 allows OSHA to come in and regulate environmental tobacco smoke in the work place. The proposed amendments to HB 3006 are relatively modest compared to SB 760.

433 CHAIR BRIAN: Except that this would not allow smoking anywhere in the building except in designated areas.

436 Carlson: Under the proposal in SB 760 smoking would be allowed in offices that are ventilated. That would meet specific

requirements that the smoke would go directly outdoors.

448 CHAIR BRIAN: That bill wouldn't be necessary if this one passes.

449 Carlson: There may be some issues that may need to be resolved. The intent of HB 3006 is clearly different than SB 760. The intent is

getting at areas where children are, and removing the hazards that are presented to children in these public areas.

TAPE 84 SIDE A,

010 NIBLOCK: Need to look at work place issues. We get a lot of calls from people who are powerless to effect the policy in their own work places, and are involuntarily exposed daily to a Class A carcinogen everyday.

They do have the right to leave that job, but in this current time of unemployment it is hard to find another job.

020 CHAIR BRIAN: My point is that there would be no work place in which you could smoke to begin with.

023 Carlson: I don't believe all work places are legally accessible to children under Oregon Law. I don't think you have children hanging out

in work places unless it is a public area.

032 CHAIR BRIAN: In Line 8 & 9, it means any enclosed area except an area by law that is not open to a minor. We would have to look at

specifically what areas are not open to minors, most are licensed premises.

037 Carlson: Agrees, and suggests language be narrowed.

041 REP. EDMUNSON: Your position is an adult only business. If owner of business has posted no children allowed, example toy factory, there's

nothing controversial? Should that premises allow smoking?

051 Carlson: We need to look at worker safety - should be addressed. Are we going to look at strictly limiting this to children, and areas that

are publicly accessible to children, or are we going to get into a broader work place issue?

064 REP. EDMUNSON: The bill relates to minors. The intent is to legislate only in the area of minors. Not make it a work place issue.

079 Carlson: That would be an approach to get us in that direction.

This bill relates to minors, we need to keep our focus on kids.

091 REP. EDMUNSON: Moves to Page 1 of HB 3006-2 amendments, Line 8, the deletion of bold face words, "by law".

097 CHAIR BRIAN: Not open to being what? Readily accessible?

099 REP. MASON: It would read then, "Public place means any enclosed indoor area, except an area that is not open to minors".

106 REP. EDMUNSON: This bill deals with protection of children. All I want to do is protect the children wherever they are. Without getting into

the work place issue, this bill isn't the way to deal with that.

Children are another issue.

123 REP. MASON: Agrees. I think you'll do a lot of harm to existing law. If you combine that (reads from amendment), with all other amendments,

all anyone has to do is put sign outside building no one under 18 is allowed.

139 REP. EDMUNSON: How does this amendment effect other areas of the law?

140 REP. MASON: If you mess with the definition of public place, all you would have to do is ask if you need 18 year old in there. All it takes

is one sign and you're out of this whole thing.

146 CAROL SOUVENIR, COMMITTEE COUNSEL: Line 4 amends ORS 835. Rep. Mason's point is that we are deleting "open to", and "frequented by the public". Conceivably taking out any other place that has to have

designated a non-smoking area.

153 REP. EDMUNSON: Would that be cured by restoring, previous mentioned language?

156 CAROL SOUVENIR, COMMITTEE COUNSEL: Line 17, 18. (Cites wording) You could add a conceptual amendment that would reinstate the requirement

that all public places have to have a designated smoking area, and then have exceptions for areas not open to minors.

172 CAROL SOUVENIR, COMMITTEE COUNSEL: Under current law the person in charge of a public place, may designate areas in which smoking is

permitted. No public place may be designated in its entirety except for list of exceptions. If you are a public place you can designate a

smoking area. HB 3066-2 amendments, take out words.

192 REP. EDMUNSON: What does Section 1 accomplish?

197 REP. EDMUNSON: Add school, consistent with where minors are. What else does it do, why do we put except an area that is not open to minors?

201 CAROLE SOUVENIR, COMMITTEE COUNSEL: The committee was considering whether it wanted to exclude those places that by law are not open to

minors, and make every place where a minor is legally able to go a public place where you cannot allow any smoking area.

207 REP. MASON: If an owner of a private property posts a notice, "No Minors Allowed", that does not qualify as excluded by law?

211 REP. PARKS: A property owner has the right to exclude anyone they want.

213 CHAIR BRIAN: Except for non-discrimination acts.

215 REP. EDMUNSON: Is that discrimination?

217 CHAIR BRIAN: Imagine if the sign said no minors or persons over 50.

219 REP. MASON: You could have the effect of people saying I have to make a choice between adult paying customers or minors. And they are going to

go with adult paying customers. Example: Memorial Coliseum. We added school?

245 REP. EDMUNSON: This bill is to protect kids in areas where they customarily go. I don't want to create a loophole. I might want to

withdraw the amendment and restore language in lines 7, 8- and delete the bold face in Line 8,9. I'm in favor of adding schools.

261 CHAIR BRIAN: Are you going to bring in liquor establishments at that point, so there's also not smoking in licensed premises.

263 REP. BAKER: I'm the one who asked that schools to be there. I think they can be distinct from an educational facility. 267 REP. MASON: You don't think that the language includes school?

268 REP. BAKER: It may not in certain cases. We make sure we get it in, example colleges.

275 Parks: Why did you take the hospital rooms out?

278 REP. EDMUNSON: Problem with educational facilities is in ORS 438 .850. By limiting public places where smoking is permitted, now educational

facilities are not in the list of public places.

293 REP. MASON: What does Section 1 do if we remove it from these amendments?

298 REP. BAKER: It defines who a minor is.

298 REP. EDMUNSON: Is there any legal doubt who a minor is?

304 REP. MASON: Why is hospitals back in here?

306 CHAIR BRIAN: Originally hospitals were listed in the rough draft, then ORS 815. already outlines how hospitals are treated, and the limited

conditions in which smoking can occur in a hospital.

320 REP. MASON: What does this do with the existing ORS 441.815?

327 CHAIR BRIAN: It broadens it to health care.

328 REP. MASON: This bill would allow more smoking in health care facilities?

329 CHAIR BRIAN: It would bring more health care facilities into regulation in addition to hospitals.

342 CHAIR BRIAN: Nursing homes are not currently covered? How is this different from current law?

343 REP. MASON: Are they exempt from the Clean-Air Act?

354 CAROL SOUVENIR, COMMITTEE COUNSEL: Current statute deals with hospitals. Hospitals facilities that are actually peoples homes,

hospitals are also included. Nursing homes under Oregon law don't really exist. That's why this includes higher facilities.

388 REP. MASON: Why is hospital in here?

391 CHAIR BRIAN: In the original amendment, hospitals were listed as outright prohibition. How is it treated with specific examples?

Counsel showed ORS 441.815 that regulated hospitals.

416 REP. BAKER: We have people in voluntary situations that are patients, not staff. They could designate smoking wing, etc. 423 REP. MASON: All other public places would be prohibited from having people smoke. But hospitals could still have designated places to have people smoke?

433 REP. BAKER: Because of the involuntary nature of the time of residence while recuperating.

TAPE 83 SIDE B,

004 REP. MASON: The administrator of hospital should designate reasonable areas in lobbies and waiting rooms where smoking is not permitted.

Implication means they can designate areas where smoking is permitted in lobbies.

016 REP. MASON: Could the employees of that hospital smoke in those areas? The employees of the hospital would have more opportunity to smoke

inside the hospital than employees of other public facilities.

021 REP. BAKER: The administrator shall designate areas where smoking is not permitted.

024 REP. MASON: If they designate areas where smoking is not permitted the converse is that smoking is permitted.

025 REP. BAKER: This proposed amendment would effectively negate that, so there is no converse.

027 REP. MASON: It does negate it except when the proposed amendment says, (cites amendment). You have the administrator of a hospital

establishing a smoking area in a hospital.

035 REP. BAKER: The intent would be to make it available only for patients, and not for staff. No contradiction.

038 REP. MASON: Smoking area in hospital designated only for patients.

045 REP. EDMUNSON: Motion withdrawal, move conceptual amendment. Definition of minor. Line 7-14, should leave law how it is. Discusses

exceptions and additions.

072 REP. BAKER: Would that include liquor stores, pot shops?

073 CHAIR BRIAN: Trades or services that can't be purchased by minors.

073 REP. EDMUNSON: Where a minor can not make a sale, you could designate smoking. Some flexibility.

079 CHAIR BRIAN: What does this do to work place in general?

080 REP. EDMUNSON: An office building can't be said to be, they could designate a place.

086 REP. MASON: I don't want to make this a work place issue. This needs to deal with retail establishments where the public is engaged in trade. That is, where the smoking should be prohibited except for those areas

where minors are not purchasing.

095 CAROLE SOUVENIR, COMMITTEE COUNSEL: A factory for example, they don't sell machine parts to minors, so they could still smoke in the factory?

105 REP. EDMUNSON: We are going to restrict smoking in areas where children are likely to be. Not the work place. Let counsel devise the language.

122 REP. MASON: How do you enforce where minors are likely to be?

127 REP. EDMUNSON: Smoking will be allowed where minors are not likely to be. Includes all alcohol establishments, etc.

133 REP. MASON: If you don't want people smoking in your place of business, just say you don't sell anything to minors.

136 REP. EDMUNSON: Where will that business be?

137 REP. MASON: A gun store.

142 REP. EDMUNSON: If all they sell is guns and ammunition, then that is consistent. Record store that thinks they can survive without kids

trade, let them smoke.

147 REP. MASON: I don't frequently see a lot of boys in the Men's department of Nordstrom. I think that is a direction to be proposed to

this committee.

161 REP. EDMUNSON: That would be a step in direction we need to go with tobacco policy. Give some suggestions to counsel to work on and bring

back to us.

174 CHAIR BRIAN: Walk through what the concept is.

180 CAROL SOUVENIR, COMMITTEE COUNSEL: We will leave in the language defining minor, and restore language presently deleted, with exception

of adding schools.

184 REP. BAKER: I'd like to add schools.

185 CAROLE SOUVENIR, COMMITTEE COUNSEL: Delete all language, and make single paragraph, designating those businesses or trade that are engaged in services or products that cannot be sold to minors.

193 REP. EDMUNSON: Address point of Rep. Mason's of arbitrary designation of an area to circumvent the law, by having specific specialized

children or adult stores.

199 REP. BAKER: Would we still have to retain cocktail lounges, retail businesses engaged in tobacco trade, and new language we were

talking

about?

202 CHAIR BRIAN: Intent would be if there is a business operating where a minor cannot go and purchase goods they would not be covered by this?

206 REP. EDMUNSON: Purchase or engage in trade.

211 CHAIR BRIAN: What about hotel rooms?

214 REP. BAKER: No, excluded.

216 CHAIR BRIAN: If you get where they are not engaged in services, minors can rent motel rooms, so they would be covered.

219 REP. EDMUNSON: Hotel rooms should be treated the same as a rental unit.

223 CHAIR BRIAN: Reference it as transient lodging.

227 CHAIR BRIAN: The hospital health care issue?

235 REP. BAKER: Is the hotel with transient lodging the same as a hospital room?

238 CAROL SOUVENIR, COMMITTEE COUNSEL: Can we use the word "rooms"?

243 REP. MASON: The hospitals were exempted out from the first Clean-Air Act.

253 CHAIR BRIAN: Do we or do not include hospitals and other health care facilities? They provide services to children.

260 REP. EDMUNSON: What would your reaction be, Rep. Mason, to leaving ORS 441.835 as statute governing hospitals?

262 REP. MASON: I think it's outrageous the exception it has now.

265 CHAIR BRIAN: We could propose in the next amendment to delete those.

268 REP. EDMUNSON: This deals with minors.

272 REP. MASON: Minors can go in any part of the hospital.

274 REP. EDMUNSON: Then this bill is appropriate to deal with it. It is a stand-alone issue.

279 CHAIR BRIAN: Have a separate amendment on health care facilities.

286 REP. EDMUNSON: Conceptual amendment restore the language that is the exception for health care facility.

296 CAROLE SOUVENIR, COMMITTEE COUNSEL: You would want to amend 441.815?

300 CHAIR BRIAN: That would also include health care facilities.
Limit this to full time, or sole occupant.

306 REP. BAKER: Eliminate it.

307 REP. EDMUNSON: Shouldn't make distinction.

310 CHAIR BRIAN: Even for sole occupant?

311 REP. BAKER: Sole occupant in mall with common ventilation,
aggravating problems.

HB 2994 - PUBLIC HEARING

Requires that juveniles 16 years of age and older who are charged with
murder or aggravated murder, assault I, and rape I be remanded to adult
court.

Witnesses: Sen. Paul Phillips, District 4 Collen Doell, Citizen Steve
Doell, Citizen Don Walters, Citizen Mark McDonald, Deputy District
Attorney Howard Clank, Multnomah County Bill Morris, Multnomah County
Juvenile Justice Bill Fogarty, Multnomah County Juvenile Justice Tim
Travis, Juvenile Rights Project

337 SEN. PAUL PHILLIPS, DISTRICT 4: Testifies in support of HB 2994.
This would increase states ability of control over violent use.
Recognize as society how much some of these young offenders, how much
damage they do, and how violent their crimes are. These are very
serious crimes:

murder, attempted murder, aggravated murder, first degree assault, first
degree rape.

425 COLLEEN DOELL, CITIZEN: Testifies and submits written
testimony in support of HB 2994. (EXHIBIT E)

TAPE 84 SIDE B,

100 STEVE DOELL, CITIZEN: Reads off of sam testimony as Mrs.
Doell. (EXHIBIT E)

216 DON WALTERS, CITIZEN: Submits and reviews written testimony.
(EXHIBIT F)

315 MARK MCDONALD, DEPUTY DISTRICT ATTORNEY: Submits and reviews
written testimony. (EXHIBIT G & H)

TAPE 85 SIDE A,

006 REP. BAKER: Continuous information after pg. 21, do you know where
that is in the bill?

007 MCDONALD: If they are remanded to the adult system, first
go to training school, if convicted before 18th birthday, and can remain
there if they are in treatment program, and not disciplinary problem.
Would

not change this bill.

014 REP. BAKER: Under supervision after age 21, is in adult court system.

015 MCDONALD: Yes, first go to state training school, if before 18, would remain there until 21st birthday provided in treatment and not

disciplinary problem.

018 REP. BAKER: This bill makes automatic remand at 16 for Class A and B Felonies, and certain C Felonies.

020 MCDONALD: Automatic remand in this bill would apply to: murder, aggravated murder, attempted murder, assault in first degree, first

degree rape by forcible compulsion. Other A and B Felonies would remain under discretionary scheme that currently exists.

028 CHAIR BRIAN: Current laws change existing scheme. Amendments would restore existing scheme for five felonies previously mentioned.

044 REP. EDMUNSON: How many times are people being remanded?

050 MCDONALD: Multnomah County District office instituted a new remand policy. Would attempt to remand any individual 15 or over, that commits Class A or B Felony, with use of firearm. In 1992, we filed 50 remand

motions, withdrew 13 motions prior to hearing. Those 37 remaining approximately 60% were successful.

063 REP. EDMUNSON: Might we inadvertently create a situation were a juvenile committed offense, lacked capacity but fit age, be forced into an adult court were could be acquitted and not held accountable in any

way?

075 McDonald: We have been faced with that situation. Gives example of intent to kill. There was concern that he would automatically be found

not guilty in juvenile system and no jurisdiction. There are some advantages of them being remanded under current law, if found not guilty by reason of insanity, he would become under jurisdiction of psychiatric review board. No such system for juveniles. Some advantages in having individual treated as adult would be easier to get them under supervision of psychiatric board.

098 REP. EDMUNSON: Will jury be kind because of "tender years"? Charge with lessor offense and keep in juvenile system?

114 McDonald: Jurors understand real world and juvenile offenses. But they take their jobs very seriously and facts will rule their decisions.

other jurisdictions similar to this bill.

147 REP. EDMUNSON: Under proposed bill there is still prosecutorial discretion in the charging. For juvenile you have discretion of

treating less serious than it is, to not take it into an adult court.

154 McDonald: It is there obligation to fulfill the law.

162 CHAIR BRIAN: We will not be holding a Public Hearing on HB 2517, or HB 3011.

181 HOWARD CLANK, LEGISLATIVE LIAISON FOR MULTNOMAH COUNTY JUVENILE JUSTICE: Submits and reviews written testimony by LINDA BERGMAN in opposition to HB 2994. (EXHIBIT I).

206 REP. EDMUNSON: It doesn't make the juvenile remand system look very good.

210 CHAIR BRIAN: The letter has some factual inaccuracies.

212 BILL MORRIS, MULTNOMAH COUNTY JUVENILE JUSTICE: HB 2994 probably touches between 50 and 100 kids on the remand. What fails in this law

is that we do not look at each child individually. We look at age, charge, and sophistication. Counselors spend between 12-30 hours on these remands. Juveniles don't fit in, in the adult court and is management problem.

268 REP. EDMUNSON: Does your agency recommend whether there should be a remand?

269 Morris: Yes.

270 REP. EDMUNSON: Did you make a remand for specific cases?

276 Morris: Kids that come back to juvenile think they are too sophisticated. I don't believe that remand addresses issues of

community protection.

329 BILL FOGARTY, MULTNOMAH COUNTY JUVENILE JUSTICE: I would like to reiterate the seriousness in which we approach remands. Committed to

community protection. Judge required to make determination of which of these systems are best able to provide public with protection.

347 CHAIR BRIAN: The courts first responsibility is to well being of child.

352 FOGARTY: Balance between best interest of child and best

interest of community protection. 58% of juveniles do not show up in adult system.

We are considering automatic remand to place some juvenile offenders in system not designed to treat young people, but to hold individuals.

Community protection best served by identifying offenders who can be treated.

435 CHAIR BRIAN: I've opposed automatic remand. The time has come to focus on justice. Not talking about treatment, talking about people who

intentionally murder, aggravated murder, first degree rape with compulsion. Attempted murder? These are not juvenile mistakes, serious, I don't care about treatment, they have ruined peoples lives.

This is intentional.

TAPE 86, SIDE A

029 TIM TRAVIS, JUVENILE RIGHTS PROJECT: Testifies and submits written testimony of his own and MURIEL GOLDMAN. (EXHIBITS J, and K). I

represent children who are remanded. Automatic remands aren't going to solve the problem.

066 CHAIR BRIAN: What do you consider solving? 067 TRAVIS: Preventing kids from driving down 12 year old girls. Problem won't be solved by automatic remand.

068 CHAIR BRIAN: Why shouldn't we just punish them?

072 TRAVIS: Not everyone who kills with automobile is same person.

073 CHAIR BRIAN: They wouldn't be up for murder if it happened in a different state of mind, accidentally.

076 TRAVIS: Have represented children who were accused of rape in first degree. One has been convicted of rape in first degree. All the rest

have been charged with lesser charge.

101 CHAIR BRIAN: How is his victim doing?

102 Travis: It is essential that you need to think about rehabilitation. They will be back with untreated problems and there will be more victims later.

118 CHAIR BRIAN: You are hoping that in limited time, that treatment will help the offender.

121 TRAVIS: My personal change of the remand would be to hold a remanded child until age 25.

127 CHAIR BRIAN: They can't stay at McClaren until age 25, problems would arise.

129 TRAVIS: Recommendations will be against holding in juvenile facility.

151 REP. EDMUNSON: This bill will emerge in some form. I want best bill possible that fits within limits that our society has in this correction system. I don't see age distinction means a lot. We draw a lot of

lines on age. Doesn't necessarily mean anything.

221 MCDONALD: If they are found guilty on lesser offense there could be a post trial hearing by court to send back to juvenile system. There is

provision in law, found guilty on lesser offense, it's a discretionary offense they can be remanded on, they stay in adult system.

246 REP. EDMUNSON: With recently adolescent people, a case could be made.

249 MCDONALD: I've seen cases with voluntary intoxication, it was a bases for EED.

256 REP. EDMUNSON: Would availability of treatment in juvenile system be there?

263 MCDONALD: If they were found guilty of a lessor offense, it was a remandable offense, the court could then hold a post trial hearing.

266 REP. BAKER: The court has the decision rather on sentencing to go back in juvenile system or to go through matrix?

267 TRAVIS: Your back to what you were trying to get away from. Back to discretion. 269 REP. EDMUNSON: Coming at remand at end of process instead of beginning, that takes all discretion away from prosecutor. Puts it in hands of

jury.

276 TRAVIS: Once you have conviction of lessor offense, then judge can decide on whether appropriate to send child back to juvenile system.

280 REP. EDMUNSON: Uncomfortable with leaving in discretion.

289 TRAVIS: Unless you have an absolute rule, then mistakes are made because of human judgement.

292 REP. EDMUNSON: I'd rather mistake be made by jury.

298 MCDONALD: Could provide amendments.

311 TRAVIS: These results in other states hasn't cut crime laws.

316 REP. BAKER: All it does is warehouse people and keep the victims from being re-victimized.

318 REP. EDMUNSON: The distinction isn't really that great between systems.

326 TRAVIS: Between age 16 and 25, most people mature.

344 REP. EDMUNSON: Intent is what were are talking about. Not chronological age.

348 TRAVIS: Juvenile system with approach for treatment, not based on intent, based on younger people can be reached.

376 MCDONALD: Concern with sex offenders is that it's not the type of offense that occurs out in public. Sex offender picks on vulnerable people.

383 BAKER: The average sex offender violates between 40-50 people before they are caught for the first time.

385 TRAVIS: They haven't shown up in the system yet.

391 REP. BAKER: We are talking about addictive behavior.

399 REP. EDMUNSON: Adult sex offenders are not treatable. Can we postulate that juvenile sex offenders are?

403 TRAVIS: There is a lot of evidence to the contrary.

415 REP. BAKER: Adjourns at 4:16 P.M.

Submitted by:

Reviewed by:

Sarah May
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to HB 3006 - Committee Counsel - 4 pages B - ORS statute relating to HB 3006 - Committee Counsel - 14 pages C - ORS statute relating to HB 3066 - Committee Counsel - 2 pages D - Fact Sheet - Amer. Lung Assoc. - 4 pages E - Testimony on HB 2994 - Colleen and Steve Doell - 10 pages F - Testimony on HB 2994 - Don Walters - 3 pages G - Testimony on HB 2994 - Multnomah County - 38 pages H - Proposed amendments on HB 2994 - Multnomah County - 1 page I -

Testimony on HB 2994 - Judge Linda Bergman - 4 pages J - Testimony on
HB 2994 - Juvenile Rights Project - 7 pages K - Testimony on HB 2994 -
Juvenile Rights Project - 2 pages L - Testimony on HB 2994 - Judge
Stephen Herrell - 3 pages M - Testimony on HB 2994 - Oregon Juvenile
Department - 1 page N - Testimony on HB 2994 - Nadine Coushay - 2 pages