

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

April 6, 2005 Hearing Room 357

8:30 A.M. Tapes 45 - 46

**MEMBERS PRESENT:**           **Rep. Bob Ackerman, Chair**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**Rep. Kelley Wirth**

**GUEST MEMBERS:**           **Rep. Wayne Krieger**

**Rep. Greg Macpherson**

**STAFF PRESENT:**           **Sam Sears, Counsel**

**Louann Rahmig, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2941 – Public Hearing**

**HB 3266 – Public Hearing and Work Session**

**HB 3303 – Public Hearing**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

**TAPE/#    Speaker                    Comments**

## TAPE 45, A

003 Chair Ackerman Calls the meeting to order at 8:40 a.m. Announces that HB 3214 is being removed from the agenda and worked as a senate bill. Opens a public hearing on HB 2941.

### HB 2941 – PUBLIC HEARING

020 Sam Sears Counsel. Explains HB 2941, which permits a man to petition the court to reopen the issue of paternity if a blood test shows that there is a zero percent probability that the man is the father of the child, and establishes conditions under which the court may render a judgment of nonpaternity. Advises there will be a fiscal impact on HB 2941.

017 Rep. Brian Boquist House District 23. Reports on two ongoing cases to provide the committee a feel for the issues faced by servicemen.

071 Rep. Boquist Continues that redeployed servicemen need to be allowed a legal option to defend themselves in person, using new evidence in the form of a blood test performed in this country.

077 Rep. Macpherson Asks counsel if the fiscal impact is for blood testing.

081 Sears Responds that the information came from the Oregon Judicial Department (OJD) and is probably for the number of cases up for the court process.

084 Rep. Boquist Points out if the fiscal is larger than the number of reprocessing of cases, they have a challenge to streamline the process, save the state money and help servicemen in an economical manner.

094 Matt Minahan Dads America. Explains how the fiscal impact is related to the court process. Testifies in support of HB 2941. States that HB 2941 mirrors a Georgia bill. Cites ORS 109.070 which identifies the methods whereby paternity can be established.

119 Minahan Explains the process of establishing paternity.

177 Minahan Continues with issues of medical history. States that nonpaternity orders are possible if all parties agree.

206	Minahan	Discusses amendments to HB 2941 being prepared. Cites an example of paternity establishment and rights of the child.
229	Minahan	Explains that visitation is separate from child support. Refers to current ORS 109.119 that contains an ongoing relationship clause.
280	Minahan	Expresses concerns that children will become fatherless. Submits written testimony by Carrell Smith, author of the Georgia legislation <b>(EXHIBIT A)</b> . Indicates that the state has a responsibility in picking the father. Advises that the state has a federal requirement to establish a 90 percent rate of paternity or better on all children born out of wedlock to maintain federal funding.
320	Chair Ackerman	Asks for a summary of the amendments referenced.
324	Minahan	Indicates that another witness is planning to discuss the proposed amendments. Advises HB 2941 excludes adoption and artificial insemination. Expresses a concern with the timeframe.
364	Minahan	Concludes that he was a paternity fraud victim. Explains personal circumstances.

#### **TAPE 46, A**

010	Rep. Garrard	Asks if one of the amendments will replace the one-year timeframe in which the alleged father has to retract a voluntary acknowledgment, to comply with federal regulations.
017	Minahan	Replies, yes.
018	Rep. Macpherson	Refers to ORS 109.119 as a basis for visitation rights. Asks if it seems appropriate that someone seeking nonpaternity would want to retain visitation.
027	Minahan	Responds with reasons for this being desirable.
047	Rep. Krieger	Asks if there are more than one set of amendments.
050	Minahan	Believes there are two sets and agrees with one but not the other.

054	Rep. Krieger	Wants to be sure everyone understands there are two sets of amendments. Indicates he has asked for a group to refine the amendments to be sure that they are clear.
058	Chair Ackerman	Reads from Page 1 of HB 2941. Asks why the mother of the child is not compelled to get a blood test.
071	Minahan	Responds that the mother is not needed for a DNA test. States that a blood test as defined includes a credited DNA test.
076	Chair Ackerman	Asks if HB 2941 will be changed from blood test to DNA.
077	Minahan	Replies that Oregon defines blood test as DNA testing.
080	Chair Ackerman	Believes there is a problem that needs to be worked out.
087	Minahan	Reads from draft amendment that references ORS 109.250 where blood test is defined.
097	Rep. Flores	Reads ORS 109.251 into the record, which defines a blood test as being included in DNA testing.
119	Steve Foley	Dads America. Testifies in support of HB 2941. Cites personal circumstances of paternity fraud.
169	Foley	Continues reading from prepared statement. Believes that there should be some restitution and accountability.
223	Rep. Wirth	Asks if he was the “day to day” father of the nonbiological daughter discussed in his testimony.
226	Foley	Replies, correct.
227	Rep. Wirth	Seeks clarification of Mr. Foley’s feelings about the situation.
231	Foley	Answers that it changed his heart, knowing that she was the result of an affair.
245	Chair Ackerman	Asks the next witnesses if they are going to discuss the proposed amendments, the original HB 2941, or both.

- 253 Ronelle Shankle Department of Justice (DOJ). Replies, both. Testifies and submits written testimony as neutral on HB 2941 (**EXHIBIT B**). Describes the various aspects of family law handled by DOJ. Advises that DOJ has been reviewing a National Uniform Parentage Act that is not a federal mandate for the states but is a model to be used.
- 282 Shankle States that DOJ opposes the provision in HB 2941 that removes certain language on voluntary acknowledgment; however, the amendments will replace that language. Advises that there will be two sets of amendments to clean up legal issues and add a “sunset” clause.
- 307 Shankle Continues that the paternity laws in Oregon are based on long-standing common law practices. Informs that establishing paternity gives the father legal standing and deals with child support as well. Explains that DOJ is unsure how the courts will deal with visitation, so a sunset clause will allow a report back.
- 344 Shani Fuller Child Support Program, DOJ. Testifies and submits written testimony as neutral on HB 2941 (**EXHIBIT C**). Points out the methods for establishing paternity. Highlights the changes proposed in the draft compromise amendments.
- 376 Fuller Advises of the clarifications on blood testing. Notes the language taken from the Georgia law and language to comply with federal law.

**TAPE 45, B**

- 003 Fuller Continues with explanation of proposed amendments. Explains that language was reinstated to preserve the child support processes.
- 013 Sybil Hebb Oregon Law Center. Testifies in support of HB 2941. Expresses concern about the possible impact on low income Oregonians who can’t afford counsel to assist in these issues. Stresses the need for a balance of considerations of all interests. Cautions against taking steps without considering all related statutes. Supports establishment of an interim work group and offers to serve.
- 060 Hebb States that language in HB 2941 requires a petitioner to bring forward blood test results, which may be difficult to obtain. Addresses the proposed amendments in **EXHIBIT C**. Believes that a child may have an interest in identifying the biological father, and the proposed

consensus amendment does not give the child status. Offers to participate on the work group.

- 082 Bealisa Sydlik Senior Policy Analyst, OJD. Testifies and submits written testimony as neutral on HB 2941 (**EXHIBIT D**). Presents proposed OJD amendments (**EXHIBIT E**). Expresses concern about anticipated workload from HB 2941 and the consensus amendments.
- 094 Sydlik Responds to testimony previously presented. States that HB 2941 has far-reaching effects. Most states have a time period for establishing parenthood. Points out that a number of states have dealt with this issue since the advent of DNA testing, and most have a specific time period in which a man can petition to disestablish paternity. States that a two-year time period is recommended in the Uniform Parentage Act. Lists the states that have adopted a time limitation, ranging from one to five years.
- 132 Sydlik Explains res judicata applications where a judgment has been entered that is final and entitled to conclusive effect. Continues this judgment cannot be disturbed except on appeal; and if the time for appeal has passed, cannot be relitigated. Advises that an Ohio statute similar to HB 2941 was determined to be unconstitutional as a violation of the doctrine of separation of powers. Outlines a number of factors to be considered, including conduct of the parties.
- 164 Sydlik Comments that the fiscal impact comes from cases anticipated to be filed. Advises that currently in the Child Support Program there are more than 68,000 cases in which paternity has been established and child support is being paid. Estimates that two percent would be filed in the first biennium, which would be about a \$600,000 workload increase to the court. Supports establishing an interim work group and offers to participate.
- 188 Rep. Garrard Asks if the two-year window of opportunity addresses many of the long-range issues of the affect on the children involved.
- 194 Sydlik Answers, yes. Continues that with a shorter period of time, there is less likelihood of a long relationship being established.
- 207 Chair Ackerman Offers assistance to the work group that has been formed. Closes the public hearing on HB 2941 and opens a public hearing on HB 3266.

- 223 Sam Sears Counsel. Explains HB 3266, which modifies the definition of “financial institution” in relation to a seller’s property disclosure statement. Explains that these disclosure statements are required to provide detailed information about the condition of the residential property. Indicates certain institutions are exempted from giving seller’s property disclosure statements. Continues that HB 3266 adds “trust companies” to the definition of “financial institutions” so would exempt them from giving a seller’s property disclosure statement.
- 235 Tim Martinez Oregon Bankers Association. Testifies and submits written testimony by Kenneth Sherman in support of HB 3266 (**EXHIBIT F**). Advises of discussions with realtor representatives who have no problem with HB 3266.
- 258 Chair Ackerman Closes the public hearing and opens a work session on HB 3266.

**HB 3266 – WORK SESSION**

- 262 Rep. Garrard **MOTION: Moves HB 3266 to the full committee with a DO PASS recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 270 Chair Ackerman **The motion CARRIES.**
- REP. GARRARD will lead discussion in the full committee.**
- 273 Chair Ackerman Closes the work session on HB 3266 and opens a public hearing on HB 3303, which provides that contracts between state agencies and counties either must be contingent on the future appropriation of funds or allow either party to terminate the contract if sufficient appropriation is not made.

-

**HB 3303 – PUBLIC HEARING**

- 285 Mary Shortall Oregon Association of Area Agencies on Aging and Disabilities. Testifies and submits written testimony in support of HB 3303 and the -1 amendments (**EXHIBITS G AND H**). Advises that there will be

additional amendments. Explains the agency's working relationship with the Department of Human Services (DHS). States that the enabling legislation is in ORS chapter 410.

- 300 Shortall Advises of problems with contracts local governments are asked to sign with the state. Explains that HB 3303 will provide procedural remedies and recognize the reciprocal relationship between state and local governments.
- 345 Trina Laidlaw Counsel, Lane County. Submits written testimony by Anna Morrison in support of HB 3303 (**EXHIBIT I**). Testifies and submits written testimony in support of HB 3303 and the -1 amendments (**EXHIBIT J**). Outlines the contract provisions with which the counties were concerned. Refers to various discussions with DHS and representatives from the Governor's office.

#### **TAPE 46, B**

- 017 Laidlaw Continues that adoption of HB 3303 and amendments will provide a clearer baseline on the parameters for contract terms. Explains the recurring problems with multiyear contracts.
- 043 Laidlaw Reviews areas where reciprocity is requested, with each party being responsible for its own actions. Requests that provisions be limited to what the law provides or permits. Cites examples.
- 074 Laidlaw Reports that the Oregon Constitution and Attorney General opinion state each party needs the ability to maintain control over its own budget.
- 095 Laidlaw Requests that the common rules providing that ambiguities be construed against the drafting party be incorporated into statute, as there is huge disparity in the economic power the state wields against the county.
- 107 Laidlaw Concludes that HB 3303 would place limits on the short deadlines the counties are given to review and return contracts or face losing funding. Advises that the counties have proposed additional amendments as a result of concerns raised by the state in a preliminary meeting on HB 3303.
- 118 Anthony Bieda Lane County. Comments on the problems with existing contract language. Reiterates that over a period of time, a partnership between



the counties and the state has been the preferred mode of delivery of services. Continues that this arrangement provides for locally controlled planning, accountability and oversight and a lower cost delivery structure.

- 146 Chair Ackerman Seeks clarification that the intent is to standardize basic contractual terms between counties and state agencies to eliminate unfair advantages on either side.
- 150 Laidlaw Responds that they are trying to standardize contract provisions, provide reciprocity to both parties, and establish parameters on how broad the language can go.
- 159 Chair Ackerman Asks if further amendments are being contemplated.
- 160 Bieda Replies, yes, in response to issues raised by DHS, DOJ and area agencies on aging.
- 168 Chair Ackerman Inquires if the drafting was done through Legislative Counsel.
- 169 Bieda Responds that they have not requested that yet.
- 170 Chair Ackerman Advises of Oregon Department of Transportation concerns based on federal compliance problems. Asks if ODOT could be removed from HB 3303.
- 177 Laidlaw Replies that they have included some language that would address terms of federal money. Reads from proposed amendment not yet drafted.
- 190 Chair Ackerman Requests that they talk with the ODOT representative.
- 196 Bieda Advises that DHS and Department of Corrections are the primary agencies with which they do the most work.
- 198 Chair Ackerman Asks if the -2 amendments would limit HB 3303 to the contractual relationship with DHS or if other state agencies would be involved.
- 201 Bieda Answers that they have not contemplated omitting by name specific agencies, but want to revise language so that agency by agency concerns are addressed in the final product.

204	Rep. Flores	Seeks clarification that they are trying to address the unpredictability of funding for services being provided.
212	Laidlaw	Replies, yes, and the liabilities they are required to assume. Explains that objections must be raised on a contract by contract basis, and they have little process for being able to negotiate.
239	Bieda	Responds that the provisions in contract language they are trying to address are ones that have been debated for nearly four years.
251	Rep. Garrard	Asks who at the state level were involved in the ongoing discussions.
254	Laidlaw	Answers, DHS representatives, but over the years there has been a number of different people.
280	Chair Ackerman	States that he will request preparation of the -2 amendments. Closes the public hearing on HB 3303.

**The following prepared testimony is submitted for the record without public testimony:**

	Matt Minahan	Submits printed charts on 2003 Oregon paternity cases for information on HB 2941 ( <b>EXHIBIT K</b> ).
	Gordon Dick	Submits written testimony in support of HB 2941 ( <b>EXHIBIT L</b> ).
288	Chair Ackerman	Adjourns the meeting at 10:20 a.m.

**EXHIBIT SUMMARY**

- A. **HB 2941, written testimony by Carrell Smith, Matt Minahan, 1 p**
- B. **HB 2941, written testimony, Ronelle Shankle, 2 pp**
- C. **HB 2941, written testimony, Shani Fuller, 9 pp**
- D. **HB 2941, written testimony, Bealisa Sydlik, 2 pp**
- E. **HB 2941, proposed amendments, Bealisa Sydlik, 1 p**
- F. **HB 3266, written testimony by Kenneth Sherman, Tim Martinez, 1 p**
- G. **HB 3303, -1 amendments, staff, 2 pp**

- H. HB 3303, written testimony, Mary Shortall, 3 pp
- I. HB 3303, written testimony by Anna Morrison, Trina Laidlaw, 2 pp
- J. HB 3303, written testimony, Trina Laidlaw, 2 pp

The following prepared testimony is submitted for the record without public testimony:

- K. HB 2941, printed charts, Matt Minahan, 2 pp
- L. HB 2941, written testimony, Gordon Dick, 2 pp

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

March 23, 2005 Hearing Room 357

8:30 A.M. Tapes 34 - 35

**MEMBERS PRESENT:**            **Rep. Bob Ackerman, Chair**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**MEMBER ABSENT:**            **Rep. Kelley Wirth**

**GUEST MEMBERS:**            **Rep. Wayne Krieger**

**Rep. Greg Macpherson**

**STAFF PRESENT:**            **Sam Sears, Counsel**

**Louann Rahmig, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3119 – Public Hearing and Work Session**

**HB 2978 – Public Hearing and Work Session**

**HB 2938 – Public Hearing and Work Session**

**HB 3157 – Public Hearing and Work Session**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
---------------	----------------	-----------------

**TAPE 34, A**

003	Chair Ackerman	Calls the meeting to order at 8:37 a.m. and opens a public hearing on HB 3119.
-----	----------------	--

**HB 3119 – PUBLIC HEARING**

008	Sam Sears	Counsel. Explains HB 3119 which authorizes county clerks to keep permanent and long-term records of documents that are filed or recorded by the county clerks as computer-based data files instead of microfilm, if the county clerks provide for a regular and routine backup of data files.
012	Rep. Sal Esquivel	House District 6. Testifies in support of HB 3119. Explains that current law requires microfilming of county records. Advises that HB 3119 allows backup on disk. Informs that counties would incur considerable savings.
038	Rep. Flores	Asks if county clerks currently use both microfilm and computer.
042	Rep. Esquivel	Answers, yes.
048	Rep. Garrard	

Thanks Rep. Esquivel for bringing the issue forward. Advises that Klamath County has storage problems.

- 054 Rep. Esquivel Comments that this method allows for clearer documents as about 40 percent of microfilm documents are unreadable.
- 066 Rep. Garrard Asks if clerks would have to record previous information or if they would have an option once the law takes effect.
- 072 Rep. Esquivel Responds that HB 3119 does not require retroactive action. Indicates that those counties with the technology have already been doing this.
- 086 Rep. Macpherson Comments that HB 3119 does not reference an ORS chapter for placement or a proposed effective date.
- 093 Sears Responds that he is unsure why this was not done.
- 095 Rep. Macpherson Indicates that if there is a requirement in current law to do back-up microfilming, that language should be shown as deleted.
- 098 Sears States that this is voluntary and allows computer recording but does not require it.
- 103 Rep. Esquivel Advises that if the current language was deleted, the counties without the computer ability would not be microfilming either. Reiterates that this method is voluntary, if the technology is available.
- 108 Rep. Macpherson Comments that there may be confusion.
- 117 Jan Coleman Yamhill County Clerk. Informs that this gets its basis from archival law, which is administrative rule by the Secretary of State. Clarifies that microfilming is the only recognized media at present that will last 100 years.
- 130 Rep. Macpherson Asks if there is a place in statute now that requires backup by microfilm.
- 133 Coleman Responds that statute only talks about retention of records and does not specify microfilming; that is in administrative rule.

137	Rep. Esquivel	States that all counties have old handwritten records.
142	Chair Ackerman	Questions whether this should be an administrative matter rather than law.
145	Rep. Esquivel	Indicates that county clerks have wanted this ability for some time and there have been discussions but nothing has ever been done.
164	Rep. Garrard	Asks if there will be a fiscal impact on the counties.
167	Rep. Esquivel	Answers, yes, but it should be positive cash flow for the counties that can, in fact, have this ability. Reiterates that some counties are using both methods.
172	Rep. Flores	Indicates support but is concerned about where it will be placed in statute.
185	Chair Ackerman	States he is inclined to move HB 3119 to the full committee and request a housekeeping amendment.
190	Rep. Esquivel	Believes HB 3119 could be tied into ORS chapter 205, and it should be a simple fix.
196	Chair Ackerman	Closes the public hearing and opens a work session on HB 3119.

**HB 3119 – WORK SESSION**

202	Rep. Garrard	<p><b>MOTION: Moves HB 3119 to the full committee with a DO PASS recommendation.</b></p> <p><b>VOTE: 3-0-1</b></p> <p><b>AYE: In a roll call vote, all members present vote Aye.</b></p> <p><b>ABSENT: 1 - Wirth</b></p>
213	Chair Ackerman	<p><b>The motion CARRIES.</b></p> <p><b>REP. GARRARD will lead discussion in the full committee.</b></p>
217	Chair Ackerman	

Closes the work session on HB 3119 and opens a public hearing on HB 2978.

### **HB 2978 – PUBLIC HEARING**

- 231 Sam Sears Counsel. Explains that HB 2978 permits courts in dissolution judgments to order revocation of beneficiary designations made by one spouse in favor of the other spouse on certain financial assets. Advises that HB 2978 was previously presented as HB 2292. Refers to the -1 amendments (**EXHIBIT A**) which allow judges to change beneficiary designations also on judgments for separation.
- 243 Tammy Dentinger Member, Oregon State Bar’s Family Law Executive Committee. Testifies and submits written testimony in support of HB 2978 (**EXHIBIT B**). Indicates that HB 2978 has a narrower relating clause than HB 2292. Explains the changes HB 2978 will make. Advises that the -1 amendments make technical and clarifying changes.
- 277 Rep. Flores Requests clarification that in annulment, legal separation or divorce, new documents do not automatically deal with survivorship or beneficiary provisions.
- 284 Dentinger Responds that, if one chooses to not include, it does not happen automatically.
- 296 Rep. Macpherson Asks about the relationship of HB 2978 to HB 2292 and the -1 amendments.
- 299 Dentinger Indicates the change from HB 2292 to HB 2978 was a narrowing of the relating clause to more specifically define what was intended. Does not believe any amendments were prepared for HB 2292.
- 314 Rep. Macpherson Seeks clarification that the only difference in HB 2292 and HB 2978 is the relating clause.
- 316 Dentinger Answers, yes.
- 318 Chair Ackerman Closes the public hearing and opens a work session on HB 2978.

-

### **HB 2978 – WORK SESSION**

322 Rep. Flores **MOTION: Moves to ADOPT HB 2978-1 amendments dated 3/22/05.**

**VOTE: 3-0-1**

**ABSENT: 1 - Wirth**

324 Chair Ackerman **Hearing no objection, declares the motion CARRIED.**

326 Rep. Flores **MOTION: Moves HB 2978 to the full committee with a DO PASS**

**AS AMENDED recommendation.**

**VOTE: 3-0-1**

**ABSENT: 1 - Wirth**

**AYE: In a roll call vote, all members present vote Aye.**

336 Chair Ackerman **The motion CARRIES.**

**REP. FLORES will lead discussion in the full committee.**

340 Chair Ackerman Closes the work session on HB 2978 and opens a public hearing on HB 2938.

### **HB 2938 – PUBLIC HEARING**

344 Sam Sears Counsel. Explains HB 2938 which makes technical, conforming, and form and style changes to statutes requiring instruments to be filed with or presented for recordation to county clerks, and clarifies whether specified instruments are to be filed with or presented for recordation to county clerks.

363 Jan Coleman Yamhill County Clerk. Testifies on behalf of the Oregon Association of County Clerks. Advises that periodically county clerks review statutes for housekeeping needs.



**TAPE 35, A**

004 Coleman Points out that “presented for recording” doesn’t mean the recording happened.

015 Chair Ackerman Asks if the language “presented for recording” may be misinterpreted to mean “recording.”

017 Coleman Responds, yes. Indicates that the statute needs to say the document got recorded.

024 Chair Ackerman Inquires if a definition of the phrase would be sufficient.

027 Coleman Replies, yes.

032 Rep. Flores Points out that there are several references to “presented for recording.”

034 Coleman Offers to clean up HB 2938 for an amendment.

036 Chair Ackerman Asks Ms. Coleman to work with counsel on a proposed amendment.

047 Chair Ackerman Closes the public hearing and opens a work session on HB 2938.

**HB 2938 – WORK SESSION**

052 Rep. Flores Inquires if there will be work immediately on clarifying language.

053 Chair Ackerman Responds, yes.

**056 Rep. Flores MOTION: Moves HB 2938 to the full committee with a DO PASS recommendation.**

**VOTE: 3-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**ABSENT: 1 - Wirth**

062 Chair Ackerman The motion CARRIES.  
REP. FLORES will lead discussion in the full committee.

063 Chair Ackerman Closes the work session on HB 2938 and opens a public hearing on HB 3157.

-

-

### **HB 3157 – PUBLIC HEARING**

070 Chair Ackerman Designates Rep. Flores as acting chair.

083 Sam Sears Counsel. Explains that HB 3157 provides that the duty of county courts or boards of county commissioners to inspect local correctional facilities is discretionary for facilities not operated by the county.

088 Rep. Ackerman House District 13. Testifies in support of HB 3157. Explains that under current law county commissioners are mandated to inspect correctional institutions that they own and operate, and facilities that they do not own or operate. Refers to the -1 amendments (**EXHIBIT C**) which make the distinction between local correctional facilities owned and operated by the county and local facilities not owned by the county.

113 Rep. Garrard Comments that he has a problem with HB 3157. Realizes that HB 3157 makes it more voluntary but not sure it is a good idea.

123 Rep. Ackerman Responds that if a city has a correctional facility, it should be the city council's responsibility to inspect rather than the county.

128 Rep. Garrard Seeks clarification that HB 3157 is for only facilities not operated by the county.

132 Rep. Ackerman Replies, correct.

135 Rep. Terry Beyer House District 12. Testifies that HB 3157 is similar to a bill introduced in the 2003 legislative session. Reiterates that HB 3157 is intended for facilities not run by a county.

- 148 Rep. Macpherson Wonders if prior language could be interpreted so broadly as to include state facilities. Seeks clarification of intent.
- 154 Rep. Ackerman Answers that counties will have discretionary authority for inspection but not be mandated to do it.
- 158 Rep. Macpherson Comments that current language is being construed to apply only to municipal facilities and not a state correction facility.
- 165 Rep. Ackerman Agrees.
- 169 Acting Chair Flores Closes the public hearing on HB 3157.
- 171 Chair Ackerman Opens the work session on HB 3157.

-

**HB 3157 – WORK SESSION**

- 173 Chair Ackerman **MOTION: Moves to ADOPT HB 3157-1 amendments dated 3/23/05.**
- 178 Rep. Garrard Indicates he will give a “courtesy vote” to move HB 3157 to the full committee, but reserves his opinion for the full committee debate.
- VOTE: 3-0-1**
- ABSENT: 1 - Wirth**
- 181 Chair Ackerman **Hearing no objection, declares the motion CARRIED.**
- 189 Chair Ackerman **MOTION: Moves HB 3157 to the full committee with a DO PASS AS AMENDED recommendation.**
- VOTE: 3-0-1**
- AYE: In a roll call vote, all members present vote Aye.**
- ABSENT: 1 - Wirth**

- 195            **Chair Ackerman**      **The motion CARRIES.**  
**REP. ACKERMAN will lead discussion in the full committee.**
- 197            Chair Ackerman            Closes the work session on HB 3157 and adjourns the meeting at 9:15  
a.m.

**EXHIBIT SUMMARY**

- A. **HB 2978, -1 amendments, staff, 1 p**
- B. **HB 2978, written testimony, Tammy Dentinger, 1 p**
- C. **HB 3157, -1 amendments, staff, 1 p**