

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

June 27, 2005 Hearing Room 357

3:00 P.M. Tapes 8 – 9

Corrected 10/17/05

MEMBERS PRESENT: Rep. Wayne Krieger, Chair

Rep. Jeff Barker, Vice-Chair

Rep. Brian Boquist, Vice-Chair

Rep. Linda Flores

Rep. Greg Macpherson

STAFF PRESENT: Joe O’Leary, Committee Administrator

Patrick Brennan, Committee Administrator

Cara Fischer, Committee Administrator

Sandy Thiele-Cirka, Committee Administrator

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD:

SB 424A – Public Hearing

SB 591 – Public Hearing

SB 785 – Public Hearing and Work Session

SB 786A – Public Hearing and Work Session

SB 1047A – Public Hearing

SB 1062A – Public Hearing

HB 2147 – Reconsideration 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.

TAPE/#	Speaker	Comments
TAPE 8, A		
003	Chair Krieger	Calls the meeting to order at 3:07 p.m. and opens a public hearing on SB 424A.

SB 424A – PUBLIC HEARING

007	Joe O'Leary	Committee Administrator. Describes SB 424A which has to do with Family Abuse Prevention Act (FAPA) orders commonly referred to as domestic violence restraining orders. Cites current law. Explains that SB 424A allows the court to hold a hearing if the court believes exceptional circumstances affecting the child's safety or welfare are present and that a different award of custody might be in order.
022	Sybil Hebb	Oregon Law Center. Testifies in support of SB 424A. Informs that SB 424A is a compromise among several parties. Outlines current provisions in law.
064	Hebb	Continues that all parties involved in drafting SB 424 recognize the current law is not entirely satisfactory. Lists the key strengths of SB 424A.
098	Dale Koch	Multnomah County Judge. Testifies in support of SB 424A. Cites statistics on the number of FAPA restraining orders issued annually. Points out the problems with current statute on mandatory custody requirements.
135	BeaLisa Sydlik	Oregon Judicial Department. Testifies as neutral on SB 424A. Believes most of the judges see SB 424A as an improvement to the existing law which allows no discretion.

The following written material is submitted for the record without public testimony:

Denise Washington Executive Director, Oregon Coalition Against Domestic and Sexual Violence. Submits written testimony in support of SB 424A **(EXHIBIT A)**.

157 Chair Krieger Closes the public hearing on SB 424A and opens a public hearing on SB 591 which clarifies that a driver is not liable for the traffic violation of failing to stop for a pedestrian where the pedestrian is in a bicycle lane or the part of the roadway where a vehicle stops, stands or parks.

SB 591 – PUBLIC HEARING

158 Sen. Floyd Prozanski Senate District 4. Testifies in support of SB 591 which clarifies the intent of a 2003 law, that bicycle lanes and parking lanes will be considered the same as travel lanes.

177 Rep. Macpherson Describes a scenario and asks about a pedestrian stepping into the bicycle lane not being in a traffic lane.

189 Sen. Prozanski Answers no, they would be in the first travel lane. Explains how the court has been interpreting that situation. Intends that bicycle and parking lanes not be distinguished from the lane of travel.

197 Rep. Macpherson Inquires if all lanes are treated as one.

201 Sen. Prozanski Replies correct.

202 Rep. Macpherson Seeks clarification about a situation of two lanes of auto traffic and a bike lane next to it, a car in adjacent traffic lane would have to stop and remain stopped while the pedestrian is in the bike lane.

206 Sen. Prozanski Answers correct.

208 Chair Krieger Asks if anyone has been in contact about a possible amendment.

210 Sen. Prozanski Responds no. Refers to discussion with Rep. Burley and Rep. Gilman.

220 Chair Krieger Raises a specific example to describe a concern.

230	Sen. Prozanski	Offers to meet with others to seek agreement.
236	Rep. Macpherson	Cites a concern with implementation of the 2003 law. Understands that current law does not apply to signalized intersections.
256	Sen. Prozanski	Agrees. Will meet on clarification and report back to the chair.
271	Rep. Macpherson	Comments SB 591 is good.
277	Sen. Prozanski	Reiterates willingness to reach agreement.
280	Chair Krieger	Closes the public hearing on SB 591 and opens a public hearing on SB 785.
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SB 785 – PUBLIC HEARING

288	Patrick Brennan	Committee Administrator. Describes SB 785 which establishes a Plant Pest and Disease Emergency Response Fund; provides for the continuous appropriation of moneys from that fund to the Oregon Department of Agriculture (ODA) for the purpose of responding to pest and disease emergencies to the extent necessary for the protection of the nursery industry; and allows the department to set an assessment rate on nursery industry licensees as necessary to maintain a balance of \$250,000 in the fund. Advises of a subsequent referral to the House committee on budget.
304	Mark Simmons	Oregon Association of Nurseries. Testifies in support of SB 785. Describes the heightened risk of new disease threats being brought into Oregon that can undermine the nursery industry. Offers that SB 785 provides ongoing funding to enable the ODA to react promptly to new threats.
328	Dan Hilburn	ODA. Testifies in support of SB 785. Notes the need for resources to respond more quickly than is available with federal or emergency board funds.
354	Chair Krieger	Closes the public hearing and opens a work session on SB 785.

- 012 Mark Simmons Oregon Association of Nurseries. Testifies in support of SB 786A. Advises that SB 786A is a result of Emergency Board direction to the Department and other stakeholders with interest in providing reforestation seedlings to family forest land owners to provide alternatives to the state-operated D. L. Phipps Nursery in Elkton, Oregon. Describes formation of a cooperative of private seedling growers to whom the state would allocate the demand.
- 031 Ted Lorensen Oregon Department of Forestry. Testifies and submits written testimony in support of SB 786A (**EXHIBIT B**). Adds that SB 786A provides permissive authority to explore a cooperative approach to providing seedlings through the nurserymen, as well as for leasing the nursery.
- 043 Rep. Macpherson Asks if the aim is to transition the state out of the nursery business.
- 052 Simmons Responds that SB 786A will allow discussions to continue and could result in private seedling growers filling the need currently being filled by the D. L. Phipps Nursery. Points out the concern that the stakeholder needs are provided for, that a stable long-term supply of seedlings is maintained.
- 063 Lorensen Concurs. Adds that seedlings are provided based on a speculative approach which is high risk. Plans to apply due diligence and keep options open by continuing the nursery as a viable entity until there is certainty alternatives will work.
- 080 Rep. Macpherson Makes favorable comments about the Elkton operation. Urges the parties to be sure that resource is not lost.
- 087 Lorensen States there is an opportunity for a win-win situation. Discusses the Committee for Family Forest Land Owners that advises the Board of Forestry.
- 088 Chair Krieger Closes the public hearing and opens a work session on SB 786A.

SB 786A – WORK SESSION

- 090 Rep. Boquist **MOTION: Moves SB 786A to the floor with a DO PASS recommendation.**

VOTE: 5-0-0

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

103 Chair Krieger The motion **CARRIES**.
REP. FLORES will lead discussion on the floor.

104 Chair Krieger Announces that SB 1034A will be carried over.

108 Chair Krieger Opens a public hearing on SB 1047A.

SB 1047A – PUBLIC HEARING

109 Joe O’Leary Counsel. Explains SB 1047A which provides Local Public Safety Coordinating Counsels the authority to form multidisciplinary teams to review domestic violence fatalities and to make recommendations to local governments to prevent such fatalities. Advises that the teams’ meetings are confidential and exempt from public records laws so any documents received from other sources are not immune from discovery solely because they were received by the team.

132 Dale Koch Multnomah County Judge. Testifies in support of SB 1047A. Describes a case in Multnomah County. Explains that SB 1047A allows a procedure to build a public safety response to domestic violence that improves the outcomes for people who approach the system.

161 Sybil Hebb Oregon Law Center. Testifies and submits written testimony in support of SB 1047A (**EXHIBIT C**). Describes how SB 1047A provides the structure and protocols for the reviews.

188 Hebb Continues that domestic violence is a critical public health and safety issue. Provides fatality statistics for 1997 to 2001. Reiterates that SB 1047A provides for the collection of data about deaths from domestic violence to try to prevent future tragedies.

220 Connie Gallagher Department of Justice (DOJ). Testifies and submits written testimony in support of SB 1047A (**EXHIBIT D**). Describes the importance of the reviews in identifying issues that are relevant to the prevention of child abuse.

250 Rep. Macpherson Asks what constitutes a domestic violence fatality.

- 264 Hebb Responds the SB 1047A provides a link to “domestic violence” as defined in other provisions of current law. Believes SB 1047A provides a broad net, and each local team will establish its own protocols by which it selects cases.
- 277 Koch Adds that violence is not always directed to a former partner but toward that person’s current relationship or other members of the person’s family.

The following written material is submitted for the record without public testimony:

- Lisa Millet Injury Prevention and Epidemiology Program Manager, Department of Human Services. Submits written testimony in support of SB 1047A (**EXHIBIT E**).
- Terrie Quintros Crime Survivors for Community Safety. Submits written testimony in support of SB 1047 (**EXHIBIT F**).
- Hardy Meyers Attorney General, DOJ. Submits written testimony in support of SB 1047 (**EXHIBIT G**).
- Denise Washington Executive Director, Oregon Coalition Against Domestic and Sexual Violence. Submits written testimony in support of SB 1047 (**EXHIBIT H**).
- 297 Chair Krieger Closes the public hearing on SB 1047A and opens a public hearing on SB 1062A, which requires members of the Oregon Legislative Assembly and staff to retain certain records containing information about the public’s business for one year after such records are created; allows members to deliver subject records at any time to the Legislative Administrator; and requires members departing the Legislative Assembly to have subject records delivered to the Legislative Administrator no later than 60 days after departure..

SB 1062A – PUBLIC HEARING

- 305 Sen. Vicki Walker Senate District 7. Describes being served with a very broad public records request from a reporter. Refers to an archiving law that requires records to be turned in following session. Advises that she has never received training in the public records law. States that SB 1062 attempts to correct problems with current law. Continues that

there is nothing that indicates how long legislators are to keep records. Expresses concern about access to phone records.

389 Dave Heynderickx Acting Legislative Counsel. Informs that legislators are subject to the public records law and emphasizes their ability to decide what to retain. Indicates that the public records law applies only to documents used and retained by a public official.

TAPE 8, B

007 Heynderickx Outlines the three things SB 1062 does. Refers to the -2 amendments **(EXHIBIT I)** which clarify what member employees are covered.

035 Sen. Walker Adds that the -2 amendments arose from concerns raised on the floor. Indicates that the archive law goes away with this bill.

045 Chair Krieger Asks if anyone has ever complied with the law.

047 Heynderickx Answers that no one has ever turned over records at the end of session.

054 Sen. Walker States that a home computer used for state business is also subject to the public records law. Explains an exemption on confidentiality.

076 Rep. Barker Inquires what will happen if SB 1062 is not passed.

078 Heynderickx Responds there would be a lot of uncertainty about records retention.

088 Chair Krieger Asks about failure to comply with the law in the past.

090 Heynderickx Is not aware of anyone being charged with a criminal offense for disposing public records.

103 Rep. Macpherson Comments that currently one retains records for as long as the records seem to be relevant.

115 Heynderickx Advises of a statute that one can keep records for as long as they are deemed to be of value but it applies to only a few committees; members are not mentioned.

127	Rep. Barker	Inquires if the media has had any interest.
130	Heynderickx	Responds that discussion has been primarily with legislators.
135	Rep. Barker	Indicates surprise that the media hasn't "weighed in."
138	Rep. Flores	Raises a question about bill files.
144	Heynderickx	Reminds that records are deliverable only after leaving office.
151	Rep. Boquist	Reads that records must be retained for one year after the record is created.
158	Heynderickx	Reiterates that if more than one year old, there is no need to deliver to the Legislative Administrator.
168	Rep. Boquist	Seeks clarification that only records created in the previous year would be turned in upon departure so bill files would not be included.
174	Heynderickx	Answers correct. Points out that applies to e-mail records as well.
182	Chair Krieger	Comments that the original SB 1062 and the -2 amendments say two different things.
188	Heynderickx	Clarifies what the -2 amendments changed.
206	Rep. Boquist	Asks where the one-year time frame is mentioned.
207	Heynderickx	Responds in Line 11 of the -2 amendments.
212	Rep. Macpherson	Observes that under current law they make a decision on relevance and toss at own discretion and SB 1062 fixes a one-year retention period. Clarifies that anything one year old must be turned in upon departure from office.
228	Heynderickx	Answers correct.
230	Rep. Macpherson	States that the policy issue is whether to establish a "bright line" or leave to the discretion of individual members.

255 Chair Krieger Comments that there is some concern about where this bill is going. Announces there will be no work session. Closes the public hearing on SB 1062A.

266 Chair Krieger Opens a work session on HB 2147.

HB 2147 – RECONSIDERATION AND WORK SESSION

268 Chair Krieger **MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 2147.**

VOTE: 5-0-0

270 Chair Krieger **Hearing no objection, declares the motion CARRIED.**

271 Chair Krieger **MOTION: Moves to RECONSIDER the vote by which "HB 2147 was sent to the floor with a DO PASS AS AMENDED recommendation".**

VOTE: 5-0-0

273 Chair Krieger **Hearing no objection, declares the motion CARRIED.**

274 Chair Krieger **MOTION: Moves to RECONSIDER the vote by which "the -8 amendments dated June 22, 2005 were adopted".**

VOTE: 5-0-0

276 Chair Krieger **Hearing no objection, declares the motion CARRIED.**

279 Sandy Thiele-Cirka Committee Administrator. Explains the -9 amendments (**EXHIBIT J**), which replace the -8 amendments, were drafted at the request of the Department of Human Services (DHS) and change the date related to the refund of any assessments paid by waiver of long-term care facilities and are needed to avoid any fiscal impact before the implementation of this new legislation.

298 Jim Carlson Oregon Health Care Association. Reports that after the adoption of the -8 amendments DHS requested a date change related to the refunding of assessments due to a possible fiscal impact.

- 311 Rep. Barker MOTION: Moves to ADOPT HB 2147-9 amendments dated 6/27/05.
- VOTE: 5-0-0
- 315 Chair Krieger Hearing no objection, declares the motion CARRIED.
- 317 Rep. Barker MOTION: Moves HB 2147 to the floor with a DO PASS AS AMENDED recommendation.
- VOTE: 5-0-0
- AYE: In a roll call vote, all members present vote Aye.
- 325 Chair Krieger The motion CARRIES.
- REP. FLORES will lead discussion on the floor.
- 330 Chair Krieger Closes the work session on HB 2147 and adjourns the meeting at 4:25 p.m.

EXHIBIT SUMMARY

- A. SB 424, written testimony, Denise Washington, 1 p
- B. SB 786, written testimony, Ted Lorensen, 1 p
- C. SB 1047, written testimony, Sybil Hebb, 4 pp
- D. SB 1047, written testimony, Connie Gallagher, 1 p
- E. SB 1047, written testimony, Lisa Millet, 2 pp
- F. SB 1047, written testimony, Terrie Quinteros, 1 p
- G. SB 1047, written testimony, Hardy Myers, 1 p
- H. SB 1047, written testimony, Denise Washington, 1 p
 - I. SB 1062, A2 amendments, staff, 2 pp
 - J. HB 2147, -9 amendments, staff, 6 pp