

SENATE COMMITTEE ON JUDICIARY

January 18, 2005
1:00 p.m.

Hearing Room 343
Tapes 3 - 4

MEMBERS PRESENT: **Sen. Ginny Burdick, Chair**
 Sen. Charles Starr, Vice-Chair
 Sen. Roger Beyer
 Sen. Floyd Prozanski
 Sen. Charlie Ringo
 Sen. Vicki Walker
 Sen. Doug Whitsett

STAFF PRESENT: **Joe O'Leary, Counsel**
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD & WITNESSES:

Overview of Psychiatric Security Review Board (PSRB)
 Mary Claire Buckley, Executive Director PSRB
 Bob Nikkel, Administrator, DHS, Office of Mental Health and
 Addiction Services

SB 39 and 41 – Public Hearing
 Mary Claire Buckley, Executive Director PSRB
 Bob Nikkel, Administrator, DHS, Office of Mental Health and
 Addiction Services

SB 40 – Public Hearing and Work Session
 Mary Claire Buckley, Executive Director PSRB
 Bob Nikkel, Administrator, DHS, Office of Mental Health and
 Addiction Services

SB 204 – Public Hearing and Work Session
 Daina Vitolins, Assistant Attorney General

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 3, A		
004	Chair Burdick	Calls the meeting to order at 1:12 p.m. Introduces Mary Claire Buckley and Bob Nikkel who are giving an overview of the Psychiatric Security Review Board and its relationship to the Oregon State Hospital.
<u>OVERVIEW OF PSYCHIATRIC SECURITY REVIEW BOARD – INFORMATIONAL MEETING</u>		
010	Mary Claire Buckley	Executive Director, Psychiatric Security Review Board (PSRB). Submits packet of information and gives a brief history of the PSRB, including statutory functions and a section of graphs and charts relating to current population of clientele (EXHIBIT A).
044	Buckley	Discusses the makeup of the PSRB and its members. Remarks that the PSRB statutes are outlined in EXHIBIT A .
056	Buckley	Discusses the funding for PSRB and how clients end up with the PSRB, and for how long. Gives statistics on people currently

		under the jurisdiction of the PSRB.
093	Buckley	Discuss rights of clients and disposition of clients based on their mental status.
143	Buckley	Describes low recidivism rate compared with Department of Correction's (DOC).
157	Buckley	Refers to chart (New Clients by Year) and graph (New Clients vs. Discharges).
192	Buckley	Discusses Past and Projected Lapses, with a projected net gain of 50 or more clients per year.
203	Buckley	Describes graph, "Snapshot as of January 17, 2005," with current distribution of the 715 patients.
246	Sen. Prozanski	Asks about the 24 clients AWOL; how many are in DOC as opposed to escape status.
252	Buckley	States 2 are in DOC, 22 on escape status are carried over from when PSRB was initially created in 1978, not all are current cases.
264	Sen. Whitsett	Asks if there is a relationship between the increase of meth usage and increase in population of PSRB's clients.
271	Buckley	States yes, a relationship exists between substance induced psychosis and population, with meth being primary drug.
280	Bob Nikkel	Administrator, DHS, Office of Mental Health and Addiction Services. Discusses how they are 56 patients over the budgeted capacity (and yet under their licensed capacity), which presents a challenge not only for patients, but also for the staff.
325	Nikkel	Explains the process for releasing patients into a community setting.
344	Nikkel	Points out that \$1.5 million dollars a year are spent on monitoring patients returning to communities.
357	Nikkel	Discusses Medicaid eligibilities of patients leaving the Oregon State Hospital.
383	Chair Burdick	Asks what factors determine if a person is Medicaid eligible or not.
387	Nikkel	Replies that people go through Social Security (SS) determination process, that makes the decision for being eligible or not.
399	Chair Burdick	Inquires whether there is a process for assistance by the PSRB for people to go through the SS process.
401	Nikkel	Answers affirmatively.
428	Nikkel	Discusses county involvement in accepting patients into communities after release.
450	Nikkel	Speaks about the community concern of safety from patients. Notes that the PSRB goes to great lengths to make sure the patients are ready to enter society, and monitor those that do.
480	Chair Burdick	Opens Public Hearing for SB 39 and SB 41.
<u>SB 39 and SB 41 - PUBLIC HEARING</u>		
498	Mary Claire Buckley	Executive Director, Psychiatric Security Review Board. Testifies in support of SB 39, relating to verdict of guilty except for insanity, and SB 41, relating to insanity of defense.
TAPE 4, A		
046	Buckley	Advises that both bills be sent to a work group for deliberation and analysis by the American Civil Liberties Union, defense lawyers, PSRB, etc.
052	Chair Burdick	Asks Ms. Buckley and Mr. Nikkel to form a work group for further study of SB 41.

055	Buckley	Answers in the affirmative, also states that there is criticism in some cases for lack of citing of mental disease or defect for review later.
065	Chair Burdick	Closes public hearing on SB 39 and SB 41 and opens a public hearing on SB 40.
<u>SB 40 - PUBLIC HEARING</u>		
071	Joe O'Leary	Counsel. Introduces SB 40 which excludes from the legal definition of mental disease or defect the disorder of paraphilia. As of now, it only excludes personality disorders.
088	Mary Claire Buckley	Executive Director, Psychiatric Security Review Board (PSRB). Testifies in support of SB 40, and discusses a recent court case that relates to the Senate Bill.
100	Sen. Prozanski	Asks why the matter was dismissed, did the court choose not to go forward.
102	Buckley	Responds that the matter was dismissed because the client's jurisdiction had elapsed.
104	Sen. Prozanski	Wonders if they had accepted review of the matter before they dismissed?
106	Buckley	Replies, yes. Continues with discussion on SB 40.
119	Chair Burdick	Asks if anyone currently has a diagnosis of paraphilia.
123	Buckley	Replies it would affect only two individuals under PSRB's jurisdiction, both placed under their care many years ago. Advises an amendment for an emergency clause to be added to make this legislation effective as soon as passed.
138	Chair Burdick	Asks about the need for an emergency clause.
141	Buckley	Responds that the PSRB would like the emergency clause so they wouldn't have to take in the patients under those categories altered by SB 40.
146	Sen. Prozanski	Questions why the two individuals addressed would not be impacted by this legislation.
150	Buckley	Indicates this legislation affects those only after passage.
154	Sen. Prozanski	Questions the intent of this legislation. Will any patients attempt to rescind their earlier judgment if SB 40 is enacted?
160	Buckley	Says they can check that out.
175	Bob Nikkel	Administrator, Office of Mental Health and Addiction Services. Submits testimony in support of SB 40 (EXHIBIT D).
191	Vice-Chair Starr	Wonders if passage of this bill excludes this as a defense for those being adjudicated.
200	Buckley	Clarifies when this defense would be used.
207	Sen. Prozanski	Wonders if convicted individuals would then enter the penal system and not the PSRB for supervision.
211	Buckley	Replies, yes.
215	Chair Burdick	Closes public hearing on SB 40 and opens a work session.
<u>SB 40 - WORK SESSION</u>		
220	Sen. Walker	MOTION: Moves SB 40 to the floor with a DO PASS recommendation.
223	Sen. Prozanski	Asks if emergency clause would be addressed on House side.
226	Chair Burdick	Answers yes.
230		VOTE: 6-0- 1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Ringo
231	Chair Burdick	The motion CARRIES.
		REP. WHITSETT will lead discussion on the floor.
238	Chair Burdick	Closes the work session on SB 40 and opens a public hearing on

SB 204.

SB 204 - PUBLIC HEARING

242	Joe O'Leary	Counsel introduces SB 204 which modifies crime of simulating legal process to require that defendant act with intent to harass, injure or defraud.
260	Daina Vitolins	Assistant Attorney General. Submits testimony and testifies in support of SB 204 (EXHIBIT E).
284	Chair Burdick	Inquires about current cases.
285	Vitolins	Gives case history.
293	Chair Burdick	Closes public hearing on SB 204 and opens a work session.

SB 204 - WORK SESSION

297	Vice-Chair Starr	MOTION: Moves SB 204 to the floor with a DO PASS recommendation.
298		VOTE: 6-0- 1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Walker
299	Chair Burdick	The motion CARRIES. REP. BURDICK will lead discussion on the floor.
305	Chair Burdick	Closes the work session on SB 204.
306	Chair Burdick	Adjourns the meeting at 2:00 p.m.

EXHIBIT SUMMARY

- A. **PSRB, A Model for Management and Treatment of Insanity Acquittees and other informational material, Mary Claire Buckley, 14 pp**
- D. **SB 40, written testimony, Robert E. Nikkel, 1 p**
- E. **SB 204, written testimony, Daina A. Vitolins, 1 p**

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

- B. **SB 39, written testimony, Robert E. Nikkel, 1 p**
- C. **SB 41, written testimony, Robert E. Nikkel, 1 p**