

SENATE COMMITTEE ON JUDICIARY

February 02, 2005
1:00 p.m.

Hearing Room 343
Tapes 21 - 23

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

MEMBER EXCUSED: Sen. Doug Whitsett

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

MEASURES/ISSUES HEARD & WITNESSES:

SB 215 Public Hearing and Work Session
Frederick M. Boss – Oregon Department of Justice
Andrew Aubertine – Aubertine Law Firm
Jim Gardner – Microsoft Corporation

SB 217 Public Hearing
Ronelle Shankle – Department of Justice
Phyllis Barkhurst – Department of Justice

SB 218 Public Hearing
Ronelle Shankle – Department of Justice
Tom Castle – Department of Justice
Mary Botkin – American Federation of State, County, and
Municipal Employees
Senator Frank Morse – Senate District 8

SB 251 & 252 Public Hearing
Senator Frank Morse – Senate District 8
Liss Hart-Haviv – Take Root
Sean Cruz
Ronelle Shankle – Department of Justice
Mickey Lansing - Oregon Commission on Children and Families
Kelly Skye – Oregon Criminal Defense Lawyers Association
Andrea Meyer - American Civil Liberties Union

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 |
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| TAPE 21, A | | |
| 004 | Chair Burdick | Calls meeting to order at 1:09 p.m. Opens public hearing on SB 215. |
| <u>SB 215 PUBLIC HEARING</u> | | |
| 008 | William E. Taylor | Committee Counsel. Describes SB 215, relating to antitrust class lawsuits. |

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| 015 | Frederick M. Boss | Chief Counsel, Civil Enforcement Division, Oregon Department of Justice. Testifies in support of SB 215 (EXHIBIT A). |
| 031 | Andrew Aubertine | Aubertine Law Firm. Testifies in support of SB 215. Discusses recent Oregon history of class action matters in antitrust lawsuits and settlements. Explains what SB 215 does and does not alter in Oregon law. |
| 080 | Aubertine | Indicates the extension of the Attorney General's powers of settlement under this bill. Addresses that other states have this type of policy. |
| 102 | Sen. Walker | Wonders if the Attorney General charges the members of the class action lawsuit for the assessment of the settlement. |
| 105 | Aubertine | Replies that the Attorney General (AG) does not receive payment for their services. |
| 111 | Sen. Walker | Asks if the AG gets 50 percent of all punitive damages. |
| 113 | Aubertine | Explains the AG's return in lawsuits, focusing on the damages in class action cases. |
| 122 | Sen. Walker | Inquires if this is a consumer action by the AG for the public. |
| 125 | Aubertine | Answers yes. |
| 129 | Sen. Ringo | Wonders why this applies only to class action lawsuits. |
| 132 | Aubertine | Responds with information on antitrust law and its relation to SB 215. |
| 142 | Sen. Ringo | Inquires about other states consumer protection laws. |
| 145 | Aubertine | Replies that yes, other states do have these types of laws, but he does not have the actual data. |
| 150 | Sen. Ringo | States that he believed it was the province of the court that made the decision of whether the settlement was fair or not. |
| 160 | Aubertine | Advocates that SB 215 does not alter that final assessment, and instead gives the Attorney General the opportunity to lighten their course-load. |
| 177 | Sen. Ringo | Wonders about the number of hours to be used up by the Attorney General to mediate the class action lawsuits. |
| 180 | Aubertine | Responds that SB 215 has no fiscal impact, and it could be worked into the budget easily. |
| 190 | Sen. Prozanski | Asks why this bill didn't make it out of the 2003 Legislature. |
| 197 | Aubertine | Speaks about how many good ideas didn't get the attention they needed in the 2003 Legislature. |
| 207 | Jim Gardner | Microsoft Corporation. Declares his support for SB 215 and why the Attorney General should insert themselves into the process. |
| 228 | Chair Burdick | Closes public hearing on SB 215. Opens work session on SB 215. |

SB 215 WORK SESSION

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| 236 | Sen. Starr | MOTION: Moves SB 215 to the floor with a DO PASS recommendation. |
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VOTE: 6-0-1

EXCUSED: 1 - Whitsett

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| 242 | Chair Burdick | Hearing no objection, declares the motion CARRIED. SEN. RINGO will lead discussion on the floor. |
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| 245 | Chair Burdick | Closes Work Session on SB 215 and opens a public hearing on SB 217. |
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SB 217 PUBLIC HEARING

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| 249 | William E. Taylor | Counsel. Describes SB 217, relating to definitions of "deviate sexual intercourse." |
| 267 | Ronelle Shankle | Policy Project and Legislative Coordinator, Attorney General's Office, Department of Justice. Testifies in support of SB 217 |

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| | | (EXHIBIT B & C). |
| 287 | Phyllis Barkhurst | Attorney General’s Sexual Assault Task Force. Testifies in support of SB 217, focusing on the confusing language in current law. |
| 300 | Shankle | Discusses certain amendments (Exhibit C) required for SB 217. |
| 325 | Chair Burdick | Closes public hearing on SB 217. Opens public hearing on SB 218. |

SB 218 PUBLIC HEARING

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| 332 | William E. Taylor | Counsel. Describes SB 218, relating to a public servant or employer seeking a court order against harassment by other individuals. |
| 345 | Ronelle Shankle | Policy Project and Legislative Coordinator, Attorney General’s Office, Department of Justice. Testifies in support of SB 218, and talks about past forms of this bill as well as possible amendments. |
| 365 | Tom Castle | Assistant Attorney General, Department of Justice. Declares support for SB 218, and the amendments relating to the term, “public servant.” Details the reasoning behind the need for SB 218; the harm some public servants face while on their jobs. |
| 429 | Sen. Prozanski | Asks why this didn’t make it out of last year’s session. |
| 434 | Mary Botkin | American Federation of State, County, and Municipal Employees. Responds that there was a constitutional conflict. |
| 445 | Castle | Discusses other problems faced by state workers, and how SB 218 will assist them. |

TAPE 22, A

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| 016 | Taylor | Inquires if the bill would apply to legislators. |
| 020 | Castle | Responds that the amendment would include elected or appointed officials. |
| 026 | Botkin | Testifies in support of SB 218. Highlights the reasoning for passing this bill. |
| 059 | Chair Burdick | Closes public hearing on SB 218. Opens a public hearing on SB 251 and SB 252. |

SB 251 & SB 252 – PUBLIC HEARING

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| 063 | William E. Taylor | Counsel. Describes SB 251, relating to statute of limitations for custodial interference in any degree. |
| 073 | Sen. Frank Morse | Senate District 8. Testifies in support of SB 251. Discusses his history with custodial interference, and how SB 251 & SB 252 can bring relief to this issue. |
| 100 | Morse | Explains the repercussions for individuals suffering from custodial interference if SB 251 & SB 252 passed. |
| 119 | Sen. Prozanski | Wonders about custodial interference cases where the child is 18, and if the statute of limitations is still 24 years. |
| 128 | Taylor | Clarifies the statute of limitations rule in regards to custodial interference. |
| 151 | Sen. Prozanski | Inquires about the confusing statute of limitations. |
| 170 | Taylor | Replies with clarification on the statute of limitations. |
| 198 | Liss Hart–Haviv | Executive Director, Take Root. Provides written testimony in support of SB 251 and 252 (EXHIBIT D). Argues that Oregon needs tougher standards to prevent abduction. |
| 265 | Hart-Haviv | Describes the lack of focus on the child, but rather the parents. Expresses the horrible nature of being abducted, no matter if by a stranger or a parent. |
| 324 | Hart-Haviv | Explains that when abduction is prosecuted, it is categorized as “custodial interference,” and talks about how little this compares |

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| | | to the horror of being taken. |
| 367 | Hart-Haviv | Gives statistics and comments on cases involving abductions. |
| 430 | Staff | Video on abduction begins. |
| TAPE 21, B | | |
| 066 | Staff | Video continues. |
| 100 | Staff | Video continues. |
| 150 | Staff | Video continues. |
| 170 | Hart-Haviv | Replies to earlier statements concerning the statute of limitations. |
| 185 | Sean Cruz | Legislative Aide to Sen. Gordly. Reads testimonies in support of SB 251 (EXHIBIT E). |
| 235 | Cruz | Continues reading testimony (Exhibit E). |
| 285 | Cruz | Continues reading testimony (Exhibit E). |
| 335 | Cruz | Continues reading testimony (Exhibit E). |
| 385 | Cruz | Continues reading testimony (Exhibit E). |
| 435 | Cruz | Continues reading testimony (Exhibit E). |
| 485 | Cruz | Continues reading testimony (Exhibit E). |
| TAPE 22, B | | |
| 50 | Cruz | Continues reading testimony (Exhibit E). |
| 100 | Cruz | Continues reading testimony (Exhibit E). |
| 170 | Ronelle Shankle | Policy Project and Legislative Coordinator, Attorney General's Office, Department of Justice. Testifies in support of SB 251 and 252 and proposes amendments to SB 252 (EXHIBIT F). |
| 195 | Mickey Lansing | Executive Director, Oregon Commission on Children and Families. Testifies in support of SB 251. Talks about the shortcomings in the justice system in regards to abduction. Expresses the desire to bring out-of-state leaders on this issue to Oregon to assist the creation of support policy for victims. |
| 250 | Sen. Ringo | Offers commendation to Sean Cruz for his testimony. Asks about friendly relationships between spouses regarding the guardianship of children causing problems in court cases. |
| 279 | Shankle | Replies she doesn't exactly know the figures for an answer. |
| 285 | Taylor | Reads the bill and expresses that the story told by Sen. Ringo wouldn't factor into the bill. |
| 299 | Sen. Ringo | Reiterates the desire not to alter anything that would have negative ramifications down the road. |
| 313 | Taylor | States that the bill addresses the scenario that Sen. Ringo has brought up. |
| 334 | Kelly Skye | Oregon Criminal Defense Lawyers Association. Discusses opposition to SB 251, concerning the statute of limitations. Brings up concerns with the bill solving the problems being addressed here. |
| 370 | Sen. Ringo | Inquires about the statute of limitations after the child has turned 18. |
| 375 | Skye | Addresses the concern raised about the statute of limitations. |
| 408 | Chair Burdick | Wonders about the statute of limitations when the child was younger and again later at another age. |
| 413 | Skye | Responds and discusses ongoing custodial interference. |
| 425 | Taylor | Comments on how SB 251 would increase the statute of limitations in certain situations. |
| 440 | Chair Burdick | Asks about the current statute in comparison to the new policy under SB 251. |
| 450 | Taylor | Offers clarification on the complexity of the current law and SB 251. |
| 475 | Skye | Brings up and discusses the topic of mandatory reporter. |

TAPE 23, A

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| 030 | Andrea Meyer | American Civil Liberties Union. Expresses support for SB 251. |
| 041 | Chair Burdick | Closes public hearing on SB 251 and SB 252. |
| 042 | Chair Burdick | Adjourns meeting at 2:29 p.m. |

EXHIBIT SUMMARY

- A. **SB 215, written testimony, Frederick M. Boss, 5 pp**
- B. **SB 217, written testimony, Ronelle Shankle, 2 pp**
- C. **SB 217, proposed amendment, Ronelle Shankle, 4 pp**
- D. **SB 251, written testimony, Liss Hart-Haviv, 3 pp**
- E. **SB 251, written testimony, Sean Cruz, 8 pp**
- F. **SB 252, proposed amendment, Ronelle Shankle, 2 pp**