

SENATE COMMITTEE ON JUDICIARY

February 21, 2005
1:00 P.M.

Hearing Room 343
Tapes 40 - 41

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: **Heidi Moawad, Counsel**
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 106 – Public Hearing
 SB 262 – Work Session
 SB 113 – 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 40, A		
003	Chair Burdick	Calls the meeting to order at 1:12 p.m. and opens a public hearing on SB 106.
<u>SB 106 – PUBLIC HEARING</u>		
006	Heidi Moawad	Counsel. Describes SB 106, relating to abuse of the elderly.
026	Erinn Kelley-Siel	Policy Advisor, Elder Abuse Task Force (EATF). Testifies in support of SB 106. Discusses the Governor's Elder Abuse Task Force Report (EXHIBIT A).
058	Kelley-Siel	Gives recent examples of why this bill needs to be passed. Cites statistical information on elder abuse.
093	Kelley-Siel	Talks about two possible amendments the EATF recommends for SB 106.
110	Kelley-Siel	Comments on the Governor's personal history with elder care.
127	Joyce DeMonnin	Coordinator, Elder Safe Program. Submits testimony and testifies in support of SB 106 (EXHIBIT B).
152	DeMonnin	Discusses the EATF that studied elder abuse in Oregon.
175	DeMonnin	Mentions elder sex abuse and financial exploitation.
208	Sen. Beyer	Inquires about some confusion in the wording of SB 106.
214	Kelley-Siel	Responds to the confusion on different sections of the bill.
240	Sen. Beyer	Wonders about the narrowing of the term "disabled person."
248	Kelley-Siel	Comments on the definition of "disabled persons." Talks about an amendment that fixes the confusion.
276	Sen. Beyer	Asks about a statute relating to brain injuries on line 17, page 2 of SB 106.
286	Kelley-Siel	States that she is not sure about that statute, but will investigate.

290	Chair Burdick	Inquires about mandatory reporters.
301	DeMonnin	Replies that the EATF was not meant to focus on investigation by mandatory reporters; talks about training for mandatory reporters. Mentions a statewide elder abuse conference in September.
325	Chair Burdick	Inquires about immunity for mandatory reporters who are wrong when reporting suspected abuse.
332	DeMonnin	Conveys that the immunity would cover those individuals.
349	Pete Shepherd	Deputy Attorney General. Testifies in support of SB 106. Comments on the immunity for an erroneous report made in good faith.
380	Chair Burdick	Asks if an individual, who was not properly trained, missed the signs of elder abuse, can the law come back to prosecute them.
385	Shepherd	Responds with information on the existing mandatory reporting process and history.
407	Morgen Brodie	Program Coordinator, Department of Human Services. Submits testimony and testifies in support of SB 106 (EXHIBIT C).
437	Brodie	Cites information on elder abuse.
475	Brodie	Continues with information on elder abuse.
TAPE 41, A		
030	Brodie	Talks about the information on elder sex abuse.
059	Kamala Shugar	Deputy District Attorney, Lane County. Testifies in support of SB 106. Brings up the issue of threats as a means of elder abuse, and how SB 106 addresses these problems.
078	Bertran Copp	Testifies in support of SB 106. Advocates the alteration of the bill to get around legal hang-ups. Suggests solutions to the confusing wording in SB 106.
106	Dolores Hubert	Chair, Governor's Commission on Senior Services. Submits testimony and testifies in support of SB 106 (EXHIBIT D).
142	Rick Bennett	Associate State Director, American Association of Retired Persons. Submits testimony and testifies in support of SB 106 (EXHIBIT E).
152	Timothy Marble	Submits testimony and testifies in support of SB 106 (EXHIBIT F). Talks about the will attached to Exhibit F . Addresses concerns raised during the drafting of the bill.
215	Chair Burdick	Asks who drafted this bill.
217	Marble	Responds that he has drafted segments of the bill.
223	Chair Burdick	Inquires about abuse provisions in SB 106.
231	Marble	Explains the segment of the bill under question.
256	Sen. Prozanski	Wonders why there isn't an emergency clause in the wording.
267	Marble	Responds that he would support such an amendment.
273	Sen. Whitsett	Asks about the immunity issue concerning an accusation made in good faith.
261	Chair Burdick	Interjects that they will have other witnesses who can better answer the question.
287	Marble	Discusses the wording of SB 106.
292	Bob Livingston	Oregon State Firefighter's Council. Testifies as a neutral party on SB 106. Affirms his belief in approaching and battling the issue of elder abuse. Addresses his concern of the wording in this particular bill. Expresses his desire for more training for mandatory reporting.
346	Livingston	Discusses the problems inherent in the mandatory reporting clause.
369	Sen. Walker	Talks about training for mandatory reporters.

392	Livingston	Responds that there is already quite a bit of required training.
407	Sen. Walker	Raises the issue that district attorneys are not prosecuting mandatory reporting violations.
444	Sen. Whitsett	Asks about subtle signs of abuse.
450	Livingston	Replies that the issue of subtle abuse is a difficult one. Discusses the problems with diagnosing injuries or signs of elder abuse. States that there are other representatives better trained to identify these signs.
484	Sen. Beyer	Wonders if volunteer firefighters would fall under this classification.
489	Livingston	Insists that they fall under the classification.
515	Chair Burdick	Enters written testimony from Nan Heim and Claudia M. Burton (EXHIBITS G & H).

TAPE 40, B

040	Chair Burdick	Questions the wording in SB 106.
043	Shepherd	Addresses the wording in question. Talks about the concerns that came about during the drafting of the bill.
071	Shepherd	Comments on a hypothetical self-help method to resolve guardianship issues.
097	Sen. Beyer	Talks about the mandatory reporting for child abuse.
100	Shepherd	Responds with information on the statute.
106	Sen. Beyer	Asks if volunteer firefighters would fall under this bill.
109	Shepherd	Replies that he is not sure.
111	Sen. Beyer	Wonders if elected officials fall under the definitions in this bill.
122	Shepherd	Responds with information on the definition of elected official.
131	Sen. Beyer	Raises the hypothesis of a constituent coming to him with a grievance of financial elder abuse.
138	Kelley-Siel	Replies to the hypothesis relating to mandatory reporting.
143	Chair Burdick	Wonders if there is a duty to investigate the problem.
145	Shepherd	Discusses the mandatory reporting responsibilities and process.
185	Victor Hoffer	Attorney General's Elder Abuse Task Force. Testifies in support of SB 106.
223	Hoffer	Addresses the earlier questions on training and mandatory reporting.
278	Chair Burdick	Closes the public hearing on SB 106 and opens a work session on SB 262.

SB 262 – WORK SESSION

295	Heidi Moawad	Counsel. Introduces the -4 amendments (EXHIBIT I).
313	Bryan Boehringer	Director, Government Relations, Oregon Health Sciences University. Discusses the -4 amendments, and the reasoning behind them.
330	Sen. Ringo	Inquires to the sunset clause of the bill.
335	Chair Burdick	Offers information as to the sunset clause of SB 262.
358	Sen. Starr	MOTION: Moves to ADOPT SB 262-4 amendments dated 2/21/05.
362	Sen. Walker	Discusses the bill from last session and her decision.
374		VOTE: 5-1-1 AYE: 5 - Prozanski, Ringo, Whitsett, Starr, Burdick NAY: 1 - Walker EXCUSED: 1 – Beyer
385	Chair Burdick	The motion Carries.
389	Sen. Starr	MOTION: Moves SB 262 to the floor with a DO PASS AS AMENDED recommendation.
391	Sen. Prozanski	States that he is reserved as to his decision, but will currently

vote aye.

VOTE: 5-1-1

AYE: 5 - Prozanski, Ringo, Whitsett, Starr, Burdick

NAY: 1 - Walker

EXCUSED: 1 - Beyer

The motion Carries.

SEN. RINGO will lead discussion on the floor.

406 Chair Burdick

433 Chair Burdick

Closes the work session on SB 262 and opens a public hearing on SB 113.

SB 113 – PUBLIC HEARING

437 Heidi Moawad

Counsel. Describes SB 113, relating to qualifying for the driving under the influence of intoxicants diversion program.

465 Teresa Douglas

Governor's Advocacy Committee on Driving Under the Influence of Intoxicants (DUII). Reads testimony in support of SB 113 (**EXHIBIT J**).

TAPE 41, B

051 Chair Burdick

Asks why they have settled on 15 years between convictions in the bill.

054 Douglas

Responds as to the choice of 15 years.

064 Sen. Whitsett

Wonders if ignition key locked breathalyzers would be a better choice for enforcement.

071 Douglas

Replies that the ignition interlock breathalyzers are best used in DUII convictions, not diversions.

075 Sen. Whitsett

Asks why they do not do better with prevention.

076 Douglas

Responds that she is not an expert on the method.

080 Sen. Ringo

Inquires why the difference between ten to 15 years is so important.

087 Douglas

Gives information as to why the years were increased in the bill.

095 Sen. Ringo

Wonders about the recidivism rates in the DUII program.

099 Douglas

Explains that she does not have statistics, but in her experience as an evaluator, she sees a 15-20% recidivism rate.

106 Sen. Ringo

Inquires if this bill will work, or will it keep those who are making an honest effort from succeeding.

111 Douglas

Affirms that they need to stop giving people a way out of the sanctions.

116 Sen. Ringo

Expresses confusion as to whether this bill will only affect the honest individuals who truly seek to clean up.

123 Moawad

Clarifies the issue on SB 113.

132 Kelly Skye

Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 113. Discusses the history of the DUII program.

180 Skye

Outlines why this will not keep drinking and driving from occurring.

185 Sen. Walker

Points out legislation that occurred in a previous session relating to these laws.

205 Kamala Shugar

Deputy District Attorney, Lane County. Testifies in support of SB 113. Talks about the DUII diversion program.

242 Shugar

Addresses the true purpose of diversion and the goal of prosecutors.

270 Shugar

Offers assistance in gathering statistics on diversion programs and success rates. Talks about the ignition interlock device mentioned earlier.

302 Anne Pratt

Crime Victim's United & Mother's Against Drunk Driving. Submits testimony and testifies in support of SB 113 (**EXHIBIT**

		K). Introduces SB 625 as a possible amendment to SB 113 (EXHIBIT L). Submits written testimony in support of SB 113 (EXHIBITS M – O).
360	Pratt	Discusses repeat offenders. Talks about another diversion program in Maryland.
390	Chair Burdick	Introduces written testimony from Troy E. Costales and Lloyd N. Clodfelter (EXHIBITS P & Q).
429	Chair Burdick	Closes the public hearing on SB 113 and adjourns the meeting at 3:04 p.m.

EXHIBIT SUMMARY

- A. SB 106, Report: Governor’s Elder Abuse Task Force, Erinn Kelley-Siel, 7 pp**
- B. SB 106, written testimony, Joyce DeMonnin, 8 pp**
- C. SB 106, written testimony, Morgen Brodie, 2 pp**
- D. SB 106, written testimony, Dolores Hubert, 2 pp**
- E. SB 106, written testimony, Rick Bennett, 1 p**
- F. SB 106, written testimony, Timothy Marble, 7 pp**
- G. SB 106, written testimony, Nan Heim, 1 p**
- H. SB 106, written testimony, BeaLisa Sydlik, 3 pp**
 - I. SB 262, -4 amendments, staff, 7 pp**
 - J. SB 113, written testimony, Teresa Douglas, 2 pp**
 - K. SB 113, written testimony, Anne Pratt, 2 pp**
 - L. SB 625, written testimony, staff, 8 pp**
- M. SB 113, Study: Any First Alcohol-Impaired Driving Event is a Significant and Substantial Predictor of Future Recidivism, Bruce Pratt, 7 pp**
- N. SB 113, written testimony, Bruce Pratt, 2 pp**
- O. SB 113, National Transportation Safety Board Safety Report, Bruce Pratt, 5 pp**
- P. SB 113, written testimony, Troy E. Costales, 1 p**
- Q. SB 113, written testimony, Lloyd N Clodfelter, 1 p**