

## SENATE COMMITTEE ON JUDICIARY

February 24, 2005  
1:00 P.M.

Hearing Room 343  
Tapes 46 - 48

Corrected 10/26/05

**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:**

**SB 229 – Public Hearing**  
**SB 230 – Public Hearing**  
**SB 231 – Public Hearing**  
**SB 232 – Public Hearing**  
**SB 233 – Public Hearing**  
**SB 234 – Public Hearing**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 46, A</b>		
003	Chair Burdick	Opens the meeting at 1:04 p.m. and opens a public hearing on SB 229, SB 230, SB 231, SB 232, SB 233, & SB 234.
<b><u>SB 229, SB 230, SB 231, SB 232, SB 233, &amp; SB 234 – PUBLIC HEARING</u></b>		
010	Sen. Kate Brown	Senate District 21. Discusses the history of the Oregon Law Commission. Introduces several other witnesses present today, including Wendy Johnson, Deputy Director of the Oregon Law Commission.
037	Sen. Brown	Talks about the bills facing the committee today.
065	Sen. Brown	Continues discussion on the bills on the docket.
090	Chair Burdick	Commends Sen. Brown on her work with these bills.
096	Chair Burdick	Closes the public hearing on SB 229, SB 230, SB 231, SB 232, SB 233, & SB 234 and opens a public hearing on SB 233.
<b><u>SB 233 – PUBLIC HEARING</u></b>		
098	Joe O'Leary	Counsel. Describes SB 233 relating to mental disease or defect constituting insanity in juvenile delinquency proceedings.
108	Timothy Travis	Court Improvement Manager, Oregon Judicial Department. Submits testimony and testifies in support of SB 233 ( <b>EXHIBIT A</b> ). Explains the purpose of SB 233 and the reasoning behind the need for its passage.
163	Travis	Discusses the statutes being amended by SB 233.

178	Chair Burdick	Introduces the -2 amendment ( <b>EXHIBIT B</b> ) and inquires if the amendment is a substitute for the original bill.
180	Travis	Replies yes, it is a comprehensive amendment.
184	Karen Andall	Oregon Youth Authority (OYA). Testifies in support of SB 233.
191	Sen. Beyer	Asks if this bill will change the methods the OYA employs to assist youths.
195	Andall	Responds with information on OYA's methods.
208	Sen. Beyer	Wonders about the fiscal impact of SB 233.
213	O'Leary	Confirms there is no fiscal impact.
221	Travis	Discusses the reformation plan in the statute.
229	Chair Burdick	Closes the public hearing on SB 233 and opens a public hearing on SB 230.

**SB 230 – PUBLIC HEARING**

234	Joe O'Leary	Counsel. Describes SB 230 relating to dependency proceedings in juvenile court.
241	Wendy Johnson	Deputy Director, Oregon Law commission. Submits work group report on SB 230 ( <b>EXHIBIT C</b> ).
242	Peter Miller	Lawyer. Testifies in support of SB 230. Discusses the topics of guardian ad litem in juvenile courts.
279	Miller	Cites a recent court case dealing with the topic of guardian ad litem.
320	Miller	Talks about scenarios where a guardian ad litem would be appointed or needed.
343	Miller	Discloses the scope of authority for a guardian ad litem.
378	Chair Burdick	Asks for the literal meaning of the term "ad litem."
382	Miller	Explains the definition of "ad litem."
397	Julie McFarlane	Oregon Law Commission. Testifies in support of SB 230. Expresses her belief that SB 230 could be a model for statutes in other states.
465	McFarlane	Goes over the sections of SB 230.
500	McFarlane	Continues the section-by-section analysis of SB 230.
<b>TAPE 47, A</b>		
050	McFarlane	Continues the section-by-section analysis of SB 230.
065	McFarlane	Introduces the proposed -1 amendment ( <b>EXHIBIT D</b> ). Continues discussion of SB 230.
100	McFarlane	Continues discussion of SB 230.
143	McFarlane	Details the changes the -1 amendment makes.
155	Sen. Starr	Inquires about the deletion in SB 230 because of the -1 amendment.
164	McFarlane	Explains the reasoning behind the alterations.
178	Sen. Starr	Expresses his confusion on the -1 amendment.
184	Chair Burdick	Shares her opinion on the result of the -1 amendment.
192	Sen. Prozanski	Offers information as to the continued confusion on the changes resulting from the -1 amendment.
207	McFarlane	Explains the changes the -1 amendment will make. Goes on to talk about the remaining sections in SB 230.
250	McFarlane	Continues the section-by-section analysis of SB 230.
290	McFarlane	Continues the section-by-section analysis of SB 230.
303	O'Leary	Inquires as to the necessity of amending the Oregon Evidence Code due to conflicts with the amendment.
324	McFarlane	Replies that they did not notice the issue during the drafting of the bill. Emphasizes that she will look into that information.
352	Layne Barlow	Director, Oregon Men's Association. Testifies in opposition to SB 230. Explains their concern on the bill's definition of

363	Chair Burdick	“putative fathers.” Closes public hearing on SB 230 and opens a public hearing on SB 229.
<b><u>SB 229 – PUBLIC HEARING</u></b>		
366	Joe O’Leary	Counsel. Describes SB 239 relating to dependency proceedings in juvenile court.
374	Wendy Johnson	Deputy Director, Oregon Law Commission. Submits work group report on SB 229 ( <b>EXHIBIT E</b> ).
375	Linda Guss	Assistant Attorney General, Department of Justice. Testifies in support of SB 229. Discusses the amendments SB 229 will make in the current statute.
416	Layne Barlow	Director, Oregon Men’s Association. Testifies in opposition to SB 229. Cites court examples concerning the legal authority of guardians and biological parents.
450	Chair Burdick	Closes public hearing on SB 229 and opens a public hearing on SB 231.
<b><u>SB 231 – PUBLIC HEARING</u></b>		
454	Joe O’Leary	Counsel. Describes SB 231 relating to delinquency cases.
465	Wendy Johnson	Deputy Director, Oregon Law Commission. Submits work group report on SB 231 ( <b>EXHIBIT F</b> ).
466	Michael Livingston	Assistant Attorney General, Department of Justice. Submits testimony and testifies in support of SB 231 and SB 231-1 ( <b>EXHIBIT G</b> ).
<b><u>TAPE 46, B</u></b>		
038	Livingston	Talks about the effects that would result with the passage of SB 231.
070	Sen. Whitsett	Inquires about social records.
075	Livingston	Replies with information on social records.
104	Chair Burdick	Closes public hearing on SB 231 and opens a public hearing on SB 234.
<b><u>SB 234 – PUBLIC HEARING</u></b>		
107	Joe O’Leary	Counsel. Describes SB 234 relating to putative fathers in adoption.
115	Wendy Johnson	Deputy Director, Oregon Law Commission. Submits work group report on SB 234 ( <b>EXHIBIT H</b> ).
116	Leslie Harris	University of Oregon Law School. Submits testimony and testifies in support of SB 234 ( <b>EXHIBIT I</b> ). Discusses the history of juvenile court proceedings relating to guardianship.
149	Sen. Walker	Wonders about guardianship law.
153	Harris	Replies with information on guardianship in certain situations. Continues the discussion on SB 234 and the effects after the passage of the bill.
203	Harris	Details a confusing section in Oregon statute that deals with the definition of putative fathers.
231	Harris	Introduces the -2 amendment ( <b>EXHIBIT J</b> ).
278	Kathryn Garrett	Assistant Attorney General, Department of Justice. Testifies in support of SB 234. Discusses the section of SB 234 that amends the definition of “parent.”
315	Garrett	Talks about information on issues of authority. Clarifies the tribal law conflicts with current statutes.
382	Layne Barlow	Director, Oregon Men’s Association. Submits testimony and testifies in opposition to SB 234 ( <b>EXHIBIT K</b> ).
387	Victor Smith	Dads Against Discrimination. Testifies in opposition to SB 234.
370	Matt Minihan	Dads Against Discrimination. Testifies in opposition to SB 234.

417	Chair Burdick	Discusses their opposition with the timeframe in the bill. Closes public hearing on SB 234 and opens a public hearing on SB 232.
<b><u>SB 232 – PUBLIC HEARING</u></b>		
428	Joe O’Leary	Counsel. Describes SB 232 relating to defense of mental disease or defect in juvenile delinquency proceedings.
440	Karen Andall	Oregon Youth Authority. Submits written testimony of Robert S. Jester in support of SB 232 ( <b>EXHIBIT L</b> ).
441	Katherine Berger	Submits testimony and testifies in support of SB 232 ( <b>EXHIBIT M</b> ).
480	Berger	Explains that other states have similar programs, and discusses the decision to establish a juvenile panel under the Psychiatric Security Review Board.
<b>TAPE 47, B</b>		
043	Amy Holmes Hehn	Deputy District Attorney, Multnomah County. Testifies in support of SB 232. Describes the usual court scenario for youths with mental health issues.
085	Hehn	Details how SB 232 assists youths with mental health issues.
112	Hehn	Expresses her desire to collaborate with the Oregon District Attorney Association (ODAA) to pass SB 232.
140	Christina McMahan	Deputy District Attorney, Deschutes County. Testifies in support of SB 232. Talks about the problems a small county faces when dealing with youths with mental health problems.
176	O’Leary	Inquires about the language of the bill dealing with the certification of psychiatrists.
194	Berger	States that the language was recommended to them, and gives information on their decision.
203	O’Leary	Expresses that in rural counties, it is difficult to find psychiatrists who fit such qualifications.
215	Terry Leggett	Judge, Marion County. Testifies in support of SB 232. Details her reasoning for supporting SB 232.
235	Deanne Darling	Judge, Clackamas County. Testifies in support of SB 232. Stresses her frustration in current law in this area. Explains that SB 232 will clarify the methods for dealing with youths with mental health issues.
289	Bob Nikkel	Administrator, Office of Mental Health and Addiction Services, Department of Human Services. Testifies in support of SB 232.
322	Walt Beglau	Oregon District Attorneys Association. Testifies in opposition to SB 232. Offers his reasoning in opposing this bill.
380	Chair Burdick	Asks about the public safety system and its relationship with dependency issues.
390	Beglau	Concedes there are many mentally ill youths, but stresses the issue of dependency. Brings up the problem of creating a vast bureaucratic process to deal with a finite number of youths.
415	Claire Corwin-Kordosky	National Association of Social Workers. Submits testimony and testifies in support of SB 232 ( <b>EXHIBIT N</b> ).
465	Angela Kimball	Association of Oregon Community Mental Health Programs. Testifies in a neutral stance on SB 232. Raises the issue of funding if this bill is passed.
490	Chair Burdick	Asks the witness for her opinion on SB 232 as a parent of a mentally ill child.
500	Kimball	Stresses her continued support of SB 232 and discusses her son as an example.

**TAPE 48, A**

039	Dr. Keith Cheng	President, Oregon Council of Child and Adolescent Psychiatry. Testifies in support of SB 232 and stresses the importance of the passage of this bill. Gives personal examples of how SB 232 may help the youth mental health system.
081	Cheng	Addresses the fiscal standing of SB 232, and how they may start saving money if the panel was comprised of intelligent and professional individuals.
093	Chair Burdick	Commends the witnesses on their testimony. Closes the public hearing on SB 232 and adjourns the meeting at 3:00 p.m.

## **EXHIBIT SUMMARY**

- A. SB 233, written testimony, Timothy Travis, 8 pp
- B. SB 233, -2 amendment, staff, 6 pp
- C. SB 230, work group report, Wendy Johnson, 6 pp
- D. SB 230, -1 amendment, staff, 1 p
- E. SB 229, work group report, Wendy Johnson, 3 pp
- F. SB 231, work group report, Wendy Johnson, 13 pp
- G. SB 231, written testimony, Michael Livingston, 6 pp
- H. SB 234, work group report, Wendy Johnson, 15 pp
- I. SB 234, written testimony, Leslie Harris, 2 pp
- J. SB 234, -2 amendment, staff, 5 pp
- K. SB 234, written testimony, Layne Barlow, 6 pp
- L. SB 232, written testimony, Karen Andall, 1 p
- M. SB 232, written testimony, Katherine Berger, 12 pp
- N. SB 232, written testimony, Claire Corwin-Kordosky, 1 p