

SENATE COMMITTEE ON JUDICIARY

March 29, 2005
1:00 P.M.

Hearing Room 343
Tapes 85 - 87

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

MEMBER EXCUSED: **Sen. Charlie Ringo**

STAFF PRESENT: **William E. Taylor, Counsel**
 Joe O'Leary, Counsel
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 89 – Work Session
 SB 99 – Public Hearing
 SB 372 – Public Hearing
 SB 240 – Work Session
 SB 61 – Work Session
 SB 567 – 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 85, A		
003	Chair Burdick	Calls the meeting to order at 1:07 p.m. and opens a work session on SB 89.
<u>SB 89 – WORK SESSION</u>		
006	Joe O'Leary	Counsel. Describes SB 89 relating to custodial sexual misconduct in the first degree. Introduces the -2 amendment (EXHIBIT A). Submits testimony from Amnesty International (EXHIBIT B).
020	Chair	Asks about affirmative defense.
021	O'Leary	Comments on the definition of affirmative defense.
032	Sen. Prozanski	Inquires about lack of supervisory authority.
035	O'Leary	Cites information on the lack of supervisory authority and the -2 amendment.
050	Sen. Prozanski	States that he wanted the definition on the record, and continues the discussion on the topic of supervisory authority.
057	O'Leary	Talks about supervisory authority and affirmative defense.
073	Sen. Prozanski	Asks about the examples pertaining to probation officers.
081	O'Leary	Discusses the examples on probation officers.
094	Sen. Prozanski	Expresses the belief that those in supervisory positions should be

		held to a higher standard.
103	Sen. Starr	MOTION: Moves to ADOPT SB 89-2 amendments dated 3/29/05.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Whitsett
105	Chair Burdick	Hearing no objection, declares the motion CARRIED.
108	Sen. Starr	MOTION: Moves SB 89 to the floor with a DO PASS AS AMENDED recommendation.
110	Sen. Beyer	Asks if the -1 amendment was adopted yesterday.
106	Chair Burdick	Replies yes.
		VOTE: 5-0-2
		EXCUSED: 2 - Ringo, Whitsett
115	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
117	Chair Burdick	Closes the work session on SB 89 and opens a public hearing on SB 99.
<u>SB 99 – PUBLIC HEARING</u>		
118	William E. Taylor	Counsel. Describes SB 99 relating to the requirements for retention and disclosure of genetic information.
137	Katherine Bradley	Administrator, Office of Family Health, Department of Human Services. Reads testimony in support of SB 99 (EXHIBIT C).
175	Sen. Prozanski	Asks about adopting this bill even though current Oregon statute has more protections for genetic information.
187	Gwen Dayton	Co-Chair, Advisory Committee on Genetic Privacy and Research. Submits testimony and testifies in support of SB 99 (EXHIBIT D). Addresses the question on SB 99 having less protection than current law.
237	Sen. Starr	Inquires about section 2 of the bill relating to providers of treatment.
243	Dayton	Clarifies the drafting of the bill. Continues the discussion on how genetic information could be accessed under current law and under SB 99.
290	Chair Burdick	Asks why the information is needed by the agencies.
294	Dayton	Details how the doctor might need access to the information, and how they cannot get it without authorization.
318	Sen. Prozanski	Declares his hesitance to support this bill, and discusses his reasoning behind his current decision. Wonders about certain scenarios dealing with authorization for access of genetic information.
343	Dayton	Responds with information as to why this information needs to be accessed.
362	Sen. Prozanski	Inquires about current Oregon law on this issue.
367	Dayton	Replies with information on current Oregon law.
387	Chair Burdick	Asks if the test results or the fact that the test was done is the sought after information.
389	Dayton	Offers information on the reasoning behind the tests, and the need for their information.
410	Chair Burdick	Asks what currently happens when faced with the inability to seek payments from the treatment of genetically diagnosed diseases.
412	Dayton	States that they cannot bill for the services under these situations.
418	Sen. Prozanski	Wonders about the billing procedures and restrictions.
439	Dayton	Replies with information on billing procedures and restrictions.
456	Chair Burdick	Inquires about health insurers prohibiting coverage to certain

		individuals due to genetic information.
458	Dayton	Points to her testimony that details the use of genetic information for discriminatory purposes.
TAPE 86, A		
020	Chair Burdick	States that there are many reasons an insurer may decline coverage.
025	Taylor	Interprets the drafting for the committee members, and asks about insurers using the genetic information to discriminate.
035	Dayton	Comments on current Oregon Law relating to insurers and genetic information.
053	Chair Burdick	Asks how much billing revenue is lost due to the inability to track down the patients.
056	Dayton	Responds that she isn't sure, and will look into the data. Continues her discussion on the confidentiality of patient information.
077	Emily Harris	Assistant Program Director & Senior Investigator, Center for Health Research, Kaiser Permanente, Northwest Region. Submits testimony and testifies in support of SB 99 (EXHIBIT E). Talks about the current law on patient confidentiality in relation to genetic information.
112	Tad Falk	Citizen. Testifies in support of SB 99. Describes the current Oregon statutes relating to genetic privacy.
140	Falk	Discusses how current statutes are sometimes more protective and sometimes less protective than the federal laws.
151	Chair Burdick	Asks about the idea of state law being less protective than federal law.
160	Falk	Replies with information on federal and state statutes on genetic privacy.
186	Falk	Talks about insurance companies using genetic information.
212	Sen. Prozanski	Inquires if the new ideas expressed by the witness are conceptual, or are the ideas in the current bill.
218	Falk	Replies that it exists as a concept.
221	Sen. Prozanski	Wonders about the billing between 1995 and 2003 under current statutes.
230	Falk	Talks about the policies on privacy and their relation to billing. Describes the staff members in hospitals who are experts in this field due to federal standards on privacy.
267	Betsy Earls	Kaiser Permanente. Testifies in support of SB 99. Details the hierarchy of Kaiser Permanente and goes on to discuss its stance on genetic privacy.
315	Earls	Comments on Kaiser Permanente's use of genetic information and their business practices.
345	Sen. Whitsett	Asks about dual records of the patient's information.
349	Earls	Replies that they do use a dual record system.
360	Sen. Prozanski	States that, no matter what, they will have two sets of information, and one may be redacted to protect the privacy information.
404	Chair Burdick	Asks for information on the draft on the conceptual bill discussed earlier, and the makeup of the genetic privacy committee.
415	Earls	Offers information on the statutory members of the genetic privacy committee.
421	Sen. Prozanski	Inquires about waivers or authorizations for the disclosure of genetic information.
460	Chair Burdick	Closes the public hearing on SB 99 and opens a public hearing

on SB 372.

TAPE 85, B

SB 372 – PUBLIC HEARING

009	William E. Taylor	Counsel. Describes SB 372 relating to increasing the penalty for the failure to report child abuse and abuse of persons 65 years or older to maximum of one year's imprisonment in prison, \$6250 fine, or both. Introduces the -1 and -2 amendments (EXHIBITS F&G).
019	Sen. Walker	Senate District 7. Testifies in support of SB 372. Discusses the reasoning behind why they should increase the fines and punishments for these crimes.
055	Sen. Walker	Continues discussion on SB 372, and the reasoning behind the implementation of harsher punishments for refusal to report child abuse.
072	Sen. Walker	Reads several stories involving mandatory reporting of child abuse.
122	Sen. Walker	Continues reading stories involving child abuse.
140	Chair Burdick	Asks about the penalties from other states.
142	Sen. Walker	Replies with information on the penalties from other states. Describes the repercussions for failing to fulfill the mandatory reporting class.
164	Chair Burdick	Inquires if the -1 and -2 amendments accomplish the same thing.
167	Sen. Walker	Responds that they are each unique. Goes on to discuss the reasoning, and the necessity, behind each.
215	Timothy Travis	Court Improvement Manager, Oregon Judicial Department. Submits a reporting manual and PowerPoint slides on mandatory reporting (EXHIBITS H – J).
250	Travis	Talks about his two PowerPoint slides submitted for testimony (Exhibits I & J).
282	Travis	Discusses the PowerPoint slides dealing with mandatory reporting techniques (Exhibit J).
319	Travis	Stresses mandatory quality training for those who are reporters.
338	Chair Burdick	Asks if the Oregon Judicial Information Network keeps track of violations.
339	Travis	Replies yes. Continues discussion on mandatory reporting and his PowerPoint slide (Exhibit J).
376	Chair Burdick	Inquires about the immunity clause.
380	Travis	Clarifies the protections under the immunity clause.
387	Taylor	Describes a similar issue eight years ago.
313	Travis	Discusses the mandatory reporting of elder abuse.
435	Sen. Walker	Talks about the reprisals for the failure to report such crimes. Details how a local agency is having Mr. Travis come in to train their employees on mandatory reporting.
478	Travis	States that if there are any incidences that occur to report the information immediately, no matter what.

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036	Julie McFarlane	Supervising Attorney, Juvenile Rights Project. Submits testimony and testifies in support of SB 372 (EXHIBIT K).
072	McFarlane	Recommends mandatory reporting training in colleges and universities.
100	McFarlane	Details the federal mandatory reporting laws.
126	Sen. Walker	Commends the witness on all her work.
133	Bob Joondeph	Director, Oregon Advocacy Center. Submits testimony and testifies in support of SB 372 (EXHIBIT L).

183 Martin Taylor Oregon Nurses Association. Submits a bill chart from Maura Roach and testifies in opposition to SB 372 (**EXHIBIT M**).

240 Taylor Describes Maura Roach's chart showing all the bills relating to other bills on this topic (**Exhibit M**).

250 Chair Burdick Closes the public hearing on SB 372. Moves SB 221, SB 947, SB 251, and SB 567 to Wednesday, March 30, 2005. Opens a work session on SB 240.

SB 240 - WORK SESSION

275 William E. Taylor Counsel. Describes SB 240 relating to the creation of the Criminal Justice Research and Policy Institute within the Mark O. Hatfield School of Government. Introduces the -2 amendment (**EXHIBIT N**).

327 Sen. Starr **MOTION: Moves to ADOPT SB 240-2 amendments dated 3/29/05.**
VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett
Hearing no objection, declares the motion CARRIED.

330 Chair Burdick **MOTION: Moves SB 240 to the floor with a DO PASS AS**
331 Sen. Starr **AMENDED recommendation and the subsequent referral to Ways and Means be rescinded.**

348 Sen. Beyer Asks about -2 amendment.
349 Taylor Replies with information on the -2 amendment.
VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett
Hearing no objection, declares the motion CARRIED.
SEN. BURDICK will lead discussion on the floor.

353 Chair Burdick Closes the work session on SB 240 and opens a work session on SB 61.

356 Chair Burdick

SB 61 – WORK SESSION

359 William E. Taylor Counsel. Describes SB 61 relating to modifying the provisions relating to private security providers. Introduces and discusses the -2 amendment (**EXHIBIT O**).

370 Taylor Continues the discussion on the -2 amendment.

431 Chair Burdick Asks about a fiscal impact or subsequent referral.

442 Taylor Replies with information on the fiscal impact and subsequent referral to Ways and Means.

466 Harold Burke-Sivers Director of Public Safety, University of Portland. Testifies in support of SB 61 and stresses that there is currently no estimated fiscal impact.

501 Julie Brandis Associate Oregon Industries. Testifies on the fees resulting from SB 61.

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036 Sen. Starr **MOTION: Moves to ADOPT SB 61-2 amendments dated 3/24/05.**
VOTE: 5-0-2
EXCUSED: 2 - Ringo, Whitsett
Hearing no objection, declares the motion CARRIED.

038 Chair Burdick **MOTION: Moves SB 61 to the floor with a DO PASS AS**
038 Sen. Starr **AMENDED recommendation.**

041 Sen. Prozanski Stresses he has not had the chance to look the -2 over, but offers his current support.

044 Sen. Beyer Comments on his lack of support for SB 61.

050 Chair Burdick Orders the clerk to begin a role call vote.
VOTE: 4-1-2

		AYE: 4 - Prozanski, Starr C., Walker, Burdick
		NAY: 1 - Beyer
		EXCUSED: 2 - Ringo, Whitsett
052	Chair Burdick	The motion CARRIES.
		SEN. STARR will lead discussion on the floor.
059	Chair Burdick	Closes the work session on SB 61 and opens a work session on SB 567.
<u>SB 567 – WORK SESSION</u>		
061	Taylor	Counsel. Describes SB 567 relating to
064	Sen. Starr	MOTION: Moves SB 567 to the floor with a DO PASS recommendation.
		VOTE: 4-0-3
		EXCUSED: 2 – Beyer, Ringo, Whitsett
066	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. PROZANSKI will lead discussion on the floor.
072	Chair Burdick	Closes the work session on SB 567 and adjourns the meeting at 3:05 p.m.

EXHIBIT SUMMARY

- A. SB 89, -2 amendment, staff, 1 p
- B. SB 89, written testimony, Heidi Evans, 2 pp
- C. SB 99, written testimony, Katherine Bradley, 2 pp
- D. SB 99, written testimony, Gwen Dayton, 4 pp
- E. SB 99, written testimony, Emily Harris, 2 pp
- F. SB 372, -1 amendment, staff, 1 p
- G. SB 372, -2 amendment, staff, 3 pp
- H. SB 372, Mandatory Child Abuse Report, Timothy Travis, 28 pp
- I. SB 372, PowerPoint presentation on Mandatory Reporting, Timothy Travis, 10 pp
- J. SB 372, PowerPoint presentation on Mandatory Reporting, Timothy Travis, 10 pp
- K. SB 372, written testimony, Julie McFarlane, 4 pp
- L. SB 372, written testimony, Bob Joondeph, 2 pp
- M. SB 372, Bill chart, Martin Taylor, 1 p
- N. SB 240, -2 amendment, staff, 2 pp
- O. SB 61, -2 amendment, staff, 2 pp