

SENATE COMMITTEE ON JUDICIARY

March 03, 2005
1:00 P.M.

Hearing Room 343
Tapes 54 - 55

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

MEASURES/ISSUES HEARD:

SB 248 – Work Session
SB 252 – Work Session
SB 36 – Public Hearing
SB 94 – Public Hearing
SB 95 – 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 54, A		
003	Chair Burdick	Calls the meeting to order at 1:15 p.m. and opens a work session on SB 248.
<u>SB 248 – WORK SESSION</u>		
008	Joe O'Leary	Counsel. Describes SB 248 relating to the power of a guardian to withhold or withdraw artificially administered nutrition and hydration for a protected person.
027	Sen. Starr	MOTION: Moves SB 248 to the floor with a DO PASS recommendation.
030	Sen. Whitsett	Asks about the possibility of a permanently incapacitated individual eventually recovering.
037	O'Leary	States his belief that there is a provision requiring medical evidence of a terminal condition.
053	Sen. Whitsett	Asks his earlier question again for the witness.
061	Bob Joondeph	Director, Oregon Advocacy Center. Gives information as to the determination of a person returning to consciousness after a prolonged coma.
067	O'Leary	Cites statute with an exception in limiting the administering of artificial hydration and nutrition.
		VOTE: 4-0-3

084	Chair Burdick	EXCUSED: 3 - Beyer, Prozanski, Ringo Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor.
086	Chair Burdick	Closes the work session on SB 248 and opens a work session on SB 252.
<u>SB 252 – WORK SESSION</u>		
089	William E. Taylor	Counsel. Describes SB 252 relating to the definitions of “compensable crime” and “injury” for purposes of crime victims’ compensation. Introduces the -1 amendment (EXHIBIT A).
124	Sen. Starr	MOTION: Moves to ADOPT SB 252-1 amendments dated 3/3/05. VOTE: 5-0-2
129	Chair Burdick	EXCUSED: 2 - Beyer, Ringo Hearing no objection, declares the motion CARRIED.
130	Sen. Starr	MOTION: Moves SB 252A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-0-2
135	Chair Burdick	EXCUSED: 2 - Beyer, Ringo Hearing no objection, declares the motion CARRIED. SEN. PROZANSKI will lead discussion on the floor.
137	Chair Burdick	Closes the work session on SB 252 and opens a public hearing on SB 36.
<u>SB 36 – PUBLIC HEARING</u>		
140	Joe O’Leary	Counsel. Describes SB 36 relating to new subpoenas not needing to be served in criminal actions when the date or time of appearance has changed if the person subpoenaed is notified of the change. Introduces the -1 amendment (EXHIBIT B). Discusses an additional amendment being drafted.
157	Mike Dugan	District Attorney, Deschutes County. Testifies in support of SB 36.
166	Terry Leggett	Marion County Circuit Court Judge. Submits testimony and proposed amendments and testifies in support of SB 36 (EXHIBIT C).
192	John Hummel	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 36.
218	Chair Burdick	Closes the public hearing on SB 36 and opens a public hearing on SB 94.
<u>SB 94 – PUBLIC HEARING</u>		
219	Joe O’Leary	Counsel. Describes SB 94 relating to eliminating the mandatory cross- reporting requirement. Introduces the -1 amendment (EXHIBIT E).
235	Craig Prins	Executive Director, Criminal Justice Commission. Testifies in support of SB 94. Outlines a list of the supporters and drafters of SB 94. Details why SB 94 was requested by law enforcement.
289	Bob Tardiff	Chief, Newburg Police Department. Testifies in support of SB 94. Discusses how the Department of Human Services and other law enforcement departments have collaborated on this bill.
343	Chair Burdick	Asks for examples of items that would not need to be cross-reported if SB 94 passed.
345	Tardiff	Comments on some of the situations that would not need to be reported after passing SB 94.
373	Una Swanson	Program Manager, Department of Human Services (DHS). Submits testimony and testifies in support of SB 94 (EXHIBIT D). Talks about the lack of ability to differentiate between levels

		of abuse and what constitutes as criminal behavior.
400	Chair Burdick	Asks about the process DHS takes when confronted with abuse.
408	Swanson	Details the administrative rules used by the DHS to deal with abuse cases.
422	Sen. Prozanski	Inquires about first responders within DHS that will immediately act on reports of child abuse.
440	Swanson	Explains their screening process for cross-reporting child abuse cases, and talks about available immediate responses.
457	Chair Burdick	Interjects that she does not want to ignore a child in imminent danger.
459	Swanson	Re-emphasizes their administrative rules that require immediate action.
TAPE 55, A		
016	O'Leary	Asks about the -1 amendment.
019	Prins	Talks about the -1 amendment and the hand engrossed SB 94-1 (EXHIBIT F). Goes over the reasoning behind the drafting of the -1 amendment.
038	O'Leary	Inquires about the comparison between the original draft and the amendment.
048	Swanson	Comments on the reasoning for the changes in the -1 amendment.
062	Julie McFarlane	Juvenile Rights Project. Submits testimony and testifies in opposition to SB 94 along with an attached federally promulgated report on child abuse cases (EXHIBIT G).
085	McFarlane	Discusses the need to keep provisions in the statutes dealing with cross- reporting.
130	McFarlane	Addresses the issue of funding for increased case loads.
137	Chair Burdick	Asks where in SB 94 it talks about funding.
138	McFarlane	Cites the page number and line where the funding issue is discussed.
150	Chair Burdick	Inquires if children will be mishandled by DHS due to lack of funding and personnel.
155	McFarlane	Replies that there is always the possibility of mistakes, but stresses the department's ability to fulfill their responsibilities.
167	Chair Burdick	Wonders if there should be a weekly abuse list cross-reported to law enforcement.
175	McFarlane	Responds that it is a possible scenario.
188	Chair Burdick	Recalls an earlier question relating to funding.
191	Prins	Expresses his confusion on the particular passage, and notes his concern over the issue of funding.
210	Chair Burdick	Comments on the cross-reporting issue.
216	Swanson	Replies that the method discussed initially dealt with the ideas being currently brought up.
229	Chair Burdick	Inquires about the possibility of changing the bill to require DHS to deal with the harshest cases immediately, and provide copies of the remaining cases on a weekly basis to law enforcement.
239	Swanson	Affirms that there was a similar system in place at an earlier time.
245	Prins	Gives information on a system based on mandatory reporting.
261	Chair Burdick	Comments on the drafting that mentions the abolition of cross-reporting cases.
277	Sen. Walker	Addresses the methods raised in earlier testimony (Exhibit G).
292	McFarlane	Discusses law enforcement cross-reporting, and talks about the federal and state trends.
314	Tardiff	Explains the effects from the passage of SB 94, and agrees with

357	Chair Burdick	the confusion on some of the drafting choices. Closes the public hearing on SB 94 and opens a public hearing on SB 95.
<u>SB 95 – PUBLIC HEARING</u>		
360	Joe O’Leary	Counsel. Describes SB 95 relating to the membership of the Oregon Law Commission (OLC).
370	Craig Campbell	Governor’s Office. Testifies in support of SB 95. Describes the reasoning behind the bill.
400	Campbell	Discusses the changes made by SB 95 to the current statutes relating to the OLC.
426	Sen. Whitsett	Asks about the meetings.
430	Campbell	Replies with information as to the logistics of the OLC meetings.
445	John Hummel	Oregon Criminal Defense Lawyers Association. Testifies in a neutral stance on SB 95. Desires clarification on some of the choices in the bill.
490	Hummel	Talks about how the defense attorney is often blamed for being naysayers. Describes the necessity of keeping the membership of the OLC as diverse and equally represented as possible.
<u>TAPE 54, B</u>		
040	Chair Burdick	Asks if there has been a time the OLC has met without a criminal defense lawyer being represented.
044	Craig Prins	Executive Director, Criminal Justice Commission. Talks about the lack of statutory rules involving select membership for the OLC.
059	Chair Burdick	Asks if there is currently a criminal defense attorney on the OLC.
060	Prins	Responds that he does not believe so, stresses the lack of a current district attorney on the OLC.
069	Sen. Whitsett	Expresses his concern for the dilution of representation on the OLC of law professionals; stresses the need to have lawyers and prosecutors on the OLC.
079	Chair Burdick	Inquires about the representation of a defense lawyer on the OLC.
081	Prins	Responds with his desire to place knowledgeable representation on the OLC.
086	Sen. Prozanski	Wonders about making an amendment requiring a prosecutor and a defense attorney to be on the 13-member OLC after the passage of SB 95.
099	Campbell	Addresses the issue of too many people who might want to be on the OLC, but can’t due to limited places.
105	Prins	Explains that there are numerous groups wanting to be members of the OLC.
113	Chair Burdick	Expresses her desire for an amendment requiring a defense attorney and a prosecutor on the OLC.
123	Chair Burdick	Closes the public hearing on SB 95 and adjourns the meeting at 2:19 p.m.

EXHIBIT SUMMARY

- A. SB 252, -1 amendment, staff, 3 pp
- B. SB 36, -1 amendment, staff, 1 p
- C. SB 36, written testimony, Terry Leggert, 2 pp

- D. SB 94, written testimony, Una Swanson, 1 p**
- E. SB 94, -1 amendment, staff, 1 p**
- F. SB 94, proposed amendment, Craig Prins, 2 pp**
- G. SB 94, written testimony, Julie McFarlane**