

## SENATE COMMITTEE ON JUDICIARY

April 13, 2005  
1:00 P.M.

Hearing Room 343  
Tapes 106 - 108

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

**MEASURES/ISSUES HEARD:**  
SB 324 – Public Hearing  
SB 198 – Work Session  
SB 243 – Work Session  
SB 273 – Work Session  
SB 641 – Work Session  
SB 844 – Work Session  
SB 945 – Public Hearing  
SB 920 – 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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TAPE/#	Speaker	Comments
<b>TAPE 106, A</b>		
003	Chair Burdick	Calls the meeting to order as a subcommittee at 1:14 p.m. and opens a public hearing on SB 324.
<b><u>SB 324 – PUBLIC HEARING</u></b>		
006	William E. Taylor	Counsel. Describes SB 324 relating to removing the exceptions requiring confidentiality under certain conditions for the terms of settlement or compromise of action involving a public body and the terms of mediation agreement involving the public body. Introduces the -1 amendment ( <b>EXHIBIT A</b> ).
027	Sen. Vicki Walker	Senate District 7. Testifies in support of SB 324. Discusses Ward 40 at the Oregon State Hospital that is infamous for abuse cases.
078	Sen. Walker	Details the available exception for sex abuse cases presently under current law.
088	Pete Shepherd	Deputy Attorney General, Department of Justice. Testifies in support of SB 324. States that settlement lawsuits are required to be non-confidential.
118	Shepherd	Addresses the -1 amendment dealing with provisions that would permit the court to determine whether a case should be

		confidential.
140	Chair Burdick	Asks if the wording in the draft would protect the person in the lawsuit. Inquires about the protections of the bill for people under 18 years of age.
145	Shepherd	Replies that the redaction of information in certain cases involving personal privacy would be addressed on a case by case basis. Declares that the -1 amendment would only apply to individuals under 18.
172	Chair Burdick	Wonders about changing the language of the bill to better protect the victims of rape.
179	Sen. Walker	Replies that she would be agreeable to making such a change.
175	Chair Burdick	Agrees that there is some vital information pertinent to be disclosed to the public.
200	Shepherd	Points out that they would be happy to work with Sen. Walker to address these issues.
213	Sen. Walker	Inquires about if the Chair is looking to protect sex abuse victims exclusively or all victims in the new drafting language.
216	Chair Burdick	Replies that all victims must be protected.
240	Sen. Walker	States that she will be happy to work with the Attorney General and the Department of Justice to fix these issues.
247	Sen. Beyer	Asks what this bill aims to fix.
250	Sen. Walker	Responds that the bill was based on a story which brought to light corruption and sex abuse scandal at the Oregon State Hospital.
277	Sen. Beyer	Wonders if the language in the bill addresses everyone.
294	Shepherd	States that the language covers pretty much anyone who would bring a court case against the state.
323	Kristy Munson	League of Oregon Cities. Addresses the statutes cross referenced by SB 324. Testifies in a neutral stance on the bill; definitely not opposed.
331	Sen. Beyer	Lists several groups of people who would be covered by the bill.
336	Munson	Responds that any government official or agency is covered by the bill.
354	Taylor	Reads and discusses the statute under question relating to the use of state funds for any use other than what it is intended for.
379	Chair Burdick	Talks about settlements in her school district.
398	Chair Burdick	Closes the public hearing on SB 324 and opens a work session on SB 198.

#### **SB 198 – WORK SESSION**

403	Chair Burdick	Moves SB 198 to Thursday, April 14, 2005. Closes the work session on SB 198 and opens a work session on SB 243.
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#### **SB 243 – WORK SESSION**

411	Joe O’Leary	Counsel. Describes SB 243 relating to modifying the conditions of post-prison supervision or parole for persons convicted of a sex crime. Discusses the proposed -2 amendment.
457	O’Leary	Talks about the places where convicted sex offenders would be prohibited from visiting.
494	Sen. Prozanski	States that these amendments have addressed the issues he had earlier.

#### **TAPE 107, A**

046	Michael Washington	Chair, Board of Parole and Post-Prison Supervision. Discusses the reasoning behind designating the areas where minors congregate.
069	Chair Burdick	Asks about possible drafting choices for the definition of these

071	Sen. Prozanski	areas. Declares that there needs to be caution when limiting an individual's ability to be at institutions where children <i>might</i> be present (public library, hospital, etc.).
084	Darcy Baker	Parole Board. Hesitates to support any language that opens the door for sex offenders to visit areas where children are predominately present.
101	Washington	Talks about the methods of enforcing and addressing convicted sex offenders who visit certain areas where children might be present (young-adult/children section of the public library as an example).
122	O'Leary	Addresses the drafting confusion by stating the proposed -3 amendment would create a stricter listing of areas off limit to the convicted sex offender.
134	Chair Burdick	Agrees with the expansion of the definition for the areas barred to sex offenders.
141	Sen. Prozanski	Inquires if the Parole and Probation officer is carefully explaining the specific areas off limit to a sex offender.
147	Washington	Responds that they do offer this information to the offender.
160	Baker	Desires the ability to limit the locations where a convicted sex offender to visit.
165	Sen. Prozanski	Explains that the proposed -3 amendment will address this issue to an acceptable degree.
175	Chair Burdick	States that defining the drafting language will help with this issue.
185	Sen. Prozanski	Brings up the example of a convicted sex offender not being able to visit a mall due to the area having a children's toy store.
194	Washington	Talks about their issue with the drafting choices.
212	O'Leary	Reads the legal definition of the drafting language under question.
221	Chair Burdick	Closes the work session on SB 243 and opens a work session on SB 273.

#### **SB 273 – WORK SESSION**

235	Joe O'Leary	Counsel. Describes SB 273 relating to increasing the homestead exemptions from \$25,000 to \$50,000 for a single debtor, and from \$ 33,000 to \$75,000 for join debtors who are members of the same household. Discusses the -1, -2 & -3 amendments <b>(EXHIBITS B – D)</b> .
263	Sen. Walker	Talks about the work group formed to address the problems with the bill. Details the creation of the -2 and -3 amendments.
277	Sen. Walker	States that about every 12 years they raise the exemptions.
332	Sen. Walker	Explains that the creditors agreed to the -2 amendment. Comments on the bankruptcy reform bill facing congress this year.
363	Chair Burdick	Points out that the amendments are justifiable.
377	<b>Sen. Starr</b>	<b>MOTION: Moves to ADOPT SB 273-2 amendments dated 4/1/05.</b>
381	Sen. Ringo	Discusses the inflation rates as an impetus to raise these rates.
398	Sen. Whitsett	Expresses his opposition to the -2 amendment and the bill in itself.
404	Sen. Walker	Talks about the choice for these amendments to current law. <b>VOTE: 5-2-0</b> <b>AYE: 5 - Prozanski, Ringo, Starr C., Walker, Burdick</b>

441	Chair Burdick	NAY: 2 - Beyer, Whitsett
443	Sen. Starr	The motion CARRIES. MOTION: Moves SB 273 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-2-0 AYE: 5 - Prozanski, Ringo, Starr C., Walker, Burdick NAY: 2 - Beyer, Whitsett
462	Chair Burdick	The motion CARRIES. SEN. WALKER will lead discussion on the floor.
468	Chair Burdick	Closes the work session on SB 273 and opens a work session on SB 641.
<b><u>SB 641 – WORK SESSION</u></b>		
470	Joe O’Leary	Counsel. Describes SB 641 relating to creating a crime of possessing dog fighting paraphernalia. Introduces the -1 and -2 amendment (EXHIBITS E & F).
<b>TAPE 106, B</b>		
029	Chair Burdick	Asks about the -1 amendment.
031	O’Leary	Discusses the -1 amendment.
041	Sen. Starr	MOTION: Moves to ADOPT SB 641-1 amendments dated 4/6/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker Hearing no objection, declares the motion CARRIED. MOTION: Moves to ADOPT SB 641-2 amendments dated 4/7/05.
043	Chair Burdick	Explains his opposition to the -2 amendment.
043	Sen. Starr	VOTE: 5-1-1 AYE: 5 - Prozanski, Starr C., Walker, Whitsett, Burdick NAY: 1 - Beyer EXCUSED: 1 - Ringo
046	Sen. Beyer	The motion CARRIES. MOTION: Moves SB 641 to the floor with a DO PASS AS AMENDED recommendation.
058	Chair Burdick	Explains the intent of the bill, for the record, that the intent must be proven that the owner is intending to use the dog for fighting.
059	Sen. Starr	Describes the legislative intent of the bill. VOTE: 5-1-1 AYE: 5 - Prozanski, Starr C., Walker, Whitsett, Burdick NAY: 1 - Beyer EXCUSED: 1 - Ringo
062	Sen. Whitsett	The motion CARRIES.
071	O’Leary	SEN. DECKERT will lead discussion on the floor.
081	Chair Burdick	Closes the work session on SB 641 and opens a work session on SB 844.
086	Chair Burdick	Closes the work session on SB 641 and opens a work session on SB 844.
<b><u>SB 844 – WORK SESSION</u></b>		
088	Joe O’Leary	Counsel. Describes SB 844 relating to increasing the penalty for dog keepers who maintains a public nuisance by keeping a dog that bites people. Introduces and discusses the -1 and -2 amendments (EXHIBITS G).
119	Chair Burdick	Asks about the effects of the -2 amendment.
132	Suzie Funkhouser	Legislative Aide, Sen. Deckert. Explains the -2 amendment.

144	Sen. Prozanski	Inquires about the -1 amendment.
148	O'Leary	Addresses a misdemeanor offense already on the books relating to this issue.
163	Sen. Beyer	Wonders about the current statute and how it is altered with the passage of this bill.
176	Sen. Prozanski	Talks about the ordinances in the counties and the methods employed by those groups during occurrences of dog attacks.
186	O'Leary	Points out that a Class C misdemeanor is created under current law in these situations.
203	Sen. Prozanski	Discusses the need for a standard throughout the state for this type of violation.
213	Sen. Whitsett	Brings up the issue of a dog attack on the premises of the owner.
229	O'Leary	Comments on the drafting language relating to the dog attack occurring on the owner's land.
254	Funkhouser	Talks about the scenario brought up by Sen. Whitsett dealing with a dog attack occurring on the owner's property.
270	Sen. Starr	Tells a personal story involving a dog attack. Addresses the issue of dogs attacking together.
321	Chair Burdick	Points out that the situation described by Sen. Starr is directly impacted by the amendment.
336	Sen. Ringo	Tells a story involving a client who owned a dog involved in an attack, but who had secured the animal and warned the public.
365	O'Leary	Talks about the scenario brought up by Sen. Ringo.
389	Sen. Beyer	Inquires about repeat offender dog attacks.
402	O'Leary	Offers information on the repeat offender animals.
410	Sen. Whitsett	States that he would not support any legislation that would possibly make the use of guard dogs illegal.
430	Starr	Expresses his belief that guard dogs are covered under the bill and not made illegal.
447	Funkhouser	Points out a section on page 1 of the bill dealing with dogs used in this manner.
463	Beyer	Brings up a possible conflict in the drafting of the bill.
484	O'Leary	Agrees with the conflict discovered by Sen. Beyer, and states that this needs to be fixed before they can pass the bill as it is intended to work.
518	Chair Burdick	Closes the work session on SB 844 and opens a public hearing on SB 945.

#### **SB 945 – PUBLIC HEARING**

#### **TAPE 107, B**

040	William E. Taylor	Counsel. Describes SB 945 relating to prohibiting the court from reinstating transitional spousal support or spousal maintenance after court has terminated those types of support. Introduces the -3 amendment ( <b>EXHIBIT H</b> ).
052	Blair Halperin	Submits testimony and testifies in support of SB 945 ( <b>EXHIBIT I</b> ).
082	Halperin	States that currently, when someone is re-married, their spousal support is then cancelled.
126	Halperin	Details his personal story involving the court reinstating spousal support after it had been terminated.
162	Sen. Ringo	Commends the witness for coming forward with this.
173	Tom Bittner	Family Law Section of the Oregon State Bar. Submits testimony and testifies in opposition to SB 945 ( <b>EXHIBIT J</b> ).
187	Sen. Prozanski	Asks about the scenario where an individual's spousal support payments were initially terminated due to a marriage; restarted

207	Sen. Ringo	when that marriage dissolved.
211	Bittner	Inquires about the same scenario.
		Addresses the scenario listed above, and states that the 1991 legislature wanted to make sure emergencies with the spouse did not adversely affect a person's ability to live safely.
230	Beyer	Asks if the termination of spousal support rights is automatic at marriage.
232	Bittner	Replies that they are not immediately suspended.
266	Bittner	Discusses the policy reasoning behind their opposition to the bill.
296	Sen. Prozanski	Talks about the -3 amendment facing the committee relating to a spouse reinstituting their spousal support rights.
317	Bittner	States that there has been no real outcry against the current statute and it does not need major amending.
335	Chair Burdick	Closes the public hearing on SB 945 and opens a public hearing on SB 920.

#### **SB 920 – PUBLIC HEARING**

341	William E. Taylor	Counsel. Describes SB 920 relating to revising the laws relating to execution sales. Introduces the -2 amendment ( <b>EXHIBIT K</b> ).
364	Gerald Watson	Oregon Law Commission. Submits testimony and testifies in support of SB 920 ( <b>EXHIBIT L</b> ).
404	Watson	Addresses the summary of SB 920 in his testimony.
450	Watson	Talks about the changing economy requiring an update of this issue.
480	Dave Heynderickx	Legislative Counsel. Talks about the methods and processes behind execution sales.

#### **TAPE 108, A**

040	Heynderickx	Stresses that this isn't just a clean up bill, and it changes several problems that have yet to be statutorily addressed (substantive changes).
058	Marshall Ross	Multnomah County Sheriff Office. Testifies in support of SB 920.
073	Mark Comstock	Marion County. Testifies in support of SB 920. Talks about the clarifications with the -2 amendment.
102	Chair Burdick	Closes the public hearing on SB 920. Puts SB 850 until Thursday, April 14, 2005 and adjourns the meeting at 3:10 p.m.

#### **EXHIBIT SUMMARY**

- A. SB 324, -1 amendment, Sen. Walker, 3 pp
- B. SB 273, -1 amendment, Sen. Walker, 11 pp
- C. SB 273, -2 amendment, Sen. Walker, 1 p
- D. SB 273, -3 amendment, Sen. Walker, 11 pp
- E. SB 641, -1 amendment, staff, 1 p
- F. SB 641, -2 amendment, staff, 1 p
- G. SB 844, -2 amendment, staff, 16 pp
- H. SB 945, -3 amendment, Sen. Ringo, 1 p
- I. SB 945, written testimony, Blair Halperin, 8 pp
- J. SB 945, written testimony, Tom Bittner, 4 pp
- K. SB 920, -2 amendment, staff, 20 pp
- L. SB 920, written testimony, Gerald Watson, 4 pp