

SENATE COMMITTEE ON JUDICIARY

April 26, 2005
1:00 P.M.

Hearing Room 343
Tapes 121 - 123

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

MEASURES/ISSUES HEARD:
 HB 2370A – Public Hearing and Work Session
 SB 1034 – Public Hearing
 SB 965 – Work Session
 SB 324 – Work Session
 SB 947 – Work Session
 SB 495 – Work Session
 SB 568 – Public Hearing and 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 121, A		
003	Chair Burdick	Calls the meeting to order at 1:10 p.m. and opens a public hearing on HB 2370A.
<u>HB 2370A – PUBLIC HEARING</u>		
006	Sam Sears	Counsel. Describes HB 2370A relating to requiring the State Medical Examiner to issue death certificates within 45 days of a receipt of information that a person who is missing at sea and presumed dead and when the State Medical Examiner determines the information is credible.
019	Rep. Alan Brown	House District 10. Testifies in support of HB 2370A. Describes the difficulties and hazards with commercial fishing.
045	Chair Burdick	Recites her story of a trip to Newport where a memorial was placed listing all the people who were lost to sea.
049	Rep. Brown	Talks about the need for this bill. Tells a story of a recent crabbing boat expedition that lost members at sea.
069	Sen. Starr	Details a story involving several of his family members being lost to sea.

093	Chair Burdick	Closes the public hearing and opens a work session on HB 2370A.
<u>HB 2370A – WORK SESSION</u>		
095	Sen. Starr	MOTION: Moves HB 2370A to the floor with a DO PASS recommendation.
		VOTE: 7-0-0
097	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor.
098	Chair Burdick	Closes the work session on HB 2370A and opens a public hearing on SB 1034.
<u>SB 1034 – PUBLIC HEARING</u>		
102	Joe O’Leary	Counsel. Describes SB 1034 relating to establishing the criteria for the court to dismiss the commitment of a ward to the Department of Human Services.
120	Hans Bernard	Legislative Assistant, Senator Brown. Testifies in support of SB 1034. States that the bill will build a bridge for foster care children to travel into adulthood. Expresses their belief that SB 1034 will do much to alleviate crime rates among foster children.
142	Maggie Miller	Executive Director, Citizen’s Crime Commission. Submits a study labeled “Teens Aging out of Foster Care in Oregon”, and a booklet on the Citizen’s Crime Commission (EXHIBITS A & B). Testifies in support of SB 1034.
195	Miller	Discusses the costs resulting from criminal acts by foster children.
207	Chair Burdick	Commends the witness on her work with foster children.
211	Julie McFarlane	Supervising Attorney, Juvenile Rights Project. Submits testimony and testifies in support of SB 1034 (EXHIBIT C). Talks about SB 808 from the 2003 Legislative session dealing with foster care children.
260	McFarlane	Explains the recommended amendment the Juvenile Rights Commission would like to have added to the bill. Addresses the study on Teens Aging out of Foster Care in Oregon” (Exhibit A).
288	Chair Burdick	Accepts written testimony from Janet Arenz, Executive Director of the Oregon Alliance for Child Advocacy (EXHIBIT D).
290	Sen. Beyer	Inquires about the state keeping children until the age of 21 instead of releasing them at 18.
296	McFarlane	Replies that there has always been the rule of being able to keep the child until the age of 21. Explains that some are emotionally ready to be released at 18, but many have developmental problems.
316	Sen. Beyer	Asks if this is an unwritten rule or policy of their agency to keep the kids until age 21.
320	McFarlane	States that statute and policy both allow foster care to keep the children until the age of 21.
330	Chair Burdick	Wonders what happens to those released at 18, and if they can be released earlier.
333	McFarlane	Offers information on those who are released earlier than 21: 18 years of age, and sometimes at 16.
354	Chair Burdick	Asks if they choose to stay in care until 21, if they are entitled.
359	McFarlane	Explains that they aren’t “entitled” to stay until 21, but most individuals who do stay until 21 do so because of developmental problems.
372	Sen. Beyer	Inquires if the state continues to pay for foster care children over

		18 years of age.
375	McFarlane	Replies that the state does pay for children up until they are released from foster care. Points out that the federal government gives money for foster care children at 19.
412	Kevin George	Manager, Foster Care Program, Department of Human Services. Submits testimony and testifies in a neutral stance on SB 1034 (EXHIBIT E). Talks about the funding for foster children.
TAPE 122, A		
019	George	Says they are funding 350 youths, aged 18-21, from state general fund dollars. Declares that this is 5% of the overall foster care population.
042	George	Talks about programs and opportunities that his organization offers to foster children.
066	Sen. Beyer	Asks if the 2003 Legislature approved the funding of foster care children from the age of 18-21.
069	George	Replies with information on SB 808 from the 2003 Legislature session that addressed the issue of foster care children.
084	Sen. Beyer	Wonders if the money paid towards the 18-21 aged foster care children go directly to the child or the foster-parent.
089	George	Responds that the money goes directly to the parents.
097	Sen. Beyer	Asks what occurs when the foster care children are not living in the home.
099	George	States that there are some children attending college, with a fund setup by the 2001 Legislature, and those children are getting some direct payments from the state. Explains that 103 foster children are receiving direct payments, including college students and youths starting off without any assistance other than the money from the state funds.
110	Sen. Beyer	Raises an issue with another bill that seeks to pay money towards family members who accept youths into their homes, under the age of 18, and who are not able to receive monies from the state because of a lack of funds.
149	George	Addresses the policy decisions relating to this issue. Talks about the funding of these programs.
164	Chair Burdick	Asks if these children aged 19 or above, are developmentally challenged.
166	George	Replies that a large amount of the foster children are developmentally challenged. Talks about federal laws concerning funding for foster care support.
186	Timothy Travis	Oregon Judicial Department. Testifies in support of SB 1034. Stresses that these kids don't have a support net without the state. Points out that when you dismiss a dependency case such as these, they don't get sent "home" because there is no home for them.
230	Travis	Addresses the proposed amendment that Julie McFarlane talked about earlier. States that most of these kids think they can make it on their own, but points out that, as adults, we know better. Expresses his belief that these foster kids need our assistance and support even if they don't believe they do.
270	Travis	Offers his cooperation on working with the drafting for this bill.
288	Dennis L. Morrow	Executive Director, Janus Youth Programs. Submits testimony and testifies in support of SB 1034 (EXHIBIT F). Reads testimony on foster care children.
329	Morrow	Discusses his organization, Janus, which focuses on providing

380	Morrow	assistance and intervention programs for kids. Talks about the problems he runs into fighting for runaway children.
		Describes the problems in state children welfare programs: transitional programs available to kids age 17-21.
400	Morrow	Asks a hypothetical situation of the committee: if their own child ran away, would they want them under his program (or a well-funded foster care system), or on the streets.
438	Chair Burdick	Commends the witness on his work and testimony.
443	Jean Lassiter	Oregon Homeless & Runaway Youth Coalition. Testifies in support of SB 1034.

TAPE 121, B

021	Lassiter	Discusses the particular needs facing foster children after their matriculation from the program. Stresses the large amount of support that is needed for these kids.
058	Ed Johnston	Lincoln County. Declares that the state is responsible for these kids.
102	Chair Burdick	Closes the public hearing on SB 1034 and opens a work session on SB 965.

SB 965 – WORK SESSION

105	Joe O’Leary	Counsel. Describes SB 956 relating to creating a cause of action for invasion of personal privacy. Introduces and discusses the -6 amendment (EXHIBIT G).
134	Chair Burdick	Asks about liquidated damages.
135	O’Leary	Describes the legal definition of liquidated damages.
150	Chair Burdick	Inquires about examples under this bill would relate to liquidated damages.
152	O’Leary	Details the circumstances and scenarios that fall under the current bill with the -6 amendment.
164	Sen. Prozanski	Asks about the dissemination of the recordings.
169	O’Leary	Replies with information on how the -6 addresses this question of knowingly disseminating the images/recordings.
195	Sen. Starr	MOTION: Moves to ADOPT SB 965-6 amendments dated 4/25/05.
		VOTE: 7-0-0
196	Chair Burdick	Hearing no objection, declares the motion CARRIED.
198	Sen. Starr	MOTION: Moves SB 965 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0
200	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. JOHNSTON will lead discussion on the floor.
205	Chair Burdick	Closes the work session on SB 965 and opens a work session on SB 324.

SB 324 – WORK SESSION

206	William E. Taylor	Counsel. Describes SB 324 relating to removing an exception requiring confidentiality under certain conditions for terms of settlement or compromise of action involving a public body and terms of mediation agreements involving a public body.
		Introduces the -2 amendment (EXHIBIT H).
229	Sen. Walker	Talks about the reasoning behind the creation of the bill. Discusses several cases of sexual abuse that occurred in the Oregon State Hospital.
255	Sen. Walker	Reads leaked testimony from the assistant attorney general relating to one of the cases discussed above. Talks about the -2

		amendment, and how it doesn't quite fit her idea of what she wants to occur in the bill.
278	Kevin Neely	Department of Justice. Talks about the situations behind why this bill was drafted. Discusses the redacting of information from public record in these cases.
317	Chair Burdick	Explains that she wants to get the bill right before sending it out of the committee.
321	Neely	Details the needed changes for the bill.
326	Sen. Beyer	Inquires about research into legislative intent relating to this issue. Points out that this bill does exactly the same thing as he believes is supposed to occur in current statute.
345	Sen. Walker	Addresses the problems with the current statute, and the holes in these laws that are able to be driven around.
361	Neely	Discusses the reasoning behind the drafting choices in the amendment.
384	Chair Burdick	Stresses that the redacted information should relate only to the victim and not the case itself.
390	Sen. Beyer	Points out that if Subsection B stays in the amendment, then the bill would be exactly equal to current statute.
403	Taylor	Clarifies the amendment's effect on current statute.
432	Chair Burdick	Closes the work session on SB 324 and moves SB 881 and SB 324 to Thursday, April 28, 2005. Opens a work session on SB 947.

SB 947 – WORK SESSION

445	William E. Taylor	Counsel. Describes SB 947 relating to requiring the Department of Human Services to make records concerning reports of child abuse available to any person if the child dies or suffers serious physical injury. Introduces and describes the -3 amendment (EXHIBIT I).
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TAPE 122, B

025	Chair Burdick	Asks about the -1 and -2 being adopted into the -3.
026	Taylor	Replies that the -3 is the amendment they need for the bill.
033	Tom Gallagher	Oregon Newspaper Publishers. Testifies in support of the bill and the -3 amendment.
037	Sen. Ringo	Inquires how he knows that disclosing the information is in the public's best interest.
040	Gallagher	Responds that this is a standard commonly used in public records to protect individuals.
048	Chair Burdick	States that if someone is unhappy with the process, there are appeals available through the Department of Justice.
050	Gallagher	Replies affirmatively.
054	Sen. Starr	MOTION: Moves to ADOPT SB 947-3 amendments dated 4/26/05.
		VOTE: 7-0-0
056	Chair Burdick	Hearing no objection, declares the motion CARRIED.
057	Sen. Starr	MOTION: Moves SB 947 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-0-0
059	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. WALKER will lead discussion on the floor.
069	Chair Burdick	Closes the work session on SB 947 and opens a work session on SB 495.

SB 495 – WORK SESSION

070	William E. Taylor	Counsel. Describes SB 495 relating to allowing grandchildren and grandparents to recover in actions for a wrongful death.
073	Sen. Ringo	States that John Powell representing the insurers do not object to this bill.
081	Sen. Starr	MOTION: Moves SB 495 to the floor with a DO PASS recommendation.
084	Sen. Beyer Chair Burdick	States his opposition. VOTE: 6-1-0 AYE: 6 - Prozanski, Ringo, Starr C., Walker, Whitsett, Burdick NAY: 1 - Beyer
089	Chair Burdick	The motion CARRIES. SEN. RINGO will lead discussion on the floor.
091	Chair Burdick	Closes the work session on SB 495 and opens a public hearing on SB 568.

SB 568 – PUBLIC HEARING

092	William E. Taylor	Counsel. Describes SB 568 relating to increasing fines and imposes suspension of driving privileges for a person who exceeds the speed limit or designated speed by more than 30 miles per hour or who drives 100 miles per hour or greater.
101	Daniel Swift	State Trooper, Oregon State Police. Submits testimony and testifies in support of SB 568 (EXHIBIT J).
151	Swift	Declares that new automobile technology has outpaced Oregon law. Cites a recent traffic stop where a driver was cited going 142 m.p.h. on Interstate 205 at 12:30 in the morning.
176	Chair Burdick	Commends the witness on his testimony. Asks why 100 m.p.h. was chosen as the limit in the bill.
187	Swift	Replies that the line must be drawn somewhere, and the 100 m.p.h. line is a clean line of demarcation; easy to remember.
197	Sen. Whitsett	Asks if there are emergency conditions that would allow for excessive speeds.
203	Swift	Responds that state first response units are safer and quicker than individuals who decide to drive excessive speeds to arrive at a destination.
222	Sen. Whitsett	States that in eastern Oregon, response won't arrive for more than 45 minutes in many situations.
338	Sen. Prozanski	Declares that there are options available to the defendant to safeguard their choice to break one law in order to save the life of another individual ("Choice of Evils" plead).
249	Swift	Stresses that there have been times where he has stopped individuals breaking speed laws who have been under extenuating circumstances (giving birth, injured, etc.) and he has yet to actually cite these people.
256	Sen. Whitsett	Asks about those safeguards available to individuals who break the law under certain circumstances.
260	Sen. Prozanski	Talks about the 'Choice of Evils' defense available in these situations.
272	Sen. Beyer	Cites a recent story involving a medical emergency that required excessive speeds in order to save lives.
287	Sen. Prozanski	States that he would be amazed at the officer who would cite an individual for such a scenario.
318	Sen. Starr	Discusses a family story relating to the issue of excessive speed as a necessity at times in extreme situations.
378	Sen. Starr	Declares his conceptual support of the bill if the judge was

		offered some form of discretion.
386	Sen. Prozanski	Explains the current drafting of the bill, and how it addresses these emergency purposes.
399	Sen. Ringo	States that the “Choice of Evils” case would allow for these emergency situations.
418	Sen. Prozanski	Reads the “Choice of Evils” act in current statute.
439	Swift	Stresses that this is not a mandate for an officer to cite the driver.
462	Chair Burdick	Closes the public hearing and opens a work session on SB 568.
<u>SB 568 – WORK SESSION</u>		
470	Sen. Starr	MOTION: Moves SB 568 to the floor with a DO PASS recommendation.
476	Sen. Beyer	Talks about his hesitance to support the section dealing with the 30 m.p.h. criteria.
TAPE 123, A		
031	Sen. Prozanski	Offers clarification on the effects of the bill.
042	Sen. Beyer	Declares his opposition to the bill.
051	Sen. Whitsett	Declares his support for the bill, but reserves the right to vote against it on the floor.
052	Chair Burdick	VOTE: 5-1-1 AYE: 5 - Prozanski, Ringo, Starr C., Whitsett, Burdick NAY: 1 - Beyer EXCUSED: 1 - Walker The motion CARRIES. SEN. PROZANSKI will lead discussion on the floor.
057	Chair Burdick	
058	Chair Burdick	Accepts written testimony from Lorna Walker (EXHIBIT K). Closes the work session on SB 568 and adjourns the meeting at 3:05 p.m.

EXHIBIT SUMMARY

- A. **SB 1034, “Teens Aging Out of Foster Care in Oregon,” Maggie Miller, 92 pp**
- B. **SB 1034, Citizen’s Crime Commission, Maggie Miller, 34 pp**
- C. **SB 1034, written testimony, Julie McFarlane, 7 pp**
- D. **SB 1034, written testimony, Janet Arenz, 2 pp**
- E. **SB 1034, written testimony, Kevin George, 2 pp**
- F. **SB 1034, written testimony, Dennis Morrow, 5 pp**
- G. **SB 956, -6 amendment, staff, 1 p**
- H. **SB 324, -2 amendment, staff, 3 pp**
- I. **SB 947, -3 amendment, staff, 2 pp**
- J. **SB 568, written testimony, Daniel Swift, 3 pp**
- K. **SB 568, written testimony, Lorna Walker, 6 pp**