

SENATE COMMITTEE ON JUDICIARY

April 07, 2005
1:00 P.M.

Hearing Room 343
Tapes 98 - 100

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 881 – Public Hearing
SB 965 – Public Hearing
SB 297 – Public Hearing
SB 1012 – Public Hearing and Work Session
SB 401 – Public Hearing
SB 246 – Work Session
SB 977 – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 98, A		
003	Chair Burdick	Calls the meeting to order at 1:10 p.m. and opens a public hearing on SB 881.
<u>SB 881 – PUBLIC HEARING</u>		
011	Joe O'Leary	Counsel. Describes SB 881 relating to prescribing an instructional program for court-appointed trustees.
022	Sen. Laurie Monnes Anderson	Senate District 25. Testifies in support of SB 881. Details the reasoning behind the need for this bill.
045	Michele Rossolo	Legislative Aide. Submits testimony and testifies in support of SB 881 (EXHIBIT A). Discusses the proposed amendments being drafted.
071	Sen. Ringo	Asks about the training for the appointed trustees.
078	Rossolo	Talks about the training requirements for appointed trustees.
084	Chair Burdick	Closes the public hearing on SB 881.
088	Sen. Prozanski	Extends a courtesy to a group of students from Churchill High School and South Eugene High School advocating for the school-based health care programs.
093	Chair Burdick	Welcomes the students to the legislative process. Moves SB 966 to Monday, April 11, 2005 and SB 844 to Wednesday, April 13, 2005. Opens a public hearing on SB 965.
<u>SB 965 – PUBLIC HEARING</u>		

108	Sen. Kate Brown	Senate District 21. Submits the -1 and -2 amendments to the committee and testifies in support of SB 965 (EXHIBITS B & D).
128	Sen. Betsy Johnson	Senate District 16. Submits testimony on voyeurism and testifies in support of SB 965 (EXHIBIT C).
151	Sen. Brown	Commends the media for bringing this issue to the attention of the legislature.
180	Staff	Begins video from Sen. Kate Brown on voyeurism.
210	Staff	Continues video from Sen. Kate Brown voyeurism.
240	Staff	Continues video presentation from Sen. Kate Brown dealing with invasion of privacy.
260	Chair Burdick	Addresses the students in the crowd and explains the legislative process in relation to this issue (advancing technology causing the creation of new laws).
288	Sen. Johnson	Stresses the egregious nature of these sexual crimes.
302	Sen. Brown	Commends committee counsel on their help with this issue.
314	Chair Burdick	Comments on the Oregon statutes affected by this issue.
331	Joshua Marquis	Clatsop County District Attorney. Testifies in support of SB 965. Discusses the advancing technology requiring the creation of new crimes.
355	Marquis	Continues talking about a recent case of invasion of privacy.
390	Marquis	Stresses that he would have lost cases dealing with this type of invasion of privacy due to the lack of statutory address of the issue.
420	Cecilia Barnes	Victim of privacy invasion. Talks about her own situation with an ex-boyfriend posting explicit pictures of her online without her permission.
458	Chair Burdick	Commends the witness on her willingness to testify.
475	Sen. Walker	Asks if the discussions with Yahoo have yielded any results with taking the pictures down from their websites.
485	Barnes	Replies that it took quite awhile to get a hold of anyone from their agency.

TAPE 99, A

036	Sen. Walker	Talks about Yahoo shutting down the site only to have her ex-boyfriend open up another.
042	Joe O'Leary	Counsel. Discusses possible repercussions against the internet service provider (ISP).
047	Sen. Walker	Agrees with counsel on the suggestion of placing a cause of action against the ISP.
055	Chair Burdick	Wonders why Yahoo didn't just drop the offender.
056	Barnes	States that he was always one step ahead of the ISP.
066	Sen. Walker	Comments that maybe you should be required to give a real name and address to sign up for that service.
079	Chair Burdick	Closes the public hearing on SB 965 and opens a public hearing on SB 297.

SB 297 – PUBLIC HEARING

085	Joe O'Leary	Counsel. Describes SB 297 relating to expanding the crime of invasion of privacy and re-designating it as invasion of personal privacy in the second degree.
099	Sen. Prozanski	Details the reasoning behind bringing this bill to the legislature.
120	Kamala Shugar	Oregon District Attorneys Association. Testifies in support of SB 297. Talks about another bill in the House Judiciary committee.
145	Shugar	Comments on the cases in Lane county where individuals would

		videotape young girls (some of which were pre-pubescent, which is not included in the current draft of the bill) without their consent.
175	Sen. Prozanski	States that the detective on this case would have been present except he was detained as a witness in another case.
190	Shugar	Discusses a recent case where a digital photograph was taken in a department store restroom concerning a young boy.
210	Sen. Prozanski	Asks if there is a possibility to include the internet in some of the harassment statutes.
222	Shugar	Talks about HB 2318 facing the legislature that would include text-messaging under the invasion of privacy statutes.
237	Joshua Marquis	Clatsop County District Attorney. Stresses that technology will always outpace us, and talks about the possibility of amending the statutory definition of personal privacy.
272	John Hummel	Oregon Criminal Defense Lawyers Association. Testifies in support of SB 297.
296	Chair Burdick	Closes the public hearing on SB 297 and opens a public hearing on SB 1012.

SB 1012 – PUBLIC HEARING

302	Joe O’Leary	Counsel. Describes SB 1012 relating to extending the planning and advisory committees relating to improving the health and well-being of children whose parents are involved in the criminal justice system. Introduces the -1 amendment (EXHIBIT E).
317	Claudia Black	Chair, Children of Incarcerated Parents Project. Testifies in support of SB 1012 with the -1 amendment. Discusses the likelihood of children with parents who are convicted felons to follow their parents into the penal system.
379	Cindy Duran	Recovering meth-addict, former inmate of Coffee Creek Correctional Facility. Testifies on the effects of the penal system on her family.
418	Sen. Starr	Comments on religious organizations within the penal system.
435	Black	Replies that if he has contact information, she would be happy to place them within the bill.
442	Sen. Whitsett	Inquires about representation for the children themselves.
454	Black	Responds with information on the representatives for the children in the committee.
475	Rep. Debra Boone	House District 32. Testifies in support of SB 1012.
490	Chair Burdick	Closes the public hearing and opens a work session on SB 1012.

SB 1012 – WORK SESSION

498	Sen. Starr	MOTION: Moves to ADOPT SB 1012-1 amendments dated 4/1/05.
		VOTE: 5-0-2
		EXCUSED: 2 - Beyer, Ringo
500	Chair Burdick	Hearing no objection, declares the motion CARRIED.
507	Sen. Starr	MOTION: Moves SB 1012 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0-2
		EXCUSED: 2 - Beyer, Ringo
510	Chair Burdick	Hearing no objection, declares the motion CARRIED.
		SEN. STARR will lead discussion on the floor.

TAPE 98, B

036	Chair Burdick	Closes the work session on SB 1012 and opens a public hearing on SB 401.
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SB 401 – PUBLIC HEARING

040	Joe O'Leary	Counsel. Describes SB 401 relating to increasing the unitary assessment for specified crimes. Introduces the -2 amendment (EXHIBIT F).
056	Sen. Prozanski	Inquires about the distribution of the funds.
060	O'Leary	Responds with information on the language in the bill dealing with the distribution of monies.
078	Rep. Debra Boone	House District 32. Testifies in support of SB 401.
104	Stephen Kafoury	Children's Trust Fund of Oregon. Submits testimony and testifies in support of SB 401 (EXHIBIT G). Details the history of his organization.
150	Kafoury	Discusses the funding issues for the Children's Trust Fund. Comments on some of the problems since last session involving budget cuts.
187	Claudia Black	Board Member, Children's Trust Fund of Oregon. Testifies in support of SB 401.
208	Brad Swank	Oregon Judicial Department. Testifies in support of the -2 amendment.
253	Sen. Prozanski	Asks for clarification on the -2 amendment and how it affects current statute.
261	Swank	Replies with information on the legislature's actions over the past few sessions relating to the unitary assessment monies.
291	Sen. Prozanski	Inquires about a distinction in the Ways and Means process over the priorities and percentages given to specific agencies.
299	Swank	States where most of the money in the fund goes, and why.
314	Sen. Prozanski	Wonders about the different funds available to these agencies.
320	Swank	Comments on the funding options available to these different agencies in the bill. Clarifies the fund appropriations bill at the end of session and its relationship with this bill.
354	Chair Burdick	Inquires if Ways and Means is bound by this.
357	Swank	Stresses that Ways and Means does what they see fit.
361	Sen. Prozanski	Attempts to clarify the situation over the funding issue.
386	Sybil Hebb	Oregon Law Center. Testifies in support of SB 401.
420	Hebb	Discusses the reasoning behind the decision to remove the Children's Trust Fund from this funding option in a past legislative session.
458	Kafoury	Comments on the necessity and reasoning behind this bill.
TAPE 99, B		
030	Chair Burdick	Asks if he would be receptive to an amendment that would limit the extra funds to only the extra revenue from the increased one dollar levy.
036	Sen. Prozanski	Addresses the above question, and discusses the 1999 session where significant cuts across the board occurred, and how it has brought us to this bill.
067	Kafoury	Talks about the budget cuts to his organization even though they were promised this money.
080	Sen. Prozanski	Stresses the need to setup a procedure because there are other organizations that would be affected, eventually, by this bill, not just the Children's Trust Fund of Oregon.
094	Swank	Details the original make up of the statute relating to this issue.
105	Sen. Beyer	States that they cannot bind future legislatures to any action. Discusses the fees or the fines that would be implemented by this bill.
121	Kafoury	Talks about the reasoning behind implementing the fines with SB 401.

141	Sen. Beyer	Advocates his belief that this might be considered a tax, and should be under the jurisdiction of the House.
148	Swank	Addresses the issue of jurisdiction raised by Sen. Beyer.
173	Sen. Beyer	Stresses his belief that this amendment forces the issue into a grey area of whether this is a tax or not.
192	Chair Burdick	Comments on the nexus linking child abuse to future crimes, and how that might classify the extra monies as fines rather than new taxes.
198	Sen. Prozanski	Talks about the problems concerning this bill; the topic of whether it is a tax or not is a difficult one to argue.
216	Chair Burdick	Closes the public hearing on SB 401 and opens a work session on SB 246.

SB 246 – WORK SESSION

223	Joe O’Leary	Counsel. Describes SB 246 relating to requiring certain public or private officials to report suspected animal abuse. Introduces and discusses the -4 amendment (EXHIBIT H).
260	O’Leary	Continues the discussion on the -4 amendment focusing on how to make such a report of animal abuse.
280	Chair Burdick	Asks if any person would be covered by this, regardless of their status as a mandatory reporter or not.
282	O’Leary	Replies yes.
285	Chair Burdick	Comments on mandatory reporters.
295	Sen. Prozanski	Clarifies the issue that any person who became knowledgeable, through conversation with a child, that animal abuse had occurred, they would be protected from legal retaliation if they reported this action.
310	O’Leary	States that the above summarization is correct and discusses the methods used by other states.
336	Sen. Whitsett	Asks about the rights of the accused in the bill.
372	O’Leary	Stresses that the immunity the accuser has is only based on reports made in good faith.
385	Sen. Whitsett	Inquires if the protection is adequate.
389	O’Leary	Replies that he believes it is.
400	Sen. Beyer	Points out that people have different beliefs of what might constitute neglect or abuse.
418	Chair Burdick	Explains the reasoning behind the drafting of the bill.
439	O’Leary	Cites the cross reference that details serious physical injury, or cruelly or maliciously killing or torturing, is required to define animal abuse.
475	Chair Burdick	Closes the work session on SB 246 and opens a public hearing on SB 977.

SB 977 – PUBLIC HEARING

482	Joe O’Leary	Counsel. Describes SB 977 relating to requiring the sheriff, when transferring a defendant to the Department of Corrections, to provide the department with criminal, medical, and psychological records concerning the defendant.
507	Don Loving	American Federation of State, County, and Municipal Employees. Testifies in support of SB 977.

TAPE 100, A

052	Chair Burdick	Asks about the different records for each inmate.
054	Loving	Replies with information on the different records that move with the inmate between the facilities.
065	John Powell	Oregon State Sheriffs Association. Testifies in opposition to SB 977.

092	Chair Burdick	Asks for a work group with the different sides concerning this bill.
099	Chair Burdick	Closes the public hearing on SB 977 and moves SB 641 to Wednesday, April 13, 2005 and SB 273 to Wednesday, April 13, 2005.

EXHIBIT SUMMARY

- A. **SB 881, written testimony, Sen. Monnes Anderson, 1 p**
- B. **SB 965, -1 amendment, staff, 1 p**
- C. **SB 965, written testimony, Sen. Johnson, 2 pp**
- D. **SB 965, -2 amendment, staff, 1 p**
- E. **SB 1012, -1 amendment, staff, 1 p**
- F. **SB 401, -2 amendment, staff, 2 pp**
- G. **SB 401, written testimony, Stephen Kafoury, 2 pp**
- H. **SB 246, -4 amendment, staff, 2 pp**