

SENATE COMMITTEE ON JUDICIARY

May 11, 2005
1:00 P.M.

Hearing Room 343
Tapes 133 – 134
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
 Heidi Moawad, Counsel
 Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
 SB 306 – Work Session
 SB 592 – Work Session
 SB 424 – Public Hearing
 HB 2141 – Public Hearing
 HB 2139A – Public Hearing and Work Session
 HB 2222A – 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 133, A		
003	Chair Burdick	Calls the meeting to order at 1:12 p.m. and opens a work session on SB 306.
<u>SB 306 – WORK SESSION</u>		
005	William E. Taylor	Counsel. Introduces and describes the -2 and -3 amendments (EXHIBITS A & B) .
027	Chair Burdick	Asks if the two amendments are in conflict.
029	Taylor	Replies that they deal with different sections of the amendment and do not conflict with each other.
044	Paul Cosgrove	Distilled Spirits Counsel of the United States. Submits testimony and testifies in support of the -2 amendment to SB 306 (EXHIBIT C) .
082	Mark Nelson	Anheuser-Busch. Submits a picture detailing a filter for impurities in carbon dioxide gas and testifies in support of SB 306 (EXHIBIT D) .
105	Chair Burdick	Asks how the filter works.
108	Nelson	Details the method by which the filter purifies the carbon dioxide.
122	Sen. Prozanski	Inquires if only Budweiser products will be purified.
123	Nelson	Responds that the filter purifies other beers on the same tap.
156	John Stubenvoll	Oregon Liquor Control Commission. Testifies in support of the amendments.

170	Sen. Starr	MOTION: Moves to ADOPT SB 306-2 amendments dated 4/20/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker
172	Chair Burdick	Hearing no objection, declares the motion CARRIED.
173	Sen. Starr	MOTION: Moves to ADOPT SB 306-3 amendments dated 5/11/05. VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker
176	Chair Burdick	Hearing no objection, declares the motion CARRIED.
181	Sen. Starr	MOTION: Moves SB 306 to the floor with a DO PASS AS AMENDED recommendation.
184	Sen. Whitsett	Asks about the reasoning behind introducing this bill.
186	Chair Burdick	Discusses the history of this bill, and the necessity in its passing. Talks about the term "gut & stuff."
205	Sen. Beyer	Clarifies the process of "gut & stuff." VOTE: 5-0-2 EXCUSED: 2 - Ringo, Walker
211	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. PROZANSKI will lead discussion on the floor.
215	Chair Burdick	Closes the work session on SB 306 and opens a work session on SB 592.
<u>SB 592 – WORK SESSION</u>		
216	William E. Taylor	Counsel. Describes SB 592 relating to not allowing consideration of reasonable and prudent factors for violating the basic speed rule if a person exceeds certain speeds on secondary highways. Introduces the -1 amendment (EXHIBIT E).
227	Sen. Prozanski	Discusses the -1 amendment. Talks about the necessity behind the bill.
270	Chair Burdick	Inquires about individuals who drive 15 miles per hour and how they cannot invoke the basic rule.
278	Sen. Prozanski	Stresses that the bill is not ready due to the oversight addressed by Chair Burdick, and will continue to work on the amendments.
293	Chair Burdick	Closes the work session on SB 592 and opens a public hearing on SB 424.
<u>SB 424 – PUBLIC HEARING</u>		
304	Joe O’Leary	Counsel. Describes SB 424 relating to giving the court discretion in awarding temporary custody of parties’ children when the court issues restraining orders under the Family Abuse Prevention Act. Introduces and describes the -1 amendment (EXHIBIT F). Introduces written testimony from John L. Collins, presiding judge of the 25 th Judicial District in Yamhill County (EXHIBIT G).
343	BeaLisa Sydlik	Oregon Judicial Department. Testifies on the issue of SB 424.
380	Sydlik	Comments on the concerns the judges have with the passage of this bill.
414	Sybil Hebb	Oregon Law Center. Testifies on the issue of judicial discretion.
TAPE 134, A		
018	Hebb	Stresses the importance in not giving custody to individuals who might be violent towards the minor; advocates for judicial discretion in this matter.
051	Rebecca Gandy	Oregon Alliance to End Violence against women. Testifies against SB 424.

066	Chair Burdick	Asks for her opinion on possible options.
075	Gandy	Talks about the lack of limitations or restraints on judicial discretion.
100	Sen. Whitsett	Inquires if the judges are making wrong decisions on a regular basis in these types of cases.
102	Gandy	Responds that they don't necessarily get it wrong so often, and describes her stance on the issue.
108	Sen. Whitsett	Comments on the hazards when limiting the jurisdiction of the judge in any court case.
116	Gandy	Stresses the need for parameters in any form of judicial discretion.
138	Mark Kirkmeier	Legislative Assistant, Rep. Hansen. Reads testimony from Rep. Hansen in support of SB 424 (EXHIBIT H).
147	Clark Seeley	Submits testimony and testifies in support of the -1 amendment for SB 424 (EXHIBIT I).
170	Bradd Swank	Oregon Judicial Department. Testifies on the costs of expungement.
215	Swank	Continues his discussion on the redaction of information and the difficulties they face in removing protected data from public access.
253	Sen. Prozanski	Inquires about the fields currently being redacted and if certain information is protected: social security numbers, etc.
256	Swank	Replies that he has spent his entire career protecting social security numbers from public access.
276	Sen. Prozanski	Asks if there is a statute or rule that prohibits social security numbers from being accessed by the public.
280	Swank	Responds that there currently is no specific policy that addresses this issue.
311	Hebb	Submits a chart on the comparison of current criminal expunction process vs. the SB 424 -1 amendment proposed process and (EXHIBITS J & L). Declares their opposition to the -1 amendment.
362	Gandy	Declares their opposition to the -1 amendment.
400	Chair Burdick	Introduces written testimony from Jim Whinston in support of SB 424 (EXHIBIT P). Closes the public hearing on SB 424 and opens a public hearing on HB 2141.

The following prepared testimony is submitted for the record without public testimony:

Rick L. Scheetz
Portland, OR. Submits written testimony in support of SB 424 (**EXHIBIT T**).

HB 2141 – PUBLIC HEARING

410	Heidi Moawad	Counsel. Describes HB 2141 relating to modifying the provisions that allow the Department of Corrections and the Oregon Youth Authority to transfer persons committed to their custody to the state mental hospital for evaluation and treatment. Introduces the -1 amendment (EXHIBIT M).
440	Rep. Chip Shields	House District 43. Submits testimony and testifies in opposition to HB 2141 (EXHIBIT K).
490	Rep. Shields	Discusses the protections, or lack thereof, for young offenders.
TAPE 133, B		
038	Chair Burdick	Asks if the -2 amendment incorporates the -1 amendment.
040	Rep. Shields	Replies that he believes it does.
055	Arthur Tolan	Department of Corrections. Testifies in support of HB 2141.
068	Debbie Rios	Oregon Youth Authority. Testifies in support of HB 2141.
071	Marvin Fickle	Oregon State Hospital. Testifies in a neutral stance on HB 2141.

089	Mary Botkin	American Federation of State, County, and Municipal Employees. Testifies in support of HB 2141.
126	Bob Joondeph	Oregon Advocacy Center. Submits testimony and testifies in support the -2 amendment (EXHIBIT N).
136	Chair Burdick	Closes the public hearing on HB 2141 and opens a public hearing on HB 2139A.

HB 2139A – PUBLIC HEARING

140	Heidi Moawad	Counsel. Describes HB 2139A relating to exempting unclaimed or abandoned tangible property of the Department of Corrections inmates from the Uniform Disposition of Unclaimed Property Act.
157	Stan Czerniak	Assistant Director for Operations. Submits testimony and testifies in support of HB 2139A (EXHIBIT O).
184	Chair Burdick	Asks about the amendments to the bill.
188	Czerniak	Replies that the amendments deal with intangible assets (telephone money remaining on a card, etc.). Talks about the system of accounts (phone account, etc.) that are “intangible” accounts.
213	Sen. Prozanski	Expresses his confusion why such money was not returned to the inmate previously.
216	Czerniak	Talks about why the money in these intangible accounts did not go to the inmate.
242	Chair Burdick	Inquires what happens to these objects (socks, etc.) that are left behind by inmates.
245	Czerniak	States that they usually have the option to donate these items to charity in some cases, and destroy them in others (used socks are not so usable by many other people).
270	Janet Holman	Assistant Director, Administration and Finance, Department of State Lands.
274	Chair Burdick	Asks about the ‘friendly amendment’ discussed earlier.
276	Janet Holman	Talks about the differentiation between tangible and intangible accounts. Goes on to comment on the unclaimed property fund.
307	Sen. Prozanski	Stresses that he believes the money can be easily returned to the individual.
320	Czerniak	Discusses the situations behind the return of money to an inmate in these cases.
339	Chair Burdick	Closes the public hearing and opens a work session on HB 2139A.

HB 2139A – WORK SESSION

348	Sen. Starr	MOTION: Moves HB 2139A to the floor with a DO PASS recommendation.
		VOTE: 6-0-1
		EXCUSED: 1 - Walker
354	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
363	Chair Burdick	Closes the work session on HB 2139A and opens a public hearing on HB 2222A.

HB 2222A – PUBLIC HEARING

366	Joe O’Leary	Counsel. Describes HB 2222A relating to providing that the Department of Justice has a lien upon certain judgments, settlements, and compromises obtained by a person who received awards of compensation from the department, or on whose behalf compensation was paid by the department, for a compensable crime.
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409 Jason Barber Assistant Director, Crime Victims' Assistance Section, Department of Justice. Submits testimony and testifies in support of HB 2222A (**EXHIBIT Q**).

TAPE 134, B

015 Sen. Whitsett Wonders how much money, annually, they are not being reimbursed for.

017 Barber States that he is not sure, but will get the committee that information.

025 Sen. Ringo Inquires about the signed documents by the defendant (lien); shouldn't the department be able to seek litigation against these individuals.

030 Barber Replies that they could, but that HB 2222A seeks to go around costly litigation.

063 Michael Grant Assistant Attorney General, Oregon Department of Justice. Submits testimony and testifies in support of HB 2222A (**EXHIBIT R**). Stresses that this bill does not seek to increase any monetary obligations from the victim.

099 Grant Talks about the lack a third party defendant's obligation to pay the victim's crime victims' assistance payments.

120 Grant Discusses the cost to Crime Victims' United in legal battles over the last few years trying to recover owed payments from victims.

152 Chair Burdick Asks if the third party is required to pay the victims' assistance funds.

157 Grant Comments on the lien process for third party members paying back the victims' assistance funds.

179 Sen. Ringo Inquires how these liens would stack up, as far as priority, against other liens.

182 Grant Talks about the different priorities for liens facing a victim (medical fees, lawyer fees, etc.)

200 Sen. Ringo Addresses the prioritizing of medical liens. Asks if these cases deal with clear liability or is there occasions of questionable liability.

225 Barber Discusses the issue of liability in these cases: 95-98% clear liability.

237 Sen. Ringo Inquires about the difficulties in collecting the money from third party offenders. Questions the perpetrator's disclosure of withheld assets.

243 Grant Replies that this is always an issue. Goes on to talk about the equal priority of medical services lien.

268 Chair Burdick Closes the public hearing on HB 2222A and opens a work session on SB 306.

SB 306 – WORK SESSION

269 Chair Burdick Asks for reconsideration of the vote of SB 306.

275 Sen. Starr **MOTION: Moves to RECONSIDER the vote by which SB 306 is moved to the floor with a DO PASS AS AMENDED recommendation.**

281 Chair Burdick States that the beer community is divided on this issue.
VOTE: 7-0-0

292 Chair Burdick **Hearing no objection, declares the motion CARRIED.**

295 Chair Burdick Moves SB 306 to Monday, May 16, 2005.

298 Chair Burdick Adjourns the meeting at 2:55 p.m.

EXHIBIT SUMMARY

- A. **SB 306, -2 amendment, staff, 2 pp**
- B. **SB 306, -3 amendment, Danelle Romain, 1 p**
- C. **SB 306, written testimony, Paul Cosgrove, 1 p**
- D. **SB 306, Picture of a Beer Filter, Mark Nelson, 1 p**
- E. **SB 592, -1 amendment, Sen. Prozanski, 1 p**
- F. **SB 424, -1 amendment, Rep. Hansen, 3 pp**
- G. **SB 424, written testimony, John Collins, 1 p**
- H. **SB 424, written testimony, Rep. Hansen, 1 p**
- I. **SB 424, written testimony, Clark Seeley, 1 p**
- J. **SB 424, Comparison of current criminal expunction process, Sybil Hebb, 1 p**
- K. **HB 2141, written testimony, Rep. Shields, 2 pp**
- L. **SB 424, written testimony, Sybil Hebb, 1 p**
- M. **HB 2141, -1 amendment, staff, 1 p**
- N. **HB 2141, written testimony, Bob Joondeph, 2 pp**
- O. **HB 2139A, written testimony, Stan Czerniak, 2 pp**
- P. **SB 424, written testimony, Jim Whinston, 4 pp**
- Q. **HB 2222A, written testimony, Jason Barber, 2 pp**
- R. **HB 2222A, written testimony, Michael Grant, 2 pp**
- S. **SB 424, written testimony, Keith Strom, 1 p**
- T. **SB 424, written testimony, Rick L. Scheetz, 1 p**