

## SENATE COMMITTEE ON JUDICIARY

May 31, 2005  
1:00 P.M.

Hearing Room 343  
Tapes 150 - 151

**MEMBERS PRESENT:**      **Sen. Ginny Burdick, Chair**  
                                  **Sen. Charles Starr, Vice-Chair**  
                                  **Sen. Roger Beyer**  
                                  **Sen. Floyd Prozanski**  
                                  **Sen. Doug Whitsett**

**MEMBERS EXCUSED:**    **Sen. Charlie Ringo**  
                                  **Sen. Vicki Walker**

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

**MEASURES/ISSUES HEARD:**  
                                  **SB 1047 – Public Hearing and Work Session**  
                                  **HB 2568 – Public Hearing and Work Session**  
                                  **SB 1025 – Work Session**  
                                  **SB 392 – Work Session**  
                                  **HB 2634 – Work Session**  
                                  **HB 2305A – Public Hearing and Work Session**  
                                  **HB 2306A – 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 150, A</b>		
002	Chair Burdick	Calls the meeting to order at 1:18 p.m. and opens a public hearing on SB 1047.
<b><u>SB 1047 – PUBLIC HEARING</u></b>		
007	Joe O'Leary	Counsel. Describes SB 1047 relating to creating an authority for fatality review teams to review records related to domestic violence fatalities for the purpose of preventing future fatalities. Introduces and discusses the -1 amendment ( <b>EXHIBITA</b> ).
038	Rep. Kim Thatcher	House District 25. Testifies in support of SB 1047.
059	Sen. Starr	Inquires if she is testifying in support of the -1 amendment.
056	Rep. Thatcher	Responds that she has not seen the amendment, but from what she understands, she supports them.
068	Hans Bernard	Legislative Aide, Sen. Brown. Testifies in support of SB 1047.
085	Honorable Dale Koch	Presiding Judge, Multnomah County Circuit Court. Testifies in support of SB 1047.
128	Sen. Beyer	Asks if there is a current prohibition from doing what the bill

131	Judge Koch	seeks to accomplish.
151	Sybil Hebb	Replies that there is not, and explains the need for this bill. Oregon Law Center. Submits written testimony from Nancy Glass, Co-Director of the Center for Health Disparities Research at Oregon Health & Science University, Judy Shiprack, Executive Director of the Multnomah County Local Public Safety Coordinating Council, and Denis Washington, the Executive Director of the Oregon Coalition Against Domestic & Sexual Violence and testifies in support of SB 1047 ( <b>EXHIBITS B-D</b> ).
190	Hebb	Talks about a statewide response team that would deal with instances of domestic abuse and violence.
223	Connie Gallagher	Administrator, Crime Victims' Assistance Section, Oregon Department of Justice. Submits testimony and testifies in support of SB 1047 ( <b>EXHIBIT E</b> ).
257	Terrie Quinteros	Program Director, Crime Survivors for Community Safety. Submits testimony and testifies in support of SB 1047 ( <b>EXHIBIT F</b> ).
281	LeAnn Mederios	Intimate Partner Violence Data Collection Program Manager, Oregon Department of Human Services. Submits testimony and testifies in support of SB 1047 ( <b>EXHIBIT G</b> ).
319	Chair Burdick	Closes the public hearing and opens a work session on SB 1047.
<b><u>SB 1047 – WORK SESSION</u></b>		
526	Sen. Starr	<b>MOTION: Moves to ADOPT SB 1047-1 amendments dated 5/11/05.</b>
331	Sen. Beyer	Asks why the vote count requirement was changed from a majority to a 2/3 vote.
339	Sybil Hebb	Oregon Law Center. Addresses the reasoning behind the -1 amendment.
368	Sen. Beyer	Inquires about the original bill from the house committees that incorporated the amendment.
375	Hebb	Replies that the bill in front of the committee, SB 1047, incorporates the amendment that did not go into the original house bill.
383	Sen. Whitsett	Wonders about the definition of "child" in SB 1047.
388	Hebb	Talks about the definition of a "child," and how the bill would be interpreted.
372	Sen. Whitsett	Inquires if the bill would apply to an unborn fetus.
403	Hebb	Replies it would not.
407	Sen. Beyer	Desires a hand-engrossed copy of SB 1047 with the -1 amendment.
433	Sen. Starr	<b>MOTION: Moves to WITHDRAW the MOTION to ADOPT SB 1047-1 amendments dated 5/11/05.</b> <b>VOTE: 5-0-2</b> <b>EXCUSED: 2 - Ringo, Walker</b>
435	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
441	Chair Burdick	Closes the work session on SB 1047 and opens a public hearing on HB 2568.

**HB 2568 – PUBLIC HEARING**

442	Heidi Moawad	Counsel. Describes HB 2568 relating to requiring the circuit court in Gresham to transfer the proceedings to a court facility in Portland if the accused is in custody of the county sheriff or the Department of Corrections or if the circuit court issues an arrest warrant for the accused in the pending criminal action.
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**TAPE 151, A**

018 Honorable Dale Koch Presiding Judge, Multnomah County Circuit Court. Testifies in support of HB 2568.  
063 Chair Burdick Closes the public hearing and opens a work session on HB 2568.

**HB 2568 – WORK SESSION**

065 Sen. Starr **MOTION: Moves HB 2568 to the floor with a DO PASS recommendation.**

**VOTE: 4-0-3**

**EXCUSED: 3 - Prozanski, Ringo, Walker**

**Hearing no objection, declares the motion CARRIED.**

**SEN. BURDICK will lead discussion on the floor.**

068 Chair Burdick Closes the work session on HB 2568 and opens a work session on SB 1025.  
070 Chair Burdick

**SB 1025 – WORK SESSION**

081 William E. Taylor Counsel. Introduces and describes the -3 amendment, which effectively replaces the bill (**EXHIBIT H**).  
094 Gwen Dayton Co-Chair, Advisory Committee on Genetic Privacy and Research. Testifies in support of SB 1025. Discusses the creation of the -3 amendment.  
137 Dayton Talks about a typical situation involving the use of genetic information and DNA samples.  
158 Chair Burdick Asks about patients who gained genetic/DNA information before current privacy standards could have their information accessed.  
164 Dayton Replies that the information gained before current privacy standards (Health Insurance Portability and Accountability Act of 1996) could not be accessed under the bill.  
178 Dave Fidanque Executive Director, American Civil Liberties Union of Oregon. Addresses current law on this issue, and how it has never been adequately implemented. Testifies in support of the -3 amendment.  
215 Fidanque States that the -3 amendment allows health care providers to implement the Health Insurance Portability and Accountability Act of 1996 (HIPAA) notification several different ways.  
244 Bruce Bishop Oregon Association of Hospitals and Health Systems. Testifies in support of SB 1025 and the -3 amendment.  
262 Chair Burdick Inquires about the 'opting-out' option, and if it will be a widely used method.  
271 Bishop Replies that he believes a very small amount will utilize this aspect of the bill.  
277 Fidanque Stresses that the largest problem facing the industry is the lack of warning and notification of the patient relating to the use of their biological specimen or information.  
307 Fidanque States that there is a large concern among the populace relating to genetic research.  
324 Taylor Addresses the definition of "covered entity" and asks what is not a "covered entity."  
333 Dayton Discusses the definition of "covered entities" according to the law.  
360 Chair Burdick Inquires if those specimens would be allowed to be researched.  
363 Dayton Conveys that, because there was not an opportunity for the patient to 'opt-out,' their information could not be used.  
373 Fidanque States that less than 5% of all health care providers would face this problem.  
399 Dayton Talks about non-covered providers referring a patient to a

		covered lab, that lab would then be responsible in providing a notification to the patient. States that certain labs are not covered by HIPAA standards.
429	Taylor	Discusses if there is any way for the sample to be used after a patient says 'no.'
441	Dayton	States that you can only use someone's DNA or genetic sample only if someone was notified and did not 'opt-out.'
456	Ted Falk	Testifies in support of SB 1025 with the -3 amendment.
<b>TAPE 150, B</b>		
026	Chair Burdick	Commends the panel for working on a difficult issue.
034	Dr. Gary Kyoto	Director, Oregon Health & Science University Research Integrity Office. Testifies in support of SB 1025 and the -3 amendment.
<b>063</b>	<b>Sen. Starr</b>	<b>MOTION: Moves to ADOPT SB 1025-3 amendments dated 5/31/05.</b>
		<b>VOTE: 5-0-2</b>
		<b>EXCUSED: 2 - Ringo, Walker</b>
<b>067</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>067</b>	<b>Sen. Starr</b>	<b>MOTION: Moves SB 1025 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0-2</b>
		<b>EXCUSED: 2 - Ringo, Walker</b>
<b>070</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. BURDICK will lead discussion on the floor.</b>
073	Chair Burdick	Closes the work session on SB 1025 and opens a work session on SB 392.
<b><u>SB 392 – WORK SESSION</u></b>		
074	William E. Taylor	Counsel. Describes SB 392 relating to providing that if a person slays another person, the property that would have passed from the heir or devisee of the decedent to the slayer, whether by interstate succession, by will, or by trust, passes and vests as if the slayer had predeceased the decedent unless the heir or devisee specifically provides otherwise by will or other instrument executed after the death of decedent.
<b>090</b>	<b>Sen. Starr</b>	<b>MOTION: Moves SB 392 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0-2</b>
		<b>EXCUSED: 2 - Ringo, Walker</b>
<b>093</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WESTLUND will lead discussion on the floor.</b>
095	Chair Burdick	Closes the work session on SB 392 and opens a work session on HB 2634.
<b><u>HB 2634 – WORK SESSION</u></b>		
098	Sam Sears	Counsel. Describes HB 2634 relating to establishing a pleading requirement for an action asserting professional negligence against a real estate license.
<b>115</b>	<b>Sen. Starr</b>	<b>MOTION: Moves HB 2634 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0-2</b>
		<b>EXCUSED: 2 - Ringo, Walker</b>
<b>118</b>	<b>Chair Burdick</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WHITSETT will lead discussion on the floor.</b>
120	Chair Burdick	Closes the work session on HB 2634 and opens a public hearing on HB 2305A.

**HB 2305A – PUBLIC HEARING**

122	Sam Sears	Counsel. Describes HB 2305A relating to allowing a delivery of writ of garnishment to a person designated by the sole proprietor to accept the service.
135	Jim Markee	Oregon Collectors Association. Submits testimony and testifies in support of HB 2305A ( <b>EXHIBIT I</b> ).
154	Chair Burdick	Closes the public hearing and opens a work session on HB 2305A.

**HB 2305A – WORK SESSION**

157	Sen. Starr	<b>MOTION: Moves HB 2305A to the floor with a DO PASS recommendation.</b>
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**VOTE: 5-0-2**

**EXCUSED: 2 - Ringo, Walker**

160	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED. SEN. BEYER will lead discussion on the floor.</b>
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163	Chair Burdick	Closes the work session on HB 2305A and opens a public hearing on HB 2306A.
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**HB 2306A – PUBLIC HEARING**

164	Sam Sears	Counsel. Describes HB 2306A relating to making unmarried parents of minor children liable for the expenses and education of the child.
177	Jim Markee	Oregon Collectors Association. Submits testimony and testifies in support of HB 2306A ( <b>EXHIBIT J</b> ).
215	Markee	States that they did not want to extend family debts to spouses unless they related to the benefit of the children.
265	Chair Burdick	Inquires about debts that the child may incur.
268	Markee	States that debts incurred by a minor or child are usually not fully enforceable. Addresses a section in his testimony, ORS 101.112, which states you are no longer a minor when you have a child. Declares that the parents are no longer responsible for the debt she may incur after that child.
318	Chair Burdick	Brings up the issue of a son (minor), as opposed to a daughter, having a child, and if these rules would still apply.
322	Markee	Replies that it is the same, no matter the sex of the child.
349	Sen. Prozanski	Inquires if the parents of a minor who is emancipated would still be obligated until the age of 18.
351	Markee	States that they would not be obligated to a child until the age of 18 if the child is emancipated earlier.
372	Sen. Beyer	Inquires about a married 16 year old child.
382	Markee	Replies that there is another operative statute that would address the issue.
396	Sen. Whitsett	Inquires about the 16 year old unmarried parent and the responsibility of the parents.
409	Markee	Offers clarification on the statutes relating to this issue.
450	Sen. Whitsett	Asks for more clarification on the current law relating to unmarried parents.
460	Markee	Clarifies the current statutes on this issue.
492	Chair Burdick	Closes the work session on HB 2306A and adjourns the meeting at 2:50 p.m.

**EXHIBIT SUMMARY**

- A. **SB 1047, -1 amendment, staff, 2 pp**
- B. **SB 1047, written testimony, Sybil Hebb, 2 pp**

- C. **SB 1047, written testimony, Sybil Hebb, 1 p**
- D. **SB 1047, written testimony, Sybil Hebb, 2 pp**
- E. **SB 1047, written testimony, Connie Gallagher, 1 p**
- F. **SB 1047, written testimony, Terrie Quinteros, 1 p**
- G. **SB 1047, written testimony, LeAnn Mederios, 2 pp**
- H. **SB 1025, -3 amendment, staff, 13 pp**
- I. **HB 2305A, written testimony, Jim Markee, 1 p**
- J. **HB 2306A, written testimony, Jim Markee, 7 pp**