

SENATE COMMITTEE ON JUDICIARY

June 14, 2005
3:00 P.M.

Hearing Room 343
Tapes 167 - 168

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: Heidi Moawad, Counsel
Sam Sears, Counsel
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
HB 2811A – Public Hearing and Work Session
HB 2282A – Public Hearing and Work Session
HB 3352A – Public Hearing
HB 2323 – Public Hearing and Work Session
HB 2142A – Public Hearing
HB 2221B – Work Session
HB 2306A – Public Hearing and Work Session
HB 2730A – 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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<u>TAPE 167, A</u>		
003	Chair Burdick	Calls the meeting to order at 3:10 p.m. and opens a public hearing on HB 2811A.
<u>HB 2811A – PUBLIC HEARING</u>		
007	Heidi Moawad	Counsel. Describes HB 2811A relating to expanding the types of equipment or devices that may not be used in a motor vehicle when the vehicle is driven or moved on the highway. Introduces and describes the –A10 amendment (EXHIBIT A).
015	Rep. Andy Olson	House District 15. Testifies in support of HB 2811A.
035	Mark Landauer	Office of Government Relations, City of Portland. Submits testimony and testifies in support of HB 2811A (EXHIBIT B).
050	Lieutenant Vince Jarmer	City of Portland. Testifies in support of HB 2811A.
064	Sen. Walker	Raises her concerns with the bill; talks about other distractions that are not outlawed (putting on makeup, cell phones, reading, etc.).
074	Landauer	Discusses how an officer must observe a number of different observations before pulling over an offender. Declares that an officer must wait for another offense before they would be able to cite an individual for having a DVD player on the dashboard: no enforcement mechanism.
093	Sen. Walker	Inquires what would occur if the passenger argued they were

096	Landauer	using the DVD player as opposed to the driver. Responds with information on current laws, advancing technology, and how the statutes must change to address these new distractions.
117	Sen. Walker	Talks about how using her laptop while she is a passenger of a moving vehicle would be breaking the law.
132	Landauer	Comments on officer discretion in cases such as these.
152	Rep. Olson	Addresses subsection 2 that details the term “motor vehicle equipped,” or attached to the vehicle, and how this bill would not apply to laptops.
160	Sen. Ringo	Asks about a violation concerning improper or inattentive driving.
165	Rep. Olson	Discusses the different statutes that relate to Sen. Ringo’s question.
185	Sen. Beyer	Desires clarification on the electronic devices that are “motor vehicle attached.”
194	Landauer	Talks about the different electronic devices and how this law would address them.
207	Rep. Olson	Comments on the discretion available to the judge in these cases, and stresses that technology advances so fast nowadays.
228	Chair Burdick	Asks counsel to interpret the term “motor vehicle equipped.”
238	Moawad	Talks about the –A10 amendment and how it addresses “image display devices” and the term “equipment” in relation to the bill and the effects it seeks to enact.
265	Landauer	Discusses the image display being required to show certain visual mediums (television, movies, etc.).
275	Sen. Walker	States that some laptops have DVD players installed. Agrees with the notion that people should not drive down the road and watch movies.
287	Lieutenant Jarmer	States that they do not cite a large amount of these incidents.
298	Chair Burdick	Closes the public hearing and opens a work session on HB 2811A.

HB 2811A – WORK SESSION

300	Sen. Starr	MOTION: Moves to ADOPT HB 2811A-A10 amendments dated 6/10/05. VOTE: 5-0-2 EXCUSED: 2 - Prozanski, Ringo
308	Chair Burdick	Hearing no objection, declares the motion CARRIED.
310	Sen. Starr	MOTION: Moves HB 2811A to the floor with a DO PASS AS AMENDED recommendation.
313	Sen. Beyer	States that, for the record, the committee discussed at length the idea of an image displaying device being plugged into the lighter for power being applicable under the bill. VOTE: 5-0-2 EXCUSED: 2 - Prozanski, Ringo
330	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
333	Chair Burdick	Closes the work session on HB 2811A and opens a public hearing on HB 3352A.

HB 3352A – PUBLIC HEARING

336	Sam Sears	Counsel. Describes HB 3352A relating to providing that the surviving parent of a decedent, or the heirs or devisees of a parent, does not inherit by intestacy if the decedent lacked the capacity to make a will for at least five years before the death
-----	-----------	--

and the parent failed to provide support for the decedent for a period of 10 years or more before the decedent attained 18 years of age, or if the decedent died before attaining 18 years of age and the parent provided no support for the decedent during the life of the decedent. Introduces and describes the –A5 amendment (**EXHIBIT C**).

371 Rep. Tom Butler House District 60. Testifies in support of HB 3352A with the –A5 amendment.

405 Rep. Butler Discusses the case that inspired the drafting of this bill.

440 Sen. Beyer Asks if there happened to be a child with a single dead-beat parent, who the inheritance would then go to if the child died.

TAPE 168, A

010 Sears Talks about the laws of inheritance.

015 Sen. Beyer Wonders about the effects of the bill on the laws of inheritance.

028 Rep. Butler Clarifies the effects of the bill under the circumstances raised by Sen. Beyer.

038 Sen. Beyer Argues that there are circumstances where this inheritance could go to people who do not truly deserve the inheritance.

052 Rep. Butler Discusses the circumstance talked about by Sen. Beyer.

070 Sen. Walker Notes that the bill clarifies the “dead-beat” parent as a deserter, as opposed to a grandparent or sibling who are not required (or fully responsible) for raising the child (and have been absent from their life until that point).

086 Chair Burdick Comments on the eventuality of the child dying and the estate going to the closest family member.

100 Sen. Prozanski Inquires as to the definition of “deserter.”

104 Sears States that the term was added after the initial drafting of the bill and declares that it is statutorily defined.

110 Sen. Prozanski Stresses that they need references to these sections in the bill in the eventuality of the law being challenged.

118 Sears Agrees with the idea raised by Sen. Prozanski.

124 Chair Burdick Closes the work session on HB 3352A and moves the bill to the agenda for Thursday, June 16, 2005 to allow for upcoming amendments. Opens a public hearing on HB 2282A.

-

HB 2282A – PUBLIC HEARING

140 Heidi Moawad Counsel. Describes HB 2282A relating to modifying the complaint in criminal and violation citations. Introduces and describes the –A3, –A4, and –A6 amendments (**EXHIBITS D - F**).

200 Mark Landauer Office of Government Relations, City of Portland. Submits testimony and testifies in support of HB 2282A (**EXHIBIT G**).

231 Bradd Swank Oregon Judicial Department. Submits testimony and testifies in support of HB 2282A (**EXHIBIT H**). Discusses the efficiency in digitally recording the citation information as opposed to hand drafting the different forms.

279 Moawad Wonders which class of offense (misdemeanor, felony, etc.) this bill would apply to.

291 Swank Replies with information as to the abilities and responsibilities of the officers to cite different offenses.

310 Sen. Whitsett Inquires as to the hacking preventions they have for their system.

315 Swank Discusses the different securities that create firewalls and the other protections that would halt hackers from cracking their

326 Sen. Whitsett system.
Raises the concern that the Oregon Department of Education spent \$32 million dollars on this sort of protection to have Eighth graders break through their protections just this year. Wonders how they would deal with hackers.

332 Swank Replies that there is a large variety of different hackers and they would deal with the different violations in specific methods.

362 Lieutenant Vince Jarmen City of Portland. Testifies in support of HB 2282A. Stresses the increase of efficiency in this new electronic system.

430 Sen. Prozanski Asks, for the record, if the citation would be dismissed if there was a loss of data.

441 Swank States that it is possible for the data to get lost in any system, but yes.

TAPE 167, B

026 Kelly Skye Oregon Criminal Defense Lawyers Association. Testifies in support of the –A3 amendment.

035 Chair Burdick Closes the public hearing and opens a work session on HB 2282A.

HB 2282A – WORK SESSION

039 Sen. Starr **MOTION: Moves to ADOPT HB 2282A-A3 amendments dated 5/27/05.**

VOTE: 6-0-1

EXCUSED: 1 - Walker

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

041 Sen. Starr **MOTION: Moves to ADOPT HB 2282A-A6 amendments dated 6/10/05.**

VOTE: 6-0-1

EXCUSED: 1 - Walker

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

044 Sen. Starr **MOTION: Moves HB 2292A to the floor with a DO PASS AS AMENDED recommendation.**

048 Sen. Walker Raises the concern of a virus on this type of system.

VOTE: 6-0-1

EXCUSED: 1 - Walker

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

SEN. PROZANSKI will lead discussion on the floor.

055 Chair Burdick Closes the work session on HB 2282A and opens a public hearing on HB 2323.

HB 2323 – PUBLIC HEARING

056 Heidi Moawad Counsel. Describes HB 2323 relating to changing the date by which a person sentenced as a dangerous offender must undergo a mental health examination.

087 Michael Washington Chair, Board of Parole and Post-Prison Supervision. Testifies in support of HB 2323.

122 Chair Burdick Closes the public hearing and opens a work session on HB 2323.

HB 2323 – WORK SESSION

125 Sen. Starr **MOTION: Moves HB 2323 to the floor with a DO PASS recommendation.**

VOTE: 5-0-2

EXCUSED: 2 - Ringo, Walker

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

SEN. WHITSETT will lead discussion on the floor.

129 Chair Burdick Closes the work session on HB 2323 and opens a public hearing on HB 2142A.

HB 2142A – PUBLIC HEARING

132	Heidi Moawad	Counsel. Describes HB 2142A relating to specifying the circumstances under which corrections officers or other officials employed by the Oregon Department of Corrections may and may not use deadly physical force. Introduces and describes the –A2 amendment (EXHIBIT I).
155	Sen. Prozanski	Asks why this amendment is necessary.
158	Moawad	Talks about the concerns with the –A2 amendment; officers are already trained and authorized to use force.
182	Stan Czerniak	Assistant Director for Operations, Oregon Department of Corrections. Submits testimony and testifies in support of HB 2142A and the –A2 amendment (EXHIBIT J). Declares that the officers are not expressly authorized to use certain amounts of force to quell disturbances and other emergencies in specific correctional facilities.
226	Czerniak	Declares that statutory authorization of deadly force in certain situations is needed.
236	Geoff Sugerman	Western Prison Project. Submits testimony and testifies in support of HB 2142A and the –A2 amendment (EXHIBIT K).
253	Chair Burdick	Inquires about the possibility of opening up litigation because of this bill.
256	Sugerman	Replies that he isn't sure if the bill would increase the likelihood of litigation.
266	Moawad	States that the Department of Public Safety Standards and Training (DPSST) is worried about the possibility of additional criminal and civil liability.
292	Mary Botkin	American Federation of State, County, and Municipal Employees. Testifies in support of HB 2142A. Stresses that there has not been a case of deadly force in the prisons in over 20 years.
336	Sen. Prozanski	Declares that officers are trained to use escalating force.
351	Botkin	Replies that they are trying to limit civil and criminal liability for the officers.
375	Moawad	Discusses the concerns raised by the Department of Justice. Talks about DPSST's training methods in escalating force/use of force.
412	Sen. Prozanski	Articulates the necessary for escalating force procedures.
420	Moawad	Agrees with the discussion raised by Sen. Prozanski.
441	Sen. Prozanski	Talks about the lawsuit problems resulting from escalating force.
TAPE 168, B		
012	Steve Doell	Crime Victims United. Testifies in support of HB 2142A.
036	Sen. Whitsett	Asks if violent offenders are ever placed in minimum security prisons.
040	Botkin	Replies that it is possible for a violent offender to find themselves, through good behavior, in a minimum security prison.
051	Czerniak	States that if the prisoner is, in any way, a threat to the community, they are not placed in a minimum security environment.
054	Sen. Whitsett	Inquires about certain prisoners earning their way into minimum security prisons.
060	Czerniak	Explains the classifications (prisoner profiles, offenses they were incarcerated for, etc.) that would allow for a transfer to a minimum custody facility.

072 Sen. Prozanski Wonders about job skills dictating an individual being placed into a minimum security facility.
075 Czerniak Replies that they would not attempt to do this.
083 Chair Burdick Closes the public hearing and moves HB 2142A to Thursday, June 14, 2005. Opens a work session on HB 2221B.

HB 2221B – WORK SESSION

102 Sam Sears Counsel. Describes HB 2221B relating to establishing a Child Abuse Multidisciplinary Intervention Program in the Department of Justice. Introduces and describes the –B4 amendment (**EXHIBIT L**).
120 Sen. Starr **MOTION: Moves to ADOPT HB 2221B-B4 amendments dated 6/3/05.**
VOTE: 4-0-3
EXCUSED: 3 - Beyer, Prozanski, Ringo
123 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
124 Sen. Starr **MOTION: Moves HB 2221B to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 4-0-3
EXCUSED: 3 - Beyer, Prozanski, Ringo
128 Chair Burdick **Hearing no objection, declares the motion CARRIED.**
SEN. WALKER will lead discussion on the floor.
139 Sears States that there is no fiscal for the bill.
144 Chair Burdick Closes the work session on HB 2221B and opens a public hearing on HB 2306A

HB 2306A – PUBLIC HEARING

146 Sam Sears Counsel. Describes HB 2306A relating to making unmarried parents of a minor child liable for the expenses and education of the child. Introduces and describes the –A7 amendment (**EXHIBIT M**).
177 Rep. Mary Nolan House District 36. Testifies in support of HB 2306A and the –A7 amendment.
211 Sen. Beyer Asks about a relating to clause conflict.
214 Rep. Nolan Discusses how the relating to clause does not conflict with the context or scope of the bill.
233 Jim Markee Oregon Collector’s Association. Testifies in support of HB 2306A with the -A7 amendment.
263 Markee Addresses the possible relating to clause conflict raised by Sen. Beyer.
279 Sen. Walker Inquires about the –A5 amendment being incorporated into the –A7.
283 Markee Replies that the –A7 has the –A5 within the drafting language.
291 Sen. Beyer States that this bill might create an unequal liability for parents who live together who are not married.
296 Markee Responds that current law is unequal in that regard and this bill seeks to fix that problem.
330 Tina Kotek Policy Director, Children First of Oregon. Testifies in support of HB 2306A and the –A7 amendment.
347 Lisa Trussell Associated Oregon Industries. Testifies in support of HB 2306A and the –A7 amendment.
362 Chair Burdick Closes the public hearing and opens a work session on HB 2306A.

HB 2306A – WORK SESSION

365 Sen. Starr **MOTION: Moves to ADOPT HB 2306A-A7 amendments dated 6/13/05.**

367	Sen. Whitsett	Declares his opposition to the bill. VOTE: 5-1-1 AYE: 5 - Beyer, Prozanski, Starr C., Walker, Burdick NAY: 1 - Whitsett EXCUSED: 1 - Ringo
378	Chair Burdick	The motion CARRIES.
380	Sen. Starr	MOTION: Moves HB 2306A to the floor with a DO PASS AS AMENDED recommendation.
386	Sen. Whitsett	Inquires about a fiscal on the bill and the conflict with the relating to clause.
358	Chair Burdick	VOTE: 4-2-1 AYE: 4 - Prozanski, Starr C., Walker, Burdick NAY: 2 - Beyer, Whitsett EXCUSED: 1 - Ringo
401	Chair Burdick	The motion CARRIES.
407	Chair Burdick	Closes the work session on HB 2306A and opens a public hearing on HB 2730A.
<u>HB 2730A – PUBLIC HEARING</u>		
411	Sam Sears	Counsel. Describes HB 2730A relating to providing civil immunity for broadcasters participating in the Amber Plan.
422	Chair Burdick	Closes the public hearing and opens a work session on HB 2730A.
<u>HB 2730A – WORK SESSION</u>		
429	Sen. Starr	MOTION: Moves HB 2730A to the floor with a DO PASS recommendation. VOTE: 6-0-1 EXCUSED: 1 - Ringo
432	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. PROZANSKI will lead discussion on the floor.
449	Chair Burdick	Closes the work session on HB 2730A and adjourns the meeting at 5:00 p.m.

EXHIBIT SUMMARY

- A. **HB 2811A, -A10 amendment, staff, 2 pp**
- B. **HB 2811A, written testimony, Mark Landauer, 4 pp**
- C. **HB 3352A, -A5 amendment, staff, 7 pp**
- D. **HB 2282A, -A3 amendment, staff, 1 p**
- E. **HB 2282A, -A4 amendment, staff, 2 pp**
- F. **HB 2282A, -A6 amendment, staff, 2 pp**
- G. **HB 2282A, written testimony, Mark Landauer, 2 pp**
- H. **HB 2282A, written testimony, Bradd Swank, 3 pp**
- I. **HB 2142A, -A2 amendment, staff, 1 p**
- J. **HB 2142A, written testimony, Stan Czerniak, 2 pp**
- K. **HB 2142A, written testimony, Geoff Sugerman, 1 p**
- L. **HB 2221B, -B4 amendment, staff, 1 p**
- M. **HB 2306A, -A7 amendment, Rep. Nolan, 5 pp**