

SENATE COMMITTEE ON JUDICIARY

June 02, 2005
1:00 P.M.

Hearing Room 343
Tapes 154 - 155

Corrected 10/26/05

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

MEMBER EXCUSED: **Sen. Charlie Ringo**

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

MEASURES/ISSUES HEARD:
 SB 592 – Work Session
 SB 1034 – Work Session
 HB 2359A – Public Hearing and Work Session
 HB 2221B – Public Hearing
 HB 2203 – Public Hearing and Work Session
 HB 2205A – Public Hearing and Work Session
 HB 2730A – 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 154, A 003	Chair Burdick	Calls the meeting to order at 1:12 p.m. and opens a work session on SB 592.
<u>SB 592 – WORK SESSION</u> 009	William E. Taylor	Counsel. Describes SB 592 relating to not allowing consideration of reasonable and prudent factors for the violation of the basic speed rule if a person exceeds certain speeds on secondary highways. Introduces and describes the -2 amendment (EXHIBIT A).
015	Sen. Prozanski	Discusses the need for the -2 amendment in lieu of the -1 amendment talked about at an earlier committee meeting.
034	Chair Burdick	Asks why primary highways were not included in the bill and asks for a definition.
036	Sen. Prozanski	Talks about the difference between a primary highway and secondary highway, and why they chose to include such a specification in the bill.

052	Sen. Whitsett	Inquires about a hypothetical situation involving driving above the suggested speed limit.
054	Sen. Prozanski	Describes the court process, and the defense used in such cases.
084	Sen. Whitsett	Comments on the removal of judicial discretion on these matters resulting from the passage of SB 592.
088	Sen. Prozanski	Stresses that such a defense of “road conditions” could not be used by motorists to exceed the posted speed limit.
122	Sen. Prozanski	Discusses the reasoning behind the bill; small towns requested the bill because of excessive speeding through their rural townships.
133	Sen. Starr	MOTION: Moves to ADOPT SB 592-2 amendments dated 5/12/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
135	Chair Burdick	Hearing no objection, declares the motion CARRIED.
137	Sen. Starr	MOTION: Moves SB 592 to the floor with a DO PASS AS AMENDED recommendation.
139	Sen. Whitsett	Declares his hesitance to support the bill.
		VOTE: 4-2-1
		AYE: 4 - Prozanski, Starr C., Walker, Burdick
		NAY: 2 - Beyer, Whitsett
		EXCUSED: 1 - Ringo
152	Chair Burdick	The motion CARRIES.
		SEN. PROZANSKI will lead discussion on the floor.
155	Chair Burdick	Closes the work session on SB 592 and opens a work session on SB 1034.
<u>SB 1034 – WORK SESSION</u>		
158	Joe O’Leary	Counsel. Describes SB 1034 relating to establishing criteria for a court to dismiss the commitment of a ward to the Department of Human Services. Introduces and describes the -1 amendment (EXHIBIT B).
172	Sen. Kate Brown	Senate District 21. Testifies in support of SB 1034.
186	Sen. Starr	MOTION: Moves to ADOPT SB 1034-1 amendments dated 5/23/05.
		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
188	Chair Burdick	Hearing no objection, declares the motion CARRIED.
190	Sen. Starr	MOTION: Moves SB 1034 to the floor with a DO PASS AS AMENDED recommendation.
192	Sen. Beyer	Desires clarification on the issue of the state retaining youths in foster care from the ages of 18 to 21.
202	Julie McFarlane	Supervising Attorney, Juvenile Rights Project. Testifies in support of SB 1034. Clarifies the issue of youths remaining in foster care services from the age of 18 to 21.
212	Sen. Brown	Stresses that there is a problem in Portland and other areas around the state with this issue (homeless youths).
225	Sen. Beyer	Talks about the fiscal responsibilities that this bill would create for the state.
243	Sen. Whitsett	Declares his hesitance to support the bill because of the age the state is allowing children to remain in foster care.
255	Sen. Brown	Stresses that the children who might remain in foster care over the age of 18 are mainly those with developmental disabilities.
276	Sen. Whitsett	Inquires about where in the bill it talks about developmentally disabled adults.

285 McFarlane Argues that this bill does not particularly grant this ability; that particular rule has been in the Oregon statutes for several years (since 1959).

329 Sen. Brown States that the juvenile dependency program is severely lacking in dollars.

344 Sen. Whitsett Inquires how many adult children may remain in foster care if this bill passes.

349 McFarlane Stresses that, under the bill, the child does not have to remain in foster care after the age of 18.

384 Sen. Beyer Asks about a fiscal impact statement.

392 O'Leary States that the bill does not have a fiscal.

Chair Burdick
VOTE: 4-2-1
AYE: 4 - Prozanski, Starr C., Walker, Burdick
NAY: 2 - Beyer, Whitsett
EXCUSED: 1 - Ringo

415 Chair Burdick
The motion CARRIES.
SEN. BROWN will lead discussion on the floor.

423 Chair Burdick Closes the work session on SB 1034 and opens a public hearing on HB 2359A.

HB 2359A – PUBLIC HEARING

426 Sam Sears Counsel. Describes HB 2359A relating to revising the laws governing judgments.

462 Gerald Watson Oregon Law Commission. Submits a study on the judgments work group and testifies in support of HB 2359A (**EXHIBIT C**).

TAPE 155, A

050 Watson Talks about the judgment documents being enhanced by passing this ill. Details the requirements of a separate judgment section dealing with a lien.

076 Dave Heynderickx Acting Legislative Counsel. Addresses the study introduced earlier relating to judgments (**Exhibit C**).

101 Heynderickx Talks about section 2 dealing with jurisdictional authority for the court of appeals. Goes on to discuss the different sections of the bill.

145 Heynderickx Talks about section 9 dealing with child support decisions.

175 Heynderickx Addresses section 21.

186 Bradd Swank Oregon Judicial Department. Testifies in support of HB 2359A. Discusses the differences sought after last session.

220 Swank Explains the theory that, for the vast majority of cases, they want a single judgment as opposed to extra, or special, judgments.

261 Swank Submits written testimony and testifies in support of HB 2359A (**EXHIBIT D**).

285 Sen. Walker Commends the witnesses on their work.

300 Sen. Beyer Asks about the retroactivity of the bill, especially the probate section of the bill.

308 Swank Addresses probate retroactivity in the bill.

345 Sen. Beyer Inquires about probate cases that has already been started, or perhaps have been going on for awhile (several years).

353 Heynderickx States that there are only a few such probate cases, and specific circumstance, where limited judgments can be used.

378 Sen. Beyer Asks what occurs when probate cases have been closed and then re-opened because of new evidence.

383 Swank Talks about those situations where limited judgments may occur during probate proceedings.

419 Chair Burdick Closes the public hearing and opens a work session on HB

2359A.

HB 2359A – WORK SESSION

424 Sen. Starr

MOTION: Moves HB 2359A to the floor with a DO PASS recommendation.

VOTE: 6-0-1

EXCUSED: 1 - Ringo

Hearing no objection, declares the motion CARRIED.

SEN. WALKER will lead discussion on the floor.

429 Chair Burdick

436 Chair Burdick

Closes the work session on HB 2359A and opens a public hearing on HB 2221B.

HB 2221B – PUBLIC HEARING

441 Sam Sears

Counsel. Describes HB 2221B relating to establishing a Child Abuse Multidisciplinary Intervention Program in the Department of Justice.

TAPE 154, B

023 Connie Gallagher

Director, Crime Victims' Assistance Section, Oregon Department of Justice. Submits testimony and testifies in support of HB 2221B (**EXHIBIT E**).

056 Gallagher

Gives a section by section description of HB 2221B.

095 Gallagher

Continues reading her testimony in support of HB 2221B (**Exhibit E**).

108 Sen. Whitsett

Wonders how the coordinated effort made by her organization over the past 15 years has not reduced the increasing amount of child abuse cases.

117 Gallagher

Stresses the importance of multi-disciplinary teams in addressing the issue of child abuse.

133 Sen. Whitsett

Comments on preventative methods needed for stopping child abuse cases.

143 Sen. Starr

Asks about the times and occurrences when intervention was unnecessary and improper.

163 Gallagher

Discusses the response systems available to different states that tackle the methods used to prevent and deal with child abuse cases.

187 Sen. Starr

Wonders why the question, "What happened," is not asked before actions are taken.

190 Gallagher

Talks about the different protocols used by the different counties.

198 Micky Logan

Assistant Attorney General. Stresses that the questions asked are more geared toward the Department of Human Services involvement in child abuse cases.

221 Sen. Starr

Acknowledges the fact that there are far too many cases of child abuse, but stresses that there are too many cases mishandled by the Department of Human Services.

232 Sen. Whitsett

Inquires about the sanctions, if any, for personnel not following existing protocols.

238 Gallagher

Talks about the eligibility being tied to the compliance for personnel.

248 Sen. Whitsett

Wonders about personal accountability for personnel who do not follow existing protocols.

254 Logan

Declares that the bill would have no authority over the position talked about, and that there is no law that she knows of that would automatically cost these agents their jobs if they did not follow protocol.

283 Sen. Beyer

Asks about section 19 and 20 dealing with confidentiality.

294 Logan

Addresses the inquiries raised by Sen. Beyer.

317 Chair Burdick Wonders if this would have any impact on records in an agency that were opened for public view after a child's death.

321 Logan Replies that it would have no impact.

345 Dave Paul Clackamas County District Attorney's Office, Oregon District Attorney's Association. Testifies in support of HB 2221B. Stresses that only certain entities can release certain records under the Public Records Law.

371 Chair Burdick Talks about the possible interference of releasing information on a child's death by passing this bill.

379 Logan Declares that this bill would not interfere with that provision.

388 Paul Testifies on the need for multi-disciplinary teams.

409 Kevin Dowling CARES Northwest. Testifies in support of HB 2221B.

TAPE 155, B

005 Dowling Talks about his organization and how they seek to help individuals suffering from child abuse. Cites an example of a recent child abuse case.

053 Dowling Stresses that they are not sure around 1/3 of the time that there was any abuse (around 1/3 of the time there was no abuse).

066 Chair Burdick Commends the organization, CARES, for their work in the community.

080 Chair Burdick Closes the public hearing on HB 2221 and moves SB 424, HB 2297, and HB 2361A to Monday, May 6, 2005. Opens a public hearing on HB 2203.

HB 2203 – PUBLIC HEARING

093 Sam Sears Counsel. Describes HB 2203 relating to allowing a state agency to adopt the Attorney General's model rules on confidentiality of mediation communications without prior approval of the Governor.

110 Mike Niemeyer Oregon Department of Justice. Testifies in support of HB 2203.

120 Chair Burdick Closes the public hearing and opens a work session on HB 2203.

HB 2203 – WORK SESSION

124 Sen. Starr **MOTION: Moves HB 2203 to the floor with a DO PASS recommendation.**

127 Sen. Beyer Declares his opposition to the bill.

134 Chair Burdick **VOTE: 4-2-1**
AYE: 4 - Prozanski, Starr C., Walker, Burdick
NAY: 2 - Beyer, Whitsett
EXCUSED: 1 - Ringo
The motion CARRIES.
SEN. BURDICK will lead discussion on the floor.

137 Chair Burdick

139 Chair Burdick Closes the work session on HB 2203 and opens a public hearing on HB 2205A

HB 2205A – PUBLIC HEARING

142 Sam Sears Counsel. Describes HB 2205A relating to allowing a state agency to provide the services of an employee as mediator or facilitator to other agencies or the federal government, except in a mediation concerning collective bargaining.

152 Mike Niemeyer Oregon Department of Justice. Submits testimony and testifies in support of HB 2203 (**EXHIBIT F**).

169 Frances Peterson Shared Neutrals Program. Testifies in support of HB 2205A.

201 Chair Burdick Asks for the success rates for this type of mediation program.

207 Peterson Replies that the mediation is successful around 90% of the time.

225 Sen. Beyer Inquires about how many cases they completed in 2004 with the 40 mediators.

227	Peterson	Responds that they had 74 agencies with 40 different mediators. Stresses that mediation is a collateral duty and each mediator has another job.
238	Sen. Beyer	Inquires about the Shared Neutrals Program history.
240	Peterson	Describes how Shared Neutrals Program came about in the Pacific Northwest in 1996.
247	Niemeyer	Stresses that there are two different programs being discussed, and how the bill would amalgamate those two groups/programs to be more efficient.
269	Chair Burdick	Asks about the costs according to time lost.
271	Niemeyer	Replies that there are agreements and disclosures involved with loaning a worker from one agency to another for a limited amount of time.
281	Peterson	Addresses the expenses covered by the agency that requires the mediation services.
289	Sen. Beyer	Asks about the training time required for these new mediators.
293	Niemeyer	Replies that the majority of the mediators are already trained, and goes on to discuss the training available to those who are not already knowledgeable.
311	Sen. Whitsett	Inquires about if these mediators have any power to decide the case.
316	Niemeyer	Responds no, they are mediators, not arbitrators.
327	Chair Burdick	Closes the public hearing and opens a work session on HB 2205A.

HB 2205A – WORK SESSION

329	Sen. Starr	MOTION: Moves HB 2205A be sent to the floor with a BE ADOPTED recommendation.
334	Sen. Beyer	Declares his hesitant support for the bill; outlines his problems with the fiscals involved with a bill of this kind.
371		VOTE: 6-0-1
		EXCUSED: 1 - Ringo
372	Chair Burdick	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
375	Chair Burdick	Closes the work session on HB 2205A and opens a public hearing on HB 2730A.

HB 2730A – PUBLIC HEARING

377	Sam Sears	Counsel. Describes HB 2730A relating to providing civil immunity for broadcasters participating in an Amber Plan.
386	Dave Fiskum	Oregon Association of Broadcasters (OAB). Submits testimony and testifies in support of HB 2730A (EXHIBIT G).
446	Chair Burdick	Commends the OAB in their work.
452	Bill Johnstone	President and CEO, Oregon Association of Broadcasters. Testifies in support of HB 2730A and stresses that over 10 lives have been saved because of the Amber Alert program.
474	Chair Burdick	Closes the public hearing on HB 2730A. Adjourns the meeting at 3:02 p.m.

EXHIBIT SUMMARY

- A. **SB 592, -2 amendment, staff, 1 p**
- B. **SB 1034, -1 amendment, staff, 1 p**
- C. **HB 2359A, Judgments work group, Gerald Watson, 11 pp**
- D. **HB 2359A, written testimony, Bradd Swank, 10 pp**

- E. **HB 2221B, written testimony, Connie Gallagher, 2 pp**
- F. **HB 2205, written testimony, Mike Niemeyer, 1 p**
- G. **HB 2730A, written testimony, Dave Fiskum, 2 pp**