

HOUSE COMMITTEE ON JUDICIARY

April 29, 2003 Hearing Room 357

1:00 pm Tapes 165 - 166

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Robert Ackerman, Vice-Chair
 Rep. Gordon Anderson, Vice-Chair
 Rep. Jeff Barker
 Rep. Bob Jenson
 Rep. Jerry Krummel
 Rep. Greg Macpherson
 Rep. Floyd Prozanski
 Rep. Lane Shetterly

STAFF PRESENT: Bill Joseph, Counsel
 Nancy Masee, Committee Assistant

MEASURE/ISSUES HEARD:
 SB 32A Public Hearing and Work Session
 SB 33A Public Hearing and Work Session
 SB 35 Public Hearing
 SB 37 Public Hearing
 SB 118A Public Hearing and Work Session
 SB 119A Public Hearing and Work Session
 SB 245 Public Hearing and Work Session
 HB 3428 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>
TAPE 165, A		
005	Chair Williams	Opens meeting at 1:00 pm. Opens public hearing on SB 32A.
<u>SB 32A PUBLIC HEARING</u>		
010	Dady Blake	Oregon State Bar (OSB), Elder Law Section. Testifies in support of SB 32A which modifies role and responsibilities of court visitors in protective proceedings, and submits testimony (EXHIBIT A) .
048	Rep. Anderson	Asks if this is an adult counseling program.
052	Blake	Describes the job of the visitor. Confirms that petition allegations are correct.
074	Chair Williams	Asks what parts of the pilot project the court opposed.
077	Blake	Answers there were two sections, 7 and 13, deleted.

080	Chair Williams	Closes public hearing on SB 32A. Opens work session on SB 32A.
<u>SB 32A WORK SESSION</u>		
082	Rep. Prozanski	MOTION: Moves SB 32A to the floor with a DO PASS recommendation.
		VOTE: 7-0-2
083	Chair Williams	EXCUSED: 2 - Macpherson, Shetterly
		Hearing no objection, declares the motion CARRIED.
		REP. ANDERSON will lead discussion on the floor.
084	Chair Williams	Closes work session on SB 32A. Opens Public Hearing on SB 33A.
<u>SB 33A PUBLIC HEARING</u>		
100	Brooks Cooper	Cartwright and Associates. Testifies in support of SB 33A which creates rebuttable presumption that sums remaining on deposit in joint account at death of one party belong to surviving party or parties, and submits testimony (EXHIBIT B).
266	Rep. Krummel	Asks about definition of a "bank" versus a credit union. Asks if there are other potential financial institutions to apply standard to.
270	Cooper	Answers there are also savings and loans association.
292	Rep. Shetterly	Asks about evidence to rebut the presumption.
300	Cooper	Answers that most persuasive evidence would be a will and statements of a testator.
345	Rep. Shetterly	Explains how he counsels his clients in regards to accounts.
380	Rep. Macpherson	Comments that the bill is broad about evidence of content and would necessitate litigation.
392	Cooper	Refers to subsection a, section 1.
TAPE 166, A		
022	Rep. Krummel	Asks if there is anything in current statute that would tell the bank to wait before distributing.
044	Cooper	Explains the possibilities that could be affected by the bill.
093	Tim Martinez	Oregon Bankers Association. States this bill is a compromise that has been worked out. Supports SB 33A.
099	Chair Williams	Closes public hearing and opens work session on SB 33A.
<u>SB 33A WORK SESSION</u>		
130	Rep. Ackerman	Says bill is too narrow.
135	Rep. Shetterly	Says it is ok to move. The bill may be opening unintended results.
175	Rep. Barker	Comments on the numerous times when someone else signs checks for an elderly person.
188	Rep. Prozanski	MOTION: Moves SB 33A to the floor with a DO PASS recommendation.
		VOTE: 9-0-0
190	Chair Williams	Hearing no objection, declares the motion CARRIED.
		REP. BARKER will lead discussion on the floor.
192	Chair Williams	Closes work session on SB 33A. Opens public hearing on SB 35.

SB 35 PUBLIC HEARING

195 Dady Blake Oregon State Bar, Elder Law Section. Supports SB 35 which requires prior court approval for payment of compensation to persons employed by fiduciary to provide direct services to protected person or services to fiduciary that directly affect protected person when fiduciary has pecuniary or financial interest in person employed, and submits testimony (**EXHIBIT C**).

207 Rep. Shetterly Asks why additional disclosures are not added under subsection 1.

300 Blake Explains disclosures.

360 Chair Williams Refers to bill and offers assumption from language.

400 Blake Discusses diminimus. Refers to amendment coming.

420 Chair Williams Closes public hearing on SB 35. Opens public hearing on SB 37.

SB 37 PUBLIC HEARING

486 Claudia Burton Oregon State Bar, Elder Law Section. Testifies in support of SB 37 which modifies Elderly and Disabled Person Abuse Prevention Act to allow guardian or guardian ad litem to file petition on behalf of elderly or disabled person. Describes abuser living in home of the abused, and submits testimony (**EXHIBIT D**).

TAPE 165, B

064 Burton Continues explaining circumstances.

085 Chair Williams Closes public hearing on SB 37. Opens public hearing on SB 118A.

SB 118A PUBLIC HEARING

121 Cheryl Pellegrini Department of Justice. Testifies in support of SB 118A which changes name of Elderly and Disabled Person Abuse Prevention Act to Elderly Persons and Persons With Disabilities Abuse Prevention Act, and submits testimony (**EXHIBIT E**).

181 Rep. Krummel Asks the difference between a disabled person and a person with disabilities.

190 Pellegrini Responds to conform to language now being used.

195 Chair Williams Closes public hearing on SB 118A. Opens work session on SB 118A.

SB 118A WORK SESSION

200 Rep. Prozanski MOTION: Moves SB 118A to the floor with a DO PASS recommendation.

VOTE: 8-0-1

EXCUSED: 1 – Jenson

211 Chair Williams Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.

211 Chair Williams Closes work session on SB 118A. Opens public hearing on SB 119A.

SB 119A PUBLIC HEARING

215 Cheryl Pellegrini Department of Justice. Explains SB 119A which creates procedures for use in civil actions to investigate physical or financial abuse of elderly or incapacitated person. Testifies in support of SB 119A and submits testimony (**EXHIBIT F**).

326 Pellegrini Continues presentation explaining why SB 119A is needed. Explains the -1 amendment on the Senate side.

350 Rep. Prozanski Asks about power of district attorney in this bill. Comments

		whether power should be with local prosecutors or district attorney.
379	Pellegrini	Believes intent of power was with county district attorney.
380	Rep. Prozanski	Asks if an amendment is needed.
382	Vice Chair Ackerman	Asks if the investigative demand is a part of a claim filed under ORS 124.125 subsection 1, or is it a free-standing litigation.
392	Pellegrini	Answers it is a pre-complaint mechanism, or a civil equivalent to a grand jury subpoena.
414	Rep. Shetterly	Comments on line 5, the new amendment extends to that person the same powers as the Attorney General office. Asks if criminal charges can be tied in with the civil investigation of abuse.
424	Pellegrini	Answers, yes.
TAPE 166, B		
035	Chair Williams	Comments on power of civil investigation and how it relates to criminal charges.
057	Phyllis Rand	Governor's Commission on Senior Services. Testifies in support of SB 119A.
058	Chair Williams	Closes public hearing on SB 119A and opens a work session.
<u>SB 119A WORK SESSION</u>		
060	Rep. Macpherson	MOTION: Moves SB 119A to the floor with a DO PASS recommendation.
		VOTE: 9-0
066	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. MACPHERSON will lead discussion on the floor.
067	Chair Williams	Closes work session on SB 119A. Opens public hearing on SB 245.
<u>SB 245 PUBLIC HEARING</u>		
068	Bill Joseph	Committee Counsel. Explains SB 245 which breaks long statute dealing with suspension and revocation of driving privileges into several parts, and submits written testimony and submits SB 245-1 amendment (EXHIBIT G).
068	Kelly Taylor	Oregon Department of Transportation (ODOT). Testifies in support of SB 245, and submits written testimony (EXHIBIT H).
070	Chair Williams	Closes public hearing on SB 245. Opens work session on SB 245.
<u>SB 245 WORK SESSION</u>		
075	Rep. Prozanski	MOTION: Moves to ADOPT SB 245-1 amendments dated 4/29/03.
		VOTE: 9-0
077	Chair Williams	Hearing no objection, declares the motion CARRIED.
078	Rep. Prozanski	MOTION: Moves SB 245 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 8-0-1
		EXCUSED: 1 – Macpherson
079	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. JENSON will lead discussion on the floor.
081	Chair Williams	Closes work session on SB 245. Opens work session on HB 3428.
<u>HB 3428 WORK SESSION</u>		
102	John Fisher	Polk County DA. Testifies in support of HB 3428 which authorizes district attorneys and deputy district attorneys to use employment address rather than residence address for records of Department of Transportation.

135	Rep. Prozanski	Asks if this should be extended to city prosecutors.
145	Rep. Shetterly	Adds Dallas and Monmouth.
150	Chair Williams	Refers to SB 213. Asks Rep. Barker and Rep. Prozanski to add amendment including cities.
158	Chair Williams	Closes work session on HB 3428. Adjourns at 2:48 pm.

EXHIBIT SUMMARY

A – SB 32A, written testimony, Dady Blake, 2 pp
B – SB 33A, written testimony, Brooks Cooper, 2 pp
C – SB 35, written testimony, Dady Blake, 1 p
D – SB 37, written testimony, Claudia Burton, 2 pp
E – SB 118A, written testimony, Cheryl Pellegrini, 2 pp
F – SB 119A, written testimony, Cheryl Pellegrini, 1 p
G – SB 245-1 amendment, staff, 2 pp
H – SB 245, written testimony, Kelly Taylor, 2 pp