

## HOUSE COMMITTEE ON JUDICIARY

May 22, 2003 Hearing Room 357

1:00 pm Tapes 204 - 205

**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:**

- Craig Prins, Counsel
- Nancy Masee, Committee Assistant

**MEASURE/ISSUES HEARD:**

- SB 18A Work Session
- SB 348A Public Hearing
- SB 628A Public Hearing and Work Session
- SB 426 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 204, A</b>		
006	Chair Williams	Opens meeting at 1:25 p.m. Opens work session on SB 18A.
<b><u>SB 18A WORK SESSION</u></b>		
010	Bill Taylor	Committee Counsel. Explains SB 18A which directs Department of Human Services to ensure that designee conducting investigation of alleged abuse of mentally ill or developmentally disabled adult receives training and consultation necessary to conduct thorough and unbiased investigation.
012	Chair Williams	Asks if the A-4 amendments ( <b>EXHIBIT A</b> ) are agreed to by all parties.
015	Bob Joondeph	Oregon Advocacy Center. Answers that is correct.
020	Gina Firman	Director, Association of Community Mental Health Programs. Testifies in support of SB 18A.
025	Eva Kutas	Department of Human Services (DHS). Testifies in support of SB 18A with the -4 amendments.
<b>030</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves to ADOPT SB 18A-4 amendments dated 5/20/03.</b> <b>VOTE: 7-0-2</b> <b>EXCUSED: 2 - Macpherson, Shetterly</b>
<b>031</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>032</b>	<b>Rep. Prozanski</b>	<b>MOTION: Moves SB 18A to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 7-0-2</b> <b>EXCUSED: 2 - Macpherson, Shetterly</b>
<b>032</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>

**REP. JENSON will lead discussion on the floor.**

033 Chair Williams Closes work session on SB 18A and opens public hearing on SB 348A.

**SB 348A PUBLIC HEARING**

061 Craig Prins Committee Counsel. Explains SB 348A which increases maximum fine for driving under influence if a child is passenger in vehicle.

069 Erik Van Hagan Legislative Aide to Senator Metsger, Senate District 26. Testifies in support of SB 348A.

104 Rep. Prozanski Asks about potential to eliminate the diversion option.

110 Van Hagan Reiterates restrictions in bill.

113 Rep. Prozanski Discusses the ramification of modifying the diversion policy and the adverse impact on single parents.

130 Rep. Jenson Comments on the issue of 3 years younger; concern is with lack of diversion programs.

140 Prins Comments that the diversion piece was in a different bill.

150 Rep. Jenson Comments on provision for the diversion program.

160 Chair Williams Asks what is the committee's sense of no diversion.

163 Van Hagan Replies that this is an amalgamation of two bills; states the seriousness of the issue.

178 Prins Recalls it was considering an aggravating factor. This would fit into the category of recklessly endangering.

184 Rep. Barker States it is important to give the impression that it is serious behavior.

190 Chair Williams Discusses diversion programs related to the seriousness of the crime.

195 Rep. Shetterly Emphasizes importance of a first offender getting into a program of diversion.

230 Rep. Prozanski Comments on success of diversion programs.

250 Prins Recalls 60 percent complete diversion successfully.

262 Rep. Anderson Asks why the fines went from \$1,000, \$1,500, \$2,000 and then \$10,000.

266 Van Hagan Explains how rates were determined based on other states.

280 Rep. Prozanski Explains the higher maximum fines and how the court has discretion.

282 Rep. Shetterly Refers to defining mandatory fines in the bill.

299 Chair Williams States that the maximum is up to \$10,000.

332 Prins Points out ORS 161.635 which explains the maximum fine for a misdemeanor is \$5,000.

336 Chair Williams Discusses how the bill would affect amount of fines. Asks what the intent was.

357 Van Hagan Replies it was to have an additional \$10,000 for the infraction of driving under the influence with children as passengers.

362 Rep. Jenson Asks about maximum fine for a second offense as \$11,500.

370 Rep. Krummel Refers to line 11. Asks if DUII can be issued other than in motor vehicles. Refers to page 3, line 3.

380 Rep. Prozanski Discusses other types of DUII charges.

**TAPE 205, A**

004 Van Hagan Agrees to amendments on diversion.

015 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in part opposition to SB 348A. Concern is with the diversion aspect. Discusses the counterproductive aspects of the bill. Success of diversion programs is reported to be 70 percent statewide.

055	Chair Williams	Asks what the definition of “success” in these diversion programs is.
060	Russell	Replies “success” means they completed the program, which is lengthy. Discusses results of diversion programs.
067	Rep. Barker	States diversion is better than probation, especially the first time.
075	Chair Williams	Questions page 2, the fine amounts; is \$10,000 aggregated with earlier conviction amounts, or is the \$10,000 a maximum amount given the aggravating factors; \$1,500 second conviction and up to \$10,000.
088	Virginia Vanderbilt	Legislative Counsel. Clarifies subsection 7 that \$10,000 would be the maximum amount imposed. Mentions ORS 161.635 which says \$5,000 maximum fine for a Class A misdemeanor.
110	Rep. Shetterly	Refers to ORS 161.635 which establishes a misdemeanor fine.
112	Vanderbilt	Replies she believes not; the purpose of subsection 7, the court has to impose a minimum of these amounts.
120	Rep. Prozanski	Asks if subsection 7 should be before subsection 6 for clarity.
125	Vanderbilt	Discusses the sections.
150	Chair Williams	States that if it would be a policy position to put the \$1,500 plus an additional \$10,000, the language would need amending.
154	Rep. Jenson	States he wants more specific language.
160	Russell	Speaks about the diversion program; discusses considerations such as injury due to driving, minor passengers, and general discretion of the court.
190	Chair Williams	Asks the committee for clarification on amendments, and asks for direction on the amount of the fine.
195	Rep. Krummel	States a maximum of \$10,000 as opposed to additions by discretion of the court.
199	Rep. Barker	Agrees that a maximum amount should be stated.
205	Rep. Prozanski	Suggests a minimum figure, too.
210	Chair Williams	Asks for new clarifying draft from Legislative Counsel.
215	Chair Williams	Closes public hearing on SB 348A and opens public hearing on SB 628A.

**SB 628 A PUBLIC HEARING**

220	Craig Prins	Committee Counsel. Explains SB 628A which expands disclosure of records compiled pursuant to child abuse report.
230	Scott Taylor	Assistant Director, Department of Corrections (DOC). Testifies in support of SB 628A and submits <b>(EXHIBIT B)</b> . Explains conditions that hinder gathering information.
255	Rep. Krummel	Asks if a child abuse suspect can view their records.
260	Taylor	Answer he does not know.
262	Prins	Answers that a police agency would not allow that. Answers the Department of Human Services (DHS), the answer is also, no; those records are confidential.
285	Rep. Krummel	Asks how someone can get information on what he is charged with.
290	Prins	Answers DHS has the confidential records. DHS does not investigate child abuse for purpose of prosecution; law enforcement does that. After the case is closed, law enforcement might disclose the records.
295	Chair Williams	Asks if there were Senate issues.
298	Taylor	Replies there were some changes that have been addressed.
329	Rep. Krummel	Discusses the problem of a suspected child abuser who is

300 Chair Williams innocent and who does not have access to accusatory records. Suggests Rep. Krummel discuss with Susan Russell what kinds of documentation is available to suspected abusers.  
301 Chair Williams Closes public hearing on SB 628A and opens work session on SB 628A.

**SB 628A WORK SESSION**

328 Rep. Prozanski **MOTION: Moves SB 628A to the floor with a DO PASS recommendation.**

**VOTE: 6-0-3**

335 Chair Williams **EXCUSED: 3 - Ackerman, Macpherson, Shetterly Hearing no objection, declares the motion CARRIED. REP. PROZANSKI will lead discussion on the floor.**

340 Chair Williams Closes work session on SB 628A. Opens public hearing on SB 426.

**SB 426 PUBLIC HEARING**

**TAPE 204, B**

020 Craig Prins Committee Counsel. Explains SB 426 which expands crime of assault in third degree.  
030 Susan Schneider City of Portland. Testifies in support of SB 426 and submits testimony (**EXHIBIT C**). Describes parking patrol deputies' experiences with hostile citizens.  
045 Rep. Prozanski Asks about charges of harassment, not assault, and asks how often does physical injury occur.  
053 Schneider Answers she does not have numbers, however, there are occasional injuries to the deputies.  
060 Rep. Krummel Asks about collecting meter money, and if that would fall under SB 426.  
065 Schneider Replies that is not the intent of this bill.  
068 Susan Russell Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to SB 426. Explains prosecution process and elevating this behavior to a felony is not appropriate.  
080 Chair Williams Closes public hearing on SB 426. Adjourns meeting at 2:29 p.m.

**EXHIBIT SUMMARY**

**A – SB 18A-4 amendments, staff, 1 p**

**B – SB 628A, written testimony, Scott Taylor, 2 pp**

**C – SB 426, written testimony, Susan Schneider, 2 pp**