

## SENATE COMMITTEE ON JUDICIARY

February 05, 2003  
8:00 A.M.

Hearing Room 343  
Tapes 17-18

**MEMBERS PRESENT:**     **Sen. John Minnis, Chair**  
                                  **Sen. Ginny Burdick, Vice-Chair**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Charles Starr**  
                                  **Sen. Vicki Walker**

**MEMBER EXCUSED:**     **Sen. Ted Ferrioli**

**STAFF PRESENT:**       **Bill Taylor, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**     **LC 1913**  
                                  **SB 68 Public Hearing and Work Session**  
                                  **SB 67 Public Hearing and Work Session**  
                                  **SB 70 Public Hearing**  
                                  **SB 71 Public Hearing**  
                                  **SB 72 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 17, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:10 a.m.
005	Bill Taylor	Committee counsel. Introduces LC 1913 ( <b>EXHIBIT A</b> ).
<b>010</b>	<b>Sen. Walker</b>	<b>MOTION: Moves LC 1913 BE INTRODUCED as a committee bill.</b> <b>VOTE: 4-0-2</b> <b>EXCUSED: 2 - Sen. Ferrioli, Sen. Burdick</b> <b>Hearing no objection, declares the motion CARRIED.</b>
<b>012</b>	<b>Chair Minnis</b>	
022	Rep. Max Williams	House District 35. Introduces Dave Kenagy and Wendy Johnson. Provides background on the Oregon Law Commission and its members.
078	Dave Kenagy	Executive Director, Oregon Law Commission. Discusses how the Law Commission operates. Identifies reports provided to the committee showing the work of the commission ( <b>EXHIBITS B-D and F</b> ).
119	Wendy Johnson	Assistant Executive Director, Oregon Law Commission. Talks about the work groups involved in creating SB 67, 68, 70, 71, and 72.
136	Sen. Kate Brown	Senate District 21. Discusses the work group projects.
155	Chair Minnis	Opens a public hearing on SB 68.
<b><u>SB 68 – PUBLIC HEARING</u></b>		
156	Sen. Kate Brown	Senate District 21. Testifies in support of SB 68 that corrects

		references to repealed statutes. Refers to the report on Juvenile Code Revision ( <b>EXHIBIT B</b> ).
206	Chair Minnis	Closes the public hearing on SB 68 and opens a work session.
<b><u>SB 68 – WORK SESSION</u></b>		
208	Sen. Walker	<b>MOTION: Moves SB 68 to the floor with a DO PASS recommendation and be placed on the CONSENT CALENDAR.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Ferrioli, Sen. Burdick</b>
210	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED. SEN. RINGO will lead discussion on the floor.</b>
214	Chair Minnis	Closes the work session on SB 68 and opens a public hearing on SB 67.
<b><u>SB 67 – PUBLIC HEARING</u></b>		
215	Timothy Travis	Oregon Judicial Department. Testifies in support of SB 67 that clarifies that telephone testimony may be used in proceeding under ORS chapter 419B. Refers to report on Telephone Testimony ( <b>EXHIBIT C</b> ).
271	Sen. Ringo	Asks if dependency proceedings have allowed telephone testimony.
286	Travis	Says a party can make a motion for telephone testimony, but the judge decides.
303	Sen. Walker	Comments about reduced cost of telephone testimony.
317	Chair Minnis	Notes other cases where telephone testimony may be used.
333	Travis	Clarifies the statute.
393	Chair Minnis	Closes the public hearing on SB 67 and opens a work session.
<b><u>SB 67 – WORK SESSION</u></b>		
401	Sen. Walker	<b>MOTION: Moves SB 67 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 4-0-2</b>
		<b>EXCUSED: 2 - Sen. Ferrioli, Sen. Burdick</b>
408	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor.</b>
415	Chair Minnis	Closes the work session on SB 67 and opens a public hearing on SB 70.
<b><u>SB 70 – PUBLIC HEARING</u></b>		
<b><u>TAPE 18, A</u></b>		
001	Lisa Kay	Juvenile Rights Project. Testifies in support of SB 70 that creates procedure for establishment of guardianship in juvenile court. Refers to report on Guardianship ( <b>EXHIBIT D</b> ).
022	Sen. Ringo	Asks for definition of temporary guardianship.
025	Kay	Defines the guardianship. Continues discussion of SB 70.
060	Chair Minnis	Asks about reference to “competent” evidence.
066	Kay	Says it was copied from the juvenile code.
093	Timothy Travis	Oregon Judicial Department. Clarifies the definition of “competent” evidence.
159	Bill Taylor	Committee counsel. Proposes the removal of “competent.”
171	Travis	Replies that nothing would be lost by removing “competent.”
179	Taylor	Wonders about evidence that may not be deemed competent.
200	Kay	Replies that “competent” is already in the code.
206	Chair Minnis	Remarks that the statutes may not be clear.
215	Kay	Continues review of the bill.
303	Chair Minnis	Asks about permanent guardianship versus long-term guardianship.

311	Kay	Explains the difference between the two types of guardianship.
340	Chair Minnis	Asks for further clarification.
320	Kay	Recaps the definitions of specific guardianships.
449	Vice Chair Burdick	Asks about the term “general guardianship.”
457	Kay	Explains that a general guardianship can be revoked by the parent.
494	Vice Chair Burdick	Asks about grounds for adoption.
497	Kay	Explains adoption criteria.
<b>TAPE 17, B</b>		
044	Kay	Explains the grounds for permanent guardianship.
073	Chair Minnis	Questions the construction of SB 70 and wonders if it could not have been simplified.
081	Kay	Says Legislative Counsel suggested the construction.
087	Taylor	Discusses the complex nature of SB 70.
101	Kay	Explains when this legislation would apply.
136	Chair Minnis	Remarks that the bill is difficult to read and would like to see it re-written.
153	Travis	Offers to help with a rewrite. Asks for clarification of how it should be constructed.
170	Chair Minnis	Discusses possible methods of construction.
182	Sen. Walker	States that additional clarity of the various guardianships would be helpful.
204	Taylor	Suggests providing definitions in the bill.
217	Sen. Walker	Asks if every county has a Citizen Review Board.
226	Travis	Says it is a part of the Oregon Judicial Department, and they do exist in every county.
248	Taylor	Introduces the -1 amendments to SB 70 ( <b>EXHIBIT E</b> ).
265	Chair Minnis	Closes the public hearing on SB 70 and opens a public hearing on SB 71.

**SB 71 – PUBLIC HEARING**

280	Lisa Kay	Juvenile Rights Project. Testifies in support of SB 71 that authorizes service of summons by mail in juvenile dependency proceedings and refers to the report on Service by Mail <b>(EXHIBIT F)</b> .
315	Chair Minnis	Asks who is served by summons.
320	Kay	Gives those served.
343	Sen. Walker	Asks for clarification of procedure for service by mail.
353	Kay	Explains that it is a part of the Oregon Rules for Civil Procedure.
375	Sen. Walker	Asks about proceeding when one refuses to sign.
382	Kay	Says there are options when a person refuses to sign for a summons.
417	Sen. Ringo	Wonders about feasibility of mail service.
431	Kay	Agrees that personal service of a summons is preferred.
<b>TAPE 18, B</b>		
011	Sen. Ringo	Expresses concern about mail service and the credibility of a signature in a mail summons.
028	Vice Chair Burdick	Asks what remedy would be available if a signature is not accurate.
034	Kay	Explains there may be grounds for setting aside the judgment.
059	Vice Chair Burdick	Expresses concern about the bill.
065	Sen. Ringo	Asks for time to review this legislation further with legal counsel.
080	Kay	Explains that the drafter of this bill was unable to attend the meeting, but would be available for discussion.
085	Chair Minnis	Asks if there are rules regarding the destination of the mail summons.
088	Sen. Ringo	Explains that it is usually the last known address on record with the Department of Motor Vehicles.
104	Chair Minnis	Closes the public hearing on SB 71 and opens a public hearing on SB 72.

**SB 72 – PUBLIC HEARING**

107	Linda Guss	Assistant Attorney General, Department of Justice. Testifies in support of SB 72 that modifies provisions dealing with intervention and rights of limited participation in juvenile dependency proceedings and refers to the report on Intervener/Rights of Limited Participation <b>(EXHIBIT G)</b> . Submits -1 amendments <b>(EXHIBIT H)</b> .
215	Chair Minnis	Asks for more time to read the bill.
222	Sen. Starr	Asks about the -1 amendments to SB 72.
227	Guss	Explains what the amendments would do.
238	Chair Minnis	Closes the public hearing on SB 72 and adjourns the meeting at 9:55 a.m.

## **EXHIBIT SUMMARY**

**A – LC 1913, submitted by staff, 1 p**

**B – SB 68, written report submitted by Oregon Law Commission, 2pp**

**C – SB 67, written report submitted by Oregon Law Commission, 3 pp**

**D – SB 70, written report submitted by Oregon Law Commission, 5 pp**

**E – SB 70, -1 amendments submitted by staff, 1 p**

**F – SB 71, written report submitted by Oregon Law Commission, 4 pp**

**G – SB 72, written report submitted by Oregon Law Commission, 4 pp**

**H – SB 72, -1 amendments submitted by staff, 1 p**