

SENATE COMMITTEE ON JUDICIARY

March 26, 2003
8:00 A.M.

Hearing Room HR 343
Tapes 72-74

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

STAFF PRESENT: **Craig Prins, Counsel**
 Bill Joseph, Counsel
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 17 Public Hearing**
 SB 737 Public Hearing
 SB 429 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 72, A		
004	Chair Minnis	Calls the meeting to order at 8:08 a.m. and opens a public hearing on SB 17 that makes public bodies and officers, employees and agents of public bodies subject to action under Title II of Americans with Disabilities Act.
<u>SB 17 PUBLIC HEARING</u>		
019	Bob Joondeph	Director, Oregon Advocacy Center. Submits testimony and testifies in support of SB 17 (EXHIBIT A) and the -2 amendments (EXHIBIT B).
060	Vice Chair Burdick	Asks about the remedy if a service provider fails to provide special notification for a blind person.
064	Joondeph	Says the remedies available in this case are the same as in other areas of state discrimination law.
071	Vice Chair Burdick	Asks if there is a process when a service provider isn't aware of a problem.
076	Joondeph	Says the disabled person needs to inform the provider of the disability and request an accommodation, if needed.
086	Vice Chair Burdick	Asks for further clarification.
091	Joondeph	Says that the provider must have knowledge.
095	Vice Chair Burdick	Asks if the disabled person is responsible for specifying what kind of accommodation is needed.
099	Joondeph	Says normally that is the case.
113	Vice Chair Burdick	Asks if there is a mediation process when disagreements arise.

116	Joondeph	Explains the process under state law.
130	Vice Chair Burdick	Asks if these actions would take place in state court rather than federal court.
133	Joondeph	Says this is a state court procedure.
141	Chair Minnis	Discusses the need for the -2 amendments.
155	Vice Chair Burdick	Asks if this bill is more or less restrictive than federal law.
159	Bill Joseph	Committee Counsel. Explains federal law versus state law regarding restrictions.
170	Joondeph	Comments on the use of Americans with Disabilities Act (ADA) language in the bill.
180	Joseph	Asks if the ADA is applicable to state governments.
192	Joondeph	Explains that the Title II (ADA) remains applicable to state governments.
200	Joseph	Explains that the -2 amendments do not change ADA regulation.
226	Janine DeLaunay	Director, Oregon Disabilities Commission. Submits testimony and testifies in support of SB 17 (EXHIBIT C).
240	Chair Minnis	Refers to Page 2, line 10 through 13 of the -2 amendments and advises that the bill does not create independent entitlement.
270	Paul Snider	Association of Oregon Counties. Testifies as neutral on SB 17. Says he is not sure if the -2 amendments take care of the concerns of the Counties.
294	Sen. Walker	Asks when Paul would know if the -2 amendments take care of his concerns.
298	Snider	Says he will talk to the county attorneys right away.
306	Chair Minnis	Asks what language in the -2 amendments is a concern.
309	Snider	Says he is unclear as to federal funding and state funding at the local level.
326	Joseph	Discusses legislative intent.
338	Chair Minnis	Asks if there is any ambiguous language in the bill.
349	Joseph	Explains that he would need to review the language.
358	Vice Chair Burdick	Talks about ambiguous language and how the court decides the legislative intent.
381	Chair Minnis	Closes the public hearing on SB 17 and opens a public hearing on SB 737.

SB 737 PUBLIC HEARING

395	Craig Prins	Committee Counsel. Introduces SB 737 that modifies provisions relating to sex offender registration and reporting.
418	Dan Malin	Manager, Oregon State Police Sex Offender Registration Unit. Submits testimony and testifies in support of SB 737 (EXHIBIT D).

TAPE 73, A

050	Chair Minnis	Explains that documentation needs to be specific so that agencies around the state are consistent.
058	Sen. Walker	Reads an email from a probation officer who is opposed to SB 737 and asks for a response.
073	Malin	Says it is true that the probation officer's workload would increase.
086	Chair Minnis	Discusses the workload and says the burden of registration has shifted to police agencies.
111	Malin	Says registration is in the data base and any changes are very quickly made.
129	Chair Minnis	Says the issue here is who has the responsibility.
133	Malin	Agrees. Explains that current law provides that either the probation officer or a law enforcement agency can register an

		offender. Talks about changes in employment and school enrollment.
146	Chair Minnis	Asks about current law that covers crossing state boundaries.
152	Malin	Explains that offenders that live in other states, but work in Oregon, must register in Oregon.
170	Chair Minnis	Says this bill provides consistency.
178	Susan Russell	Oregon Criminal Defense Lawyers Association (OCDLA). Testifies in opposition to SB 737. Has a concern about the employment and school enrollment portions of the bill.
259	Darcey Baker	Clackamas County Department of Corrections. Submits testimony and testifies in opposition to SB 737 (EXHIBIT E) .
324	Chair Minnis	Challenges why law enforcement should bear the burden.
327	Baker	Explains the need for keeping the process simple for the offenders.
330	Chair Minnis	Challenges that the current process is not simple.
336	Baker	Says offenders need to be trained from the beginning of their parole in a process that will remain the same, even when supervision ends.
347	Chair Minnis	Questions the process.
399	Vice Chair Burdick	Asks if there is opposition to the part of the bill that complies with the federal requirement for colleges and universities.
405	Baker	Says, no, but wonders about the high school offender.
435	Patrick Schreiner	Marion County Sheriff's Office. Submits testimony and testifies in opposition to SB 737 (EXHIBIT F) .

TAPE 72, B

085	Vice Chair Burdick	Observes that this would be a different discussion if our justice system was adequately funded.
088	Chair Minnis	Explains his objective in sponsoring this bill.
120	Schreiner	Talks about the huge increase in sex offender registrations causing the workload issue with both agencies.
131	Sen. Ferrioli	Says he believes that the burden of responsibility to register should be on the offender. Wonders about the mechanics of registering.
163	Chair Minnis	Talks about the mechanics of registering.
184	Sen. Ferrioli	Discusses the offender's responsibility to register.
196	Chair Minnis	Asks Mr. Malin how much we lose under current funding for non-compliance.
201	Malin	Says it would be 10% or roughly \$1.2 million per biennium.
205	Chair Minnis	Closes the public hearing on SB 737 and opens a public hearing on SB 429.

SB 429 PUBLIC HEARING

211	Craig Prins	Committee Counsel. Explains that SB 429 specifies that reasonable self-defense is not abuse for purposes of laws requiring reporting of abuse of individuals who are elderly, mentally ill, developmentally disabled or in long term care facility.
232	Mary Botkin	American Federation of State, County, and Municipal Employees (AFSCME). Testifies in support of SB 429.
320	Tim Pfau	AFSCME. Submits testimony and testifies in support of SB 429 (EXHIBIT G) .

TAPE 73, B

035	Sen. Ringo	Does not believe that this bill will do anything to relieve working conditions.
042	Pfau	Talks about the nurturing nature of many of the employees.
067	Sen. Ringo	Asks counsel what would happen in a self-defense hearing as the law now stands.
073	Prins	Explains that this bill deals with non-criminal findings of abuse.
082	Botkin	Says these are not criminal charges, they are administrative procedures.
097	Sen. Ferrioli	Talks about his daughter's experience as a Certified Nursing Assistant (CNA).
127	Prins	Clarifies affirmative defense is the defendant's burden of proof, and in a criminal case it is the prosecution's burden of proof.
134	Dennis Billingsley	Administrator, The Center for Continuous Improvement, Inc. Submits testimony and testifies in opposition to SB 429 (EXHIBIT H) .
224	Eva Kutas	Director, Office of Investigations and Training, Department of Human Services. Submits testimony and testifies in opposition to SB 429 (EXHIBIT I) .

352	Bob Joondeph	Oregon Advocacy Center. Submits testimony and testifies in opposition to SB 429 (EXHIBIT J).
409	Sen. Ringo	Asks about the failure of the administrative process to find self defense.
425	Joondeph	Says that it is already acknowledged. Believes that the level of abuse reported is far below actual occurrences.
479	Kutas	Explains the rules of the administrative process and exceptions to the rules.
499	Morgan Brody	Department of Human Services. Explains the two criteria looked at in an investigation of wrong-doing.
TAPE 74, A		
055	Joe Thurman	RN, Oregon State Hospital. Submits testimony and testifies in support of SB 429 (EXHIBIT K).
087	Jim Hugg	Certified Professional Counselor, Oregon State Hospital. Testifies in support of SB 429.
112	Shaun Taylor	Nurse, Oregon State Hospital. Yields his time to Turhane Bey.
115	Turhane Bey	Mental Health Therapy Coordinator, Oregon State Hospital. Testifies in support of SB 429. Says staff has added stress because they feel they are guilty until proven innocent.
166	Sen. Ringo	Thanks the group for the work they do in the field of mental health care. Believes this statute might not take care of the problems illustrated.
178	Thurman	Comments that Oregon is the only western state he has contacted that does not have a security response team to deal with violence intervention.
188	Vice Chair Burdick	Closes the public hearing on SB 429 and adjourns the meeting at 10:12 a.m.

EXHIBIT SUMMARY

- A – SB 17, written testimony submitted by Bob Joondeph, 2 pp**
- B – SB 17, -2 amendments dated 3/18/03 submitted by staff, 4 pp**
- C – SB 17, written testimony submitted by Janine DeLaunay, 1 p**
- D – SB 737, written testimony submitted by Dan Malin, 4 pp**
- E – SB 737, written testimony submitted by Darcey Baker, 2 pp**
- F – SB 737, written testimony submitted by Patrick Schreiner, 2 pp**
- G – SB 429, written testimony submitted by Tim Pfau, 2 pp**
- H – SB 429, written testimony submitted by Dennis Billingsley, 3 pp**
- I – SB 429, written testimony submitted by Eva Kutas, 2 pp**
- J – SB 429, written testimony submitted by Bob Joondeph, 2 pp**
- K – SB 429, written testimony submitted by Joe Thurman, 3 pp**
- L – SB 429, written testimony of Oregon Rehabilitation Association submitted by staff, 1 p**
- M – SB 737, written testimony submitted by Phillip Lemman, 2 pp**
- N – SB 429, written testimony submitted by Kathryn Weit, 1 p**
- O – SB 429, written testimony submitted by David Nebel, 1 p**
- P – SB 429, written testimony submitted by Janine DeLaunay, 1 p**
- Q – SB 429, written testimony submitted by Jacqueline Zimmer Jones, 1 p**
- R – SB 429, written testimony submitted by May Dasch, 1 p**

S – SB 429, written testimony submitted by Cindy Hannum, 2 pp