

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CIVIL

March 12, 2001 Hearing Room 357
8:00 a.m. Tapes 33 - 36

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Vic Backlund
 Rep. Charlie Ringo
 Rep. Lane Shetterly

MEMBERS EXCUSED: Rep. Kathy Lowe
 Rep. Cherryl Walker

STAFF PRESENT: Marilyn Odell, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2396 Public Hearing**
 HB 2394 Public Hearing
 HB 2399 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 33, A		
003	Chair Williams	Calls the meeting to order at 8:08 a.m. Says that he is the guest chair today. Opens a public hearing on HB 2396.
<u>HB 2396 PUBLIC HEARING</u>		
014	Barry Kast	Administrator, Mental Health and Developmental Disabilities Services Division Submits testimony (EXHIBIT A) and testifies in opposition to HB 2396 relating to advocacy services for persons subject to commitment procedures. Opposes the bill because its program is not funded in the Governor's budget.
100	Rep. Ringo	Asks if an advocacy designee would be assigned if the person investigated agreed.
112	Kast	Answers yes and that is the idea of the bill that was brought forward.
128	Counsel Odell	Adds that there is also the opportunity for a guardian to consent to the appointment of an advocate.
132	Chair Williams	Closes the public hearing on HB 2396 and opens a public hearing on HB 2394 and HB 2399.
<u>HB 2394 and 2399 PUBLIC HEARING</u>		
136	Barry Kast	Administrator, Mental Health and Developmental Disabilities Services Division Submits testimony (EXHIBIT B) and testifies in support of HB 2394 that allows investigator in civil commitment proceeding access to Law Enforcement Data System. Testifies in opposition

to HB 2399 that permits court to commit mentally ill person for up to one year if person has been committed one or more times in the preceding three years and submits testimony (**EXHIBIT C**).

- 267 Rep. Shetterly Asks if he is opposed to HB 2399 for policy reasons and not because of the fiscal impact statement.
- 270 Kast Answers yes.
- 307 Counsel Odell Asks if he would give a brief overview of the civil commitment process.
- 308 Kast Says that he asked Bob Nickel to do that and he will do that now.
- 313 **Robert Nickel**
Deputy Assistant Administrator, Office of Mental Health Services
Provides a brief overview of the civil commitment process. States that “mental disorder” used in statute is not defined, so it’s largely a matter of interpretation in the courts.
- 348 Rep. Ringo Asks how they decide whether someone cannot care for their basic needs.
- 360 Nickel Answers that a homeless person could fall in that category, but there are some homeless people that meet their basic needs. Clarifies that just because a civil commitment process starts doesn’t mean that that person is going to be committed. Says that 85-90 percent of the time other alternatives are found for these people.
- 418 Kast Interjects that there are two dimensions to the civil commitment procedure. Says that those are dangerousness and inability to care for themselves.

TAPE 34, A

- 003 Nickel Continues testimony on bills.
- 055 Counsel Odell Asks how frequently individuals are revoked on a trial visit and put back in the hospital.
- 059 Nickel Answers that he doesn’t have the data in front of him on that.
- 063 Rep. Backlund Asks what is required of the certified mental health investigators.
- 066 Nickel Explains that the investigators have to have Master’s Degrees in a mental health field and in addition to that they are required to go through a training course and pass a test related to the knowledge of civil commitment law and the diagnosis and treatment of mental disorders.
- 084 Nickel Discusses one other alternative to civil commitment that the legislature passed in previous sessions called the Mental Health Declaration and also known as an advanced directive for mental health. Says that they would like to rely on civil commitment as little as possible and emphasize voluntary treatment.
- 127 Counsel Odell Mentions that the members should have a copy of the workgroup report (**EXHIBIT D**).
- 129 **Francis Baker**
Forensic and Special Projects Coordinator, Office of Mental Health Services, MHDDSD
Gives an overview of the work process that took place during the interim on these issues and submits testimony (**EXHIBITS E & F**).
- 135 Chair Williams Closes the public hearing on HB 2394 and HB 2399 and re-opens the public hearing on HB 2396.

HB 2396 PUBLIC HEARING

- 180 **Reverend Dan** Testifies in support of HB 2396. Discusses a pilot advocacy

	Bryant	program that they propose and submits testimony (EXHIBITS G & H).
278	David Oaks	Support Coalition International (SCI), Eugene Testifies in support of HB 2396 and submits testimony (EXHIBIT I).
445	Rev. Bryant	Discusses keeping this advocacy program independent of the mental health agency.
474	Rep. Ringo	Asks about peer groups around the nation.
482	Oaks	Answers that the Mental Health Consumer Concerns of California is the one he discussed and now its program is written in the state law.
TAPE 33, B		
004	Rep. Ringo	Asks what he means by "peer program".
006	Oaks	Answers that this program is open to anyone who wants to volunteer and that this program is a volunteer advocacy program and only the administrator would get paid.
018	Counsel Odell	Adds that the California program uses one-third peer advocates, and of their total advocates, most of them are paid.
028	Oaks	Says that preventing three civil commitments would pay for this program.
037	John McCulley	Oregon Psychiatric Association Testifies in support of HB 2396 and submits testimony (EXHIBIT J).
093	Kathy Savicki	Legislative Chair, Oregon Chapter National Association of Social Workers and Quality Improvement Coordinator, Mid-Valley Behavioral Care Network Testifies in support of HB 2396.
168	Bob Joondeph	Oregon Advocacy Center Submits testimony and testifies in support of HB 2396 (EXHIBIT K).
194	Greg Sulliger	Lane County, Commitment Investigator Testifies in support of HB 2396.
217	Rep. Shetterly	Says that it is frustrating listening to this bill because it is an enlightening approach to the mental health problem using volunteers and yet the fiscal impact may be too high to proceed with. Asks if they have some ideas to reduce the fiscal impact.
246	Joondeph	Answers that perhaps contracting it to an organization that can provide resources would help reduce the cost.
266	Chair Williams	States that the fiscal impact is \$312,000. Suggests that they find a way to show savings from this program so that the bill can move forward.
345	Doris Cameron-Minard	President, National Alliance for the Mentally Ill In Oregon (NAMI-Oregon) Testifies in opposition to HB 2396 and submits testimony (EXHIBIT L).
416	Rep. Ringo	Says that medically ill and mentally fragile persons are in need of the most professional counsel available when subjected to such a serious process as commitment. Discusses Court Appointed Special Advocates (CASA) program in relation to mental health advocacy program.

445 Cameron-Minard Answers that there is a legal liability here. Says that the advice of the advocate could have disastrous results with the mentally ill person.

TAPE 34, B

033 Rep. Williams Asks if there were NAMI participants in the work group.
035 Cameron-Minard Answers yes, and that Phil Chadsey, a NAMI member was in the work group and he took the position of the NAMI organization which is to oppose the bill.

044 Counsel Odell Remarks that Phil Chadsey voted in favor of this recommendation.

065 Rep. Shetterly Observes that he thinks it's a good thing that families can be involved in this advocacy program.

080 Rep. Williams Acknowledges that the individual can reject having an advocate if they choose. Closes the public hearing on HB 2396 and re-opens a public hearing on HB 2394.

HB 2394 PUBLIC HEARING

090 **Francis Baker**

MHDDSD

Testifies in support of HB 2394 that allows investigator in civil commitment proceeding access to Law Enforcement Data System (LEDS).

150 Rep. Ringo Asks about her concerns and the abuse that's contemplated.

153 Baker Explains the discussion that the committee had regarding civil commitment investigators access to LEDS. Says that LEDS includes arrests and there was a concern that the investigators would use that past information toward commitment.

190 Rep. Shetterly Says that the ultimate decision for commitment rests in the court with the judge.

254 Baker Discusses a proposed amendment to HB 2394 (**EXHIBIT M**).

290 Rep. Ringo Asks what a typical length of commitment is.

292 Baker Answers six months and then it can be re-certified and adds that one can re-certify every six months.

308 **Richard Templeton** **Civil Commitment Specialist, Office of Mental Health Services**

Testifies in support of HB 2394. States that the majority of civil commitments end at the end of their 180-day period.

321 Rep. Ringo Asks if most of these people are able to lead normal lives.

325 Templeton Says that there are people that are re-committed, but doesn't have the numbers of people that are never committed again or re-committed.

346 **Dr. E.W. Minard** **Forensic Psychiatrist, American Board of Psychiatry and Neurology**

Testifies in support of HB 2394 and submits testimony (**EXHIBIT N**). Says that he thinks that it is so vital that this information about previous violence be available to the court at the time of the hearing in order for the court to correctly evaluate the potential dangerousness of this person.

TAPE 35, A

024 **John McCulley**

Oregon Psychiatric Association

Testifies on HB 2394 and supports proposed amendments.

056 **Dennis Eleanzer**

Civil Commitment Investigator, Lane County

Testifies in support of HB 2394 and proposed amendments.

141	Greg Sulliger	Civil Commitment Investigator, Lane County Testifies in support of HB 2394.
198	Margaret Taylor	Mental Health Screener at the Psychiatric Crisis Center Testifies in support of HB 2394 and submits testimony (EXHIBIT O).
321	Bob Joondeph	Director, Oregon Advocacy Center Testifies in opposition to HB 2394 and submits testimony (EXHIBIT P).
444	David Oaks	Director, Support Coalition International Testifies in opposition to HB 2394. Discusses severe human rights violations.
TAPE 36, A		
003	Oaks	Continues testimony in opposition to HB 2394.
078	Williams	Closes the public hearing on HB 2394 and adjourns the meeting at 10:35 a.m.

Submitted By, Reviewed By,

Ann Martin, Marilyn Odell,
Committee Assistant Counsel

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EXHIBIT SUMMARY

- A – HB 2396, written testimony submitted by Barry Kast, Administrator, Mental Health and Developmental Disability Services Division, dated 3/12/01, 2 pgs.**
- B – HB 2394, written testimony submitted by Barry Kast, Mental Health and Developmental Disability Services Division, dated 3/12/01, 2 pgs.**
- C – HB 2399, written testimony submitted by Barry Kast, Mental Health and Developmental Disability Services Division, dated 3/14/01, 2 pgs.**
- D – Civil Commitment Work Group Report, submitted by staff, 16 pgs.**
- E – History of the Civil Commitment Work Group, written testimony submitted by Frances Baker, dated 3/12/01, 2 pgs.**
- F – HB 2394, written testimony submitted by Frances Baker, dated 3/12/01, 3 pgs.**
- G – HB 2396, the Iowa Advocacy Statute, submitted by Rev. Dan Bryant, 3 pgs.**
- H – HB 2396, article titled “Efficacy of Continuing Advocacy in Involuntary Treatment”, submitted by Rev. Dan Bryant, 5 pgs.**
- I – HB 2396, 2397, 2399, written testimony submitted by David Oaks, Support Coalition International, dated 3/12-3/13/01, 8 pgs.**
- J – HB 2396, written testimony submitted by John McCulley, Oregon Psychiatric Association, dated 3/12/01, 1 p.**
- K – HB 2396, written testimony submitted by Bob Joondeph, Oregon Advocacy Center, 1 p.**
- L – HB 2396, written testimony submitted by Doris Cameron-Minard, President, NAMI, dated 3/12/01, 2 pgs.**

- M – HB 2394, proposed amendment submitted by Francis Baker, 1 p.**
- N – HB 2394, written testimony of Dr. E.W. Minard, forensic psychiatrist, dated 3/12/01, 1 p.**
- O – HB 2394 & 2395, written testimony submitted by Margaret Taylor, 2 pgs.**
- P – HB 2394, written testimony submitted by Bob Joondeph, 2 pgs.**
- Q – Overview of Civil Commitment from the Mental Health and Developmental Disability Services Division, submitted by staff, 9 pgs.**
- R – HB 2396, written testimony of Robert Ewbank submitted by staff, dated 3/12/01, 2 pgs.**