

## HOUSE COMMITTEE ON JUDICIARY

February 9, 2001  
8:00 a.m.

Hearing Room 357  
Tapes 10 and 11

**MEMBERS PRESENT:**     Rep. Max Williams, Chair  
                              Rep. Jo Ann Bowman, Vice-Chair  
                              Rep. Wayne Kreiger, Vice-Chair  
                              Rep. Robert Ackerman  
                              Rep. Vic Backland  
                              Rep. Kathy Lowe  
                              Rep. Charlie Ringo  
                              Rep. Lane Shetterly  
                              Rep. Cheryl Walker  
                              Rep. Vicki Walker  
                              Rep. Carl Wilson

**STAFF PRESENT:**        Bill Taylor, Counsel  
                              Andrea Shartel, Counsel  
                              Merrilee Harrell, Committee Extern  
                              Shannon Reed, Committee Assistant  
                              Ann Martin, Committee Assistant

**MEASURE/ISSUES HEARD:**     Measure Introduction: LC 616, 2149, 2503, 2923  
                                  HB 2340 Work Session  
                                  HB 2364 Work Session  
                                  HB 2366 Work Session  
                                  HB 2368 Work Session  
                                  HB 2376 Work Session  
                                  HB 2377 Work Session  
                                  HB 2391 Work Session  
                                  HB 2410 Work Session

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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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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 10, A</b>		
004	Chair Williams	Calls the meeting to order at 8:03 a.m.
016	Counsel Taylor	Discusses Legislative Counsel (LC) drafts ( <b>EXHIBITS A-D</b> ).
<b>030</b>	<b>Rep. Williams</b>	<b>MOTION: Moves LC's: 616, 2149, 2503 AND 2923 BE INTRODUCED as committee bills.</b>
<b>030</b>	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b>
031	Chair Williams	Opens a work session on HB 2340.
<b><u>HB 2340 WORK SESSION</u></b>		
035	Counsel Taylor	Introduces HB 2340 relating to criminal procedure.
040	Rep. Wilson	Explains HB 2340.

065	Rep. Ringo	Asks if the current system is similar to what is set forth in the bold language in the bill that says that ten or more need to vote to change it from without parole to with parole.
070	Chair Williams	Says yes.
<b>084</b>	<b>Rep. Wilson</b>	<b>MOTION: Moves HB 2340 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 11-0</b>
<b>084</b>	<b>Chair Williams</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>REP. WILSON will lead discussion on the floor.</b>
095	Chair Williams	Closes the work session on HB 2340 and opens a work session on HB 2364.
		<b><u>HB 2364 WORK SESSION</u></b>
104	Merrilee Harrell	Committee Extern Introduces HB 2364 relating to medically necessary guardianship expenses.
114	Rep. Shetterly	Clarifies bill and wants to move it to Ways and Means for fiscal review.
135	Chair Williams	Says that he was given a revised fiscal filled out by the division. States that with the -2 amendments the fiscal is \$1,857,000.00 <b>(EXHIBIT E)</b> .
165	Rep. Shetterly	Explains how the bill was discussed in subcommittee.
182	Rep. Ringo	States that there was some disagreement as to how many people would be using this bill.
196	Rep. Cheryl Walker	Says that the objection in regards to the fiscal statement was that there was not enough data to know how many people would request guardian services.
235	Rep. Lowe	Says that people are going forward without protection because they can't pay the filing fees or get an attorney and it leaves the elderly in dire shape.
260	<b>Jane-Ellen Weidanz</b>	<b>Legislative Coordinator, Senior and Disabled Services Division (SDSD)</b> Testifies on HB 2364. Explains how they came up with their numbers and currently they only pay for 50 guardianships.
308	<b>Rick Mills</b>	<b>Senior and Disabled Services Division</b> Testifies on HB 2364. States that the number they came up with is strictly based on the public guardian program in Multnomah County.
340	Vice Chair Krieger	Says that the figures don't make sense.
350	Weidanz	Explains their fiscal.
392	Rep. Lowe	Asks why they used the Multnomah County figures to extrapolate.
394	Mills	Says that it was a concrete and verifiable number and the only number they had to work with in the short time they had.
422	Rep. Lowe	Asks if they could get numbers from the other 35 counties.
428	Mills	Answers that the only other county that has a public guardian program is Jackson County.
453	Rep. Lowe	States that this is an important policy decision and should be based on accurate data.
455	Mills	Says he agrees and they will put together the best information

		they can get so that the legislature can make an informed and reasonable decision.
470	<b>Jennifer Wright</b>	<b>Elder Law Section, Oregon State Bar</b>
		Testifies on HB 2364.
<b>Tape 11, A</b>		
002	Wright	Continues testimony. Agrees that the data they have is not good data.
016	Rep. Shetterly	Wonders about the fiscal impact statement form presented by SDSD to Legislative Fiscal and that the legislative fiscal analysis mirrors those numbers from SDSD.
034	Rep.C.Walker	States that filing fees are very high in Multnomah County.
046	Wright	Comments that the filing fee in Marion County is \$68.00.
056	Weidanz	Explains that they did not come up with their figure using the filing fees from Multnomah County, but used the \$200.00 a month figure and extrapolated that out through the biennium.
055	Rep.C.Walker	Says that her understanding is that the fee is only to be used for setting up the guardianship.
063	Mills	Responds by saying there is nothing in the statute that creates a termination date for the guardianship.
081	Rep.C.Walker	Says that medically necessary guardianship expenses are not going to be recurring on a weekly basis.
088	Mills	Notes that he is not sure who has the authority to determine what constitutes a medically necessary guardianship.
109	Rep.C.Walker	Says that in the -2 amendments, the definition for medically necessary guardianship is adequate.
122	Mills	Responds that the definition may be fine but wonders who determines when the guardianship continues to meet that definition.
138	Rep.Ringo	Comments that he is very skeptical about the figures put forward by SDSD.
171	Rep. Ackerman	Asks if it is correct that they are establishing a separate species of guardianship and that the guardian in this situation is only authorized to access consent to medically necessary treatment.
176	Wright	Answers that she doesn't believe that is the case.
181	Rep. Ackerman	Asks why not amend the guardianship code to include this statutory authority that authorizes guardianships to act in other cases.
196	Wright	Says that as a general rule, power to make health care decisions is included, but guardianships are tailored for each individual from a list of powers that the court can give the guardian.
205	Rep. Ackerman	Asks why this authority is not generally granted to the guardian in the guardianship statutes already.
209	Wright	Answers it is and the problem is not getting the guardians, but paying for the guardians.
217	Rep. Ackerman	Asks if the panel anticipates situations in which the court appointed guardian would be handling the financial income of the protected person or paying that person's expenses.
221	Wright	Says that under Oregon Protective Proceedings Statutes a guardian can only handle a very minimal amount of funds.
230	Rep. Ackerman	Asks if they are assuming in their statistics that all of these guardianships have no other assets.
292	Wright	Answers that they did assume that these individuals did not have other resources.

295 Rep. Ackerman Suggests that they cannot make that assumption and have these figures hold.  
304 Chair Williams Closes the work session on HB 2364 and opens a work session on HB 2366.

**HB 2366 WORK SESSION**

320 Merrilee Harrell Committee Extern  
Introduces HB 2366 relating to protective orders establishing trusts in protective proceedings.  
332 Rep. Lowe Explains the bill, based on previous discussion in the subcommittee.  
349 Rep. Shetterly Says that this bill aligns Oregon Law with a provision in the federal Medicaid law that permits this to happen.  
354 Chair Williams Asks how the committee feels about the fiscal and its subsequent referral to Ways and Means.  
374 Vice Chair Bowman Says that this is a worthy cause and should go to Ways and Means.  
382 Rep. C.Walker Comments that there are people that have a need for this bill.  
416 Counsel Shartel Clarifies fiscal on HB 2366 and says that there was nothing said about a referral to Ways and Means.  
446 Rep. Bowman **MOTION: Moves HB 2366 to the floor with a DO PASS recommendation.**  
**VOTE: 11-0**  
446 Chair Walker **Hearing no objection, declares the motion CARRIED. C. WALKER will lead discussion on the floor.**  
447 Chair Williams Closes the work session on HB 2366 and opens a work session on HB 2368.

**HB 2368 WORK SESSION**

479 Merrilee Harrell Introduces HB 2368 relating to judicial review of advance directives.  
485 Rep. Ringo Explains HB 2368.  
502 Counsel Shartel Says that the -1 amendments were adopted by the civil law subcommittee (EXHIBIT F).

**Tape 10, B**

**008 Rep. Ringo** **MOTION: Moves HB 2368 to the floor with a DO PASS AS AMENDED recommendation.**

**VOTE: 11-0**  
**008 Chair Williams** **Hearing no objection, declares the motion CARRIED. RINGO will lead discussion on the floor.**

025 Chair Williams Closes the work session on HB 2368 and opens a work session on HB 2376.

**HB 2376 WORK SESSION**

027 Counsel Taylor Introduces HB 2376 relating to juvenile procedure.  
033 Vice Chair Bowman Explains HB 2376 and says that there is a fiscal impact with a subsequent referral to Way and Means.  
051 Rep. Lowe States that she will vote yes now, but will reserve her rights for when it comes to the floor.

**055 Rep. Bowman** **MOTION: Moves HB 2376 to the committee on Ways and Means by prior reference.**

**VOTE: 11-0**  
**055 Chair Williams** **Hearing no objection, declares the motion CARRIED.**

059	Chair Williams	Closes the work session on HB 2376 and opens a work session on HB 2377.
<b><u>HB 2377 WORK SESSION</u></b>		
060	Counsel Taylor	Introduces HB 2377 relating to juvenile procedure.
066	Vice Chair Bowman	Discusses HB 2377.
078	Rep. V. Walker	States that she thought that Kathy Ledesma objected on a policy statement.
091	Rep. Backlund	Asks what the policy objection was.
100	<b>Kathy Ledesma</b>	<b>State Office for Services to Children and Families</b> Testifies on HB 2377.
108	Chair Williams	Explains that the policy objection is that the counties want the state offices to be responsible and pay the fees because they are making the decisions.
135	<b>Rep. Bowman</b>	<b>MOTION: Moves HB 2377 to the floor with a DO PASS recommendation.</b>
135	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>BOWMAN will lead discussion on the floor.</b>
146	Chair Williams	Closes the work session on HB 2377 and opens a work session on HB 2391.
<b><u>HB 2391 WORK SESSION</u></b>		
149	Counsel Taylor	Introduces HB 2391 relating to juvenile dependency proceedings.
167	Rep. Ackerman	Explains that HB 2391 attempts to amend certain provisions of the juvenile code ( <b>EXHIBIT G</b> ).
217	<b>Rep. Ackerman</b>	<b>MOTION: Moves HB 2391 to the floor with a DO PASS AS AMENDED recommendation.</b>
217	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>ACKERMAN will lead discussion on the floor.</b>
218	Chair Williams	Closes the work session on HB 2391 and opens a work session on HB 2410.
<b><u>HB 2410 WORK SESSION</u></b>		
235	Counsel Shartel	Introduces HB 2410 relating to dispute resolution.
254	Rep. Shetterly	Explains that this bill extends the limitation on liability to offices and directors of mediation programs and extends to other dispute resolution services.
277	Rep. Ringo	Asks if those other services include arbitration services.
281	Rep. Shetterly	Answers no.
290	<b>Rep. Shetterly</b>	<b>MOTION: Moves HB 2410 to the floor with a DO PASS recommendation.</b>
290	<b>Chair Williams</b>	<b>VOTE: 11-0</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>KREIGER will lead discussion on the floor.</b>
297	Chair Williams	Closes the work session on HB 2410 and adjourns the meeting at 9:24 a.m.

Submitted By,

Reviewed By,

Ann Martin,  
Committee Assistant

Bill Taylor,  
Counsel

**EXHIBIT SUMMARY**

- A – LC Draft 616, submitted by staff, dated 8/7/00, 1 p.**
- B – LC Draft 2149, submitted by staff, dated 2/2/01, 2 pgs.**
- C – LC Draft 2503, submitted by staff, dated 2/2/01, 10 pgs.**
- D – LC Draft 2923, submitted by staff, dated 1/31/01, 4 pgs.**
  
- E – HB 2364, -2 amendments, submitted by staff, dated 2/6/01, 1 p.**
- F – HB 2368, -1 amendments, submitted by staff, dated 2/5/01, 1 p.**
- G – HB 2391, -1 amendments, submitted by staff, dated 1/26/01, 1 p.**