

HOUSE COMMITTEE ON JUDICIARY

May 24, 2001
8:30 a.m.

Hearing Room 357
Tapes 70 - 73

MEMBERS PRESENT: Rep. Max Williams, Chair
Rep. Wayne Kreiger, Vice Chair
Rep. Kathy Lowe, Vice Chair
Rep. Robert Ackerman
Rep. Vic Backland
Rep. Jackie Dingfelder
Rep. Charlie Ringo
Rep. Lane Shetterly
Rep. Cheryl Walker
Rep. Vicki Walker
Rep. Carl Wilson

STAFF PRESENT: Bill Taylor, Counsel
Andrea Shartel, Counsel
Shannon Reed, Committee Assistant

MEASURE/ISSUES HEARD: SB 419A Public Hearing and Work Session
SB 713A Work Session
SB 120A Work Session
HB 2424 Work Session
HB 2877 Work Session
SB 654A Public Hearing
SB 384A Work Session
SB 230A Work Session
SB 167A Work Session

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.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 70, A 003	Chair Williams	Calls the meeting to order at 8:30 a.m. and opens a public hearing on SB 419A.
<u>SB 419A PUBLIC HEARING</u> 017	Ramona Foley	Administrator, Services to Children and Families Submits testimony and testifies in support of SB 419A relating to protective custody orders (EXHIBIT A).

042	Nancy Miller	State Court Administrator's Office Testifies in support of SB 419A.
045	Lisa Kay	Juvenile Rights Project Testifies in support of SB 419A.
061	Miller	Discusses Section 26 of the bill and explains how it changes the approach to criminal records for foster parents.
100	Chair Williams	Closes the public hearing on SB 419A and opens a work session.
<u>SB 419A WORK SESSION</u>		
089	Rep. Shetterly	MOTION: Moves SB 419A to the floor with a DO PASS recommendation. VOTE: 6-0-5 EXCUSED: 5 – Ackerman, Dingfelder, Ringo, C. Walker, Lowe
101	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. KRIEGER will lead discussion on the floor.
105	Chair Williams	Closes the work session on SB 419A and opens a work session on SB 713A.
<u>SB 713A WORK SESSION</u>		
106	Counsel Shartel	Discusses SB 713A relating to international adoptions. Says this bill exempts international adoptions from the requirement to comply with the voluntary adoption registry. Clarifies the difference between the –A4 amendments that the committee has already seen, and the new –A5 amendments (EXHIBIT B).
147	Robin Pope	Oregon State Bar Standing Committee on Adoption Submits testimony and testifies in support of SB 713A (EXHIBIT C). Says this bill is the result of a joint effort by a group of adoption attorneys in Oregon and a 30-member coalition of Oregon Adoption agencies.
162	Rep. V. Walker	Asks if birth parent support groups were involved in this legislation.
165	Pope	Explains that no birth parent support groups were involved but that the attorneys involved had all worked with birth parents over the years.
206	Mary Hartzheimer	Holt International Testifies in support of SB 713A and the –A5 amendments.
211	Kathy Ledesma	Services to Children and Families Testifies in support of the –A5 amendments to SB 713A but questions the language describing the number of counseling sessions available to the birth parent in Section 2, sub-section 1.
241	Rep Shetterly	Maintains that the language is clear that there will be 3 counseling sessions before, and 3 counseling sessions after surrender.
249	Pope	Says it was the original intent to have the counseling sessions set up this way. Stresses the importance of the counseling.
266	Rep. Shetterly	Says there is a problem with the language if it is intended that the six counseling sessions be split up differently than 3 and 3.
289	Pope	Discusses the necessity of changing the wording.
362	Rep. Lowe	MOTION: Moves to ADOPT SB 713-A5 amendments dated 5/22/01. VOTE: 11-0-0

418	Chair Williams	Hearing no objection, declares the motion CARRIED .
419	Rep. Lowe	MOTION: Moves SB 713A to the floor with a DO PASS AS AMENDED recommendation.
<u>TAPE 71, A</u>		
026	Rep. Shetterly	Discusses the language of the bill that appears inconsistent. VOTE: 11-0-0
044	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. LOWE will lead discussion on the floor.
047	Chair Williams	Closes the work session on SB 713A and opens a work session on SB 120A.
<u>SB 120A WORK SESSION</u>		
051	Counsel Shartel	Explains SB 120A that establishes procedure for asserting claims against certain non-testamentary trusts. Introduces the –A4 amendments (EXHIBIT D).
077	Jonathan Levy	Oregon State Bar Discusses the –A4 amendments that create more specific procedures.
108	Rep. Ackerman	Asks if there is a provision in the amendments where a creditor could petition to have the court open the file on a trust.
116	Levy	Replies that the creditors have a remedy under existing law that will not be impaired by this legislation.
126	Bruce Miller	State Court Administrator’s Office Talks about the implementation of this legislation.
146	Rep. Shetterly	MOTION: Moves to ADOPT SB 120-A4 amendments dated 5/24/01. VOTE: 11-0-0
151	Chair Williams	Hearing no objection, declares the motion CARRIED.
152	Rep. Shetterly	MOTION: Moves SB 120A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 11-0-0
161	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. SHETTERLY will lead discussion on the floor.
167	Chair Williams	Closes the work session on SB 120A and opens a work session on HB 2424.
<u>HB 2424 WORK SESSION</u>		
167	Counsel Taylor	Explains HB 2424 that establishes requirements for uniform citation forms for purposes of citing violations and certain crimes. Introduces the –3 amendments (EXHIBIT E).
213	Rep. Shetterly	MOTION: Moves to ADOPT HB 2424-3 amendments dated 5/24/01. VOTE: 11-0-0
215	Chair Williams	Hearing no objection, declares the motion CARRIED.
217	Rep. Shetterly	MOTION: Moves HB 2424 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 11-0-0
228	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. BACKLAND will lead discussion on the floor.

231	Chair Williams	Closes the work session on HB 2424 and opens a work session on HB 2877.
<u>HB 2877 WORK SESSION</u>		
233	Counsel Taylor	Explains HB 2877 that provides that moneys in the Criminal Fire and Assessment Account are to be distributed to the General Fund and to the Criminal Fine and Assessment Public Safety Fund. Introduces the –5 amendments (EXHIBIT F).
241	Steve Marks	Governor’s Senior Policy Advisor Discusses the –5 amendments to HB 2877 and says that they narrow the categories of expenditure for the Criminal Fire and Assessment Account.
254	Bill Magee	Department of Administrative Services Presents a spreadsheet that updates the proposals being made to the bill (EXHIBIT G), and a table that compares the original provisions with the –5 amendments (EXHIBIT H). Asks if the changes are for the current biennium only.
324	Rep. Walker	Replies, yes.
340	Chair Williams	Continues with his table of comparisons, and discusses the shifts made to the general fund to accommodate.
344	Magee	
TAPE 70, B		
014	Rep. Krieger	Asks if the Emergency Medical Service Account will remain in the Health Division.
015	Magee	Says that one of the four programs under the Health Division and the three others are in the Oregon Health Sciences University.
055	Chair Williams	MOTION: Moves to ADOPT HB 2877-5 amendments dated 5/22/01.
		VOTE: 11-0-0
058	Chair Williams	Hearing no objection, declares the motion CARRIED.
059	Chair Williams	MOTION: Moves HB 2877 to the committee on WAYS and MEANS with a DO PASS AS AMENDED recommendation.
		VOTE: 10-0-1
		EXCUSED: 1 - Shetterly
068	Chair Williams	Hearing no objection, declares the motion CARRIED.
073	Chair Williams	Closes the work session on HB 2877 and opens a public hearing on SB 654A.
<u>SB 654A PUBLIC HEARING</u>		
082	Pete Shepherd	Deputy Attorney General Submits testimony and testifies in support of SB 654A that includes prostitution in circumstances under which law enforcement officers may obtain part of a conversation by means of a device (EXHIBIT I).
163	Mark McDonnell	Multnomah County District Attorney’s Office Testifies in support of SB 654A. Says this particular bill is a priority for the Oregon Law Enforcement Legislative Council as well as the District Attorney’s Association.
215	Mark Landauer	City of Portland Government Relations Submits testimony from Officer Mary Wheat, City of Portland police department, and testifies in support of SB 654A

		(EXHIBIT J).
242	Tina Bender	Portland Police Officer Testifies in support of SB 654A and discusses her experiences as a police decoy for prostitution.
414	Bill Houser	Oregon Criminal Defense Lawyers Association Testifies in opposition to SB 654A. Says there is a constitutional issue regarding search and seizure and that this legislation would not change.
TAPE 71, B		
025	Rep. Lowe	Asks about omission of discovery.
033	Houser	Responds that discovery issues make this bill totally unsupportable by the Oregon Criminal Defense Lawyers Association.
037	Dave Fidanque	American Civil Liberties Union (ACLU) Testifies in opposition to SB 654A and expresses concern about privacy in personal communications and technology.
149	Rep. Lowe	Asks if a police officer can get a prior court order allowing a body wire.
160	Fidanque	Replies that the law is unclear on this issue, but that in a prostitution sting it would not be permitted. Contends that this body should be concerned about the constitutionality of this legislation.
184	Rep. Ringo	Asks if body wire should be allowed in prostitution stings.
190	Fidanque	Said the ACLU would not be opposed to the use of body wire if solely for the purpose of protecting the safety of an officer, but the legislators should be concerned about the danger in which police officers are placed.
235	Rep. V. Walker	Asks why he would not approve of body wire in the instance of the Forest Park sting.
230	Fidanque	Discusses the constitutionality of the body wire issue.
284	Houser	Discusses probable cause.
315	Rep. Ackerman	Talks about the safety of an officer as a reason to wear body wire.
385	Rep. Shetterly	Asks if there is a distinction between capture and recording.
410	Fidanque	Replies, yes.
427	Chair Williams	Discusses what is and is not considered a “search” in Oregon law.
471	Chair Williams	Closes the public hearing on SB 654A and opens a work session on SB 384A.

TAPE 72, A

SB 384A WORK SESSION

048	Counsel Taylor	Explains SB 384A that eliminates certain responsibilities of State Commission on Children and Families and transfers other responsibilities to Juvenile Crime Prevention Advisory Committee and the Oregon Youth Authority. Introduces the – A4, -A5, and -A6 amendments (EXHIBITS K - M) .
083	Rep. Shetterly	Discusses the –A4 amendments and says they are similar to HB 2411 which has already passed the house 50 to 1.
174	Vice Chair Krieger	Contends that there needs to be farm exemption in this legislation.
192	Rep. Shetterly	Gives an example of a serious injury on a farm, but says that this is not a farm issue, it is a vehicle on a public highway issue.
177	Rep. Ackerman	Wonders about the definition of “highway” in these amendments.

212	Rep. V. Walker	Says she supports the –A4 amendments.
219	Rep. C. Walker	Expresses concern about a farm exemption.
250	Chair Williams	Reads statute concerning adult versus minor actions.
318	Vice Chair Krieger	Says that we can not eliminate all risk.
323	Rep. Wilson	Discusses the elimination of risk and says he supports the farm exemption.
387	Rep. V. Walker	Expresses her support of the –4 amendments.
397	Rep. Ringo	Says he does not believe this legislation would shut down farming.
TAPE 73, A		
007	Glen Stonebrink	Oregon Farm Bureau Testifies in support of the farm exempt amendments. Says that we do not want to put our children at risk, but we cannot protect all children and all people from all things.
039	Chair Williams	Asks about a speed-related modification.
043	Rep. Shetterly	Says speed is not the issue.
082	Chair Williams	MOTION: Moves to ADOPT SB 384-A6 amendments dated 5/22/01.
		VOTE: 11-0-0
085	Chair Williams	Hearing no objection, declares the motion CARRIED.
092	Chair Williams	Closes the work session on SB 384A and opens a work session on SB 230A.
<u>SB 230A WORK SESSION</u>		
105	Counsel Taylor	Explains SB 230A that changes neglect resulting in death of animal from crime of animal neglect in the first degree to new crime of aggravated animal neglect in the first degree. Introduces the –18 and –19 amendments that amend ORS 167.335 (EXHIBITS N and O). Explains the –A11, amendments, the –A12 and provides a sectional analysis of the –A20 amendments (EXHIBITS P – R). Asks if there is support of the –A13, -A14, -A15, -A16 and –A17 amendments (EXHIBITS S – W). Asks if the committee supports all the remaining amendments.
241	Chair Williams	
252	Senator Ryan Deckert	Senate District 4 Testifies in support of SB 230A and the –A20 amendments.
277	Teresa Miller	Oregon Humane Society Testifies in support of the –A20 amendments.
270	Steven Otto	Animal Legal Defense Fund Testifies in support of the –A20 amendments. Says they are neutral on the –A11, -A18 and –A19 amendments and are opposed to the remainder.
316	Glen Stonebrink	Oregon Cattlemen’s Association Submits testimony and testifies in support of the –A13 amendments (EXHIBIT X).
384	Jim Welsh	Oregon Family Farm Association Testifies in opposition to SB 230A. Says that they do not believe they are protected in the agricultural community to the level needed. Says they would certainly not be able to support the bill without the –A13 amendments.

TAPE 72, B

028	Pete Test	Government Affairs, Oregon Farm Bureau Testifies in opposition of SB 230A and points out farm-related issues.
086	Chair Williams	Comments on the opposition and says that amendments better be met soon. Closes the work session on SB 230A and opens a work session on SB 167A.
<u>SB 167A WORK SESSION</u>		
124	Counsel Taylor	Introduces SB 167A that permits court to appoint expert or panel of experts to investigate, examine or evaluate parties or children in specified proceedings.
137	Chair Williams	MOTION: Moves SB 167A to the floor with a DO PASS AS PREVIOUSLY AMENDED recommendation.
149		VOTE: 8-0-3
	Chair Williams	EXCUSED: 3 – Ringo, Shetterly, Ackerman Hearing no objection, declares the motion CARRIED. SHETTERLY will lead discussion on the floor.
155	Chair Williams	Closes the work session on SB 167A and adjourns the meeting at 11:30 a.m.

Transcribed by,

Reviewed By,

Jane Bodenweiser
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

A – SB 419A, written testimony submitted by Ramona Foley, dated 5/24/01, 5 pp
B – SB 713A, -A5 amendments submitted by staff, dated 5/22/01, 3 pp
C – SB 713A, written testimony submitted by Robin Pope, dated 5/24/01, 1 p
D – SB 120A, -A4 amendments submitted by staff, dated 5/24/01, 5 pp
E – HB 2424, -3 amendments submitted by staff, dated 5/24/01, 4 pp
F – HB 2877, -5 amendments submitted by staff, dated 5/22/01, 1p
G – HB 2877, spreadsheet submitted by Bill Magee, dated 5/23/01, 2 pp
H – HB 2877, spreadsheet submitted by Bill Magee, dated 5/23/01, 1p
I – SB 654A, written testimony submitted by Pete Shepherd, dated 5/23/01, 2 pp
J – SB 654A, written testimony of Mary Wheat, submitted by Mark Landauer, dated 3/12/01, 5 pp
K – SB 384A, -A4 amendments submitted by staff, dated 5/7/01, 1 p
L – SB 384A, -A5 amendments submitted by staff, dated 5/21/01, 20 pp
M – SB 384A, -A6 amendments submitted by staff, dated 5/22/01, 1 p
N – SB 230A, -A18 amendments submitted by staff, dated 5/23/01, 1 p
O – SB 230A, -A19 amendments submitted by staff, dated 5/23/01, 1 p

P – SB 230A, -A11 amendments submitted by staff, dated 5/21/01, 1 p
Q – SB 230A, -A12 amendments submitted by staff, dated 5/23/01, 1 p
R – SB 230A, -A20 amendments submitted by staff, dated 5/24/01, 2 pp
S – SB 230A, -A13 amendments submitted by staff, dated 5/23/01, 1 p
T – SB 230A, -A14 amendments submitted by staff, dated 5/23/01, 1 p
U – SB 230A, -A15 amendments submitted by staff, dated 5/23/01, 1 p
V – SB 230A, -A16 amendments submitted by staff, dated 5/23/301, 1 p
W – SB 230A, -A17 amendments submitted by staff, dated 5/23/01, 1 p
X – SB 230A, written testimony submitted by Glen Stonebrink, 1 p