

HOUSE COMMITTEE ON JUDICIARY

May 25, 2001
8:00 a.m.

Hearing Room 357
Tapes 74 - 77

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Wayne Krieger, Vice-Chair
 Rep. Kathy Lowe, Vice-Chair
 Rep. Robert Ackerman
 Rep. Vic Backlund
 Rep. Jackie Dingfelder
 Rep. Lane Shetterly
 Rep. Cheryl Walker
 Rep. Vicki Walker
 Rep. Carl Wilson

MEMBER EXCUSED: Rep. Charlie Ringo

STAFF PRESENT: Bill Taylor, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: SB 667A Work Session
 SB 199A Public Hearing and Work Session
 SB 183A Work Session
 HB 2356 Work Session
 SB 384A Work Session
 SB 153A Work Session
 SB 230A Work Session
 SB 780A Work Session
 SB 168 Work Session
 SB 654A Work Session
 SB 657A 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.

| TAPE/# | Speaker | Comments |
|------------------------------------|----------------|--|
| TAPE 74, A | | |
| 014 | Chair Williams | Calls the meeting to order at 8:10 a.m. and opens a work session on SB 667A. |
| <u>SB 667A WORK SESSION</u> | | |
| 020 | Joshua Marquis | Oregon District Attorneys Association Testifies on SB 667 that allows person convicted of certain crimes to file motion for DNA testing and discusses the –A5 amendments (EXHIBIT A). |
| 045 | Chair Williams | MOTION: Moves to ADOPT SB 667-A5 amendments dated 05/21/01. VOTE: 8-0-3 |
| 054 | Chair Williams | EXCUSED: 3 - Dingfelder, Shetterly, Wilson Hearing no objection, declares the motion CARRIED. |

055 Chair Williams Closes the work session on SB 667A and opens a public hearing on SB 199A.

SB 199A PUBLIC HEARING

069 **Sen. Peter Courtney** **Senate District 17**
Testifies in support of SB 199A that allows parent to leave infant at authorized facility under certain circumstances and submits testimony (**EXHIBIT B**).

138 **Rep. Laurie Monnes Anderson** **House District 22**
Testifies in support of SB 199A.

220 **Joshua Marquis** **Oregon District Attorneys Association**
Testifies in support of SB 199A.

273 Chair Williams Asks what the rationale is behind the period of time that is 30 days.

276 Senator Courtney Answers that he thinks that represents a newborn.

287 Rep. V. Walker Asks what happens if a victim of incest's baby is taken away and taken to a safe haven.

315 Marquis Answers that those people can still be prosecuted. The crimes of custodial interference, incest, child neglect still exist.

329 Rep. V. Walker States that works only if the mother comes forward.

331 Chair Williams Says that he doesn't see anything in this bill that prevents law enforcement from determining who the mother is.

346 Rep. Shetterly Says that a nonconsenting natural parent can establish his/her right to regain custody of the child.

381 Rep. V. Walker Asks another question—if a mom abandons her baby at a fire station (safe haven) and years later she wants to know where her baby is, can she find out?

406 Senator Courtney Answers that he does not know, but the states that are doing this are learning as they go.

415 Rep. C. Walker Asks if a baby is abandoned at a fire station or police station and is not examined by a doctor-- how will they know if the baby has been abused?

425 Marquis Answers that the intention of the bill is to take away the crime of child abandonment.

500 Rep. Shetterly Asks why they need the language on line 10, page 1 of the bill that says the baby has to evidence no signs of abuse—says that if there is abuse then he would think that they would want to take the baby from the parent.

TAPE 75, A

040 Chair Williams Responds that the abuse would have to be reported by whomever takes the baby.

055 Rep. Shetterly Asks if the bill would work if they took that language out, on line 10, page 1 of the bill.

062 Marquis Answers that if a child is brought in and there is evidence of abuse then the anonymity drops away—this bill is intended only to deal with unharmed newborns.

074 Sen. Courtney Says that this bill is to save those babies that are abandoned in a crisis time.

108 **Dr. Grant Higginson** **State Health Officer, Oregon Health Division, Department of Human Services**
Testifies in support of SB 199A and submits testimony (**EXHIBIT C**).

| | | |
|-------------------|-------------------------|--|
| 166 | Kathy Ledesma | Adoptions Program Manager, State Offices for Services to Children and Families Testifies in support of SB 199A and submits testimony (EXHIBIT D) . Responds to Rep. V. Walker’s and Chair Walker’s questions. |
| 268 | Rep. Shetterly | Asks what happens if a mother will not disclose her name but wants to leave her baby. |
| 312 | Ledesma | Thinks that every hospital would have a protocol for that. Guesses that they would make an attempt to keep that baby above the mother’s objection. |
| 330 | Dr. Higginson | Answers that it would depend on the situation and it would be a judgment call for provider/care giver. Says that if this bill passes they would want to come up with policies for fire stations or police stations. |
| 350 | Counsel Taylor | Asks if they have the authority to report child abuse, would they then have the right to detain. |
| 353 | Ledesma | Answers that they do not have the right or duty to detain the infant. |
| 372 | Bob Castagna | Oregon Catholic Conference Testifies in support of SB 199A. |
| 421 | Anthony Granados | Oregon Catholic Conference Testifies in support of SB 199A. Says that there are Catholic churches in Europe where people can leave their infants anonymously. |
| 452 | Rep. Dingfelder | Asks Dr. Higginson how they plan on informing the public about this option. |
| TAPE 74, B | | |
| 016 | Dr. Higginson | Answers that media campaigns can be very expensive, but says that there are other ways that they can get information out—in the way of written materials and brochures to key places like schools, family planning offices, local health departments, etc. |
| 035 | Rep. Dingfelder | Asks if he has a sense as to how much they will spend on this versus what they are spending on preventative programs like the availability of contraceptives. |
| 038 | Dr. Higginson | Answers that they have not figured this out, but part of it depends on how many places they need to target—probably in the \$20,000 range. |
| 044 | Rep. Dingfelder | Says that she is concerned about this bill sending the wrong message out. Wonders if they receive private money, could they do an extensive media campaign. |
| 058 | Higginson | Answers yes. Comments that on prevention they are very supportive of the abstinence programs and family planning. |
| 066 | Rep. Ackerman | Asks Ledesma about process when the child goes into the agency and due process requirements. |
| 077 | Ledesma | Answers that within 24 hours there would be a shelter hearing and the allegations at that point would be that the child is abandoned. |
| 102 | Rep. V. Walker | Asks Ledesma how this bill would impact the Indian Child Welfare Act. |
| 122 | Ledesma | Answers that the Indian Child Welfare Act does supersede everything else. |
| 159 | Helen Hill | Nehalem, Oregon |

318 **Jane Edwards** Testifies in opposition to SB 199A and submits testimony **(EXHIBIT E)**. States that she was the author of Measure 58—the adoptive rights initiative. Feels that Oregon does not really have a problem with this issue now, and this is setting up a situation that could create problems—where anyone can drop off a baby.
Concerned United Birthparent, Multnomah County
Testifies in opposition to SB 199A and submits testimony **(EXHIBIT F)**.

TAPE 75, B

004 Edwards Continues her testimony in opposition to SB 199A.
030 Chair Williams Closes the public hearing on SB 199A and opens a work session on SB 199A.

SB 199A WORK SESSION

035 Rep. Lowe **MOTION: Moves SB 199A to the floor with a DO PASS recommendation.**
037 Rep. V. Walker Says that she supports the bill.
057 Rep. Shetterly Says that he also supports the bill, but still has some reservations.
080 Rep. Krieger States his support of the bill and agrees with Rep. Shetterly that they need to come back and look at it.
087 Rep. Wilson Says that he will not support the bill.
100 **VOTE: 9-1-1**
AYE: 9 - Ackerman, Backlund, Dingfelder, Krieger, Lowe, Shetterly, Walker C, Walker V, Williams
NAY: 1 - Wilson
EXCUSED: 1 - Ringo
108 Chair Williams **The motion CARRIES.**
REP. LOWE will lead discussion on the floor.

112 Chair Williams Closes the work session on SB 199A and opens a work session on SB 183A.

SB 183A WORK SESSION

105 **Senator Rick Metsger** **Senate District 14**
Testifies in support of SB 183A that establishes procedure enabling Department of Correction to obtain reimbursement from inmate for costs of care incurred by department and supports the –A6 amendments **(EXHIBIT G)**.
136 Rep. Ackerman Asks if there are any other provisions that have been retained in the A-Engrossed bill that would take the financial considerations of the defendant into affect in assessing the amount.
145 Sen. Metsger Says that the ability to pay is the primary issue here.
147 Rep. Shetterly Says for the record he received a letter from a constituent, Robert Edgar, who strongly opposes the bill.
170 Rep. V. Walker **MOTION: Moves to ADOPT SB 183A-6 amendments dated 03/19/01.**
VOTE: 10-0-1
EXCUSED: 1 - Ringo
171 Chair Williams **Hearing no objection, declares the motion CARRIED.**
174 Rep. V. Walker **MOTION: Moves SB 183A to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 10-0-1

175 Chair Williams **EXCUSED: 1 - Ringo**
Hearing no objection, declares the motion CARRIED.
V. WALKER will lead discussion on the floor.

184 Chair Williams Closes the work session on SB 183A and opens a work session
on HB 2356.

HB 2356 WORK SESSION

190 Counsel Taylor Introduces HB 2356 that creates the State Commission on Court
Facilities and discusses the –5 amendments (**EXHIBIT H**).
214 **Dennis Mulvihill** **Washington County, Government Affairs**
Testifies in support of HB 2356.
231 **Rep. Shetterly** **MOTION: Moves to ADOPT HB 2356-5 amendments dated**
05/24/01.
VOTE: 9-0-2
EXCUSED: 2 - Dingfelder, Ringo
231 Chair Williams **Hearing no objection, declares the motion CARRIED.**

239 **Rep. Shetterly** **MOTION: Moves HB 2356 to the floor with a DO PASS AS**
AMENDED recommendation and BE
REFERRED to the committee on Ways and
Means.
VOTE: 9-0-2
EXCUSED: 2 - Dingfelder, Ringo
245 Chair Williams **Hearing no objection, declares the motion CARRIED.**

256 Chair Williams Closes the work session on HB 2356 and opens a work session
on SB 384A.

SB 384A WORK SESSION

267 Counsel Taylor Introduces SB 384A that eliminates certain responsibilities of
State Commission on Children and Families and transfers other
responsibilities to Juvenile Crime Prevention Advisory
Committee and Oregon Youth Authority and discusses the –A7
amendments (**EXHIBIT I**). Adds that the –A6 amendments were
adopted in criminal subcommittee (**EXHIBIT J**).
281 **Sen. Kate Brown** **Senate District 7**
Testifies in support of SB 384A and submits testimony
(**EXHIBIT K**).
380 **Rep. Lowe** **MOTION: Moves to ADOPT SB 384-A7 amendments dated**
05/25/01.
VOTE: 10-0-1
EXCUSED: 1 - C. Walker
382 Chair Williams **Hearing no objection, declares the motion CARRIED.**

386 **Rep. Lowe** **MOTION: Moves SB 384A to the floor with a DO PASS AS**
AMENDED recommendation.
VOTE: 10-0-1
EXCUSED: 1 - C. Walker
388 Chair Williams **Hearing no objection, declares the motion CARRIED.**
REP. SHETTERLY will lead discussion on the floor.

415 Chair Williams Closes the work session on SB 384A and opens a work session
on SB 153A.

SB 153A WORK SESSION

422 Counsel Taylor Introduces SB 153A that provides that police officer may not issue citation based on speed measuring device unless officer has taken and passed course in use of device.

444 Rep. V. Walker **MOTION: Moves SB 153A to the floor with a DO PASS recommendation.**

445 Chair Williams **VOTE: 8-0-3**
EXCUSED: 3 - Ackerman, Shetterly, C. Walker
Hearing no objection, declares the motion CARRIED.
REP. KRIEGER will lead discussion on the floor.

460 Chair Williams Closes the work session on SB 153A and opens a work session on SB 230A.

TAPE 76, A

SB 230A WORK SESSION

040 Counsel Taylor Introduces SB 230A that changes neglect resulting in death of animal from crime of animal neglect in the first degree to new crime of

098 Pete Test aggravated animal neglect in the first degree and discusses the – A21 amendments (**EXHIBIT L**).
Oregon Farm Bureau Federation

101 Teresa Miller Testifies in support of SB 230A and the –A21 amendments.
Oregon Humane Society

103 Glen Stonebrink Testifies in support of SB 230A and the –A21 amendments.
Oregon Cattleman’s Association

115 Chair Williams Testifies in support of the –A21 amendments.
MOTION: Moves to ADOPT SB 230-A21 amendments dated 05/24/01.

120 Chair Williams **VOTE: 9-0-2**
EXCUSED: Shetterly, C. Walker
Hearing no objection, declares the motion CARRIED.

132 Chair Williams Discusses conceptual amendments and lowering the penalty to a Class A misdemeanor.

144 Rep. Ringo Says that he does not see it beneficial to rack up penalties when there is no demonstrated deterrent factor.

150 Rep. V. Walker Says that she is not in favor of lowering the penalty.

152 Rep. Lowe Says that lowering it to an A misdemeanor may mean that one will serve some time in the county jail and it will not be pleasant. Discusses penalty enhancement for next session.

160 Vice-Chair Krieger States that he agrees with Rep. Lowe.

176 Chair Williams **MOTION: Moves to SUSPEND the rules for the purpose of making conceptual amendments to SB 230A.**
VOTE: 9-0-2
EXCUSED: 2 - Shetterly, C. Walker
Hearing no objection, declares the motion CARRIED.

198 Stephan Otto **Oregon Humane Society**

204 Chair Williams Testifies on SB 230A and discusses conceptual amendments.
MOTION: Moves to CONCEPTUALLY AMEND SB 230A

by deleting Section 2.

VOTE: 8-1-2

AYE: 8 - Ackerman, Backlund, Dingfelder, Krieger, Lowe, Ringo, Wilson, Williams

NAY: 1 - Walker V

EXCUSED: 2 - Shetterly, Walker C

The motion CARRIES.

223 Chair Williams

228 Chair Williams

MOTION: Moves to FURTHER CONCEPTUALLY AMEND SB 230A by striking lines 9 – 15 of page 2 of the –A12 amendments.

VOTE: 8-1-2

AYE: 8 - Ackerman, Backlund, Dingfelder, Krieger, Lowe, Ringo, Wilson, Williams

NAY: 1 - Walker V

EXCUSED: 2 - Shetterly, Walker C

The motion CARRIES.

240 Chair Williams

270 Chair Williams

MOTION: Moves SB 230A to the floor with a DO PASS AS AMENDED recommendation.

275 Chair Williams

VOTE: 8-1-2

AYE: 8 - Ackerman, Backlund, Dingfelder, Krieger, Lowe, Ringo, Walker V, Williams

NAY: 1 - Wilson

EXCUSED: 2 - Shetterly, Walker C

The motion CARRIES.

REP. DINGFELDER will lead discussion on the floor.

280 Chair Williams

308 Chair Williams

Closes the work session on SB 230A and opens a work session on SB 780A.

SB 780A WORK SESSION

320 Pete Shepherd

Deputy Attorney General, Attorney General's Office

Testifies in support of SB 780A that provides that fact of complaint of abuse or criminal mistreatment of elderly person or theft from elderly person, made by witness after commission of alleged abuse at issue, may be considered as evidence by trier of fact in trial or other hearing and submits testimony (**EXHIBIT M**).

392 Rep. Lowe

MOTION: Moves SB 780A to the floor with a DO PASS recommendation.

VOTE: 8-0-3

EXCUSED: 3 - Ackerman, Shetterly, C. Walker

399 Chair Williams

Hearing no objection, declares the motion CARRIED.

REP. BACKLUND will lead discussion on the floor.

420 Chair Williams

Closes the work session on SB 780A and opens a work session on SB 168.

SB 168 WORK SESSION

430 Counsel Taylor

Introduces SB 168 that allows sheriff to release inmates from correctional facility prior to trial under forced release agreement due to county jail population emergency.

455 Rep. Lowe **MOTION: Moves SB 168 to the floor with a DO PASS recommendation.**
VOTE: 8-0-3
EXCUSED: 3 - Ackerman, Shetterly, C. Walker
457 Chair Williams **Hearing no objection, declares the motion CARRIED.**
REP. KRIEGER will lead discussion on the floor.
473 Chair Williams Closes the work session on SB 168 and opens a work session on SB 654A.

TAPE 77, A

SB 654A WORK SESSION

027 Chair Williams Introduces SB 654A relating to bodywire issues.
030 Rep. Ringo Discusses bill.
045 Rep. Lowe Comments on bill.
065 Rep. Dingfelder Says she has some of the same concerns as Rep. Ringo and Rep. Lowe.
081 Dave Fidanque **American Civil Liberties Union of Oregon (ACLU)**
Testifies on SB 654A and discusses the -A3 amendments **(EXHIBIT N).**
128 Dale Penn **Marion County District Attorney**
Comments on the -A3 amendments.
215 Rep. V. Walker Asks Mr. Penn and Mr. Fidanque if this law was enacted originally to protect citizens from oppressive police procedures.
224 Penn Answers that it was to protect officers.
240 Fidanque Answers that this bill gives permission to use a bodywire without a court order, and it permits obtaining a court order for an additional offense which is prostitution.
299 Penn Responds to Mr. Fidanque.
347 Eric Wassman **Oregon Department of Justice**
Testifies in support of SB 654A.

TAPE 76, B

035 Rep. Lowe **MOTION: Moves SB 654A to the floor with a DO PASS recommendation.**
042 Rep. Wilson Says that he will vote yes for bill.
047 Rep. Ackerman Comments that he will vote yes for bill for public safety.
055 Dingfelder Says that she has concerns for constitutionality, but will vote yes.
062 Krieger Says that he will support the bill.
070 Rep. Backlund Responds that he thinks this is a good bill and he supports it.
080 Rep. V. Walker Comments that this was tough for her, but she will support it.
085 VOTE: 8-0-3
EXCUSED: 3 - Ringo, Shetterly, C. Walker
095 Chair Williams **Hearing no objection, declares the motion CARRIED.**
REP. KRIEGER will lead discussion on the floor.
103 Chair Williams Closes the work session on SB 654A and opens a work session on SB 657A.

SB 657A WORK SESSION

114 Chair Williams Discusses the -A4 amendments to SB 657A that allows person convicted of certain crimes to file motion for DNA testing **(EXHIBIT O).**
120 Sen. Lowe **MOTION: Moves to ADOPT SB 657A-4 amendments dated 05/14/01.**
VOTE: 8-0-3
EXCUSED: 3 - Ringo, Shetterly, C. Walker

| | | |
|-----|----------------|--|
| 122 | Chair Williams | Hearing no objection, declares the motion CARRIED . |
| 124 | Rep. Lowe | MOTION: Moves SB 657A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 8-0-3 EXCUSED: 3 - Ringo, Shetterly, C. Walker |
| 126 | Chair Williams | Hearing no objection, declares the motion CARRIED . REP. RINGO will lead discussion on the floor. |
| 133 | Chair Williams | Closes the work session on SB 657A and adjourns the meeting at 11:02 a.m. |

Submitted By,

Reviewed By,

Ann Martin
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

- A – SB 667A, -A5 amendments, submitted by staff, dated 5/21/01, 1 p**
- B – SB 199A, written testimony submitted by Senator Courtney, dated 5/25/01, 3 pp**
- C – SB 199A, written testimony submitted by Dr. Grant Higginson, dated 5/25/01, 2 pp**
- D – SB 199A, written testimony of Ramona Foley, submitted by Kathy Ledesma, dated 5/25/01, 2 pp**
- E – SB 199A, written testimony submitted by Helen Hill, dated 5/24/01, 12 pp**
- F – SB 199A, written testimony submitted by Jane Edwards, dated 5/25/01, 6 pp**
- G – SB 183A, -A6 amendments, dated 3/19/01, 1 p**
- H – HB 2356, -5 amendments, submitted by staff, dated 5/24/01, 7 pp**
- I – SB 384A, -A7 amendments, submitted by staff, dated 5/25/01, 20 pp**
- J – SB 384A, -A6 amendments, submitted by staff, dated 5/22/01, 2 pp**
- K – SB 384A, written testimony submitted by Senator Brown, dated 5/23/01, 6 pp**
- L – SB 230A, -A21 amendments, submitted by staff, dated 5/24/01, 3 pp**
- M – SB 780A, written testimony submitted by Pete Shepherd, dated 5/24/01, 1 p**
- N – SB 654A, -A3 amendments, submitted by staff, dated 5/25/01, 1 p**
- O – SB 657A, -A4 amendments, submitted by staff, dated 5/14/01, 1 p**