

HOUSE COMMITTEE ON JUDICIARY

May 30, 2001
8:00 a.m.

Hearing Room 357
Tapes 79 - 80

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. Cherryl Walker
Rep. Vicki Walker
Rep. Carl Wilson

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

MEASURE/ISSUES HEARD: SB 163A Public Hearing
SB 289 Public Hearing and Work Session
SB 166A Work Session
SB 647A Work Session
SB 437A Work Session
SB 133 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 79, A		
003	Chair Williams	Calls the meeting to order at 8:03 a.m. and opens a public hearing on SB 163A.
<u>SB 163A PUBLIC HEARING</u>		
020	Mark Landauer	City of Portland Submits testimony and testifies in support of SB 163A relating to law enforcement liability and pursuit (EXHIBIT A).
037	Sgt. Bob Gross	City of Portland Police Department Testifies in support of SB 163A.
043	David Lesh	City of Portland Testifies in support of SB 163A. Discusses pursuit and pursuit litigation.
097	Rep. Shetterly	Asks about the language of the measure.
119	Lesh	Says that terms are not defined in the bill and the court will determine the definitions.
150	Rep. Ringo	Asks what is wrong with the current standard of pursuit and why should there be immunity.
158	Lesh	Says that we require that officers take dangerous charge, so they should have some unique protections.

178	Rep. Ringo	Says that the system seems to work now, with the proper recourse. And why not maintain this method.
197	Lesh	Responds that we spend too much time defending these cases and it is getting worse.
210	Rep. Ringo	Says that special exemptions should not be handed out.
220	Rep. Ackerman	Asks about claim reports for Portland.
226	Lesh	Says that it is not the claims and judgements, but rather the time and costs of defense. Says that Portland is self-insured and discusses the procedures for defense.
261	Vice Chair Krieger	Comments on pursuit and policy for public protection.
280	Sgt. Gross	Discusses the seriousness of pursuit and the decision-making process required.
359	Vice Chair Lowe	Asks about the use of nail strips.
364	Sgt. Gross	Answers yes, if you can get into position to use them.
392	Vice Chair Lowe	Asks if we are shifting the liability of risk to the public if the system is really broken.
401	Sgt. Gross	Says that if we ask officers to back up his oath of protection then we should back them up.
422	Vice Chair Lowe	Says that the system seems to be working and why shift a burden of loss to an innocent person.

TAPE 80, A

007	Lesh	Comments on manslaughter and the officer's role in a normal pursuit and responsibility of the offender.
038	Vice Chair Lowe	Comments that the victim needs to have their day in court.
053	Lesh	Comments that SB 163A does provide for the just prosecution of officers in the wrong.
061	Rep. C. Walker	Asks about written policy and negligence.
067	Lesh	Says that the proof of negligence is still required.
072	Rep. Shetterly	Says policy, or lack of one, could be the central issue in a case against a municipality.
092	Rep. Ackerman	Comments on immunity for police and the person pursued.
103	Lesh	Says it is the intent that the offender be held liable.
111	Rep. Ringo	Comments on liability and that the current system works.
122	Bill Houser	Oregon Criminal Defense Lawyers Association Testifies in opposition to SB 163A and says that there is no redress for the innocent victim.
172	Andrea Meyer	American Civil Liberties Union Testifies in opposition to SB 163A and expresses concern about training officers for pursuit.
196	Rep. Backlund	Comments on training and risks of pursuit.
217	Rep. Shetterly	Discusses policy issue and training policy.
238	Meyer	Says that there should be serious training for pursuit.
245	Chair Williams	Closes the public hearing on SB 163A and opens a public hearing on SB 289.

SB 289 PUBLIC HEARING

253	Vice Chair Krieger	Asks about training for pursuit at Department of Public Safety Standards and Training (DPSST).
263	Diane Middle	Department of Public Safety Standards and Training (DPSST) Says that they have no training for pursuit because they have no course on which to train. Submits testimony and testifies in support of SB 289 relating to public safety personnel as a housekeeping bill (EXHIBIT B).

310 Chair Williams Closes the public hearing on SB 289 and opens a work session on SB 289.

SB 289 WORK SESSION

320 Vice Chair Krieger **MOTION: Moves SB 289 to the floor with a DO PASS recommendation.**
VOTE: 10-0-1
AYE: In a roll call vote, all members present vote Aye.
EXCUSED: 1 - Dingelder

337 Chair Williams **The motion CARRIES.**
VICE CHAIR KRIEGER will lead the discussion the floor.

338 Chair Williams Closes the work session on SB 289 and opens the work session on SB 166A.

SB 166 A WORK SESSION

342 Counsel Shartel Explains SB 166A and the -A6 amendments relating to animals **(EXHIBIT C).**

364 Teresa Miller **Oregon Humane Society**
Testifies in support of SB 166A and discusses the -A6 amendments.

427 Rep. Shetterly **MOTION: Moves to ADOPT SB 166A-A6 amendments dated 5/24/01.**
VOTE: 11-0-0
AYE: In a roll call vote, all members present vote Aye.

444 Chair Williams **The motion CARRIES.**

446 Rep. Shetterly **MOTION: Moves SB 166A to the floor with a DO PASS AS AMENDED recommendation.**
VOTE: 11-0-0
AYE: In a roll call vote, all members present vote Aye.

460 Chair Williams **The motion CARRIES.**
REP. SHETTERLY will lead discussion on the floor.

TAPE 79, B

020 Chair Williams Closes the work session on SB 166A and opens a work session on SB 647A.

SB 647A WORK SESSION

029 Chair Williams Discusses SB 647A relating to the sharing of personal information and the -A6, **(EXHIBIT D)** -A7 **(EXHIBIT E)** and -A8 amendments **(EXHIBIT F).**

042 Pam Levitt **Credit Union Association of Oregon**
Testifies in support of SB 647A and the -A6 amendments.

079 Paul Cosgrove **Nationwide Insurance**
Testifies in opposition of the -A6 and -A8 amendments as written in combination.

097 Dave Fiskum **Providence Health System and the Oregon Association of Hospitals and Health Systems**
Testifies in support of the -A7 amendments.

114 John Powell **State Farm Insurance and Regence Blue Cross/ Blue Shield**

		Testifies in support of the -A7 amendments as presented by Mr. Fiskum. Discusses Health Insurance Portability and Accountability Act (HIPAA).
149	Vice Chair Lowe Powell	Asks about effective date of HIPAA. Responds July 1, 2003. Discusses the start-up of the program.
163	Rep. Shetterly	Asks if HIPAA applies to all medical providers.
167	Powell	Responds, yes.
168	Rep. Shetterly	Are there financial institutions in the state not subject to the federal law.
171	Cosgrove	Says that the definition of financial institution is very broad.
173	Scott Gallant	Oregon Medical Association
		Testifies in support of the -A7 amendments. Discusses HIPAA and costs of compliance.
223	Julie Brandeis	Associated Oregon Industries
		Testifies in support of the -A9 amendments (EXHIBIT G).
277	Chair Williams	Discusses HIPAA and interim study. Closes the work session on SB 647A and opens a work session SB 437A.
<u>SB 437A WORK SESSION</u>		
315	Counsel Prins	Explains SB 437A and the -A5 amendments relating to crime and privilege (EXHIBIT H).
374	Karen Immergut	Multnomah County District Attorney's Office
		Testifies in support of the -A5 amendments and says that they worked to limit the exceptions.
432	Rep. V. Walker	Asks why, if privilege is covered in other statutes are we considering this bill.
441	Immergut	Responds that they have discretion and the law is unclear.
460	Rep. V. Walker	Asks about school counselors.
469	Immergut	Says that harm would have to be committed, if the counselor discloses.
TAPE 80, B		
019	Susan Grabe	Oregon State Bar
		Testifies in support of SB 437A and the -A5 amendments.
034	Rep. Ackerman	Asks about subpoena and court process.
041	Immergut	Discusses and clarifies the standard of the process.
110	Bill Houser	Oregon Criminal Defense Lawyers Association
		Testifies in opposition to the -A5 amendments and expresses concern about lack of privilege and problems with proper representation.
153	Rep. Ringo	Asks about opposition if only implied to intent to future crime.
160	Houser	Responds that they would probably still oppose the bill.
182	Chair Williams	Closes the work session on SB 437A and opens a work session on SB 133A.
<u>SB 133A WORK SESSION</u>		
188	Chair Williams	Discusses the -A6 amendments (EXHIBIT I), the -A11 amendments (EXHIBIT J), the -A9 amendments (EXHIBIT K) and the -A14 amendments (EXHIBIT L).
196	Rep. Shetterly	MOTION: Moves to ADOPT SB 133A-A6 amendments dated 5/14/01.
		VOTE: 11-0-0
209	Chair Williams	Hearing no objection, declares the motion CARRIED.

210	Rep. Shetterly	MOTION: Moves to ADOPT SB 133A-A11 amendments dated 5/29/01. VOTE: 11-0-0
230	Chair Williams	Hearing no objection, declares the motion CARRIED.
233	Rep. Dingfelder	MOTION: Moves to ADOPT SB 133A-A9 amendments dated 5/23/01. VOTE: 6-5-0 AYE: 6 - Dingfelder, Krieger, Lowe, Ringo, Walker V, Wilson NAY: 5 - Ackerman, Backlund, Shetterly, Walker C, Williams
292	Chair Williams	The motion CARRIES.
294	Rep. Shetterly	MOTION: Moves to ADOPT SB 133A-A14 amendments dated 5/30/01. VOTE: 11-0-0
332	Chair Williams	Hearing no objection, declares the motion CARRIED.
336	Chair Williams	MOTION: Moves SB 133A to the floor with a DO PASS AS AMENDED recommendation.
345	Counsel Prins	Explains all the passed amendments. VOTE: 11-0-0
371	Chair Williams	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES. CHAIR WILLIAMS AND VICE CHAIR LOWE will lead the discussion on the floor.
389	Chair Williams	MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. Backlund to change his vote from NAY to Aye on the -A9 amendments to SB 133A. VOTE: 11-0-0
402	Chair Williams	Hearing no objection, declares the motion CARRIED.
422	Chair Williams	Closes the work session on SB 133A and recesses the committee until 3 p.m.

Submitted By,

Reviewed By,

Shannon Reed
Committee Assistant

Andrea Shartel
Counsel

EXHIBIT SUMMARY

A – SB 163A, testimony submitted by Mark Landauer, City of Portland, dated 12/09/97, 16 pgs.
B - SB 289, testimony submitted by Dianne Middle, DPSST, dated 5/30/01, 1 pg.

C - SB 166A, -A6 amendments, submitted by staff, dated 5/24/01, 5 pgs.
D - SB 647A, -A6 amendments, submitted by staff, dated 5/24/01, 1 pg.
E - SB 647A, -A7 amendments, submitted by staff, dated 5/24/01, 1 pg.
F - SB 647A, -A8 amendments, submitted by staff, dated 5/25/01, 1 pg.
G - SB 647A, -A9 amendments, submitted by staff, dated 5/25/01, 1 pg.
H - SB 437A, -A5 amendments, submitted by staff, dated 5/29/01, 1 pg.
I - SB 133A, -A6 amendments, submitted by staff, dated 5/14/01, 1 pg.
J - SB 133A, -A11 amendments, submitted by staff, dated 5/29/01, 3 pgs.
K - SB 133A, -A9 amendments, submitted by staff, dated 5/23/01, 1 pg.
L - SB 133A, -A14 amendments, submitted by staff, dated 5/30/01, 6 pgs.
M - SB 163A, written testimony submitted by Elvia P. Williams, Eugene Police Department, dated 5/29/01, 1pg.

HOUSE COMMITTEE ON JUDICIARY

May 30, 2001
3:00 p.m.

Hearing Room 357
Tapes 81

MEMBERS PRESENT: Rep. Max Williams, Chair
 Rep. Wayne Kreiger, Vice Chair
 Rep. Robert Ackerman
 Rep. Vic Backland
 Rep. Jackie Dingfelder
 Rep. Cherryl Walker
 Rep. Vicki Walker

MEMBER EXCUSED: Rep. Kathy Lowe, Vice Chair
 Rep. Charlie Ringo
 Rep. Lane Shetterly
 Rep. Carl Wilson

STAFF PRESENT: Craig Prins, Counsel
 Shannon Reed, Committee Assistant

MEASURE/ISSUES HEARD: HB 3357 Work Session

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 81, A 005	Chair Williams	Calls the meeting to order at 3:10 p.m. and opens a work session on HB 3357.
<u>HB 3357 WORK SESSION</u> 012	Rep. Rob Patridge	House District 50 Testifies in support of the -3 amendments to HB 3357 relating to child support. Says that the Department of Justice is in agreement.
020	Rep. Williams	MOTION: Moves to ADOPT HB 3357-3 amendments dated 5/7/01. VOTE: 7-0-4
022	Chair Williams	EXCUSED: 4 - Lowe, Ringo, Shetterly, Wilson Hearing no objection, declares the motion CARRIED.
023	Rep. Williams	MOTION: Moves HB 3357 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 7-0-4 AYE: In a roll call vote, all members present vote Aye.

030 Chair Williams

**EXCUSED: 4 - Lowe, Ringo, Shetterly, Wilson
The motion CARRIES.**

040 Chair Williams

Closes the work session on HB 3357 and thanks the committee for it's work this session. Adjourns the meeting at 3:13 p.m.

Submitted By,

Reviewed By,

Shannon Reed
Committee Assistant

Craig Prins,
Counsel

EXHIBIT SUMMARY

A - HB 3357, -3 amendments, submitted by staff, dated 5/7/01, 7 pgs.