

HOUSE COMMITTEE ON JUDICIARY

June 06, 2001
8:00 a.m.

Hearing Room 357
Tapes 82 - 84

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. Charlie Ringo
 Rep. Lane Shetterly
 Rep. Cheryl Walker
 Rep. Vicki Walker

MEMBER EXCUSED: Rep. Carl Wilson

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

MEASURE/ISSUES HEARD: SB 290A Reconsideration and Work Session
 SB 384A Reconsideration and Work Session
 SB 419A Reconsideration and Work Session
 SB 657A Reconsideration and Work Session
 SB 114A Public Hearing and Work Session
 SB 95 Public Hearing and Work Session
 SB 81A Public Hearing and 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 82, A		
003	Chair Williams	Calls the meeting to order at 8:15 a.m.
009	Chair Williams	MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the votes on SB 290A, SB 384A, SB 419A and SB 657A. VOTE: 10-0-1 EXCUSED: 1 - Wilson
010	Chair Williams	Hearing no objection, declares the motion CARRIED.
012	Chair Williams	Opens a work session on SB 290A.
SB 290A RECONSIDERATION AND WORK SESSION		
016	Counsel Taylor	Introduces SB 290A that requires Department of Public Safety Standards and Training to adopt rules specifying crimes for which conviction requires denial or revocation of certification of public safety officer or instructor and discusses the -A5 conflict amendments (EXHIBIT A).
042	Chair Williams	MOTION: Moves to RECONSIDER the vote by which the Committee moved SB 290A to the floor with a

DO PASS AS AMENDED recommendation.

VOTE: 10-0-1

EXCUSED: 1 - Wilson

044 Chair Williams Hearing no objection, declares the motion CARRIED.

046 Chair Williams **MOTION: Moves to ADOPT SB 290-A5 amendments dated 05/31/01.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

047 Chair Williams Hearing no objection, declares the motion CARRIED.

049 Chair Williams **MOTION: Moves SB 290A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

050 Chair Williams Hearing no objection, declares the motion CARRIED.

REP. ACKERMAN will lead discussion on the floor.

051 Chair Williams Closes the work session on SB 290A and opens a work session on SB 384A.

SB 384A RECONSIDERATION AND WORK SESSION

065 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 –A12 conflict amendments (**EXHIBIT B**).

075 Chair Williams **MOTION: Moves to RECONSIDER the vote by which the Committee moved SB 384A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

076 Chair Williams Hearing no objection, declares the motion CARRIED.

094 Chair Williams **MOTION: Moves to ADOPT SB 384-A12 amendments dated 06/04/01.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

095 Chair Williams Hearing no objection, declares the motion CARRIED.

097 Chair Williams **MOTION: Moves SB 384A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

103 Chair Williams Hearing no objection, declares the motion CARRIED.

REP. SHETTERLY will lead discussion on the floor.

105 Chair Williams Closes the work session on SB 384A and opens a work session on SB 419A.

SB 419A RECONSIDERATION AND WORK SESSION

108 Counsel Taylor Introduces SB 419A that directs court to include in protective custody order findings about best interests of child, and discusses the -A9 conflict amendments (**EXHIBIT C**).

115 Chair Williams **MOTION: Moves to RECONSIDER the vote by which the**

Committee moved SB 419A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 10-0-1

EXCUSED: 1 - Wilson

116 Chair Williams Hearing no objection, declares the motion CARRIED.

123 Chair Williams **MOTION: Moves to ADOPT SB 419-A9 amendments dated 05/31/01.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

123 Chair Williams Hearing no objection, declares the motion CARRIED.

125 Chair Williams **MOTION: Moves SB 419A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

126 Chair Williams Hearing no objection, declares the motion CARRIED.

REP. KREIGER will lead discussion on the floor.

133 Chair Williams Closes the work session on SB 419A and opens a work session on SB 657A.

SB 657A RECONSIDERATION AND WORK SESSION

135 Counsel Taylor Introduces SB 657A that allows county to seek payment of amount owed by prisoners pursuant to court judgment through Collections Unit in Department of Revenue, and discusses the - A6 conflict amendments (**EXHIBIT D**).

145 Chair Williams **MOTION: Moves to RECONSIDER the vote by which the Committee moved SB 657A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

146 Chair Williams Hearing no objection, declares the motion CARRIED.

152 Chair Williams **MOTION: Moves to ADOPT SB 657A-6 amendments dated 05/31/01.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

154 Chair Williams Hearing no objection, declares the motion CARRIED.

155 Chair Williams **MOTION: Moves SB 657A to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 10-0-1

EXCUSED: 1 - Wilson

156 Chair Williams Hearing no objection, declares the motion CARRIED.

REP. RINGO will lead discussion on the floor.

169 Chair Williams Closes the work session on SB 657A and opens a public hearing on SB 114A.

SB 114A PUBLIC HEARING

177 Senator Peter Courtney

Senate District 17

Testifies in support of SB 114A that imposes civil penalties for

		violations of genetic privacy statutes.
420	Chair Williams	States that Rep. Richard Devlin submitted written testimony (EXHIBIT E) .
428	Barney Speight	Kaiser Permanente/Co-Chair Genetic Research Advisory Committee Testifies in support of SB 114A, discusses critical policy issues and submits testimony (EXHIBIT F) .
TAPE 83, A		
002	Speight	Continues testimony in support of SB 114A.
088	David Fidanque	American Civil Liberties Union of Oregon (ACLU) Testifies in support of SB 114A and submits testimony (EXHIBIT G) .
142	Chair Williams	Says that in 1995 when he was counsel to the Senate Judiciary Committee, they passed the first landmark piece of genetic privacy legislation that created the property right issue. Adds that the outfall of that bill is that it slowed down the ability to do genetic research by using Oregonians in anonymous blind research tests. Asks how that will affect the anonymous blind research tests of research institutions.
163	Speight	Responds that they can make the “opt out” for anonymous research work, and explains. Says that they want to move this policy issue forward with the leadership of Oregon Health Science University, Kaiser Research Center and others that will be working collaboratively to set some institutional standards.
194	Vice Chair Lowe	Asks how this bill improves Oregon’s already tough privacy policy.
225	Speight	Answers that Oregonians will be protected more securely than under the property rights provisions—the current property rights of DNA are alienable and can be waived. Says that this bill gives an inalienable statutory right to genetic privacy.
263	Vice Chair Lowe	Asks if it is more of an impediment to researchers to have to pay royalties for genetic property than a bill that suggests that they must respect a person’s privacy or get penalized.
272	Sen. Courtney	Responds that the property right issue no longer exists, but now there is an ownership right. Says that he does not know where the royalty issue will go.
297	Fidanque	Asks about knowing violations and if corporations violate will they be on the hook for considerable damages. Says protections will be stronger than the protection of property rights in Oregon.
350	Rep. V. Walker	Inquires about prisoner’s protection of DNA—do they have the same rights to privacy.
368	Speight	Says that their genetic privacy is not protected if necessary for purposes of establishing identification.
TAPE 82, B		
029	Chair Williams	Clarifies and says that in Section 14, subsection 1(b), page 9, a prisoner must be notified of the use of their DNA.
036	Rep. V. Walker	Asks why “insurance provider” has been replaced by “person” in Section 17, page 12.
044	Speight	Answers that he is uninformed about this issue, but tries to explain.
079	Sen. Courtney	Comments that he is not clear on Section 17.
086	Rep. V. Walker	Asks if an insurance company can deny coverage if someone

108	Chair Williams	refuses to take a DNA test.
124	Rep. V. Walker	Says this issue is going to require refining every session. Asks how she would know if she had the ability to “opt out” or not consent to allowing their DNA to be used in a research database.
134	Speight	Answers that he thinks it will be with conformed consent.
158	Fidanque	Comments that this is still a work in progress.
162	Rep. Ringo	Asks about inadvertent violations.
174	Speight	Comments on the potential of mistakes.
187	Sen. Courtney	Gives example of an inadvertent error.
196	Rep. Shetterly	Comments about the criminal statutes and property versus privacy rights.
260	Rep. Ackerman	Comments on the property rights concept.
295	Sen. Courtney	Says that the royalty issue remains open.
308	Rep. Ackerman	States he interprets the work of the advisory committee as refining the legal framework that defines the rights of individuals whose DNA samples are collected, stored and analyzed.
326	Bob Koler	Institutional Review Board Testifies in support of SB 114A.
360	Michael McIlrath	Private Citizen, Eugene, Oregon Testifies in opposition to SB 114A and submits testimony (EXHIBIT H) .
TAPE 83, B		
002	McIlrath	Continues testimony in opposition to SB 114A.
133	Rep. Ackerman	Discusses informed consent and ownership rights and compensation.
149	McIlrath	Says that protecting property and privacy rights together would be the best solution.
181	Chair Williams	Closes the public hearing on SB 114A and opens a work session on SB 114A.
<u>SB 114A WORK SESSION</u>		
186	Chair Williams	MOTION: Moves SB 114A to the floor with a DO PASS recommendation.
187	Rep. V. Walker	Comments on the bill—says that the Legislature will need to work for many years on this issue.
205	Chair Williams	Discusses bill.
213	Rep. Backlund	Expresses that this bill is a good step forward.
223	Vice Chair Lowe	Asks the committee if they are sure that they are not giving up their property rights with this legislation.
229	Chair Williams	Answers that she needs to define that by her own reading of the bill.
240	Rep. Shetterly	Says that the property right issue may someday be a constitutional issue.
250	Vice Chair Lowe	States that she will support the bill.
261	Rep. Ringo	Agrees with Mr. Fidanque.
277	Rep. C. Walker	Says that she did not hear all of the testimony, but will give a courtesy “yes” vote.
290		VOTE: 10-0-1 EXCUSED: 1 - Wilson
291	Chair Williams	Hearing no objection, declares the motion CARRIED. REP. WILLIAMS will lead discussion on the floor.
295	Chair Williams	Closes the work session of SB 114A and opens a public hearing

on SB 95.

SB 95 PUBLIC HEARING

304 **Kevin Mannix**

Attorney, Salem

Testifies in support of SB 95 that expands scope of home visits by probation officers.

352 **Ginger Martin**

Oregon Department of Corrections

Submits testimony and testifies in support of SB 95.

382 Rep. V. Walker

Asks question about walk-throughs.

418 Rep. Ringo

Wonders about the safety of parole officers.

432 Martin

Answers that it is good to know a layout of a home and to know where the exits are and it is not uncommon for firearms to be found.

TAPE 84, A

015 **Bill Houser**

Oregon Criminal Defense Lawyers Association

Testifies in opposition to SB 95 and constitutional issues of privacy.

076 **Paul Snider**

Association of Oregon Counties

Testifies in support of SB 95.

098 Rep. V. Walker

Inquires about home visit searches.

104 Bill Houser

Clarifies that if there is reasonable grounds to ask for a search and if the person refuses then they could be in violation of their probation.

121 Chair Williams

Closes the public hearing on SB 95 and opens a work session on SB 95.

SB 95 WORK SESSION

127 Rep. V. Walker

States that she does not think that this legislation is necessary because if there is a need to search they have that ability now. Feels that when people get out of prison they should have some civil rights.

139 Rep. Backlund

Says that probation officers should be able to search when they think it is necessary.

152 Rep. Ackerman

Agrees with Rep. Backlund and says that he does not think the intrusion is that great.

158 **Chair Williams**

MOTION: Moves SB 95 to the floor with a DO PASS recommendation.

VOTE: 4-6-1

AYE: 4 - Ackerman, Backlund, Krieger, Williams

NAY: 6 - Dingfelder, Lowe, Ringo, Shetterly, Walker C, Walker V

EXCUSED: 1 - Wilson

159 **Chair Williams**

The motion FAILS.

181 Chair Williams

Closes the work session on SB 95 and opens a public hearing on SB 81A.

SB 81A PUBLIC HEARING

187 Vice Chair Lowe

Says that she is deeply concerned about this bill because of its impact on Clackamas County and explains.

189 **Gina Skinner**

Deputy District Attorney, Oregon District Attorneys Association

Testifies in support of SB 81A and discusses the –A4 amendments (**EXHIBIT J**).

200	Chair Williams	Closes the public hearing on SB 81A and opens a work session on SB 81A.
<u>SB 81A WORK SESSION</u>		
206	Chair Williams	MOTION: Moves to ADOPT SB 81-A4 amendments dated 06/06/01. VOTE: 7-0-4 EXCUSED: 4 - Krieger, Lowe, Shetterly, Wilson, Hearing no objection, declares the motion CARRIED.
272	Chair Williams	
345	Chair Williams	MOTION: Moves SB 81A to the floor with a DO PASS AS AMENDED recommendation. VOTE: 7-0-4 EXCUSED: 4 - Krieger, Lowe, Shetterly, Wilson Hearing no objection, declares the motion CARRIED. REP. WILLIAMS will lead discussion on the floor.
348	Chair Williams	
340	Chair Williams	Closes the work session on SB 81A and adjourns the meeting at 10:25 a.m.

Submitted By,

Reviewed By,

Ann Martin
Committee Assistant

Bill Taylor,
Counsel

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EXHIBIT SUMMARY

- A – SB 290A, -A5 amendments, submitted by staff, dated 5/31/01, 6 pp.**
- B – SB 384A, -A12 amendments, submitted by staff, dated 6/4/01, 21 pp.**
- C – SB 419A, -A9 amendments, submitted by staff, dated 5/31/01, 2 pp.**
- D – SB 657A, -A6 amendments, submitted by staff, dated 5/31/01, 4 pp.**
- E – SB 114A, written testimony of Rep. Devlin submitted by staff, dated 6/6/01, 2 pp.**
- F – SB 114A, written testimony submitted by Barney Speight, Kaiser Permanente, dated 6/6/01, 1p.**
- G – SB 114A, written testimony submitted by David Fidanque, ACLU, dated 6/6/01, 2 pp.**
- H – SB 114A, written testimony submitted by Michael McIlrath, Eugene, dated 6/6/01, 4 pp.**
- I – SB 95, written testimony submitted by Ginger Martin, dated 6/6/01, 1 p.**
- J – SB 81A, -A4 amendments, submitted by staff, dated 6/6/01, 1 p.**

HOUSE COMMITTEE ON JUDICIARY

June 06, 2001
4:00 p.m.

Hearing Room 357
Tapes 85

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

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

MEASURE/ISSUES HEARD: **SB 437A 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 85, A		
003	Chair Williams	Calls the meeting to order at 4:00 p.m. and opens the work session on SB 437A.
<u>SB 437A WORK SESSION</u>		
012	Karen Immergut	Multnomah County District Attorneys Office Testifies in support of SB 437A and the -A12 amendments relating to privilege (EXHIBIT A).
053	Scott Gallant	Oregon Medical Association Testifies in support of SB 437A and the -A12 amendments.
064	Alan Tressider	Oregon Psychological Association Testifies in support of SB 437A and the -A12 amendments.
071	Rep. Backlund	Asks about the exclusion of the school counselors.
076	Immergut	Responds yes, they are excluded.
084	Rep. Ackerman	Asks if there is a threshold requirement before a subpoena is issued.
086	Immergut	Responds yes.
096	Rep. V. Walker	Asks about psychologist's support.
099	Tressider	Responds that the amendments have been worked out satisfactorily.
106	Rep. Williams	MOTION: Moves to ADOPT SB 437A amendments dated 6/6/01. VOTE: 11-0-0

