

SENATE COMMITTEE ON JUDICIARY

March 21, 2001 Hearing Room 343

1:00 p.m. Tapes 69-70

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Peter Courtney, Vice-Chair
 Sen. Roger Beyer
 Sen. Ginny Burdick
 Sen. Verne Duncan
 Sen. Steve Harper
 Sen. Rick Metsger

STAFF PRESENT: **Marilyn Odell, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 704 Public Hearing**
 SB 647 Public Hearing
 SB 773 Public Hearing

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 69, A		
004	Chair Minnis	Calls the meeting to order at 1:35 and opens a public hearing on SB 704.
<u>SB 704 PUBLIC HEARING</u>		
014	Sen. Frank Shields	Senate District No. 9 Submits testimony and testifies in support of SB 704 relating to persons authorized to solemnize marriages; declaring an emergency (EXHIBIT A). Says this bill would delete the requirement to file the "affidavit of Authority to Perform Marriages" and replace it with a requirement that the clergyperson who performs the marriage return to the county clerk after the marriage with an appropriate certificate.
041	Chair Minnis	Asks about the role of the county clerk.
043	Sen. Shields	Replies that the county clerks did not want the responsibility of determining who was/was not qualified to perform marriages, so the law was changed in 1999 passing that responsibility on to the denominations.
076	Chair Minnis	Asks who will develop the new form.
078	Sen. Shields	Says that in the past it has been done at the county level as part of the marriage license and would incur very little cost.
152	Sen. Harper	Asks if we are trading an affidavit for a signature line on the certificate.
157	Sen. Shields	Replies, yes. Explains that the county just wanted out of the business of keeping records.
195	Sen. Duncan	Asks about "authority" in the marriage vows.
209	Sen. Shields	Replies that the person performing the marriage still has

211	Bob Castagna	authority by the state as stated in the vows. Oregon Catholic Conference States that the Catholic church has concerns about the bill and would like time to discuss them with Sen. Shields.
233	Sen. Metsger	Asks what the concerns are.
236	Castagna	Replies that the Catholic church wants some form of official record of authorization to perform marriages as well as revocations. Says this bill will delete these provisions.
247	Vice Chair Courtney	Closes the public hearing on SB 704 and opens a public hearing on SB 647.

SB 647 PUBLIC HEARING

254	Sen. Kate Brown	Senate, District 7 Testifies in support of SB 647 relating to personal information in records. Says this bill would help to prevent the crime of theft and check fraud through shredding or deleting of records by businesses and government agencies before disposal.
304	Rep. Jeff Merkley	House District 17 Testifies in support of SB 647. Says that this bill addresses several areas of technology. Talks about his experience having someone forge his name on a check and the consequences.
372	Sen. Harper	Wonders if we aren't going after the innocent people instead of the guilty.
380	Sen. Brown	Replies that this bill helps prevent the crime before it begins.
420	Rep. Merkley	Replies that this is an extension of good stewardship.
448	Sen. Burdick	Asks if under current law any victim has brought a civil lawsuit against people who dispose of records.

TAPE 70, A

023	Sen. Brown	Replies not to her knowledge.
032	Sen. Beyer	Talks about the bill he was involved with last session and contends that this bill puts additional burden on business and government and drives costs up for the consumer.
054	Sen. Brown	Responds that she feels that the costs would be insignificant.
063	Chair Minnis	Asks what the penalty is under current law for taking personal information out of a dumpster.
066	Sen. Beyer	Replies, person crime (identity theft, Class A misdemeanor).
085	Sen. Duncan	Asks what assurance he has that his personal information is being handled appropriately.
105	Counsel Odell	Indicates that identity theft is a Class C felony.
111	Sen. Metsger	Says there should be a penalty for carelessness of handling personal information.
156	Rep. Merkley	Gives an example of how much carelessness there is in handling personal records.
173	Chair Minnis	Talks about the identity theft issue and the increases that are being seen by the federal government, particularly in the area of internet theft.
206	Charlie Williamson	Commercial Information Systems Testifies in support of the concept of SB 647 but thinks it needs work.
257	Chair Minnis	Closes the public hearing on SB 647 and opens a public hearing on SB 773.

SB 773 PUBLIC HEARING

265	Sen. Kate Brown	Senate District 7
-----	------------------------	--------------------------

277	Mark Kramer	Introduces SB 773 relating to tort claims against public bodies and introduces Mark Kramer. Private Law Practice, Portland, OR Submits testimony and testifies in support of SB 773 (EXHIBIT B). Says that under current law a child in the custody of Services to Children and Families (SCF) or the Oregon Youth Authority (OYA), who is injured by a public body, has no one to give notice for him or her. Explains that the -1 amendment would apply the exemption to all claims against public bodies, but only when a public body had custody of a child when the claim arose (EXHIBIT C).
411	Sen. Burdick	Asks the purpose of the tort claim notice.
413	Kramer	Replies that it puts the state on notice that there may be a lawsuit coming.
420	Sen. Burdick	Asks if the tort claim requirement were removed, what rights would the state have to pursue other options.
426	Kramer	Replies that in the example he gave, the state knew what had happened.
443	Sen. Burdick	Asks if there is another type of notice that could be given.
455	Kramer	Suggests two potential remedies.
TAPE 69, B		
027	Sen. Brown	Says that SCF has been fairly responsive to this bill.
038	Chair Minnis	Asks who gives notice.
045	Sen. Brown	Replies that under current tort claims act there is no one to give notice on behalf of a child.
062	Sen. Harper	Wonders about SCF giving notice to itself and indicates that SCF is not just one person.
07	Kramer	Replies that it is potentially possible.
097	Mike Hansen	Marion County Legal Counsel Testifies in opposition to SB 773. Talks about the Oregon Tort Claims Act and states that it is a rule that applies to everyone. Says this bill creates an exception and wonders where exceptions will stop.

157	Chair Minnis	Asks how a non-communicative child in the custody of the state would file a tort claim notice and meet the statutory requirement.
168	Hansen	Gives example of potential to give notice. Says he is concerned about the word “custody” and asks if that word is clearly defined and understood as it appears in this bill.
236	Sen. Metsger	Asks if there might be an inherent conflict of interest.
273	Kramer	Says that there is a question raised here, however he is still concerned about how many exemptions may follow.
300	Sen. Metsger	Asks if this is an issue that needs to be dealt with.
309	Kramer	Says he does not have the knowledge to respond.
326	Mike Dwyer	Private Law Practice, Portland, OR Testifies in support of SB 773. Talks about those children in the custody of SCF who are most often the victims of injury and why it is difficult for them to be represented through tort claim.
TAPE 70, B 068	Kathie Osborn	Juvenile Rights Project (JRP) Testifies in support of SB 773. Says JRP has filed tort claims for children, but they are uneasy doing so because of malpractice insurance issues.
107	Chair Minnis	Closes the public hearing on SB 773 and adjourns the meeting at 3:05 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Marilyn Odell,
Counsel

EXHIBIT SUMMARY

- A – SB 704, written testimony submitted by Sen. Frank Shields, 1 p**
- B – SB 773, written testimony submitted by Mark Kramer, 6 pp**
- C – SB 773, -1 amendments submitted by staff, dated 3/19/01, 1 p**