

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

May 18, 1999 Hearing Room 357

1:00 p.m. Tapes 166

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Larry Wells

Rep. Bill Witt

MEMBER EXCUSED: Rep. Vicki Walker

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: SB 6 - Public Hearing & Work Session

SB 397A - Public Hearing & 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 166, A		

003	Chair Shetterly	Calls meeting to order at 1:37 p.m.
<u>SB 6 - PUBLIC HEARING</u>		
008	Counsel Felton	SB 6 provides statutory civil action against person who wrongfully takes or appropriates money or property of elderly or incapacitated person, without regard to whether person taking or appropriating money or property has fiduciary relationship with elderly.
015	Chair Shetterly	Closes public hearing.
<u>SB 6 - WORK SESSION</u>		
020	Rep. Edwards	MOTION: Moves SB 6 to the floor with a DO PASS recommendation.
023	Rep. Wells	Is the purpose of SB 6 to clarify language regarding a fiduciary?
028	Chair Shetterly	Yes.
031	Rep. Uherbelau	Fiduciary means a relationship of trust, such as a family member that you know and trust.
037	Chair Shetterly	Explains the language "fiduciary relationship" in SB 6.
048	Rep. Wells	Who does it refer to in the language "taking action in behalf of" in SB 6?
050	Chair Shetterly	Explains how a guardian or conservator could bring action on behalf of an elderly or incapacitated person.
052	Rep. Wells	Where in SB 6 does it explain and define a guardian or conservator?
053	Counsel Felton	The explanation of who can take action is found on line 17, page 1 of SB 6.
058	Rep. Wells	Why would a person need to be 65 years or older to take action against a person who wrongfully takes money from the elderly or incapacitated?
064	Counsel Felton	Only the person who was the victim needs to be 65 years or older, not the person taking action on behalf of the victim.
065	Rep. Uherbelau	There are other statutes that address the situation where the victim is under 65 years of age.

069	Rep. Wells	Is there a provision for siblings to bring action on behalf of the elderly or incapacitated?
071	Chair Shetterly	The sibling would have to be a guardian, conservator, or an attorney to be able to bring action on behalf of the victim.
		<p>VOTE: 8-0</p> <p>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Wells, Williams, Witt, Shetterly</p> <p>EXCUSED: 1 - Walker</p>
	Chair Shetterly	<p>The motion CARRIES.</p> <p>REP. BACKLUND will lead discussion on the floor.</p>
<u>SB 397A n PUBLIC HEARING</u>		
086	Counsel Felton	SB 397A clarifies types of arguments that may be made by lay and agency representatives authorized to appear in contested case hearings conducted by state agencies.
100	Amy Veranth	<p>Assistant Attorney General, Department of Justice</p> <p>Testifies and submits written testimony in support of SB 397A (EXHIBIT A). Discusses the purpose of SB 397A concerning persons other than attorneys arguing in contested case hearings. Explains the Attorney General's Model Rules that defines the scope of argument at contested case hearings.</p>
120	Rep. Uherbelau	Asks for explanation of the fine line drawn by the Attorney General between what the agency could or could not do concerning legal representation.
133	Veranth	The fine line that the Attorney General has drawn represents what the agencies could do on their own concerning legal representation.
153	Chair Shetterly	Does SB 397A clarify what a non-attorney representative could do at a hearing?
155	Veranth	SB 397A prohibits non-attorney representatives from making legal arguments.
173	Carl Myers	<p>Oregon State Bar</p> <p>States that the Oregon State Bar is in agreement with SB 397A.</p>

186	Rep. Uherbelau	Asks if SB 397A refers to lay people who can represent an argument at a hearing.
187	Myers	Explains the situations where lay people can represent an argument at a hearing.
191	Veranth	There is a list of agencies in SB 397A that specify who can represent their agency in a hearing.
198	Chair Shetterly	Closes public hearing.
<u>SB 397A n WORK SESSION</u>		
200	Rep. Witt	MOTION: Moves SB 397A to the floor with a DO PASS recommendation.
		VOTE: 7-1 AYE: 7 - Backlund, Edwards, Uherbelau, Wells, Williams, Witt, Shetterly NAY: 1 - Lowe EXCUSED: 1 - Walker
Chair Shetterly		The motion CARRIES. REP. WITT will lead discussion on the floor.
215	Chair Shetterly	Adjourns meeting at 1:50 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,

Administrative Support Counsel

EXHIBIT SUMMARY

A - SB 397A, Written testimony, Amy Veranth, p. 1