

## SENATE COMMITTEE ON JUDICIARY

June 07, 1999 Hearing Room C

3:00 PM Tapes 216 - 219

**MEMBERS PRESENT:** Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Duncan

Sen. Nelson

Sen. Tarno

**STAFF PRESENT:** Bill Taylor, Counsel

Kathy Courtney, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2494A 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
<b>TAPE 216, SIDE A</b>		
004	Chair Bryant	Calls meeting to order at 3:08 PM.
<b><u>HB 2494A PUBLIC HEARING</u></b>		
062	Rep. Kathy Lowe	<b>State Representative, House District 26</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT A)</b> Asserts that legal protections from abuse and harm should apply to all children. Explains why spiritual treatment must not continue to be an automatic shield for parents' failure to give children viable medical treatment.

131	Larry Lewman	<p><b>State Medical Examiner's Office, Forensic Pathologist</b></p> <p>Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT B)</b>  Discusses federal statutes and grants relating to child abuse prevention in the early 1970s. Discusses the recent deaths of children from the Followers of Christ Church in Oregon City. Relates stories and cites statistics regarding this group. Asserts that HB 2494A addresses a life and death issue, not a religious issue.</p>
304	Donald H. Turner	<p><b>Willamette University College of Law, Professor</b></p> <p>Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT C)</b>  Discusses the constitutional basis of HB 2494A. Explains the necessity for laws to be neutral in relation to religious orientation and general in effect.</p>
<b>TAPE 217, SIDE A</b>		
004	Turner	Continues discussion about the ramifications of removing religious exemptions from specific laws. Asserts that uniformity and clarity in exemptions is essential.
069	Sen. Nelson	Historically, why did the federal statutes contain a religious exemption?
073	Turner	Exemptions were included to ensure protection for religious groups.
086	Sen. Courtney	If a parent knew that an untreated medical condition could result in death and withheld medical treatment, what criminal offense would apply if the child died?
090	Turner	Discusses criminal offenses which may apply including Criminally Negligent Homicide.
098	Sen. Courtney	Does Murder by abuse or neglect apply to the situations within the scope of HB 2494A?
115	Turner	Not generally. One must show extreme indifference to the value of a human life for Murder by abuse or neglect to apply.
126	Sen. Courtney	HB 2494A must be neutral and of general application to withstand constitutional challenges, correct?
132	Turner	Explains the necessity to remove the religious exemption from child abuse reporting statutes and related laws.
137	Sen. Courtney	Does the lack of a religious exemption imply that there is a constitutional prohibition against allowing one?
145	Turner	No.

157	Sen. Brown	What is your rationale for setting the age limit of a child at 14 years old or younger in HB 2494A?
164	Rep. Lowe	Rep. Prozanski supports fourteen years old or younger for consistency with other statutes relating to children. Explains the legislative history of HB 2494A on the House side. Discusses the HB 2494A ñA13 amendments which reflect the original billís definition of children as under 18 years old. <b>(EXHIBIT D)</b>
254	<b>Rep. Bruce Starr</b>	<b>State Representative, House District 3</b>  Testifies and submits proposed ñA10 amendments in support of HB 2494A. <b>(EXHIBIT E)</b> Discusses the legislative history of HB 2494A on the House side. Asserts that the state has a compelling interest to intervene to protect childrenís lives when parents ill-advisedly refuse to secure medical treatment for them.
381	Chair Bryant	Discusses the recent deaths of children from the Followers of Christ church families. Explains that the Clackamas County District Attorney could have brought charges against the victimsí parents.
<b>TAPE 216, SIDE B</b>		
017	Chair Bryant	Discusses the rationale for allowing an affirmative defense for specific crimes.
053	<b>Dale Penn</b>	<b>Marion County District Attorney</b>  Testifies in support of HB 2494A. Discusses the legal issues and inconsistency in allowing the affirmative defense in related crimes including murder, manslaughter and criminal negligence. Explains the necessity to determine if a crime has been committed by a parentsí refusal to secure medical treatment for a critically ill child.
123	Sen. Burdick	Do you recommend removing the spiritual treatment defense wherever it appears in statute for consistency?
135	Penn	Yes.
138	<b>Susan King</b>	<b>Oregon Nurses Association</b>  Testifies in support of HB 2494A. Discusses her emergency care experience and the necessity for people to maintain control over their medical situation. Asserts that children deserve proper medical care.
179	<b>Jeff Green</b>	<b>Clackamas County Sheriffís Office, Detective</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT F)</b> Relates story of a childís death whose father refused to seek medical treatment for the child. Asserts that the spiritual treatment defense allowed the father to sacrifice his child with no legal ramifications.

238	Chair Bryant	Was a charge of Criminally Negligent Homicide an option in that case?
245	Green	Perhaps, but my role was only to investigate the case.
274	Duncan	How did you become involved in the case?
275	Green	A member of the Followers of Christ church notified the Oregon Health Division shortly after the death.
297	Sen. Tarno	Are you a medical examiner?
298	Green	No.
315	<b>Victor Congleton</b>	<b>State Office for Services to Children and Families (SCF)</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT G)</b> Compares the original bill as introduced and the A-engrossed version. Explains how the HB 2494A ñA13 amendments restores the bill to provide protection for Oregon children.
347	<b>Grant Higginson, M.D.</b>	<b>Oregon State Health Division, State Health Officer</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT H)</b> Asserts that a parent is negligent to fail to secure medical treatment for a child who is critically ill. Discusses the inadequacy of the ñA10 amendments. Discusses how the ñA13 amendments end the ambiguity in the statutes.
<b>TAPE 217, SIDE B</b>		
012	<b>Wendy Bourg</b>	<b>Oregon Professional Society on the Abuse of Children</b>  Testifies and submits written testimony in support of HB 2494A -A13. <b>(EXHIBIT I)</b> Explains that a parent's religious freedom does not supercede a child's right to life and viable medical treatment.
065	Sen. Brown	Do you have the duty to notify SCF when a child dies as a result of spiritual treatment?
038	Higginson	Yes, but why not report directly to SCF which has investigative authority?
043	Sen. Brown	Would a child be removed from the home if the parents refused to secure medical treatment for him or her?
044	Congleton	That would depend on the facts of a specific case.

052	Sen. Brown	Ms. Bourg, what is your agency's opinion on the age limit of 14 years old for a dependent child?
056	Bourg	The Oregon Professional Society on the Abuse of Children hasn't specifically reviewed the age component.
070	<b>Bruce Fitzwater</b>	<b>Christian Scientist Church, Practitioner</b>  Testifies and submits written testimony in opposition to HB 2494A. <b>(EXHIBIT J)</b> Asserts that parents have sovereign rights to select the appropriate health care for their children. Asserts that government should not intervene unless the parents are ineffective in meeting a child's needs. Explains that past failures with a spiritual treatment must not dictate law.
222	<b>Steve Moulton</b>	<b>Christian Scientist Church Member</b>  Testifies and submits written testimony in opposition to HB 2494A. <b>(EXHIBIT K)</b> Asserts that enforcement of existing law is the essential to address children's access to healthcare. Relates personal stories of spiritual healing in dire physical circumstances.
366	Chair Bryant	Are you allowed to seek medical treatment if spiritual treatment of an ailment is ineffective?
377	Moulton	I am free to make a decision regardless of the Christian Scientist Church position.
001	Fitzwater	Discusses the exceptions to a Christian Scientist's freedom to seek medical treatment without church sanction.
018	Sen. Courtney	Are you held to a higher standard as a Christian Scientist leader?
019	Fitzwater	Yes. I am not free to seek medical treatment without church sanction.
020	Sen. Burdick	And your children?
021	Fitzwater	No, nor is my wife.
030	Sen. Duncan	So, if you as a leader intervened in a pending death situation, would you advise the parents to seek medical treatment for the child?
031	Fitzwater	No. I would pray very hard from the very beginning. Explains that his office does not recommend medical treatment. I would have to withdraw my services if the family did not hold to that standard.

058	Chair Bryant	Are the "Followers of Christ" and a "christian scientist" part of the same sect?
059	Fitzwater	No.
<b>065</b>	<b>Connie Eldridge-Pedersen</b>	<b>Christian Scientist, Psychologist</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT L)</b> Discusses personal illness and spiritual treatment. Asserts that christian scientists are law-abiding citizens.
233	Sen. Brown	What is your position on the HB 2494A ñA13 amendments which relate to the child abuse reporting statutes? Doesnít it place all children on an equal plane in regard to protection from harm?
145	Fitzwater	No. Itís not an equal footing because society defaults to medical treatment, not spiritual treatment.
309	Sen. Burdick	Some medical situations are not life threatening but are quite painful. What is your solution for chronic suffering?
318	Pederson	Christian scientists treat chronic suffering with spiritual treatment.
349	Sen. Courtney	Do you make any distinction between illness and an accident?
354	Fitzwater	No, because we believe in Godís total care.
382	Connie	I canít pick and choose as a christian scientist. Iím dedicated to principles that are sometimes difficult to bear.
<b>TAPE 217, SIDE B</b>		
003	Sen. Duncan	Discusses the current allowance for prosecution of parental negligence in our current laws.
<b>021</b>	<b>Rep. Juley Gianella</b>	<b>State Representative, House District 38</b>  Testifies and submits written testimony in support of HB 2494A. <b>(EXHIBIT M)</b> Discusses how the offenses penalties for HB 2494A are not balanced. Asserts that the penalty which includes the shortest jail time is a fitting deterrent.
<b>085</b>	<b>Rep. Floyd Prozanski</b>	<b>State Representative, House District 40</b>  Testifies and submits proposed amendments in support of HB 2494A. <b>(EXHIBIT N)</b> Asserts that the minority report balances parentsí blatant failure to secure medical treatment for a child with parentsí obligation to care for their

		children. Discusses the HB 2494A ñA14 amendments drafted by Services to Children and Families (SCF) which relate to criminal penalties.
161	Chair Bryant	Expresses concern about the prosecutionís use of stringent penalties to plea bargain.
163	Rep. Prozanski	Thatís true, but the stringent HB 2494A ñA14 penalties could encourage parents to opt for lesser sentences and waive rights to appeal.
172	Sen. Brown	Are the amendments included in the minority report? Why?
180	Rep. Prozanski	Discusses the allowances for parents to follow their religious orientation.
210	Nicki Hudson	<b>Christian Scientist, Mathematics Teacher</b>  Testifies and submits written testimony in opposition of HB 2494A. <b>(EXHIBIT O)</b> Discusses her personal choice to approach life crisis with prayer. Asserts that all health treatment orientations have successes and failures.
273	Gwendolyn Whitmore	<b>Christian Scientist, English Teacher</b>  Testifies and submits written testimony in opposition to HB 2494A. <b>(EXHIBIT P)</b>  Relates personal stories about the effectiveness of spiritual healing in family medical situations. Asserts that the right to responsible parenting and intelligent healing must be protected.
<b>TAPE 218, SIDE B</b>		
001	Sen. Duncan	Asserts that the current laws would not stop christian scientists from following their beliefs.
010	Whitmore	True, but this bill would make me report each part of the process in my healing decisions.
027	Kenneth E. Bemis	<b>Christian Scientist, Attorney</b>  Testifies and submits written testimony in opposition to HB 2494A. <b>(EXHIBIT Q)</b> Asserts that parents do not force their children to rely on spiritual healing. Relates personal stories of spiritual healing of physical ailments.
078	Sen. Brown	The goal of the child abuse reporting statutes is to identify children who are in abusive home situations.
085	Bemis	Concedes that abuse was probably an issue in the childrenís deaths in Oregon

		City. Explains that not all spiritual healing is the same.
090	Counsel Taylor	The orientation to rely on spiritual healing is the same.
093	Bemis	Asserts that the results, not the means are the essential issue in healing.
<b>118</b>	<b>Doug VandeGriend</b>	<b>Western Center For Law and Religious Freedom</b>  Testifies in opposition to HB 2494A. Asserts that the criminal penalties are too punitive and the state should only intervene in family health care decisions in life threatening situations.
206	Sen. Brown	The current laws relating to spiritual treatment exemptions are inconsistent and ambiguous. Shouldn't we make such laws consistent?
210	Doug	Yes.
<b>219</b>	<b>Karen Davis</b>	<b>Christian Scientist</b>  Testifies and submits written testimony in opposition to HB 2494A. <b>(EXHIBIT R)</b> Asserts that HB 2494A focuses inappropriately on "medical care" instead of overall health care. Explains that the goal rather than the method should be the focus of the spiritual treatment debate.
263	Sen. Burdick	Doesn't the term "medical care" encompass your idea of healing?
264	Davis	No, it's health care.
268	Sen. Brown	Can spiritual healing be classified as an alternative method of healing?
275	Davis	Explains that spiritual healing promotes overall wellness and the government should not dictate the method.
<b>310</b>	<b>Carl Grossman</b>	<b>Christian Scientist</b>  Testifies in opposition to HB 2494A. Discusses the failures of western medicine and relates personal stories of spiritual healing.
425	Chair Bryant	Adjourns hearing at 6:20 PM.



Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

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**EXHIBIT SUMMARY**

- A. Written testimony in support of HB 2494A, Rep. Kathy Lowe, 5pp**
  - B. Written testimony in support of HB 2494A, Larry Lewman, 7pp**
  - C. Written testimony in support of HB 2494A, Donald Turner, 6pp**
  - D. HB 2494A ñA13 proposed amendments, Bill Taylor, 5pp**
  - E. HB 2494A ñA10 proposed amendments, Bill Taylor, 7pp**
  - F. Written testimony in support of HB 2494A, Jeff Green, 2pp**
  - G. Written testimony in support of HB 2494A, Victor Congleton, 2pp**
  - H. Written testimony in support of HB 2494A, Grant Higginson, 2pp**
  - I. Written testimony in support of HB 2494A, Wendy Bourg, 1p**
  - J. Written testimony in opposition to HB 2494A, Bruce Fitzwater, 9pp**
  - K. Written testimony in opposition to HB 2494A, Steve Moulton, 10pp**
  - L. Written testimony in opposition to HB 2494A, Connie Pederson, 4pp**
  - M. Written testimony in support of HB 2494A, Rep. Juley Gianella, 1p**
  - N. HB 2494A ñA14 proposed amendments, Bill Taylor, 3pp**
  - O. Written testimony in opposition to HB 2494A, Nicki Hudson, 2pp**
  - P. Written testimony in opposition to HB 2494A, Gwendolyn Whitmore, 4pp**
  - Q. Written testimony in opposition to HB 2494A, Kenneth Bemis, 8pp**
  - R. Written testimony in opposition to HB 2494A, Karen Davis, 2pp**
  - S. Written testimony in opposition to HB 2494A, Carl Grossman, 2pp**
  - T. Written testimony in opposition to HB 2494A, Sandra Nelson, 1p**
  - U. Written testimony in support of HB 2494A, Jim Spinden, 2pp**
  - V. Written testimony in support of HB 2494A, Donna Kelly, 3pp**
  - W. Written testimony in opposition to HB 2494A, Elizabeth Lindsey, 2pp**
  - X. Review of HB 2494A, Bill Taylor, 6pp**
  - Y. Written testimony with neutrality to HB 2494A, Ingrid Swenson, 1p**
  - Z. American Academy of Pediatrics article relating to HB 2494A, Bill Taylor, 2pp**
- AA. Written testimony in support of HB 2494A, James Lace, 2pp**
- BB. Written testimony in support of HB 2494A, Lisa Ellis, 33pp**
- CC. Written testimony in support of HB 2494A, Russell Briggs, 8pp**