

**HOUSE COMMITTEE ON JUDICIARY**

**June 12, 1997 Hearing Room HR 357**

**1: 00 P.M. Tapes 53 - 56**

**MEMBERS PRESENT:**

**Rep. John Minnis, Chair**

**Rep. Floyd Prozanski, Vice-Chair**

**Rep. Roger Beyer**

**Rep. Jo Ann Bowman**

**Rep. Peter Courtney**

**Rep. George Eighmey**

**Rep. Lane Shetterly**

**Rep. Charles Starr**

**Rep. Ron Sunseri**

**Rep. Judy Uherbelau**

**Rep. Larry Wells**

**STAFF PRESENT:**

**William E. Taylor, Counsel**

**Dave Amesbury, Counsel**

**Nikola Jones, Counsel**

**Scott Lumsden, Counsel**

**Lauri A. Smith, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 768 and SB 689A - Work Session**

**SB 253A, SB 405A, SB 494A, and HB 2233 - Public Hearing**

**SB 413A, SB 1049A, and SB 1101A**

**- 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
<b>Tape 53, A</b>		
003	Chair Minnis	Calls the meeting to order at 1:15 p.m.
<b><u>SB 1101A - PUBLIC HEARING</u></b>		
004	Chair Minnis	Opens a public hearing on SB 1101A.
006	Hardy Myers	Attorney General for the State of Oregon Testifies in support of SB 1101A. Provides the intent behind SB 1101A.
050	Chair Minnis	There has was concern about the accountability functions that Department of Human Resources (DHR) held prior to this transfer accountability. Could you address how that was resolved?
055	Myers	Responds DHR will ultimately be responsible under this measure and gives the immediate administrative role to the Department of Justice Support Enforcement Division (SED).
095	Phil Yarnell	Department of Human Resources and Director of Oregon Child Support Program. Testifies in support of SB 1101A. >measure will aide in identifying responsibility of functions between DHR and SED >better use of resources for departments
109	Cindy Chinnock	Administrator of the Support Enforcement Division of the Department of Justice Testifies in support of SB 1101A. >provides the intent behind the measure.
159	Chinnock	Continues testimony.
		Continues testimony. >DHR will no longer after transfer handle the operational role in the accounting functions

163	Yarnell	>DHR will remain the agency responsible for federal compliance DHR will be responsible for the child support program policy, obtaining the federal financial match for each partner operating in the program, and for oversight.
174	William E. Taylor	Counsel Do the -A4 amendments dated 05/21/97 superseded the -A3 amendments dated 05/15/97? ( <b>EXHIBIT A</b> )
176	Yarnell	Yes.
177	Taylor	The committee need not look to the -A3 amendments as far as your concerned?
179	Yarnell	Yes.
183	David Nebel	Oregon Law Center Testifies in support of SB 1101A and the -A4 amendments.
190	Chair Minnis	Closes the public hearing on SB 1101A.
<b><u>SB 1101A - WORK SESSION</u></b>		
192	Chair Minnis	Opens a work session on SB 1101A.
195	Rep. Eighmey	Refers to the -A5 amendments dated 06/04/97 and provides the intent behind the amendments ( <b>EXHIBIT B</b> ).
222	<b>Rep. Eighmey</b>	<b>MOTION: Moves to ADOPT SB 1101A-4 amendments dated 05/21/97.</b>
225		<b>VOTE: 8-0</b> <b>EXCUSED: 3 - Rep. Courtney, Rep. Sunseri, Rep. Uherbelau</b>
	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
227	<b>Rep. Eighmey</b>	<b>MOTION: Moves to ADOPT SB 1101A-5 amendments dated 06/04/97.</b>
229	Rep. Beyer	Are the -A5 amendments similar to HB 2315 with the exception of page 4, line 18 of the -A5 amendments changing the age from 18 to 21?
231	Rep. Eighmey	Correct.
235	Taylor	Explains the intent behind -A5 amendments change from HB 2315.
242	Rep. Beyer	"That was all in HB 2315, correct?"
		HB 2315 as it was passed out of the committee stop child support

244	Taylor	payment at 20 years of age. The -A5 amendments restores the current law till age 21, but with the conditions of a "C-average" and to notify parent when cease to be a child attending school.
248	Rep. Beyer	"Current law says at 18 years of age or under 21?" Then at age 21 child support payments will cease?
250	Taylor	Yes.
256	Rep. Prozanski	Explains reason for "yes" vote, but I would like the know that if the -A5 amendments fails on the Senate side that the -A5 amendments could be stripped out?
269	Rep. Eighmey	The SED would need to battle for the -A5 amendments to continue into SB 1101A.
274	Chair Minnis	I don't believe there will be a problem nor a conference committee.
278		<b>VOTE: 9-0-2</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Rep. Courtney, Rep. Sunseri</b>
	Chair Minnis	<b>The motion CARRIES.</b>
288	Rep. Eighmey	<b>MOTION: Moves SB 1101A to the floor with a DO PASS AS AMENDED recommendation.</b>
292		<b>VOTE: 9-0-2</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Rep. Courtney, Rep. Sunseri</b>
	Chair Minnis	<b>The motion CARRIES.</b> <b>REP. EIGHMEY will lead discussion on the floor.</b>
301	Chair Minnis	Closes the work session on SB 1101A.
<b><u>SB 689A - PUBLIC HEARING</u></b>		
302	Chair Minnis	Opens a public hearing on SB 689A.
320	Rep. Shetterly	Were you involved or your office involved with the work group on SB 689A?
322	Hardy Myers	Attorney General for the State of Oregon I was not involved in the work group on SB 689A.
		Refers to page 2, lines 17 through 25, do you see this section as either

324	Rep. Shetterly	creating or expanding on private action of a child or by a guardian on behalf of the child might have against the state in terms of what seems a very substantial obligation to create a permanent home for the child? I spoke with Timothy Travis, of Juvenile Projects, Inc. and I was assured that this is not an expansion. I don't know, this section seems quite broad to me.
364	Myers	I am not sure if I can respond on this point. I was not personally involved but the department was represented through one or two individuals. I do not know to what extent this question was considered in the context of the work group. I could gather further information for the committee.
380	Chair Minnis	Clarification to the question presented by Rep. Shetterly would be helpful for the committee.
393	Nancy Miller	<p>Citizen Review Board (CRB)</p> <p>Testifies in support of SB 689A and presents -A4 amendments dated 06/05/97 (<b>EXHIBIT C</b>).</p> <p>&gt;refers to <u>Section 9</u>, deletes the permanent guardianship language out of the termination statute and reinserted in <u>Section 3</u>.</p> <p>&gt;refers to <u>Section 10</u>, deleted by the -A6 amendments dated 06/10/97 (<b>EXHIBIT P</b>) and replaced with language which amends a different section of ORS 419B.</p> <p>There are two ways a children can be removed from home: 1) by a court order or 2) by the agency and law enforcement with a hearing the following day.</p> <p><u>Section 10</u> requires the officer to submit documentation of the reasonable efforts made to prevent the placement into protective custody before requesting a court order or at the next day shelter hearing, if the child was removed without an order. This section will protect the rights of parents of children to remain in their homes unless removal has to occur.</p>
443	Miller	<p>Continues testimony.</p> <p>Per the federal laws, children can only be removed from home, if they are imminent danger or when reasonable efforts have been made to provide services to return the child home and those services have not provided for the child to remain safe.</p>
465	Chair Minnis	"Specifically which sections?"
		<p>&gt;refers to <u>Section 10</u>, amended by the -A6 amendments and to <u>Section 15</u> and <u>Section 19</u> which will be discussed later.</p> <p>&gt;refers to <u>Section 10</u>, also includes an active efforts requirement, if the case is under Indian Child Welfare Act (ICWA).</p>

		>refers to <u>Section 11</u> , previously deleted by an amendment.
467	Miller	>refers to <u>Section 12</u> , deleted by the -A4 amendments. The intent of Section 12 was to insure that if a child was removed from a parent and a non-custodial parent is an adequate parent that the child could be returned or placed with the non-custodial parent.
<b>Tape 54, A</b>		
030	Miller	Continues testimony. >refers to <u>Section 12</u> of the -4A amendments, changing the consolidation statute in the juvenile code. Gives example of a consolidation order action. If you have a non-biological parent it is now easier to obtain custody of the child.
041	Chair Minnis	"If we do this, do we provide counsel?"
042	Miller	Parents are entitled to counsel under certain circumstances in dependency cases.
043	Chair Minnis	"Your switching this from having going back to the court that gave the original custody or divorce decree. I do not know if they are allowed state paid counsel in that event? But if we switch it to juvenile court proceedings, do we now then provide counsel at state expense?"
048	Miller	No new counsel would be provided that wouldn't already be available rights to parents. Per discussion with Ann Christian, Director of Indigent Defense Fund, there is no anticipated increase to the cost of the fund. The -A4 amendments in <u>Section 12</u> would not newly entitle a parent to counsel.
056	Rep. Bowman	Would the court advocates that work on behalf of the children, they would be there representing the child?
058	Miller	Yes.
059	Rep. Bowman	"So there would be legal counsel for the child but not necessarily for the parents?"
060	Miller	Children aren't entitled to counsel in every dependency court proceeding. A child is entitled to counsel if someone requests. There are not always attorneys appointed in every case for children and parents. This differs from county to county.
063	Chair Minnis	"Who is the someone that requests?"
064	Miller	Any party can request can request counsel. Gives examples.
067	Chair Minnis	"So suffice it to say, it happens in most instances."
068	Miller	In Multnomah county, most children get attorneys but when the Citizen Review Board did our juvenile court improvement project, that is not the case. It is not standard around the state.
		There had been consideration at one time, that consolidation action would

071	Rep. Eighmey	<p>come before the family court judges. However, the concern over this move was that family court judges generally don't know about juvenile court matters especially if they are going to consolidate the juvenile matters with the custody hearing. Do you know the outcome of this consideration?</p>
079	Miller	<p>There is a statute enacted in 1993, that makes the formation of family courts discretionary by a local court under Chief Justice order. There are two pilot family court counties. Gives examples of the family court programs in Deschutes and Multnomah County. Some counties may only have one judge handling all portions of the divorce proceedings.</p> <p>The consolidation language though, in terms of the juvenile court and domestic relations court cases is mandatory under ORS 419B242. It is now a matter of where it is taking place.</p> <p>&gt;refers to <u>Section 13</u> , lays out the obligations of the state office for Services to Children and Families (SCF) in developing case plans. Explains current proceedings in case planning. This section would identify the case plan up front and make the parents aware of the expectations of them.</p> <p>There is a rebuttable presumption that if it is in the best interest of the child to implement that plan and SCF has taken reasonable efforts to provide all those services and twelve months after the child was found within the jurisdiction of the court, the child could not be returned to the parents because the parents have been unable or unwilling to adjust their circumstances.</p>
129	Miller	<p>Continues testimony on <u>Section 13</u> of the SB 689A</p> <p>There has been a lot of press time that SB 689A creates a clear twelve month time line from placement. That is not what SB 689A does.</p> <p>SB 689A creates a rebuttable presumption that after twelve months after having been found to be within the jurisdiction of the court. Jurisdiction over the child is created after ninety days.</p> <p>SB 689A establishes that the courts will wait until the courts have taken jurisdiction, finding that the allegations of the petitions are true, before the time line of the twelve months begins. A protection for parents.</p>
134	Chair Sunseri	<p>Could you delineate a hypothetical case plan that would be set up for parents?</p>
138	Miller	<p>Gives an example of a case plan created for parents.</p> <p>&gt;refers to <u>Section 15</u>, lays out how the reasonable effort is determined.</p> <p>&gt;either the court or CRB will review no later than six months after placement of a child in the legal custody of SCF</p>

		>review services provided to the parents to take care of the problems which brought the child under legal custody of SCF
165	Rep. Bowman	Are these services provided at cost to the parent?
167	Miller	From my experience most times no, however, SCF may better answer your question, Rep. Bowman. Gives example. >parent training and sex abuse treatment are provided by the agency through contracts with local providers
175	Rep. Beyer	Where is the authority to create the new language in <u>Section 15</u> ?
178	Miller	CRB is directed under 419.090 and is similar to <u>Section 15</u> subsection (1) and (2). >refers to <u>Section 15</u> subsection (2), addresses what is a reasonable effort findings. What is new is creating a time line for the reasonable efforts. Explains what is a reasonable effort. There is a burden on the agency to provide the services before the twelve month rebuttable presumption.
205	Chair Minnis	Could you provide a summary of the time line events with general descriptions.
218	Miller	Continues testimony. >refers to page 9, line 12, either the court or CRB will review the case again after the twelve months have elapsed to determine if reasonable efforts have been made by the agency and if the parents have corrected the conditions. The rebuttable presumption is created if the agency has met the reasonable efforts determination twice and the parents have failed to adjust their circumstances then the alternate plan is put forward as in the best interest of the child. >refers to page 9, line 22, authority where a person can rebut the presumption. Gives example. >refers to <u>Section 16</u> , is deleted by the -A6 amendments. >refers to <u>Section 17</u> , makes <u>Section 18</u> a chapter of ORS 419B.
268	Miller	Continues testimony. >refers to <u>Section 18</u> , creates a relative time certain for the courts to hold the jurisdictional disposition hearing in dependency cases and lays out processes for discovery. Gives example. >>refers to <u>Section 19</u> , changed by the -A6 amendments. If the child is in imminent danger this section outlines what at minimum is required by the agency in court the following day. Gives example. Explains why -A6 amendments changes imminent danger to emergency situations.



331	Chair Sunseri	I spoke to Ms. Miller outside the hearing about extreme situations for a child where there is need for swift decisive action. Gives example. How do we protect against a scenario that is not an extreme situation and the child is removed from the parents?
339	Miller	The design of SB 689A is to aide in protecting in your example. Gives example of what the court is going to ask from the agencies before the child is removed.
364	Chair Minnis	Ms. Miller, could you tell the subcommittee about the coordination between SCF and the police.
368	Miller	May better be ask of SCF. I can provide from my experiences ten years ago.
372	Chair Minnis	As the expert on the measure, I ask your thoughts on the coordination of efforts between SCF and the police. From my experience often times there is very little coordination. SB 689A does not appear to mandate any additional coordination.
377	Miller	There are also statutes that mandatory cross reporting. In HB 2004, which was passed in 1993, the measure laid out the roles for SCF and law enforcement in those investigations.
383	Chair Minnis	Gives example of coordination efforts (although improving) between SCF and the police. There seems to be a substantial amount of confusion when a neglect or child abuse complaint is actually reported to law enforcement. Some people within SCF feel that is when you call the hot line. Even if the hot line is not connected to the law enforcement agency. There may be weeks before review of the situation. and needs to take a proactive step in inquiry of the agencies response to the complaint. Gives personal experiences of law enforcement efforts and concerns with SB 689A.  SB 689A tends to give greater authority to SCF to make these decisions absent and outside the coordination of the local law enforcement agencies.
414	Miller	I don't believe SB 689A does that. SB 689A doesn't touch the mandatory cross reporting statutes.
418	Chair Minnis	SB 689A doesn't clarify the mandatory cross reporting.
419	Miller	I would be willing to review those issues and consider an amendment.
425	Chair Minnis	Gives an example of Multnomah County's multi-disciplinary team program (MDT) efforts. I think we're going in the right direction. I just don't think we're there yet to help clarify coordination efforts. It is law enforcement's problem, also. Gives comments.
470	Muriel Goldman	Public Affairs Chair, Children First for Oregon  Testifies in support of SB 689A and presents written testimony <b>(EXHIBIT D)</b> .
<b>Tape 53, B</b>		

030	Goldman	Continues testimony.
080	Goldman	Continues testimony.
110	Edward B. Allen	Court Appointed Special Advocate (CASA) Testifies in support of SB 689A and presents written testimony <b>(EXHIBIT E)</b> .
160	Allen	Continues testimony.
210	Allen	Continues testimony.
265	Jim Dyer	Citizen, Keizer Testifies in support of SB 689A. Gives examples of being a foster parent.
315	Dyer	Continues testimony.
339	Chair Minnis	Gives example of SCF removing a child from a home based merely on a single comment that was made in the course of a counseling session at the mother's request.
357	Dyer	Responds that SCF is generally accurate in choosing to remove a child upward of 90%.
369	Chair Minnis	If you complained about the actions of a police officer, what happens?
371	Dyer	I have never complained about a police officer. I don't know.
372	Chair Minnis	Within the agency I work for, a complaint is directed to internal affairs. Actually, you can take your complaint to anybody, i.e. the chief.
376	Dyer	Responds with SCF procedures. The most important thing not to overlook is you can't keep a child in limbo because there are stories real or uninvestigated stories that SCF has made errors in judgment.
388	Chair Minnis	Would you agree there is a delicate balance of rights between parents and abused children that needs to be preserved?
393	Dyer	Yes. I believe SB 689A does a very good job in taking care of the balance between parents and the abused children. >children need to get through the system >parents do play the system
408	Chair Sunseri	Gives comments about a measure passed in 1991. So why will this measure be better, if some of the greatest blunders have happened since the 1991 measure?
419	Dyer	I am addressing that portion of the measure with regards to limitations on the amount of time a parent has to actually begin to perform for eventual

		return of the child. I am not sure about the 1991 measure.
434	Chair Minnis	<p>I believe this measure does attempt to do something by providing an affidavit that would have to be reviewed by the judge. There are questions as to what are the elements in the affidavit. Gives example of his law enforcement actions as pertains to an affidavit. I believe we need to look to the process before the juvenile court.</p> <p>What is the court looking at now? What does this measure do to improve that so that judges have an ability to ask better questions and obtain more supporting information and foundations before the judge makes their decision.</p> <p>I rely on the judicial branch of the government to be a check and balance for those people on the front line whether it is the police or SCF or anybody else. There is a need to rely on their totality of knowledge. Hopefully, if the legislature has given enough information and enough latitude to a judge, then the judge can ask relevant significant questions before an order is signed to remove a child from the home.</p>
<b>Tape 54, B</b>		
030	Chair Minnis	<p>Continues comments.</p> <p>When the order is given to remove a child, it is assumed to be judicial review.</p>
039	Dyer	I don't believe MDT works. More strides are needed to make the MDT work. SB 689A wont cure the problems immediately. There will be education of judges for a period of time to what their real power is in these cases. Refers to law enforcement actions in removing a child.
048	Chair Minnis	There has been indication that district attorneys have access to get training for judges.
052	Rep. Eighmey	Shares comments of trying to solve the problem to a 100% level for the program. If error, then error on the side of the child's safety. Gives example.
102	Rep. Eighmey	Continues comments and gives personal example.
133	Chair Minnis	<p>Responds to comments made by Rep. Eighmey:</p> <ul style="list-style-type: none"> <li>&gt;constitutional laws that protect rights of parents to be parents</li> <li>&gt;never should allow offensive intrusion of government into the lives of private citizens</li> <li>&gt;rights of citizens should be balanced by compelling state interest based on a foundation of factual information</li> </ul>
142	Rep. Bowman	Shares comments about response time for SCF with regards to removing a child. Sometimes removing too soon versus too late.

186	Chair Minnis	Responds to comments made by Rep. Bowman: >there have been false allegations which caused the removal of a child
192	Rep. Bowman	People should be responsible for false allegations made. Shares comments over growing up as a foster child. We are not stepping on the rights of the parents. The constitution does not allow parents to abuse their child.
196	Chair Minnis	I agree the constitution doesn't give a parent the right to abuse their children. The constitution does give them the right to be parents.
200	Rep. Bowman	The focus of the subcommittee should be on the child being placed in a safe environment.
225	Sharon Schooley	Assistant Attorney General The question was whether the policy stated in the proposed measure creates a new right of action by children if the state does not provide the safe permanent placement.
235	Chair Minnis	Reads from SB 689A, page 2, line 23. Does this language create a private right of action for the child?
238	Schooley	A private right of action already exists. This language does not enlarge upon or create any other new right of action.
241	Chair Minnis	The private right of action exists where in authority?
242	Schooley	The private right of action exists through the general theory of torts.
246	Chair Minnis	There is no specific right of action?
248	Schooley	No. The other alternative would be specific treatment or if the child's placement rises to the level of such harm that it is violates a right of the child. Then the child can proceed in court to obtain a different placement. Not just the child could proceed but also the foster parent, the child's parent or other person with standing to appear in the juvenile court.
256	Chair Minnis	Closes the public hearing on SB 689A.
257	Chair Minnis	<b>Recesses the meeting at 3:00 p.m.</b> <b>Reopens the meeting at 5:50 p.m.</b>
<b><u>SB 768 - PUBLIC HEARING</u></b>		
260	Chair Minnis	Opens a public hearing on SB 768.
261	Rep. Shetterly	Explains the intent of SB 768.

278	Chair Minnis	Closes the public hearing on SB 768.
<b><u>SB 768 - WORK SESSION</u></b>		
279	Chair Minnis	Opens a work session on SB 768.
280	Rep. Shetterly	<b>MOTION: Moves SB 768 to the floor with a DO PASS recommendation.</b>
286		<b>VOTE: 6-0-5</b> <b>AYE: 6 - Rep. Beyer, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Wells, Chair Minnis</b> <b>EXCUSED: 5 - Rep. Bowman, Rep. Courtney, Rep. Eighmey, Rep. Uherbelau, Rep. Prozanski</b>
	Chair Minnis	<b>The motion Carries.</b> <b>REP. SHETTERLY will lead discussion on the floor.</b>
292	Rep. Shetterly	<b>MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote on SB 768.</b>
293		<b>VOTE: 8-0-3</b> <b>EXCUSED: 3 - Rep. Courtney, Rep. Eighmey, Rep. Prozanski</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
297	Rep. Bowman	<b>Votes "aye" on SB 768.</b>
300	Chair Minnis	Closes the work session on SB 768.
<b><u>SB 413A - PUBLIC HEARING</u></b>		
308	Chair Minnis	Opens a public hearing on SB 413A.
312	David Amesbury	Counsel Reads a Preliminary Staff Measure Summary on SB 413A.
328	Rep. Wells	What did the Senate change in original measure.
336	Amesbury	Explains the changes to measure by the Senate amendments.

345	Chair Minnis	Closes the public hearing on SB 413A.
<b><u>SB 413A - WORK SESSION</u></b>		
346	Chair Minnis	Opens a work session on SB 413A.
<b>348</b>	<b>Rep. Shetterly</b>	<b>MOTION: Moves SB 413A to the floor with a DO PASS recommendation.</b>
350	Rep. Shetterly	Explains the intent of SB 413A. Gives examples of "selling" trusts.
378	Chair Minnis	What kinds of problem exist for an individual who "purchased" a trust?
380	Rep. Shetterly	Responds by giving an examples of a problem when "purchasing" a trust or to "execute" the trust.
423	Rep. Bowman	Is there a penalty for people who "selling" a trust?
430	Rep. Shetterly	SB 413A replaces <u>Section 1</u> in the Unlawful Trade Practices Act which contains civil penalties.
435	Rep. Beyer	Who are selling trusts besides attorneys?
438	Rep. Shetterly	Identifies others who are "selling" trust documents.
452	Rep. Beyer	Would SB 413A prohibit a financial planners from doing a trust?
454	Rep. Shetterly	Yes. Gives examples. I don't believe many financial planners prepare trusts as they usually steer a client to an attorney.
463	Rep. Prozanski	There are trust companies and financial institutions create trusts. Not only attorneys create trusts, there are exceptions.
468	Chair Minnis	People who are setting up trusts now. Are they violating the law with respects to practicing law?
471	Rep. Shetterly	"It is probably arguable. This is another way to get at that."
<b>Tape 55, A</b>		
<b>039</b>		<b>VOTE: 8-0-3</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Rep. Courtney, Rep. Eighmey, Rep. Uherbelau</b>
	<b>Chair Minnis</b>	<b>The motion CARRIES.</b> <b>REP. SHETTERLY will lead discussion on the floor.</b>

045	Chair Minnis	Closes the work session on SB 413A.
<b><u>SB 405A - PUBLIC HEARING</u></b>		
063	Chair Minnis	Opens a public hearing on SB 405A.
067	Scott Lumsden	Counsel Reads a Preliminary Staff Measure Summary on SB 405A.
072	Rep. Prozanski	"So the intent is to take already existing law break it down into two parts leaving one at current sanctions and elevating it for some other type of conduct regarding of abuse to a memorial?"
076	Chair Minnis	That is what I understand. Explains intent behind SB 405A.
080	Rep. Beyer	What is the difference between a class C felony and a class A misdemeanor in terms of penalties?
081	Chair Minnis	Explains the difference between the sanctions.
089	Rep. Starr	Gives example of memorial destruction.
092	Rep. Prozanski	There could be other sanctions imposed on the offender. Gives examples.
112	Chair Minnis	Closes the public hearing on SB 405A.
114	Chair Minnis	<b>Recesses the meeting at 6:10 p.m.</b> <b>Reopens the meeting at 6:45 p.m.</b>
<b><u>SB 494A - PUBLIC HEARING</u></b>		
116	Chair Minnis	Opens a public hearing on SB 494A.
118	David Amesbury	Counsel States a change on the Preliminary Staff Measure Summary. There has been a fiscal impact statement issued reflecting a minimal decrease in expenditure to court operations.
		District #7  Testifies in support of SB 494A and presents written testimony from Mark Kramer, Attorney at Law ( <b>EXHIBIT F</b> ).  >refers to punitive father amendment in the Senate, house has already passed a similar measure on topic

125	Sen. Kate Brown	<p>&gt;psychological parent rights two changes: 1) a person my petition to intervene in a proceeding effecting a child regardless of whether they have a child care relationship or the lessor on going personal relationship and 2) permits but does not require the court to allow temporary visitation rights for a person filing one of these proceedings</p> <p>&gt;gives current law on both above issues</p> <p>&gt;amended to express the concerns of SCF and Department of Justice, who did not want intervention to be permitted in a juvenile court for one who has an ongoing personal relationship because the expense would be too time consuming, Senate already passed out HB 2714 and HB 2749 which will address this same issue</p>
175	Sen. Brown	<p>Continues testimony.</p> <p>&gt;will allow for juvenile courts to proceed with an adoption proceeding without the adopting parents having to file in the family law court, gives reasons</p> <p>&gt;will allow for a punitive father to put his name on the adoption registry, gives example</p>
198	Rep. Shetterly	Does <u>Section 5</u> of SB 494A have provisions for the Indian Child Welfare Act (ICWA)? Is there anything about this proceeding that would indicate ICWA?
204	Sen. Brown	Yes. ICWA would be implicated. It is my understanding because ICWA would already have been addressed in the initial juvenile court proceedings.
208	Rep. Shetterly	Therefore, ICWA is already taken care of before the proceeding addressed in <u>Section 5</u> of SB 494A.
215	Rep. Wells	There seems to be difficulty in the adoption process which causes some prospective parents to go overseas to adopt. Will SB 494A address any of the difficulties of adopting?
220	Sen. Brown	No. This measure directed more to a child in the foster care system.
224	Rep. Wells	What would it take to address those situations or in your mind is that a problem in Oregon?
228	Sen. Brown	I believe the legislature reworked adoption statutes in 1993 or 1995. One problem with adoption legislation is the balance between the parent's rights and the child's rights. From my perspective there has been some balancing . In terms of speeding up foreign adoptions, that is a tough one.
236	Rep. Wells	The adoption process in the United States is just too long.
243	Sen. Brown	Section 5 of the SB 494A is designed to speed up the adoption process. Gives example.



249	Rep. Wells	So SB 494A will address my concerns with regards to speeding up the adoption process.
251	Sen. Brown	The adoption process will be speed up for the child in the foster care system.
253	Rep. Wells	Shares concerns over adoption process in the foster care system.
261	Sen. Brown	One reason is that there is not enough caseworkers at the adoption level. Another is finding families for foster care child is difficult. Foster care children may generally need more care. Gives example.
277	Rep. Shetterly	Shares comments about his experience with the adoption process.
291	Rep. Uherbelau	Considering how the best interest of the child measure goes along with SB 494A because the former measure will also speed up the process of adoption.
300	Rep. Starr	Appears to me that SB 494A relates to the best interest of the child measure and perhaps this measure could be amended into the latter measure.
306	Chair Minnis	Was amending SB 494A into the best interest of the child measure considered in the Senate? Is there a reason it was not?
309	Sen. Brown	Shares comments over Senate action. I believe this measure adds to the best interest of the child measure. Especially the intervention piece which doesn't only apply to the juvenile courts but also to the family law courts.
324	Rep. Starr	Sen. Brown, you have stated that several of the provisions have been passed in other measures. I also have amendments to SB 494A but are not yet ready for consideration by the committee.
334	Sen. Brown	With regards to the section that we have already passed out that is the punitive father issue. The reason why it was amended on both bills was to make sure the punitive father got included in the adoption registry.
340	Chair Minnis	"Are we going to need to do conflict amendments to this thing?"
343	Amesbury	At this point, I don't know. Conflicts will be checked after passed out of committee.
345	Chair Minnis	Do you, Sen. Brown, know which House measure that was?
347	Sen. Brown	I could look up that fact.
350	Chair Minnis	Sen. Brown, would you mind if Rep. Starr's amendments were entered into SB 494A?
353	Sen. Brown	It would depend upon after reading Rep. Starr's amendments.
360	Rep. Shetterly	I would be concerned with losing the measure with a non-concurrence. This is a good measure on its own.
	Chair	

373	Minnis	Closes the public hearing on SB 494A.
<b>SB 253A - PUBLIC HEARING</b>		
381	Chair Minnis	Opens a public hearing on SB 253A.
401	Richard Lane	<p>Chair for Oregon State Bar Practice &amp; Procedure</p> <p>Testifies in support of SB 253A.</p> <p>SB 253A will improve the ability of the patient to obtain their own records.</p> <p>&gt;originally submitted in pre-session, worked on by various groups</p> <p>Patients unable receive their own records in the face of a release.</p> <p>&gt;refers to <u>Section 1</u> subsection (2), is a basic consent provision by the patient to release, if patient unable to consent then someone authorized</p> <p>&gt;refers to <u>Section 1</u> subsection (3), is a modified industry authorization, need for uniformity for patients to obtain their own records, complies with federal disclosure rules</p>
451	Lane	<p>Continues testimony.</p> <p>&gt;refers to <u>Section 1</u>, subsection (4), is to elevate a problem with obtaining another providers records in the possession of another who is in receipt of the release, explains</p>
<b>Tape 56, A</b>		
027	Lane	<p>Continues testimony.</p> <p>&gt;explains current administrative rules</p>
036	Rep. Prozanski	"Could you elaborate as to why we would want to do that?"
039	Lane	It is believed that it may be more appropriate to release information from only the originating provider. Gives example.
046	Rep. Bowman	Is it the board to whom the patient is making the request from?
051	Lane	You are making the request of the medical provider as described in subsection 8. Reads a definition of health care provider.
060	Rep. Bowman	So these are the licensing boards for the health care professionals. However, the request would still be made to the attending/primary care physician, and not to each board to make your request?
065	Lane	Correct. A patient would make their request of their primary care provider or of the hospital attended.

068	Rep. Wells	Evidently there is some providers willing to provide these records or not of other health care providers in their possession?
072	Lane	Correct. Some health care providers are not providing records upon request from patients completely and fully.
075	Rep. Wells	What right is there for someone else to access a health care providers' personal records? How do we balance this? Is this what the measure addresses? Gives example.
083	Lane	This measure excludes a physician's own personal office notes that do not concern the patient's care, diagnosis, and treatment. A request only goes to patient's care. Gives example. The patient is making the request and nobody else.
100	Rep. Shetterly	Refers to <u>Section 1</u> , lines 8 through 15: The reason for this measure is because this hasn't happened and a uniform process is needed to make sure that it does happened?
109	Lane	There was a desire to create a uniform standard to be used by all health care providers. Gives example.
115	Rep. Uherbelau	Shares comments over obtaining records is very haphazard.
124	Lane	Advises of others who have worked on the measure and have agreed in principal but have areas of disagreement.
135	Chair Minnis	Who requested this measure?
136	Lane	Explains the origin of the measure.
151	Dave Fiskum	Providence Health System Testifies in support of SB 253A. >work group at Sen. Bryant's direction to develop SB 253A >could expose those individual to increased liability >explains why the -A11 amendments dated 06/11/97 ( <b>EXHIBIT G</b> ) >risk for have the authorization form in statute
204	Rep. Bowman	Why 180 days? Will it really take that long to obtain a patient's records? Why should the authorization last for 180 days?
207	Lane	I not certain how the 180 days arose.
210	Rep. Prozanski	"Wouldn't this allow for additional records over that 180 day period?"
213	Lane	>refers to page 3, line 8 of SB 253A, a patient couldn't send a release to a health care provider after 180 days from date of original submission and expect them to act upon such
223	Rep. Shetterly	>refers to page 3, lines 4 through 5 of SB 253A, why include workers' compensation claims?

231	Lane	There was belief by those of the work group that sometimes the request was limited to a certain injury or a particular set of time rather than to everything received. It is to enable one to restrict or limit the records requested.
237	Rep. Shetterly	It's seems arbitrary to state that within the measure limitations on what is requested. A person could pick and choose any of the listed restrictions. Beyond time period and treatment, why go beyond and include workers' compensation?
244	Lane	States discussions within the work group with regards to specific time and treatments. I am uncertain why the inclusion of workers' compensation claim on page 3, lines 4 and 5 of SB 253A. Perhaps there is another in the audience who could address that?
250	Chair Minnis	What was discussion in Senate with respect to medical records that would be injurious to a patient?
253	Lane	Some health care providers felt that the release of some records might be injurious to some patients. If the provider exercises discretion and withholds the records for injurious reasons that there must be an accurate representative summary in lieu of the actual injurious records.
261	Chair Minnis	Were there any examples of any injurious records?
264	Rep. Shetterly	Gives example of what might be seen as injurious records.
267	Tim Martinez	Oregon Medical Association (OMA)  Explains injurious records.  If patient switches physician their records follow with you. OMA doesn't foresee a patient having difficulty in obtaining their medical records. However, when there is litigation involved where requesting medical records then the process within SB 253A would generally come into effect.
288	Rep. Prozanski	"Is there a need to may be to distinguish that a little bit on the definition to when that is applicable or not. Or is there something already within medical board that requires for the patient's records be all released at once?"
294	Martinez	Explains reasons for SB 253A involvement.  >refers to the -A13 amendments dated 06/11/97 ( <b>EXHIBIT H</b> ).  >refers to page 3, line 18 of SB 253A, proposes a conceptual change  >concerns over placement of the authorization form within statute, prefer that the state agencies prepare rules and the form
341	Bruce	Kaiser Permanente, Northwest Division

	Bishop	Testifies SB 253A and presents written testimony with proposed amendments ( <b>EXHIBIT I</b> ).
391	Bishop	Continues testimony.
425	Rep. Prozanski	"Are you saying to make Keizer or other people that would be potentially needing to give these records out, it would be better to give some definition for "not able or is not able? Or what are you suggesting that we do to make it clearer as to when there able to do that?"
440	Bishop	>refers to page 1, line 18 of SB 253A:  I raise the issue with regards to a patient's ability to give consent and frankly I don't have a solution in terms of defining "able to give consent." I believe the language could be narrowed. One way would be to delete the language all together and to rely on the statement that the provider must disclose a patient's records after receiving a written release authorization and not try to get into the ability or inability of the patient signing the authorization. As drafted this may be broader than intended.  Should SB 253A become enacted, Kaiser Permanente's interpretation that we could only release the records of a competent adult with that person's authorization. Is that the policy intended here in line 18.
460	Rep. Shetterly	What's your practice now for determining that person has authority or the patient is able to give consent to release records? Why does SB 253A change this necessarily?
<b>Tape 55, B</b>		
028	Bishop	Explains current practice by Kaiser Permanente. It is believed this new language on page 1, line 18, will require that specific authorization be obtained from the patient for that release.
035	Ed Patterson	Oregon Association of Hospitals and Health Centers  Testifies in support of SB 253A, the OMA proposed amendments, -A11 amendments and presents conceptual amendments ( <b>EXHIBIT Q</b> ).  >explains intent behind conceptual amendments
077	Rep. Uherbelau	What is meant by "normal" charges? Whatever is charged by any hospital or entity for records?
081	Patterson	Explains what is meant by "normal" charges.
090	Rep. Uherbelau	>refers to ( <b>EXHIBIT Q</b> ), would you have a problem with the legislature putting the authorization into the statute?
093	Patterson	Preference would be for each hospital to determine their costs or fee schedule.
103	Jane B. Myers	Director Government Affairs, Oregon Dental Association  Testifies in support of SB 253A and presents written testimony and -A7 amendments dated 05/09/97 ( <b>EXHIBIT J</b> ).

130	Rep. Uherbelau	"If the Board of Dentistry now has rules, if they were included in this statute, it would be very easy for the board to delete it's rules and then it wouldn't be duplicative?"
133	Myers	That is true, we could ask the board to do away with the rule.  The association tries to accommodate the public interest as well as support the rule making process by the board. This is done so that we don't have to ask the legislature for statutory changes that can be done by a change in the board rules.  The viewpoint of the Association is that we try to accommodate the public interest and support the board in rule making so that we don't have to ask the legislature for statutory change to do what we can do by rules.
138	Rep. Uherbelau	My question is to Mr. Lane. I recall earlier discussion around eliminating or not dentists from SB 253A from the listed practitioners.
143	Lane	Explains the intent for including dentists under the listed practitioners. There is nothing in the Oregon Administrative Rules (OAR) that assist the patient to be able to get access to their records.
151	Rep. Beyer	Ms. Myers, was your case made before the Senate?
152	Myers	"No there wasn't an opportunity to do that." Much of the work on SB 253A was accomplished through the work group or hallway.
164	Rep. Starr	In the interest of limited government, it is not inappropriate for allow people out who are accomplishing the good of the people without regulation..
169	Rep. Bowman	So, a patient can go to their dentist and request a copy of their records and get a copy with no problems?
170	Myers	Yes. A complaints can be made by anyone patient of a dentist to the board. The board will follow up. There are civil penalties that can be applied to the dentist. It is called unprofessional conduct in the rules to not comply with a patient's request.
177	Chair Minnis	Close the public hearing on SB 253A.
179	Chair Minnis	<b>Recesses the meeting at 7:43 p.m.</b>  <b>Reopens the meeting at 8:19 p.m.</b>
<b><u>HB 2233 AND SB 1049A - PUBLIC HEARING</u></b>		
187	Chair Minnis	Opens a public hearing on HB 2233 and SB 1049A.
		Special Counsel to Attorney General Hardy Myers

199	Mark Gardner	Testifies in support to -14 amendments to HB 2233 and presents written testimony <b>(EXHIBIT K)</b> . Refers to -14 amendments dated 06/10/97 <b>(EXHIBIT L)</b> .
249	Gardner	Continues testimony.
273	Rep. Shetterly	I am comparing your last paragraph with your second paragraph <b>(EXHIBIT K)</b> , I see Parents Against Cruel and Unusual Punishment (PACUP) and Citizens for Reform of Ballot Measure 11 (CRBM11), apparently fell off the wagon. They participated in the work group but they apparently do not supported HB 2233.
281	Gardner	Neither PACUP or CRBM11, to my knowledge, endorsed this particular provision of the bill.  >PACUP had endorsed the -A12 amendments, then there were changes to the amendments, and no subsequent support on the changes has been heard  >CRBM11 participated for a period of time, then the representative did not continue participation in the work group  Neither PACUP or CRBM11 are actively opposing the measure.
293	Rep. Uherbelau	Shares comments over e-mails received from PACUP.
300	Rep. Shetterly	What is the difference between the -A12 and the -A14 amendments?
302	Gardner	Explains differences between the -A12 and the -A14 amendments.
320	Chair Minnis	Is there any opposition to this measure. The intent of the Chair is that HB 2233 will go into a Senate 1049A.
322	Rep. Prozanski	Rep. Bowman had interest that she wanted on the record but is not present in the hearing at this moment.
326	Gardner	It would be helpful to hear from Francis Baker, Citizens Crime Commission with regards to the language "significant physical injury" inserted in the statutes.
346	Francis Baker	Coordinator of the Effective Incarceration Project which is under the supervision of Citizens Crime Commission.  Testifies to <u>Section 1</u> subsection (6)(c) of HB 2233 and presents support documents <b>(EXHIBIT M)</b> .  For someone convicted of 2nd degree robbery, if the robbery resulted in a significant physical injury, then the offender is ineligible for coming out from under the mandatory minimum. If the person did not suffer a significant physical injury, the offender can be removed from mandatory minimums.

		>no definition to significant physical injury in criminal code
396	Baker	Continues testimony. >gives example of degrees of physical injury and how current law is being interpreted
446	Baker	Continues testimony.
456	Rep. Uherbelau	Will your examples fall under the definition of "significant physical injury?" (Rest of statement inaudible.)
463	Baker	"We believe that they would." >refers to the definition of `significant physical injury" in HB 2233 Technically in any injury there is risk of infection which could become deadly.
<b>Tape 56, B</b>		
026	Baker	There are other injuries that impose more of a risk but by the luck of the draw did not turn out to be deadly. Gives examples.
038	Rep. Uherbelau	"Somebody shoots at you point blank but there of course shot and they miss you." Would this example fit under the definition of "significant physical injury?"
040	Baker	In your example, I don't believe it would. There would be a second degree robbery applied, however, because the offense involved the use of a weapon. To define an injury there must be some level, not a fear of injury, but an actual physical injury. Your example, would apply under a different element of the law, the use of a deadly weapon.
046	Rep. Uherbelau	tape inaudible
053	Baker	Responds reading directly from page 2, line 20 of HB 2233.
067	Rep. Uherbelau	I have concern with that the statute needs to be very clear about what is a "significant physical injury." The term `significant" to me means more of an injury than a "serious" physical injury.
073	Baker	My testimony today is to place in legislative history that the category "significant physical injury" is to be considered between "physical" and "serious physical" injury. Explains how the language for the definition of "significant physical injury" was drafted.
087	Rep. Wells	Will this measure will lesson the penalties for some types of crimes?
091	Baker	Correct.



092	Rep. Wells	Gives an example of a crime where the type of penalty received under Measure 11 guidelines by a child seemed unfair.  Will this measure take care of the these types of situations?
101	Baker	It depends on the victim's injuries.
104	Ingrid Swenson	Oregon Criminal Defense Lawyers Association  Explains the statutes that would apply to Rep. Well's example.  HB 2233 does not specifically address aid and abetting.
111	Rep. Wells	What types of crimes will have less sentences under this measure?
114	Chair Minnis	Gives a personal law enforcement case example.
119	Rep. Prozanski	"I believe once the gun is there, that's the stopper."
120	Chair Minnis	Continues example.
123	Swenson	There was consideration give to removing aiders and abettors, treating them differently from principal actors.  Explains the statutes that would apply to Chair's example.  >refers to <b>(EXHIBIT M)</b> which includes samples of people currently subject to Measure 11 guidelines, that now under HB 2233 could be given a lessor sentence
147	Rep. Wells	Will this measure lessen the "unfairly sentenced" individual in my earlier example?
153	Swenson	That is our intent by HB 2233.
157	Rep. Uherbelau	Reads from a letter received from one of her constituent.
167	Swenson	Responds to scenario in letter by explaining how the statutes will view the injury.
177	Chair Minnis	Closes the public hearing on HB 2233 and SB 1049A.
<b><u>HB 2233 and SB 1049A - WORK SESSION</u></b>		
178	Chair Minnis	Opens a work session HB 2233 and SB 1049.
181	Rep. Prozanski	<b>MOTION: Moves to conceptually ADOPT HB 2233-14 amendments dated 06/10/97 into SB 1049A.</b>

202	Phil Lemman	Criminal Justice Commission Interprets the flowchart in (EXHIBIT N). >will apply to -A14 amendments also
237	Rep. Prozanski	Asks questions of (EXHIBIT N ).
244	Lemon	Further explains reasons by the flowchart.
255		<b>VOTE: 9-0-2</b> <b>EXCUSED: 2 - Rep. Eighmey, Rep. Sunseri</b>
	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
259	Rep. Shetterly	<b>MOTION: Moves to ADOPT SB 1049A-2 amendments dated 06/06/97.</b>
265	Rep. Shetterly	Explains the intent behind the -A2 amendments.
292		<b>VOTE: 9-0-2</b> <b>EXCUSED: 2 - Rep. Eighmey, Rep. Sunseri</b>
	<b>Chair Minnis</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
295	Rep. Prozanski	<b>MOTION: Moves SB 1049A to the floor with a DO PASS AS AMENDED recommendation.</b>
305	Rep. Beyer	Provides reasons for voting" no."
307	Rep. Bowman	Shares comments on how Ballot Measure 11 is working.
341		<b>VOTE: 8-1-2</b> <b>AYE: 8 - Rep. Bowman, Rep. Courtney, Rep. Shetterly, Rep. Starr, Rep. Uherbelau, Rep. Wells, Rep. Prozanski, Chair Minnis</b> <b>NAY: 1 - Rep. Beyer</b> <b>EXCUSED: 2 - Rep. Eighmey, Rep. Sunseri</b>
	<b>Chair Minnis</b>	<b>The motion Carries.</b> <b>REP. PROZANSKI will lead discussion on the floor.</b>
		Closes the work session on HB 2233 and SB 1049.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - SB 1101A, -A3 amendments dated 05/15/97 and -A4 amendments dated 05/21/97,**

**Staff, 2 pages.**

**B - SB 1101A, -A5 amendments dated 06/04/97, Rep. George Eighmey, 18 pages.**

**C - SB 689A, -A4 amendments dated 06/05/97, Nancy Miller, 1 page.**

**D - SB 689A, written testimony, Muriel Goldman, 3 pages.**

**E - SB 689A, written testimony, Edward B. Allen, 2 pages.**

**F - SB 494A, written testimony from Mark Kramer, Sen. Kate Brown, 3 pages.**

**G - SB 253A, -A11 amendments dated 06/11/97, David Fiskum, 1 page.**

**H - SB 253A, -A13 amendments dated 06/11/97, Staff, 1 page.**

**I - SB 253A, written testimony, Bruce A. Bishop, 2 pages.**

**J - SB 253A, written testimony and -A7 amendments dated 05/09/97,**

**Jane B. Myers, 4 pages.**

**K - HB 2233, written testimony, Mark Gardner, 4 pages.**

**L - HB 2233, -14 amendments dated 06/10/97, Mark Gardner, 17 pages.**

**M - HB 2233, support documents, Francis Baker, 6 pages.**

**N - HB 2233, support document, Phil Lemman, 1 page.**

**O - SB 1049A, -A2 amendments dated 06/06/97, Staff, 1 page.**

**P - SB 689A, -A6 amendments dated 06/10/97, Staff, 2 pages.**

**Q - SB 253A, proposed amendments, Ed Patterson, 1 page.**

HOUSE COMMITTEE ON JUDICIARY

June 12, 1997 Hearing Room HR 357

7:40 P.M. Tape 57

**MEMBERS PRESENT:**

Rep. John Minnis, Chair

Rep. Floyd Prozanski, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. Peter Courtney

Rep. Lane Shetterly

Rep. Charles Starr

Rep. Ron Sunseri

Rep. Judy Uherbelau

Rep. Larry Wells

**MEMBER EXCUSED:**

Rep. George Eighmey

**STAFF PRESENT:**

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

**MEASURE/ISSUES HEARD:**

SB 424A and SB 423A - 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 57, A		
	Chair	

006	Minnis	Calls the meeting to order at 7:45 p.m.
<b>SB 424A - WORK SESSION</b>		
007	Chair Minnis	Opens a work session on SB 424 A.
013	Kevin Campbell	Oregon Chief Police Association (OCPA)  Testifies in support of SB 424A and presents proposed conceptual amendments from OCPA:  >remove reference to "intersection" within the measure  >create a one hour limit to issue citation
019	Chair Minnis	The committee needs to amend the language on page 1, line 15 of the printed measure by deleting "at an" and by deleting "intersection," on line 16. I am uncertain where to insert the "one hour limit" language.
025	Rep. Shetterly	I believe the language regarding the one hour limit could be inserted after "occurred" on line 15 and I would restore the "comma" after "intersection" on line 15.
035	Rep. Uherbelau	I would feel more comfortable if in addition to the description of the vehicle, there is inclusion of a license plate number.
039	Campbell	The citations addressed in this measure are issued almost immediately. Generally the license plate number is obtain, but not always. It would be preferred that obtaining a license plate number not be included in the measure.
043	Chair Minnis	Could you repeat your testimony regarding the circumstances that this measure would be used.
044	Campbell	Explains intent behind SB 424A.
076	Rep. Wells	Shares comments over a measure before Transportation Committee regarding use of a red light camera.  Could someone other than an peace officer alert another officer to write a citation under this measure?
085	Campbell	I don't believe anyone other than a peace officer can note the violation.
088	Rep. Wells	Shares comments over use of funds to purchase equipment to note traffic violations as discussed in the Transportation Committee.
093	Rep. Beyer	Can a peace officer under current law cite a driver after having lost sight of the traffic offense?
095	Rep. Prozanski	A citation can be written, if the violation was in the officer's presence.
096	Rep. Beyer	Gives example of a possible traffic citation situation.
098	Rep.	A peace officer can cite a violator, it then becomes a matter of proving

	Prozanski	the offense in court.
100	Rep. Beyer	So what does this measure change?
101	Rep. Prozanski	Explains the changes to the statute.
103	Chair Minnis	Reads from lines 11 through 14 of the printed measure. A citation then can be issued between the peace officers based on one officer observing the traffic infraction.
110	Rep. Wells	Shares comments about another instrument referred to as a "rat tail."
119	Rep. Beyer	"Would a simpler way of doing this would be just to eliminate from a train or an aircraft in line 14?"
121	Chair Minnis	Probably, but the wording came form Legislative Council.
123		Discusses proposed conceptual changes with regards to the "one hour limit" language.
170	Campbell	The intent behind the measure is to cite a person immediately upon violation.
173	Chair Minnis	Discusses another conceptual change to the measure by deleting "; or [.]" on line 14 and by deleting lines 15,16, and 17 and restored "or" on line 11 of the printed measure.
179	Rep. Beyer	<b>MOTION: Moves to AMEND SB 424A on page 1, by restoring "or" on line 11, by inserting a "period" after "infraction" on line 14 and by deleting the rest of line 14, and to delete lines 15, 16 and 17."</b>
186		<b>VOTE: 10-0-1</b> <b>EXCUSED: 1 - Rep. Eighmey</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
193	Rep. Beyer	<b>MOTION: Moves SB 424A to the floor with a DO PASS AS AMENDED recommendation.</b>
196		<b>VOTE: 9-1-1</b> <b>AYE: 9 - Rep. Beyer, Rep. Bowman, Rep. Courtney, Rep. Shetterly, Rep. Starr, Rep. Sunseri, Rep. Wells, Rep. Prozanski, Chair Minnis</b> <b>NAY: 1 - Rep. Uherbelau</b> <b>EXCUSED: 1 - Rep. Eighmey</b>
	Chair Minnis	<b>The motion Carries.</b> <b>BEYER will lead discussion on the floor.</b>

203	Chair Minnis	Closes the work session on SB 424A.
<b><u>SB 423A - WORK SESSION</u></b>		
205	Chair Minnis	Opens a work session on SB 423A. Refers to -A3 amendments dated 06/11/97 ( <b>EXHIBIT A</b> ).
207	Committee	Discusses the intent behind the -A3 amendments ( <b>EXHIBIT A</b> ).
253	Rep. Beyer	<b>MOTION: Moves to ADOPT SB 423A-3 amendments dated 06/11/97.</b>
257		<b>VOTE: 10-0-1</b> <b>EXCUSED: 1 - Rep. Eighmey</b>
	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
258	Rep. Beyer	<b>MOTION: Moves SB 423A to the floor with a DO PASS AS AMENDED recommendation.</b>
262	Rep. Uherbelau	Refers to line 10 of the printed measure, why wouldn't the language in this section apply when a peace officer is making an arrest?
273	Kevin Campbell	Oregon Association Chiefs of Police Testifies in support of SB 423A and presents intent of the measure.
279	Rep. Shetterly	A person can be charged under SB 423A, even if they are not the one being arrested?
281	Campbell	Yes. Gives an example of an event where a person would be charged under this measure.
298	Rep. Uherbelau	Gives example of an arrest to share her concern over being charged under this measure.
308	Rep. Prozanski	Yes, a peace officer can arrest another person for resisting arrest of another person who is being arrested.  Provides background behind the proposed measure because of a case heard in a district court in Eugene, Oregon. The court held that a person could resist someone else's arrest and be charged with resisting an arrest.
319	Chair Minnis	"But this bill doesn't deal with that?"
320	Rep. Prozanski	No. This measure fills in the gap when interfering with an officer who's involved with a person, i.e. giving a sobriety test, and diverts there attention away from what the officer is lawfully attempting to do.
		<b>VOTE: 10-0-1</b>

346		<b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Rep. Eighmey</b>
	<b>Chair Minnis</b>	<b>The motion CARRIES.</b> <b>REP. PROZANSKI AND REP. MINNIS will lead discussion on the floor.</b>
363	<b>Chair Minnis</b>	Closes the work session on SB 423A. Adjourns the meeting at 8:17 p.m.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

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**EXHIBIT SUMMARY**

**A - SB 423A, -A3 amendments dated 06/11/97, Rep. John Minnis, 2 pages.**