

SENATE COMMITTEE ON  
JUDICIARY

Hearing Room  
Tapes - 69

MEMBERS PRESENT:

Sen. Neil Bryant, Chair  
Sen. Randy Miller, Vice-Chair  
Sen. Ken Baker  
Sen. Jeannette Hamby  
Sen. Peter Sorenson  
Sen. Dick Springer  
Sen. Shirley Stull

MEMBER EXCUSED: Sen. Randy Miller, Vice-Chair  
Sen. Shirley Stull

STAFF PRESENT:

M. Max Williams II, Committee Counsel  
Julie Clemente, Committee Assistant

MEASURES HEARD: Public Hearing & Work Session SB 493  
Public Hearing SB 276 SB 943

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

CHAIR BRYANT: Calls meeting to order at 3:00 p.m.

007 OPENS PUBLIC HEARING ON SB 276

Witnesses: Fred Van Natta, Multnomah County Medical Society  
Sciences Dr. Brad Popovich, Director, DNA Diagnostic Laboratory, Oregon Health  
University  
Center, Peter B. Jacky, Geneticist, Kaiser Permanente  
Bob Shoemaker, Multnomah County Medical Society, Author of SB 276  
Leslie Carpenter, Genetic Counselor, Child Development Rehabilitation  
Oregon Health Sciences University  
Company Stuart Kaplan, Oregon ACLU  
John Mangan, Assistant Vice President, Public Affairs, Standard Insurance  
Gerry Thompson, HIAA  
John Ellis, Department of Justice, Support Enforcement Division  
Legislative Committee Karen Amos, ART, member, Oregon Health Information Management Association,  
Association, Kathleen Herry, RRA, member, Oregon Health Information Management  
Legislative Committee  
Erik Wasmann, Department of Justice, ODAA

023 FRED VAN NATTA, Multnomah County Medical Society: Testifies in favor of  
SB 276. Introduces panel of witnesses.

056 DR. BRAD POPOVICH, Director, Oregon Health Sciences University, DNA  
Diagnostic Laboratory and Assistant Professor in the Department of  
Molecular and Medical Genetics: Testifies in favor of SB 276. [EXHIBIT  
C]

129 POPOVICH: Continues

203 I can assure you that we harbor genes that at some point in our life  
will cause a disease.

214 BOB SHOEMAKER, Multnomah County Medical Society: Testifies in favor of  
SB 276. [EXHIBIT B]

262 Continues: Exceptions are: Explains.

330 Continues: "Changes in the insurance law under the act apply only to  
insurance policies issued or renewed after the act's effective date."

342 CHAIR BRYANT: What do you mean that it cannot be used as an inducement  
to buy insurance?  
SHOEMAKER: An insurer might try to "cherry pick" the market. Explains.

370 SEN. BAKER: Does this bill address other kinds of genetic information?  
POPOVICH: Yes it does. Explains.

412 SEN. BAKER: Refers to third page, second item regarding the destruction  
of samples used in research. What does this do to the validity of your  
research?

SHOEMAKER: We would expect the researchers to obtain prior consent.

Explains.

TAPE 68, SIDE A

040 SEN. BAKER: Disclosure is permitted to assist prospective adoptive parents. Are we encouraging parents to seek the perfect child?

POPOVICH/SHOEMAKER: Some screening is done now.

069 SEN. SORENSON: Interested in having you review some of the process that leads to this bill.

SHOEMAKER: Explains.

100 DR. PETER JACKY, Geneticist, Kaiser Permanente: Testifies in favor of SB 276. Looks after laboratory that conducts chromosome studies. Explains.

122 SHOEMAKER: Presents proposed technical amendments. [EXHIBIT A]

150 Continues.

176 LESLIE CARPENTER, Genetic Counselor, Child Development Rehabilitation Center, Oregon Health Sciences University: Presents testimony on behalf of

Dr. Jonathan Zonana, Professor of Molecular and Medical Genetics, Oregon Health Sciences University in favor of SB 276. [EXHIBIT D]

214 Continues.

261 Without genetic privacy protection, she is discouraged. Explains.

268 STUART KAPLAN, Member, Board of Directors, Oregon ACLU: Presents testimony in favor of SB 276. States key reasons why bill is endorsed. Also has some concerns. Explains.

300 Sample obtained now with consent for one purpose, could be used later for another purpose. Explains.

359 JOHN MANGAN, Assistant Vice President, Public Affairs, Standard Insurance Company. Testifies in opposition to SB 276. [EXHIBIT E]

411 Our system of life and disability insurance is a voluntary one. Explains.

456 Would only ask for a test if coverage amount was sufficient and only with written consent. Continues.

TAPE 67, SIDE B

048 Final thing. Continues.

058 GERRY THOMPSON, Health Insurance Association of America: Testifies in opposition to SB 276. Cannot support bill as written. Would like to see bill amended. Wants long term care, life and disability insurance out of the bill. Does support the privacy and written consent provisions. Explains.

CHAIR BRYANT: When is the National Association of Insurance Commissioners' study to be completed?

070 KAPLAN: Always a wild guess. Explains.

082 THOMPSON: Cannot support bill as long as long-term care is included.

090 KAREN AMOS, Oregon Health Information Managers Association and Oregon Association of Hospitals: Testifies in support of SB 276 as amended by Bob Shoemaker. [EXHIBIT F]

111 KATHLEEN HERRY, Oregon Health Information Managers Association and Oregon Association of Hospitals: Testifies in support of SB 276 as amended by Bob Shoemaker. [EXHIBIT F]

120 JOHN ELLIS, Department of Justice and Oregon District Attorneys Association: Testifies in favor of SB 276. and offers proposed amendment.

[EXHIBIT G]

136 ERIC WASSMAN, Department of Justice and Oregon District Attorneys Association: Submits amendments to SB 276. [EXHIBIT H] Amendments make clear that this bill would not prevent police agencies from obtaining genetic samples, testing for purposes of criminal identification and exclusion from criminal trial prosecution.

153 SHOEMAKER: Rebut testimony and makes closing comments.

199 CHAIR BRYANT: As I understand the testimony today, can see general agreement between Shoemaker and the Department of Justice and life insurance and disability as Mangan suggested. Still in disagreement in health insurance area.

205 SHOEMAKER: Continues to rebut testimony.

258 CLOSES PUBLIC HEARING ON SB 276

OPENS PUBLIC HEARING ON SB 493

Witnesses: Jennifer L. Wright, Attorney, Oregon Legal Services Corporation for Oregon State Council of Senior Citizens and the United Seniors of Oregon.  
Office Karen Hightower, Assistant Legal Counsel, State Court Administrator's Office  
of Human Rodney K. Hopkinson, Multnomah County District Attorney's Office  
Services, Social Services Division, Clackamas County Carol Gilder  
Peter D. Shepherd, Department of Justice

273 JENNIFER L. WRIGHT, Attorney, Oregon Legal Services Corporation for Oregon State Council of Senior Citizens and the United Seniors of Oregon: Testifies in favor of SB 493 [EXHIBIT I] and offers proposed 493-2 amendments. [EXHIBIT J]

338 Continues. Refers to amendments 493-2. [EXHIBIT J]

408 MAX WILLIAMS: Some concern about subsection (d). Is there a similar provision in the current law for domestic abuse?

WRIGHT: Not to my knowledge. Explains

437 MAX WILLIAMS/ WRIGHT: Discussion.

TAPE 68, SIDE B

407 WRIGHT: Continues. Would like to see verbal abuse included.

SEN. BAKER: Are there exceptions for medical care?

WRIGHT: Looking under Good Samaritan statute that would cover any kind of training. Explains.

085 KAREN HIGHTOWER, Assistant Legal Counsel, State Court Administrator's Office: Testifies and offers proposed amendment. [EXHIBIT K]

101 RODNEY K. HOPKINSON, Multnomah County District Attorney's Office: Proposes an amendment to the bank confidentiality requirement that states:

"No financial institution shall be liable to any person for any loss, damages or injury arising out of or in any way pertaining to the release of information pursuant to ORS 192.555." Explains.

136 WRIGHT: No objection.

139 CECILIA LITTLETON BONNER, J.D., Protective Services Specialist, Department of Human Services, Social Services Division, Clackamas County: Testified in favor of SB 493. [EXHIBIT L] Recommends the scope of SB 493 be expanded to include dependent persons as defined under the Criminal Mistreatment law, ORS 163.205 (2) (a).

159 CHAIR BRYANT: Have a legal problem regarding relating clause. Explains.

173 CAROL GILDER, Supervisor and Medication Aide in a large residential care facility: Testifies in favor of SB 493 and offers proposed amendment. [EXHIBIT M]

217 Continues.

276 GILDER: Continues.

308 CHAIR BRYANT: Proposal you make would be substantial in nature. Explains.

324 SEN. HAMBY: Chairs a Ways & Means Committee dealing with funding, etc. of nursing homes. Would like to share testimony with Committee.

343 PETER D. SHEPHERD, Department of Justice: Testimony in support of SB 493 [EXHIBIT Q] with proposed 493-1 amendments. [EXHIBIT P] Amendments in

LC form same as Hopkinson presented in his testimony regarding financial institutions.

Additional written testimony in favor of SB 493 for the record:  
Jim Wilson, Assistant Director, Department of Human Resources, Administrator, Senior and Disabled Services Division. Presented by Aileen P. Kaye, Program Coordinator. [EXHIBIT N]  
Karuna Neustadt and Rhonda Goodwin, Oregon Cascades West Council of Governments Senior Services. [EXHIBIT O]

CLOSES PUBLIC HEARING ON SB 493  
OPENS WORK SESSION ON SB 493

364 MOTION: CHAIR BRYANT: Moves to ADOPT the SB 493-1 Amendments as submitted by the Department of Justice.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All members are present. SENATORS MILLER AND STULL ARE EXCUSED.

MOTION: CHAIR BRYANT: Moves to ADOPT the SB 493-2 amendments as submitted by the bill's sponsor.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All members are present. SENATORS MILLER AND STULL ARE EXCUSED.

MOTION: CHAIR BRYANT: Moves to ADOPT the SB 493-3 amendments as submitted by the Court Administrator's Office.

VOTE: CHAIR BRYANT: Hearing no objection the amendments are ADOPTED. All members are present. SENATORS MILLER AND STULL ARE EXCUSED.

MOTION: SENATOR HAMBY: Moves that SB 493, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members are present. SENATORS MILLER AND STULL ARE EXCUSED.

SEN. HAMBY will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 493

394 OPENS PUBLIC HEARING ON SB 943

Witnesses: Lisa N. Bertalan, Attorney at Law

LISA N. BERTALAN, Attorney, Specializing in Elder Law: Testifies in favor of SB 943. [EXHIBIT R]

427 Has been working on draft of bill for two years. Explains.

TAPE 69, SIDE A

046 BERTALAN: Continues.

070 SEN. SORENSON: Interested in proposal that attorneys fees be awarded.

BERTALAN: Attorney fees as well as conservator fees. Explains.

099 SEN. SORENSON: Would you oppose an amendment to this bill that would allow the recovery of expert witness fees and other expenses of litigation on line 13 of the bill?

BERTALAN: Good idea. Continues

109 BERTALAN: Introduces an amendment: Line 16, subsection 2 of Section 1

add "that a guardian or conservator could file the action on behalf of the elderly person or an incapacitated adult."

129 CLOSES PUBLIC HEARING ON SB 943

CHAIR BRYANT: Adjourns at 5:05 p.m.

Submitted by:

Reviewed by:

Julie Clemente  
Committee Assistant

M. Max Williams II  
Committee Administrator/Counsel

EXHIBIT LOG;

A - Proposed Amendments SB 276 -- Bob Shoemaker -- 4 pages  
B - Testimony SB 276 -- Bob Shoemaker -- 3 pages  
C - Testimony SB 276 -- Dr. Brad Popovich -- 4 pages  
D - Testimony SB 276 -- Leslie Carpenter -- 2 pages  
E - Testimony SB 276 -- John Mangan -- 5 pages  
F - Testimony SB 276 -- Kathleen Herry, Karen Amos -- 1 page  
G - Testimony SB 276 -- John Ellis -- 1 page  
H - Proposed amendments SB 276 -- Erik Wasmann -- 2 pages  
I - Testimony SB 493 -- Jennifer L. Wright -- 3 pages  
J - Proposed amendments SB 493 - Staff -- 1 page  
K - Testimony SB 493 -- Karen Hightower -- 2 pages  
L - Testimony SB 493 -- Cecilia Littleton Bonner -- 2 pages  
M - Testimony SB 493 -- Carol Gilder -- 2 pages  
N - Testimony SB 493 -- Aileen P. Kaye on behalf of Jim Wilson -- 3 pages  
O - Testimony SB 493 -- Karuna Neustadt and Rhonda Goodwin -- 2 pages  
P - Proposed Amendments SB 493 -- Staff -- 2 pages  
Q - Testimony SB 493 -- Peter D. Shepherd -- 2 pages  
R - Testimony SB 943 -- Lisa N. Bertalan -- 2 pages