

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CIVIL LAW

May 11, 2005 Hearing Room 357

8:30 A.M. Tapes 78 - 79

MEMBERS PRESENT: Rep. Bob Ackerman, Chair

Rep. Linda Flores

Rep. Bill Garrard

Rep. Kelley Wirth

GUEST MEMBERS: Rep. Wayne Krieger

Rep. Greg Macpherson

STAFF PRESENT: Bill Taylor, Counsel

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD:

SB 234A – Public Hearing and Work Session

SB 237A – Public Hearing and Work Session

SB 238A – Public Hearing and Work Session

SB 330A – Public Hearing and Work Session

SB 645A – Public Hearing and Work Session

SB 953 – 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

TAPE 78, A

003 Chair Ackerman Calls the meeting to order at 8:37 a.m. and opens a public hearing on SB 234A, which defines “legal father” and modifies provisions relating to putative fathers.

SB 234A – PUBLIC HEARING

013 Wendy Johnson Deputy Director, Oregon Law Commission (OLA). Testifies and submits a written report titled *The Rights of Putative Fathers in Juvenile Court* by Prof. Leslie Harris in support of SB 234A **(EXHIBIT A)**. Describes each section of SB 234A. Advises that Sections 9 through 23 on paternity disestablishment were amended in and did not go through the OLA process.

056 KayT Garret Department of Justice (DOJ). Testifies and submits written testimony in support of SB 234A **(EXHIBIT B)**. Explains that the juvenile court was granted specific authority to deal with paternity issues.

090 Garret Continues that the practical effect of SB 234A will allow for quicker permanency for children.

096 Ronelle Shankle DOJ. Testifies and submits testimony in support of SB 234A **(EXHIBIT C)**. Discusses the sunset provisions which will allow the OLA work group to further analyze this area of law.

122 Shani Fuller DOJ. Testifies and submits testimony in support of SB 234A **(EXHIBIT D)**. Describes the provisions used to establish paternity. Refers to Page 3 of **EXHIBIT D** which summarizes the new provisions in Sections 9 through 23 of SB 234A.

156 Fuller Continues with explanation of Sections 9 through 23. Advises that the Uniform Parentage Act is to be reviewed.

179 Bill Taylor Counsel. Asks why the new proposed language does not contain the six-month period that is in current law where a putative father can

establish that he is a party if he has provided physical, emotional and financial needs.

- 188 Garret Responds that the work group determined that the limited time constraints don't adequately reflect the constitutional principles which focus more on the relationship with the child. Advises that provisions in ORS 109.096 which contain durational language don't match the juvenile code.
- 213 Taylor Asks if there is a case cited regarding the constitutional standard.
- 215 Garret Answers that the report (**EXHIBIT A**) details the U. S. Constitutional cases decided on this issue and the Oregon cases where the appellate courts addressed rights of putative fathers.
- 228 Rep. Macpherson Asks about the issues that are going to be the main focus of the work group in the next two years.
- 235 Johnson Responds, the Uniform Parentage Act, which is an all-inclusive look at paternity issues.
- 244 Rep. Macpherson Inquires if the temporary solution on disestablishment of paternity in SB 234A will be reconsidered as part of this broader work effort.
- 250 Johnson Answers yes.
- 252 Rep. Macpherson Requests the key points that are open for debate.
- 257 Shankle Replies that DOJ has requested OLA look at the Uniform Parentage Act which is a comprehensive look at all areas of paternity. Continues that SB 234A was made "temporary" due to possible unintended consequences and a broader look is needed to be sure important issues have not been missed.
- 281 Rep. Macpherson Asks why significant changes are being proposed now if a comprehensive look is going to occur over the next two years.
- 290 Shankle Responds that case examples are needed and SB 234A will provide that in a limited scope.
- 300 Chair Ackerman

States that the staff summary shows a sunset of January 2, 2008, but SB 234A says it is operative January 2, 2008.

- 309 Taylor Explains how Legislative Counsel handled the sunset provision.
- 325 Rep. Krieger Expresses appreciation to the group for their efforts.
- 332 Chair Ackerman Echoes Rep. Krieger's comments.
- 340 Matt Minahan Dads America. Testifies in support of SB 234A, particularly the part dealing with reopening paternity.
- 351 Sybil Hebb Oregon Law Center. Testifies in support of SB 234A. Reports that the law center has been part of the negotiations and supports the consensus amendments related to the disestablishment of paternity procedures.
- 369 Chair Ackerman Closes the public hearing and opens a work session on SB 234A.

SB 234A – WORK SESSION

- 374 Rep. Flores **MOTION: Moves SB 234A to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

- 393 Chair Ackerman **The motion CARRIES.**
REP. FLORES will lead discussion in the full committee.

- 394 Chair Ackerman Closes the work session on SB 234A and opens a public hearing on SB 237A.

SB 237A – PUBLIC HEARING

TAPE 79, A

- 010 Bill Taylor

Counsel. Explains that SB 237A sets the statute of limitations in an employment safety lawsuit at one year after the employee or prospective employee has reasonable cause to believe a violation has occurred; applies to causes of action occurring on or after the effective date of this act; and declares an emergency. Believes there is currently no statute of limitations.

- 020 Wendy Johnson Deputy Director, Oregon Law Commission. Advises that the vote was unanimous in the Senate Judiciary Committee. Testifies and submits written testimony in support of SB 237A (**EXHIBIT E**). Reports on a review of the civil rights chapter of the statutes for the 2001 session. States that SB 237A adds a one-year statute of limitations to file a discrimination claim.
- 040 Rep. Wirth Asks for the Bureau of Labor and Industries (BOLI) statute of limitations.
- 046 Johnson Responds that a claim must be filed with BOLI in 30 days. Continues that most discrimination claims are one year.
- 049 Rep. Wirth Comments that there are many different timelines for filing claims.
- 053 Johnson States that most actions filed in court are one year.
- 057 Chair Ackerman Comments that if a public employer is involved, a tort claim notice is required in 180 days.
- 061 Chair Ackerman Closes the public hearing and opens a work session on SB 237A.

SB 237A – WORK SESSION

- 064 Rep. Wirth **MOTION: Moves SB 237A to the full committee with a DO PASS recommendation.**
- VOTE: 4-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 070 Chair Ackerman **The motion CARRIES.**
- REP. WIRTH will lead discussion in the full committee.**

072 Chair Ackerman Closes the work session on SB 237A and opens a public hearing on SB 238A.

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SB 238A – PUBLIC HEARING

074 Bill Taylor Counsel. Describes SB 238A which clarifies the remedies for volunteer firefighters and legislators, whose employer discriminates against them for requesting a leave of absence as part of their official duties, and for smokers who are discriminated against for smoking off the job; and allows them to seek reinstatement with back pay.

081 Wendy Johnson Oregon Law Commission (OLC). Testifies and submits a written report titled *Miscellaneous Remedy Ambiguities* in support of SB 238A (**EXHIBIT F**). Points out that three discrimination claims in statute had no remedies provided so SB 238A provides a remedy.

118 Rep. Macpherson Asks for an explanation of **EXHIBIT F**.

130 Johnson Responds that the OLC couldn't reconcile why some discrimination claims got some remedies and some claims got others. Continues that it was determined that punitive damages are very expensive and OLC didn't see the need so removed all from ORS 659A.885.

147 Rep. Macpherson Asks if there are no remedies in current law.

150 Johnson Answers, correct.

155 Chair Ackerman Closes the public hearing and opens a work session on SB 238A.

SB 238A – WORK SESSION

158 Rep. Garrard **MOTION: Moves SB 238A to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

164 Chair Ackerman **The motion CARRIES.**

REP. GARRARD will lead discussion in the full committee.

166 Chair Ackerman Closes the work session on SB 238A and opens a public hearing on SB 330A.

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SB 330A – PUBLIC HEARING

171 Bill Taylor Counsel. Explains that SB 330A allows a court reporter employed by a party to a court proceeding to charge a fee as agreed to by the parties and continues the \$2.50 cap per page a reporter may charge a public body.

179 Lara Smith Oregon Court Reporters Association (OCRA). Testifies and submits written testimony in support of SB 330A (**EXHIBIT G**).

188 Mary Fagan OCRA. Testifies in support of SB 330A. Advises that historically official court reporters who are state employees have been the guardians of the record but budget cuts have reduced the number to 12 throughout the state. Points out problems with the use of analog audio or digital audio for recording proceedings. Continues that SB 330A allows freelance court reporters to negotiate the appellate transcript fees and requires they follow transcript guidelines.

229 Smith Adds that SB 330A does not have a fiscal impact on the state.

234 Rep. Garrard Asks what happens if there is no agreement among all the parties.

242 Smith States that SB 330A deals with a contract between an attorney and a freelance reporter.

252 Fagan Offers that when the reporters do not agree they provide other services but not the official record.

262 Taylor Explains that if the parties don't agree, another reporter is used.

273 Chair Ackerman Closes the public hearing and opens a work session on SB 330A.

SB 330A – WORK SESSION

276 Rep. Flores **MOTION: Moves SB 330A to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

284 Chair Ackerman **The motion CARRIES.**
REP. FLORES will lead discussion in the full committee.

287 Chair Ackerman Closes the work session on SB 330A and opens a public hearing on SB 645A.

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SB 645A – PUBLIC HEARING

291 Bill Taylor Counsel. Explains SB 645A which creates a statutory framework for the regulation of “structured settlement agreements” in Oregon that is based on the Model State Structured Settlement Act.

310 Paul Cosgrove National Association of Settlement Purchasers. Testifies and submits written testimony in support of SB 645A (**EXHIBIT H**).

345 Cosgrove Explains how structured settlements work. Cites an example.

375 Cosgrove Continues that SB 645A provides for detailed disclosures to the person, a three-day right of rescission, a petition to the court, and notice to all interested parties.

404 Chair Ackerman Asks about the tax consequences of an award and what disclosures are made to the parties.

420 Cosgrove Responds that SB 645A contains language that the court must find an individual has had independent tax and legal advice on tax consequences.

006 Chair Ackerman Inquires if the language at the top of page 4 of SB 645A answers the question.

008 Cosgrove Replies, yes.

010 Chair Ackerman Seeks clarification that there is no disclosure by the company that is structuring the payment on the tax consequences.

012 Cosgrove Answers that the company purchasing the payments may not be in a position to know the answer to that question so it is better to seek independent counsel.

018 Chair Ackerman Closes the public hearing and opens a work session on SB 645A.

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SB 645A – WORK SESSION

022 Chair Ackerman MOTION: Moves SB 645A to the full committee with a DO PASS recommendation.

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

026 Chair Ackerman The motion CARRIES.
REP. ACKERMAN will lead discussion in the full committee.

027 Chair Ackerman Closes the work session on SB 645A and opens a public hearing on SB 953.

SB 953 – PUBLIC HEARING

029 Bill Taylor Counsel. Explains SB 953 includes personal information about potential or actual donors to the Oregon Health and Science University (OHSU) within the current exemption for similar information concerning potential or actual donors to the Oregon University System. Explains that in current law OHSU has an exemption to public disclosure.

043 Bryan Boehringer

OHSU. Testifies and submits written testimony in support of SB 953 (**EXHIBIT I**). Provides additional background. Explains that the OHSU exemption was created in 1995 and that SB 953 is a housekeeping amendment which extends the exemption to personal information of donors.

068 Chair Ackerman Closes the public hearing and opens a work session on SB 953.

SB 953 – WORK SESSION

072 Rep. Wirth **MOTION: Moves SB 953 to the full committee with a DO PASS recommendation.**

VOTE: 4-0-0

AYE: In a roll call vote, all members present vote Aye.

076 Chair Ackerman **The motion CARRIES.**

REP. WIRTH will lead discussion in the full committee.

081 Chair Ackerman Closes the work session on SB 953 and adjourns the meeting at 9:40 a.m.

EXHIBIT SUMMARY

- A. SB 234A, written report of Leslie Harris, Wendy Johnson, 16 pp
- B. SB 234A, written testimony, KayT Garret, 2 pp
- C. SB 234A, written testimony, Ronelle Shankle, 2 pp
- D. SB 234A, written testimony, Shani Fuller, 3 pp
- E. SB 237A, written testimony, Wendy Johnson, 4 pp
- F. SB 238A, written report, Wendy Johnson, 6 pp
- G. SB 330A, written testimony, Lara Smith, 1 p
- H. SB 645A, written testimony, Paul Cosgrove, 1 p
- I. SB 953, written testimony, Bryan Boehringer, 1 p