

**HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS**

**June 28, 2005 Hearing Room 357**

**1:00 P.M. Tapes 10 - 11**

**Corrected 10/17/05**

**MEMBERS PRESENT:           Rep. Wayne Krieger, Chair**

**Rep. Jeff Barker, Vice-Chair**

**Rep. Brian Boquist, Vice-Chair**

**Rep. Linda Flores**

**Rep. Greg Macpherson**

**STAFF PRESENT:           Cletus Moore, Committee Administrator**

**Annetta Mullins, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 2009 – Work Session**

**SB 1034A – 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 10, A

003 Chair Krieger Calls the meeting to order at 1:06 p.m. and opens a work session on HB 2009.

### HB 2009 – WORK SESSION

009 Sandy Thiele-Cirka Committee Administrator. Explains HB 2009 which first requires Department of Human Services (DHS) to first consider child's grandparents or other birth relative as prospective adoptive parents before considering other prospective adoptive parents.

023 Bruce Anderson Legislative Director for Speaker Minnis. References testimony from Eugene attorney, James Palmer, regarding grandparents having the option to adopt (**EXHIBIT A**).

045 Rose Lucas Grandmother. Describes circumstances which placed her three grandchildren in the custody of the State three years ago. Reads from an *Oregonian* article depicting the trauma a child faces after being placed in foster care.

103 Lizanne Sayre Court Appointed Special Advocate (CASA). Discusses the case of these three children being removed from the parental home, and their subsequent placement. Expresses confusion why Rose Lucas was denied placement of her granddaughter.

178 Connie Olson Lincoln City resident. Indicates the denial report by Thomas Brown was unsigned (**EXHIBIT B**) and he has subsequently left his job. Pleads with the committee to consider some type of legislation so this does not happen in the future.

258 Lucas Points out that her granddaughter suffers from the isolation from her family while her two siblings are located with family members.

271 Rep. Flores Comments on a similar case which occurred in the Willamette Valley which calls into question the motives of caseworkers making placements into foster homes.

286 Chair Krieger Notes these same types of issues have been brought to light previously.

300 Sayre

Feels that DHS staff does not mean to be malicious, but asks that unilateral power within the agency be diluted.

- 316 Olson Points out the thousands of volunteer hours the CASA worker has spent on this case and the judge involved in this case has not read her report.
- 333 Kathy Ledesma Adoption Program Manager, DHS. States DHS is neutral on this bill, but has two primary concerns:
- This legislation is unnecessary because current statutes and agency policies and practices already contain references to consideration of relatives as the placement of preference.
  - Modification of this particular statute may be in conflict with other Oregon statutes.
- 373 Ledesma Cites DHS Administrative Rule: Working with Relatives Toward the Placement of Children which has been in place since 1999. Submits “Reasons for Non-Selection of Considered Relatives to Adopt Children in DHS Custody – 2004” (**EXHIBIT C**).
- 412 Ledesma Notes their system of checks and balances both within and outside of the department prior to any adoption. States that relatives do have recourse if they disagree with the decision made by DHS.
- 436 Rep. Flores Asks for a copy of the prior referenced administrative rule.
- 440 Ledesma Submits “Oregon Administrative Rules: Working with Relatives Toward the Placement of Children” (**EXHIBIT D**).

#### **TAPE 11, A**

- 003 Rep. Flores Inquires about a list of disqualifiers for temporary or permanent placement (adoption).
- 007 Ledesma Lists reasons as stated in **EXHIBIT C**.
- 025 Rep. Flores Questions placement of the 14-year old child in his father’s home when the father had a previous conviction for drug abuse.
- 033 Ledesma Responds that only the mother was under investigation at the time of the placement.

044	Rep. Flores	Still questions the placement of the child with a parent convicted of drug abuse.
047	Ledesma	Replies the other parent has a right to his/her child if no reason for denial is known by the agency.
053	Rep. Flores	Points out that one of the criteria for disqualification existed before the placement of the 14-year old child.
056	Ledesma	States those disqualifiers do not apply to the parent because they have different rights to that child.
066	Rep. Flores	Expresses concern about a child being placed with a parent who has a record of drug abuse.
072	Ledesma	Notes that the agency shares that concern.
082	Chair Krieger	References <b>EXHIBIT B</b> and wonders why the letter from Mr. Brown is unsigned.
084	Ledesma	Does not know.
086	Chair Krieger	Asks for clarification that Mr. Brown has left the agency over this issue.
087	Ledesma	Does not know, but could get that information.
089	Chair Krieger	Asks for what reasons were the mother's parental rights terminated.
093	Ledesma	Replies that she does not recall any particulars of this case. Notes that the list of disqualifiers are quoted reasons from relatives and previous caretakers.
100	Chair Krieger	Asks for the agency list of disqualifiers.
102	Ledesma	Indicates that will be provided today.
104	Rep. Macpherson	Wonders if the statutes cited in HB 2009 (ORS 109.305 to 109.410) control DHS placement for adoption.

109	Linda Guss	Assistant Attorney General, Department of Justice (DOJ). Responds that ORS 109.304 – 109.410 apply to private adoptions, but certain provisions do apply to adoptions that DHS finalizes.
121	Rep. Macpherson	Questions if this measure is in the correct place in the Oregon Revised Statutes.
127	Guss	Points out that the Juvenile Code (Chapter 419B) has a provision concerning preference to placement when a child’s care comes under DHS. HB 2009 would have a separate statute requiring the department to first consider grandparents and birth relatives as adoptive placement.
161	Rep. Macpherson	Speaks to the operative language: “shall first consider” and wonders how directive this language is.
167	Guss	Quotes ORS 419B.192 which addresses the question about the “shall” language.
177	Rep. Macpherson	Asks if enacting HB 2009 would have changed the results in Mrs. Lucas’ case.
185	Ledesma	Replies that a consideration was given to this grandparent; would have to investigate if proper steps constituting consideration were followed.
195	Rep. Boquist	Asks for the difference in definition between <i>adoption</i> and <i>placement</i> as it pertains to HB 2009 and the previous citing of ORS 419B.192.
199	Guss	Responds that <i>placement</i> would be a broader circumstance; gives examples. Says <i>adoption</i> is a narrower type of situation.
212	Rep. Boquist	Indicates <i>placement</i> , while broader, does not have the same implication in terms of adoption as pointed out in HB 2009.
222	Ledesma	Points out that all children in DHS custody who are adopted are first placed with the perspective adoptive family, but not always adopted.
230	Rep. Boquist	Inquires about her second conflict with another statute.

232	Ledesma	Replies the first conflict was with ORS 419B.192 and the second conflict with ORS 419B.116.
243	Rep. Boquist	Asks what the conflict is with ORS 419B.116.
245	Ledesma	Indicates the problem is with first consideration must be given to relatives and other persons who have a parent-child relationship with the child (caregiver).
250	Rep. Boquist	Asks for that citation.
257	Guss	Points out there are two statutes in juvenile code that recognize certain types of relationships with children who are court wards – ORS 419B.116 recognizes the caregiver relationship – allowing these people to intervene in a court case or ask for custody of the child. States ORS 419B.192 says there shall be a preference to relatives or those with a caregiver relationship for placement. Isn't sure how all these special relationships fit together.
307	Rep. Boquist	Wonders about the purpose of the CASA and if they are a party to this whole process.
310	Guss	Responds the CASA is a party to the juvenile court case according to ORS 419B.875. Points out that under this statute, a legal grandparent of a child in custody of DHS, has the opportunity to be given notice of all juvenile court proceedings regarding their grandchild and an opportunity to be heard in the juvenile court case.
329	Rep. Boquist	Asks about the role of the CASA.
334	Guss	Explains statutes which govern the role of a CASA who is automatically a party to the case.
345	Rep. Flores	Reads ORS 419B.875 (6) into the record which appears to put the burden on the grandparent to intervene in their grandchild's court case.
358	Guss	Agrees that does place a responsibility on the grandparents to actually provide an address to DHS for future contact.
373	Ledesma	Indicates there is a portion in DHS administrative rules that directs how DHS is to proceed in contacting relatives.

378 Rep. Flores Asks if grandparents are contacted by DHS in their due diligence to find relatives.

383 Ledesma Responds affirmatively.

385 Rep. Barker Inquires about a situation where a caregiver to a child might not be given a chance at adoption if HB 2009 became law.

400 Ledesma Responds that could happen.

410 Timothy Travis Oregon Judicial Department. Discusses the limited oversight of the court over the choice of adoptive placements. Details ORS 419B.349 regarding placing the child in a specific *type* of placement. Says the category of placement is the limitation that keeps the agency in charge of planning for the child. Addresses the CASA report not being considered by the judge; says this will be investigated.

478 Travis Addresses the issue of grandparents as a party to a juvenile proceeding.

#### **TAPE 10, B**

030 Rep. Barker Asks for clarification of the *Troxel v. Grandville* case.

034 Travis Indicates how this case gave the parents the right to control visitation.

042 Chair Closes the work session on HB 2009 and opens a public hearing and work session on SB 1034A.

#### **SB 1034A PUBLIC HEARING AND WORK SESSION**

046 Joe O'Leary Committee Counsel. Explains the provisions of SB 1034A which establishes criteria for court to dismiss commitment of ward to Department of Human Services. Explains three amendments before the committee: -A4 by sponsors with assistance of Judicial Department (**EXHIBIT E**), -A7 has been withdrawn (**EXHIBIT F**), and -A8 from the DHS which clarifies ORS 418.625(3) definition of a foster home (**EXHIBIT G**).

104 Maggie Miller

Executive Director, Citizens Crime Commission. Submits packet of information and testifies in support of SB 1034A (**EXHIBIT H**). Cites findings of Citizens Crime Commission Homeless Youth Prevention Task Force Report (**EXHIBIT I**).

- 153 Miller Gives statistics for foster care of youngster age 13+.
- 164 Julie McFarlane Juvenile Rights Project. Submits testimony and testifies in support of SB 1034A which they hope will stop the flow of children from foster care into homelessness (**EXHIBIT J**). Testifies in support of the –A4 and –A8 amendments to SB 1034A.
- 236 Timothy Travis Oregon Judicial Department. Testifies in support of –A4 amendments.
- 244 Rep. Boquist Asks for clarification on which amendments are being requested.
- 246 McFarlane Clarifies just the –A4 and –A8 amendments are being considered.
- 252 **Rep. Boquist** **MOTION: Moves to ADOPT SB 1034A-A4 amendments dated 06/24/05.**
- VOTE: 5-0-0**
- 255 **Chair Krieger** **Hearing no objection, declares the motion CARRIED.**
- 256 **Rep. Boquist** **MOTION: Moves to ADOPT SB 1034A-A8 amendments dated 06/27/05.**
- 256 **VOTE: 5-0-0**
- 260 **Chair Krieger** **Hearing no objection, declares the motion CARRIED.**
- 260 **Rep. Boquist** **MOTION: Moves SB 1034A to the floor with a DO PASS AS AMENDED recommendation.**
- 261 **VOTE: 5-0-0**
- AYE: In a roll call vote, all members present vote Aye.**



- 276            Chair Krieger            **The motion CARRIES.**  
**REP. BARKER will lead discussion on the floor.**
- 277            Chair Krieger            Closes the work session on SB 1034A and adjourns the meeting at  
2:20 p.m.

### **EXHIBIT SUMMARY**

- A. **HB 2009, written testimony of James Palmer, Bruce Anderson, 2 pp**
- B. **HB 2009, information on visitation by Rose Lucas, Connie Olson, 5 pp**
- C. **HB 2009, addendum to DHS testimony, Kathy Ledesma, 2 pp**
- D. **HB 2009, Oregon Administrative Rules, Working with Relative Toward Placement of Children, Kathy Ledesma, 14 pp**
- E. **SB 1034, -A4 amendments, staff 1 p**
- F. **SB 1034, -A7 amendments, staff, 2 pp**
- G. **SB 1034, -A8 amendments, staff, 2 pp**
- H. **SB 1034, written testimony, Maggie Miller, 8 pp**
  - I. **SB 1034, Citizens Crime Commission Homeless Youth Prevention Task Force Report, Maggie Miller, 24 pp**
  - J. **SB 1034, written testimony, Julie McFarlane, 6 pp**