

SENATE COMMITTEE ON JUDICIARY

April 02, 2003
8:00 a.m.

Hearing Room 343
Tapes 82-84

MEMBERS PRESENT: **Sen. John Minnis, Chair**
 Sen. Ginny Burdick, Vice-Chair
 Sen. Ted Ferrioli
 Sen. Charlie Ringo
 Sen. Charles Starr
 Sen. Vicki Walker

STAFF PRESENT: **Craig Prins, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: **SB 69 Public Hearing**
 SB 431 Public Hearing
 SB 104 Public Hearing and Work Session
 SB 628 Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

| TAPE/# | Speaker | Comments |
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| TAPE 82, A | | |
| 003 | Chair Minnis | Calls the meeting to order at 8:18 a.m. and opens a public hearing on SB 69. |
| <u>SB 69 PUBLIC HEARING</u> | | |
| 008 | Craig Prins | Committee Counsel. Introduces SB 69 that modifies references to child, youth and youth offender in general provisions relating to juvenile court, and the -1 amendments (EXHIBIT A). |
| 014 | Timothy Travis | Oregon Judicial Department. Submits testimony and testifies in support of SB 69 (EXHIBIT B). |
| 073 | Sen. Ringo | Asks where the definition of <i>child</i> can be found. |
| 074 | Travis | Explains that it is defined in ORS 419A.004, but it is being changed in Section 1, page 2, line 4, and page 5 line 18. |
| 089 | Sen. Ringo | Asks if the definition is purposely omitted. |
| 095 | Travis | Says, yes. |
| 115 | Prins | Explains the -1 amendments. |
| 121 | Travis | Talks about using the word <i>ward</i> to define a person under the age of 18 in juvenile code. |

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| 170 | Chair Minnis | Closes the public hearing on SB 69 and opens a public hearing on SB 431. |
| <u>SB 431 PUBLIC HEARING</u> | | |
| 203 | Mary Ann Anderson | Friday Harbor, Washington. Submits testimony and testifies in support of SB 431 that creates rebuttable presumption that joint custody of child is in best interests and welfare of child (EXHIBIT C) . |
| 364 | Vice Chair Burdick | Asks about those parents who are not fit. |
| 374 | Anderson | Says there are provisions in the bill that provide for the safety of the child. |
| 378 | Vice Chair Burdick | Asks at what point that finding would be made. |
| 412 | Craig Prins | Committee Counsel. Suggests that Judge Leggert address this issue. |
| 416 | Chair Minnis | Asks about the judge's decision in Ms. Anderson's personal experience. |
| 420 | Anderson | Explains her daughter's personal experience. |
| 470 | Chair Minnis | Asks why custody was denied |
| 476 | Anderson | Said it was an economic issue. |
| 486 | Vice Chair Burdick | Asked about why the abuser was given custody. |
| 493 | Anderson | Explained that the judge felt that because child custody statutes were so vague, she could do whatever she wanted. |
| TAPE 83, A | | |
| 047 | Sen. Ringo | Asks if mediation is desirable. |
| 050 | Anderson | Says, yes. |
| 052 | Sen. Ringo | Asks how one can force two people to agree. |
| 057 | Anderson | Says there are statistics that show that mediation works. |
| 085 | Sen. Ringo | Wonders about parents having a fundamental right to equal parenting time. |
| 104 | Anderson | Says parents have 90 days to agree, and then it goes to court. |
| 116 | Judge Terry Leggert | Marion County, Salem, Oregon. Testifies in opposition to SB 431. Says she will submit written testimony later in the day. |
| 122 | Chair Minnis | Asks when it is appropriate for a court to intervene. |
| 132 | Judge Leggert | Says every judge in the state would like to have mediation, but it is a fiscal issue. Talks about a mandate to have parents devise their own parenting plan. |
| 183 | Sen. Ferrioli | Asks for a definition of a rebuttable presumption. |
| 193 | Judge Leggert | Explains the concept of rebuttable presumption. |
| 199 | Sen. Ferrioli | Expresses his concern about the presumption that both parents should have equal parenting rights. |
| 230 | Judge Leggert | Explains joint custody does not necessarily mean 50% parenting time. |
| 311 | Sen. Ringo | Expresses concern about a parent being labeled non-custodial. |
| 328 | Judge Leggert | Agrees. Discusses how her court handles this issue. |
| 352 | Sen. Ringo | Asks if one parent can be empowered to make decisions. |
| 359 | Judge Leggert | Says she would like to see how that would be written into law. |
| 361 | Vice Chair Burdick | Asks for an explanation of legal custody versus physical custody. |
| 367 | Judge Leggert | Explains the difference. |
| 422 | David Anderson | Private Citizen, Portland, OR. Submits testimony on behalf of Emily Cohen and testifies in support of SB 431 (EXHIBIT D) . |
| TAPE 82, B | | |
| 078 | Elaine Walters | Lane County, OR. Testifies in opposition to SB 431. Believes there are a number of problems with the bill and points them out. |

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| 147 | Chair Minnis | Asks why it is not correct to presume joint custody. |
| 156 | Walters | Believes that there may not necessarily be joint custody in a marriage. |
| 170 | Chair Minnis | Disagrees. Wonders about a parent who expresses that he does not want joint custody. Talks about termination of parental rights. |
| 187 | Walters | Says that the presumption is the ideal. |
| 295 | Kevin Schaumleffle | Attorney, Portland, OR. Submits testimony and testifies in support of SB 431 (EXHIBIT E) . |
| TAPE 83, B | | |
| 036 | Sybil Hebb | Oregon Law Center. Submits testimony and testifies in opposition to SB 431 (EXHIBIT F) . |
| 097 | Sen. Ringo | Wonders if there is a stigma attached to the non-custodial parent causing conflict. |
| 103 | Hebb | Agrees that such terms are detrimental. |
| 109 | Sen. Ringo | Wonders if the parenting plan should be revised to include more information. |
| 115 | Hebb | Agrees that it should be possible to create such a plan. |
| 178 | Meg Goldberg | Family Mediator, Multnomah County. Submits testimony and testifies in opposition to SB 431 (EXHIBIT G) . Explains what happens in mediation. |
| 261 | Chair Minnis | Closes the public hearing on SB 431 and opens a public hearing on SB 104. |
| <u>SB 104 PUBLIC HEARING</u> | | |
| 265 | Craig Prins | Committee Counsel. Introduces SB 104 that adds defined terms youth and youth offender when appropriate in provisions dealing with appeals in juvenile court cases, and the -1 amendments (EXHIBIT H) . |
| 294 | Michael Livingston | Department of Justice. Submits testimony and testifies in support of SB 104 (EXHIBIT I) . |
| 308 | Chair Minnis | Closes the public hearing on SB 104 and opens a work session. |

SB 104 WORK SESSION

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| 310 | Vice Chair Burdick | MOTION: Moves to ADOPT SB 104-1 amendments dated 03/27/03. VOTE: 5-0-1 EXCUSED: 1 - Sen. Walker |
| 318 | Chair Minnis | Hearing no objection, declares the motion CARRIED. |
| 319 | Vice Chair Burdick | MOTION: Moves SB 104 to the floor with a DO PASS AS AMENDED recommendation. VOTE: 5-0-1 EXCUSED: 1 - Sen. Walker |
| 322 | Chair Minnis | Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor. |
| 330 | Chair Minnis | Closes the work session on SB 104 and opens a public hearing on SB 628. |

SB 628 PUBLIC HEARING

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| 332 | Craig Prins | Committee Counsel. Introduces SB 628 that expands disclosure of records compiled pursuant to child abuse report. |
| 342 | Ginger Martin | Department of Corrections. Submits testimony and testifies in support of SB 628 with the -1 amendments (EXHIBIT J and K). |
| 390 | Kelly Skye | Oregon Criminal Defense Lawyers Association. Testifies in opposition to SB 628, based on the original draft. |
| 441 | Sen. Ferrioli | Asks about the sharing of reports. |
| 472 | Skye | Clarifies that it is the law enforcement agencies that have authority to distribute records. |

TAPE 84, A

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| 020 | Chair Minnis | Discusses the context under which records should be disclosed. |
| 041 | Skye | Expands on the disclosure of records. |
| 055 | Chair Minnis | Closes the public hearing on SB 628 and adjourns the meeting at 10:10 a.m. |

EXHIBIT SUMMARY

- A – SB 69, -1 amendments submitted by staff, 118 pp**
- B – SB 69, written testimony submitted by Timothy Travis, 9 pp**
- C – SB 431, written testimony submitted by Mary Ann Anderson, 4 pp**
- D – SB 431, written testimony of Emily Cohen submitted by David Anderson, 3 pp**
- E – SB 431, written testimony submitted by Kevin Schaumleffle, 7 pp**
- F – SB 431, written testimony submitted by Sybil Hebb, 3 pp**
- G – SB 431, written testimony submitted by Meg Goldberg, 2 pp**
- H – SB 104, -1 amendments submitted by staff, 1 p**
- I – SB 104, written testimony submitted by Michael Livingston, 1 p**
- J – SB 628, -1 amendments submitted by staff, 4 pp**
- K – SB 628, written testimony submitted by Ginger Martin, 2 pp**
- L – SB 431, written testimony of Merle H. Weiner, submitted by staff, 4 pp**
- M – SB 431, written testimony of Hugh McIsaac submitted by staff, 2 pp**
- N – SB 431, written testimony of William Howe submitted by staff, 2 pp**
- O – SB 431, written testimony of Joan Howard submitted by staff, 1 p**
- P – SB 431, written testimony of Layne Barlow submitted by staff, 3 pp**
- Q – SB 431, written testimony of Thomas Lakey submitted by staff, 1 p**