

HOUSE COMMITTEE ON JUDICIARY
SUBCOMMITTEE ON CIVIL LAW

February 26, 2001
8:00 a.m.

Hearing Room 357
Tapes 21 - 23

MEMBERS PRESENT: **Rep. Cherryl Walker, Chair**
 Rep. Vic Backlund
 Rep. Kathy Lowe
 Rep. Charlie Ringo
 Rep. Lane Shetterly
 Rep. Max Williams

STAFF PRESENT: **Andrea Shartel, Counsel**
 Marilyn Odell, Counsel
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2608 Public Hearing and Work Session**
 HB 2609 Public Hearing
 HB 2610 Public Hearing and Work Session
 HB 2427 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 |
|--------------------------------------|--------------------------|--|
| TAPE 21, A | | |
| 015 | Chair Walker | Calls the meeting to order at 8:10 a.m. Opens a public hearing on HB 2608. |
| <u>HB 2608 PUBLIC HEARING</u> | | |
| 025 | Rep. Max Williams | House District 9 Testifies on HB 2608 relating to inspection of public records by members and committees of the Legislative Assembly. Discusses information on public records law given to committee (EXHIBIT A). |
| 050 | Greg Chaimov | Legislative Counsel Testifies on HB 2608. Answers that it is not an oversight but that the Attorney General is not correctly interpreting the public records law. |
| 063 | Chair Walker | Closes the public hearing on HB 2608 and opens a work session on HB 2608. |
| <u>HB 2608 WORK SESSION</u> | | |
| 075 | Rep. Shetterly | MOTION: Moves HB 2608 to the full committee with a DO PASS recommendation. VOTE: 4-0-1 EXCUSED: 1 - Lowe |
| 075 | Chair Walker | Hearing no objection, declares the motion CARRIED. |
| 080 | Chair Walker | Closes the work session on HB 2608 and opens a public hearing on HB 2609. |

HB 2609 PUBLIC HEARING

090 Dianne Middle

Director, Department of Public Safety Standards and Training

Submits testimony (**EXHIBIT B**) and testifies on HB 2609 relating to correction of erroneous material in Oregon law.

107 Greg Chaimov

Legislative Counsel

Testifies on HB 2609 and submits testimony (**EXHIBIT C**).

150 Chair Walker

Closes the public hearing on HB 2609 and opens a public hearing on HB 2610.

HB 2610 PUBLIC HEARING

174 Counsel Shartel

Introduces HB 2610 relating to release of trust deed.

180 Jack Munro

Oregon Land Title Association

Testifies in support of HB 2610 and submits testimony (**EXHIBIT D**).

214 Cleveland Abee

Oregon Land Title Association

Testifies in support of HB 2610. Explains the modifications proposed in HB 2610.

387 Rep. Ringo

Asks if a notice to the borrower would be useful on occasion.

345 Abee

Answers that the current law requires notice to the original grantor. Says that it is hard to imagine that someone would need a notice if they were not involved in paying off the loan.

377 Munro

Adds that the bill says that if there are any problems with this process, the title company is responsible.

385 Abee

Says that the party that would be concerned would be the lender.

397 Rep. Shetterly

Asks about the percentage of reconveyances they are dealing with in Section 1, subsection 2, page 1 of the bill.

412 Abee

Responds that a 10 percent figure is realistic.

431 Chair Walker

Asks how they can prove the date of mailing.

443 Abee

Answers that they would do that by certifying which is similar to a process in litigation. States the release by the title company has a certification that dates the mailing.

TAPE 22, A

007 Chair Walker

Closes the public hearing on HB 2610 and opens a work session on HB 2610.

HB 2610 WORK SESSION

009 Rep. Shetterly

MOTION: Moves HB 2610 to the full committee with a DO PASS recommendation.

VOTE: 5-0

009 Chair Walker

Hearing no objection, declares the motion CARRIED.

020 Rep. Walker

MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. Lowe to vote on HB 2608. Votes "aye".

113 Chair Walker

Closes the work session on HB 2610 and opens a public hearing on HB 2427.

HB 2427 PUBLIC HEARING

120 Timothy Travis

State Court Administrator's Office

Testifies on HB 2427 relating to domestic relations.

135 Tammy Dentinger

Oregon State Bar

Testifies on HB 2427 and submits testimony (**EXHIBITS E & F**).

| | | |
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| 197 | Travis | Explains that the basic fabric of the statute sets out the conditions and circumstances and burdens of proof that one must meet in four basic situations. |
| 227 | Rep. Shetterly | Asks Mr.Travis to discuss the points of disagreement that occurred in the work group. |
| 237 | Counsel Odell | Explains what the work group tried to do with the bill. |
| 260 | Rep. Lowe | Says that the only thing that she doesn't like about the bill is the "shall" language. |
| 291 | Travis | Answers that he personally would not mind if the "shall" was "may". |
| 308 | Rep. Lowe | Asks who wanted "shall". |
| 311 | Dentinger | Answers that she advocated for "shall" because she reads the statute as the court "shall" make a determination that is in the best interest of the child. |
| 325 | Rep. Lowe | Says that she cannot support the bill with the language "shall". |
| TAPE 21, B | | |
| 002 | Rep. Ringo | Comments that this structure allows the court as much discretion as you can give the court and doesn't see this discretion turning on "shall" versus "may". |
| 009 | Travis | Says that there is a possibility of misreading the statute, but if we separate the "best interest" piece then it clears up the possible misunderstanding. |
| 026 | Rep. Shetterly | States that he is satisfied with that. |
| 039 | Rep. Lowe | Describes a scenario and wonders how the statute would apply. Says she thinks that the court needs to have additional discretion in deciding visitation rights. |
| 072 | Travis | Explains how the statute would apply. |
| 100 | Maureen McKnight | Multnomah County Office of Legal Aid Services Testifies on HB 2427 and submits testimony (EXHIBIT G). Discusses three concerns about specifics in the bill. |
| 173 | Dentinger | States that this is a compromise bill. |
| 210 | Rep. Ringo | Says there should be a very high standard to deny a natural parent custody. Thinks they should substitute "clear and convincing". |
| 235 | Travis | Says that continuity of care is extremely important for a child. |
| 333 | Rep. Shetterly | Points out memo from Philip Schuster (EXHIBIT E). |
| 365 | Randy Daum | Columbia County, St. Helens Testifies on HB 2427 and submits testimony (EXHIBITS H & I). |
| TAPE 22, B | | |
| 014 | Daum | Continues testimony on HB 2427. |
| 105 | Rep. Lowe | Asks how old his boys were when their mother died. |
| 110 | Daum | Answers that they were five and six years old. Adds that it seemed like the burden of proof was on him as to why the boyfriend shouldn't have visitation rights. |
| 130 | Rep. Shetterly | Adds that this bill creates a presumption that the parent is able to act in the child's best interest. |
| 140 | Daum | Says that in many respects he agrees with the bill. |
| 170 | Rep. Shetterly | Says that the court erred in making their decision. |
| 176 | Rep. Lowe | Comments that if we go "clear and convincing" that the bill would be better. |
| 218 | Valerie Scott | Umatilla County Testifies on HB 2427 and submits testimony (EXHIBIT J). Says |

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| 365 | Kekoa Hunter Tiffany Hunter | that she has some concerns with the bill. Testify on HB 2427. States that they don't agree with the grandparents visitation law at all because it takes their parental rights away. Feels there should be an emergency clause on the bill. |
| TAPE 23, A | | |
| 004 | Hunters | Continue testimony on HB 2427. |
| 064 | Rep. Shetterly | Adds that an emergency clause is necessary as an amendment to the bill. |
| 075 | Irene Strafford | Washington County Testifies on HB 2427 and submits testimony (EXHIBIT K). Wants some provisions in the bill. |
| 140 | Counsel Odell | States that there is a provision that allows the court to appoint a counsel for the child. Says that it doesn't say how it gets paid for. |
| 148 | Rep. Shetterly | Says there is a time frame for the relationship to be established stated on page 4, lines 11 and 12 explains that an emergency clause needs to be amended in so that the bill will be in effect as soon as possible. |
| 180 | Rep. Shetterly | Explains |
| 194 | Rep. Lowe | Emphasizes that she would rather see the word "may" instead of "shall" on page 2, line 17, subsection 5 and on page 1, lines 18 and 19, "that" to be changed to "clear and convincing". Says she wants it "clear and convincing" if it's a third party. |
| 240 | Rep. Shetterly | Says that he is inclined to go with the language of the bill. |
| 283 | Rep. Lowe | Suggests at the very minimum we should segregate out the language "in the best interest of the child". |
| 430 | Counsel Odell | Addresses Rep. Lowe's concerns. |
| 491 | Chair Walker | States that there are three items for amendments and that the bill will be rescheduled for a work session. |
| 500 | Chair Walker | Closes the public hearing on HB 2427 and adjourns the meeting at 10:28 a.m. |

Submitted By,

Reviewed By,

Ann Martin,
Committee Assistant

Andrea Shartel,
Counsel

EXHIBIT SUMMARY

- A – HB 2608, Information on Public Records, submitted by Rep. Max Williams, 1 p.**
- B – HB 2609, written testimony submitted by Dianne Middle, DPSST, dated 2/26/01, 2 pgs.**
- C – HB 2609, written testimony submitted by Greg Chaimov, dated 2/26/01, 1 p.**
- D – HB 2610, written testimony submitted by Jack Munro, dated 2/21/01, 2 pgs.**
- E – HB 2427, law review article entitled "Constitutional and Family Law Implications of the Sleeper and Troxel Cases: A Denouement for Oregon's Psychological Parent Statute", from Philip Schuster, submitted by Tammy Dentinger, 150 pgs.**
- F – HB 2427, written testimony of Philip Schuster submitted by Tammy Dentinger, dated 2/23/01,**

5 pgs.

G – HB 2427, written testimony submitted by Maureen McKnight, dated 2/26/01, 2 pgs.

H – HB 2427, Court of Appeals Case, Daum v. Daum, 97-3456, dated 2/25/01, 5 pgs.

I – HB 2427, written testimony submitted by Randy Daum, 2 pgs.

J – HB 2427, written testimony submitted by Valerie Scott, 6 pgs.

K – HB 2427, written testimony submitted by Irene Strafford, 2 pgs.