

SENATE COMMITTEE ON JUDICIARY

January 29, 2001 Hearing Room 343
1:00 p.m. Tapes 14 - 17

MEMBERS PRESENT: **Sen. Minnis, Chair**
 Sen. Courtney, Vice-Chair
 Sen. R. Beyer
 Sen. Burdick
 Sen. Duncan
 Sen. Harper
 Sen. Metsger

STAFF PRESENT: **Bill Taylor, Counsel**
 Jane Bodenweiser, Committee Assistant

MEASURE/ISSUES HEARD: Introduction of LC Drafts 102, 2724, 2725, 2726 2829
 SB 337, Public Hearing
 SB 165, Public Hearing and Work Session
 SB 338, Public Hearing
 SB 339, Public Hearing
 SB 340, 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 14, A		
007	Chair Minnis	Opens the meeting at 1:08 p.m.
009	Counsel Taylor	Introduces LC Drafts 102, authorizes forfeiture of motor vehicle of person arrested for driving under influence of intoxicants if person has been convicted of specified offenses within 10 years prior to arrest; LC 2724, increases crime category for felony driving while under the influence of intoxicants for purposes of sentencing guidelines; LC 2725, Increases penalty for abuse of venerated objects. Punishes by maximum six months' imprisonment, \$2000 fine, or both; LC 2726, Increases period of time youth may be held in detention or shelter care before hearing; LC 2829, classifies certain employees of Oregon State Hospital and Eastern Oregon Training Center as police officers for purpose of benefits under Public Employees Retirement System (EXHIBITS A-E).
014	Vice Chair Courtney	MOTION: Moves LC's: 102, 2724, 2725, 2726, 2829 BE INTRODUCED as committee bills.
		VOTE: 7-0
025	Chair Minnis	Hearing no objection, declares the motion CARRIED.
<u>SB 337 PUBLIC HEARING</u>		
032	Counsel Taylor	Introduces SB 337 that requires that the Child Support Division receive notice of a domestic relations matter that affects child

		support when child support rights have been assigned the state of Oregon.
038	Ronelle Shankle	Department of Justice, Division of Child Support Submits testimony and testifies in support of SB 337(EXHIBIT F). Explains that this bill is striving to clarify the legal requirements for private practitioners in domestic relations cases. Advises that a –1 amendment to SB 337 is also being submitted (EXHIBIT G), and explains that this amendment would provide a provision in Chapter 18.405 which speaks to giving notice of support satisfaction.
089	Chair Minnis	Asks for clarification of what the Oregon Child Support Program does.
094	Shankle	Explains that there are 3 entities in Oregon, the Department of Human Services, Adult and Family Services section, the Department of Justice, Child Support Division, and the County District Attorneys. Further explains the director’s role and the flow of cases and services provided.
122	Sen. Metsger	Asks about a child on state assistance and the state’s standing in the court, and asks about the procedure of notification to private attorneys.
128	Shankle	Explains that SB 337 will speed up the process of notice (especially for new practitioners) with assignment of a portion of the support rights up front.
141	Karen Berkowitz	Attorney with Legal Aid Services of Oregon Submits testimony and testifies in opposition to SB 337 (EXHIBIT H), but further explains that she would support SB 337 with the amendments she proposes. The amendment would expand the definition of “support rights” to include spousal support.
199	Chair Minnis	Asks for clarification of how the amendment will change the definition to include spousal support.
202	Berkowitz	Explains the new definition includes cash support for a spouse as well as for a child.
215	Chair Minnis	Suggests that there are existing enforcement tools available for spousal support.
250	Berkowitz	Explains that currently there is no definition of support right, and while SB 337 as written defines support as child support, she contents that it should be expanded to include spousal support.
257	Sen. Duncan	Asks if Ms. Berkowitz has consulted with Ms. Shankle about the amendment.
261	Berkowitz	Answers that she spoke briefly with Ms. Shankle who responded that she would have to consult with counsel about the amendment.
270	Shankle	Explains her brief discussion with Ms. Berkowitz. States that she spoke to counsel with regard to spousal only support not being provided full services by the Child Support Division.
308	Chair Minnis	Asks Ms. Berkowitz if she is talking about spousal only support.

310	Berkowitz	Replies that she is not speaking of spousal only, but of spousal in general.
324	Counsel Taylor	Indicates that Section 1, line 6 refers to several chapters in SB 337 and asks if the new definition refers to those particular statutes.
331	Berkowitz	Replies, yes.
332	Counsel Taylor	Asks which ones relate to spousal support.
333	Berkowitz	Responds that chapter 107 relates to spousal support, as well as chapter 25, which provides the enforcement mechanisms.
342	Counsel Taylor	Asks if her interpretation is that this definition will cover child support as well as spousal support.
344	Berkowitz	Replies, yes.
354	Chair Minnis	Closes public hearing on SB 337 and opens public hearing on SB 165.

SB 165 PUBLIC HEARING

366	Kevin Mannix	Testifies in favor of SB 165 relating to child support arrearages. Explains the current status and how this bill would move child support arrearages onto the list of prioritized items that would be paid out of an estate.
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TAPE 15, A

003	Karen Berkowitz	Submits testimony and testifies as neutral on SB 165 (EXHIBIT I). Suggests an amendment to ORS 25.245 by adding a section to SB 165 included in submitted testimony. Explains that current language limits rights of recipients to benefits administered through the Department of Human Services, and does not extend to recipients of benefits administered through different entities.
062	Mannix	Explains that he is concerned about amendment proposed. Asks that the committee not move in that direction.
084	Vice Chair Courtney	Asks for clarification of line 16, page 1 of SB 165 having to do with all child support arrearages, and how payment would be made when there is not enough money.
108	Mannix	Replies that the pay out would be proportionate.
148	Vice Chair Courtney	Expresses a concern about the unusual manner in which this bill has been written with regard to sub-section g line 15.
175	Counsel Taylor	Asks if the split between labor and child support referred to in sub-section g would be 50/50.
178	Mannix	Responds, yes.
180	Sen. Burdick	Why is child support in sub-section g instead of a, which includes support of spouse and children.
187	Mannix	Explains that there are traditional prioritized items that include current support of spouse and children, cost of administration, and taxes that need to be addressed before arrearages of child support.
202	Counsel Taylor	Assists with explanation of line 7 on page 1 regarding support to spouse and children as opposed to arrearages.

214 Chair Minnis Asks if debts to employees shouldn't be a separate item, since it happens so rarely, and child support arrearages be a separate item.

221 Mannix Suggests that he would support that change, but explains why he thinks legislative counsel itemized SB 165 the way they did.

232 Sen. Burdick Asks counsel for clarification of the distribution of money in sub-section g.

239 Counsel Taylor Explains his interpretation would be that it would be a 50/50 distribution.

245 Mannix Recognizes that his interpretation is the same.

260 Chair Minnis Closes public hearing on SB 165 and opens work session.

SB 165 WORK SESSION

264 Sen. Beyer **MOTION: Moves to SUSPEND the rules for the purpose of proposing an amendment to SB 165 to include a period after the word "decedent" in item G, a new item H that would include the wording "All child support arrearages", and subsequent items would be re-lettered "I" and "J".**

VOTE: 7-0

280 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

Vice Chair **MOTION: Moves SB 165 to the floor with a DO PASS AS AMENDED recommendation.**

Courtney

VOTE: 7-0

303 Chair Minnis **Hearing no objection, declares the motion CARRIED.**

SEN. MINNIS will lead discussion on the floor.

308 Chair Minnis Closes the work session on SB 165 and opens a public hearing on SB 338.

SB 338 PUBLIC HEARING

322 Ronelle Shankle **Department of Justice, Division of Child Support**
Submits testimony and testifies in support of SB 338 (**EXHIBIT J**) relating to contact with represented parties in child support cases. Explains that the bill will provide better customer service to represented parties.

414 Layne Barlow **Representing Oregonians for Family Law Reform.**

Testifies in support of SB 338 with an amendment. Explains proposed amendment changes to sub-section 5, page 2.

TAPE 14, B

008 Chair Minnis Asks for example of a "real life" experience.

010 Barlow Explains that the bill is written to address only the issues listed, and that there are no provisions for modification procedures.

028 Chair Minnis Suggests that this creates a new issue entirely and contends that perhaps a bill should be introduced to include modification.

038 Barlow Indicates he disagrees.

045	Vice Chair Courtney	Asks Ms. Shankle if the wording on line 3, page 2 “includes, but is not limited to”, allows flexibility in terms of things not on the list.
067	Shankle	Replies that the intent of the language did not include going beyond accounting information.
075	Vice Chair Courtney	Asks why she would not want to keep that language in.
080	Shankle	Explains that the language is broad enough to raise a concern about interpretation.
089	Counsel Taylor	Clarifies his understanding of sub-section 5, page 2, with regard to whether one has an attorney or not.
109	Vice Chair Courtney	Asks counsel if his interpretation is that if a person has an attorney, less information is available to him than if he doesn’t have an attorney.
115	Counsel Taylor	Concurs that is his interpretation.
118	Shankle	Maintains that the stated interpretation is correct.
130	Sen. Duncan	Asks for the intent of sub-section 5.
133	Shankle	Explains that it is for the protection of the customer or party.
140	Chair Minnis	Asks for a rewrite of this bill for clarification.
154	Sen. Beyer	Suggests SB 338 changes the meaning of the statute and is not a housekeeping measure.
179	Sen. Metsger	Asks if the language on line 3, page 2 could put the state or party at risk with regard to information conveyed.
191	Shankle	Replies that the concern is more with the state’s interpretation than the customer’s interpretation.
196	Sen. Metsger	Asks if there may be some liability in giving out information not limited to the list.
197	Shankle	Explains that the issue of liability was not addressed.
201	Sen. Metsger	Asks why this bill cannot be changed to address the issue of information given to those represented by counsel and those who are not.
221	Roger Wong	Child Support Liaison for the Oregon District Attorneys Association. Testifies in support of SB 338 and explains that the current statutes do not allow customer service to individuals who do not have an attorney. Explains that approval was given by the Oregon State Bar regarding the wording of this bill.
270	Carl Stecker	Representing the Marion County District Attorney’s Office Gives explanation of the kinds of information that can be disseminated and under what circumstances.
302	Sen. Burdick	Asks if the restriction on information that can be given someone represented by counsel is a fairly routine, common procedure that applies to many other circumstances.
313	Stecker	Replies, yes there are many instances where this situation comes up.
333	Sen. Harper	Asks if attorneys are restricting themselves.
340	Wong	Replies and clarifies the intent of the bill as a customer service vehicle.
362	Sen. Harper	Asks for further clarification of the use of the “but not limited to” clause.
368	Wong	Explains that changing the clause to “means” clarifies and simplifies how staff can respond.
382	Sen. Burdick	Asks about the change from “department” to “administrator” in

388	Wong	sub-section 5 on page 2. Replies that under the term administrator, the district attorneys are included by statutory definition. Under the term “department” they were not included.
425	Barlow	Expresses concern about the right of the caseworker to obtain information with regard to procedural information, not the practice of law.
457	Counsel Taylor	Suggests possible wording for an amendment.
473	Barlow	Offers help with the implementation of suggested wording by Counsel Taylor.
479	Chair Minnis	Closes public hearing on SB 338 and opens a public hearing on SB 339.

SB 339 PUBLIC HEARING
TAPE 15, B

044	Ronelle Shankle	Department of Justice, Division of Child Support. Submits testimony and testifies in support of SB 339 relating to the administration of the child support program (EXHIBIT K). Indicates that this is a housekeeping bill and proposes to clarify the definition of “administrator.”
085	Shankle	Submits testimony and testifies in support of an amendments to SB 339 (EXHIBIT L-N). Explains the need for these amendments to clarify the intention of ORS 25.424 related to unemployment; ORS 25.646 relating to Department of Justice, Division of Child Support as opposed to the Department of Human Services; and ORS 461.715 relating to interception of lottery prizes for child support.
137	Vice Chair Courtney	Asks how many child support problems are there dealing with the Lottery.
142	David Cooper	Public Affairs Manager, Oregon Lottery Explains that \$433,000 has been garnished from lottery prizes for child support.
154	Sen. Burdick	Asks if there is a percentage of lottery prize money that is garnished.
153	Cooper	Explains the money is taken off the top.
167	Chair Minnis	Closes public hearing on SB 339 and opens a public hearing on SB 340.

SB 340 PUBLIC HEARING

173	Ronelle Shankle	Department of Justice, Division of Child Support Submits testimony and testifies in support of SB 340 relating to license suspension based on child support (EXHIBIT O). Advises that this bill would amend ORS 25.750 and points out the 4 key points in this bill.
218	Sen. Harper	Asks what an average monthly payment is.
223	Shankle	Replies that it runs about \$248 per month on average. Submits statistical information (EXHIBIT P).
227	Sen. Duncan	Asks if that is per child.
229	Shankle	Replies that that figure is an average—not a per-child figure.
233	Sen. Beyer	Asks whether this is an arrears or monthly support payment.
238	Shankle	Responds this is the average monthly obligation.
249	Bob Hayden	Boring, Oregon. Testifies in opposition to SB 340. Explains his experience with child support and lack of work. Maintains that he has asked for an adjustment, but has been turned down.
272	Chair Minnis	Asks if his license has been suspended.
274	Hayden	Replies that it will be in 30 days.
284	Vice Chair Courtney	Asks which license he is speaking of.
289	Hayden	Replies it is his Oregon driver’s license and commercial license.
291	Vice Chair Courtney	Asks what his arrearage is at this time.
293	Hayden	Replies that it is about \$4,000 plus an additional \$345 a month which brings his total support to over \$800.
300	Kevin Schaumleffle	Submits testimony and testifies in opposition to SB 340 (EXHIBIT Q). Illustrates an example of an acquaintance having difficulty in making child support payments. Poses the question about how DHR gets paid for collection services and explains he learned that the state receives an incentive bonus from the federal government. Suggests a possible work group to discover equities.
394	Michael Fogle	Submits testimony and testifies in opposition to SB 340 as an advocate of non-custodial parents (EXHIBIT R). Explains his personal situation and contends that the Support Enforcement Division (SED) is insensitive to individual circumstances.
TAPE 16, A		
029	Larry Redler	Submits testimony and testifies in opposition to SB 340 (EXHIBIT S). Discusses his lack of ability to earn a living as a truck driver if his license is taken away. Expresses the injustices done to him by SED.
114	Chair Minnis	Asks if Mr. Redler understands that the federal government requires that all states have these provisions in their statutes regarding some suspension of licenses.
124	Redler	Contends that illegal and unlawful methods are being used.
161	James Pierce Whinston	Deputy Director, National Center for Men, Oregon Chapter, and Kids Need Both Parents Center Submits testimony and testifies in opposition to SB 340 (EXHIBIT T). Asks that safeguards be installed in the bill to hold accountable the Department of Child Support (DCS). Gives example of abuse of the system through custodial interference.
349	Alan Ball	Testifies in opposition to SB 340. Expresses his concern about being threatened with jail if he does not comply with his child

363	Chair Minnis	support obligation. Asks if he is being threatened or if he is being informed of what the potential consequences for non-compliance are.
365	Ball	Replies that he has actually been threatened with jail if he does not pay.
397	Vice Chair Courtney	Asks what his arrearage is.
400	Ball	Replies he is in arrears \$850 and has a work-related injury that keeps him from working.
416	Jill Mundt	Testifies in support of SB 340. Explains that she is not receiving child support and has not been able to get anything done through SED without an attorney. Expresses frustration that there is no help available from the agency, and notes that her only assistance has come from Senator Courtney's wife who has made phone calls for her.
TAPE 17, A		
051	Chair Minnis	Asks why she cannot get child support.
052	Mundt	Explains that her ex-husband is self-employed so his wages cannot be garnished.
077	Chair Minnis	Asks if Ms. Mundt has ever received child support.
078	Mundt	Replies that she received child support for 4 months.
051	Chair Minnis	Recesses the public hearing on SB 340 and adjourns the meeting at 3:30 p.m.

Submitted By,

Reviewed By,

Jane Bodenweiser,
Committee Assistant

Bill Taylor,
Counsel

EXHIBIT SUMMARY

A – LC Draft 102, submitted by staff, dated 12/15/00, 1 p
B – LC Draft 2724, submitted by staff, dated 1/26/01, 1 p
C – LC Draft 2725, submitted by staff, dated 1/26/01, 1 p
D – LC Draft 2726, submitted by staff, dated 1/26/01, 1 p
E – LC Draft 2829, submitted by staff, dated 1/26/01, 4 pp
F – SB 337, written testimony submitted by Ronelle Shankle, dated 1/29/01, 1 p
G – SB 337, proposed amendment submitted by Ronelle Shankle, dated 1/29/01, 1 p
H – SB 337, written testimony submitted by Karen Berkowitz, dated 1/29/01, 2 pp
I – SB 165, written testimony submitted by Karen Berkowitz, dated 1/29/01, 2 pp
J – SB 338, written testimony submitted by Ronelle Shankle, dated 1/29/01, 2 pp
K – SB 339, written testimony submitted by Ronelle Shankle, dated 1/29/01, 1 p
L – SB 339, proposed amendment submitted by Ronelle Shankle, dated 1/29/01, 1 p
M – SB 339, proposed amendment submitted by Ronelle Shankle, dated 1/29/01, 2 pp
N – SB 339, proposed amendment submitted by Ronelle Shankle, dated 1/29/01, 1 p
O – SB 340, written testimony submitted by Ronelle Shankle, dated 1/29/01, 1 p
P – SB 340, statistical information submitted by Ronelle Shankle, 1 p
Q – SB 340, written testimony submitted by Kevin Schaumleffle, dated 1/29/01, 2 pp
R – SB 340, written testimony submitted by Michael Fogle, dated 1/29/01, 2 pp
S – SB 340, written testimony submitted by Larry Redler, dated 1/29/01, 3 pp
T – SB 340, written testimony submitted by James Whinston, dated 1/26/01, 3 pp

