

HOUSE COMMITTEE ON HUMAN RESOURCES

SUBCOMMITTEE ON HUMAN SERVICES

April 21, 1999 Hearing Room E

3:30 PM. Tape 9-10

MEMBERS PRESENT: Rep. Jackie Winters-Chair

Rep. Jeff Kruse

Rep. Betsy Close

MEMBER EXCUSED: Rep. Bill Morrisette

Rep. Kitty Piercy

STAFF PRESENT: Janet L. Carlson, Administrator

Diane M. Lewis, Administrative Support

MEASURE/ISSUES HEARD: HB 2714 Public Hearing and Work Session

HB 2537 Public Hearing and Work Session

HB 2701 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 9, A		

005	Chair Winters	Opens the meeting at 3:45 PM and opens a public hearing on HB 2714.
<u>HB 2714 PUBLIC HEARING</u>		
010	Janet Carlson	Committee Administrator, explains that she will include HB 2537 in her summary since both bills create an interim task force regarding the issues of children. Notes for the committee the Services to Children and Families (SCF) Issues Matrix they have received (EXHIBIT A). Refers to EXHIBIT A, and explains that proposed legislative solutions to "casework practice and efficiency" will be found in HB 2537-1 amendments dated 4/13/99 (EXHIBIT B), -2 amendments dated 4/13/99 (EXHIBIT C), and -3 amendments dated 4/13/99 (EXHIBIT D).
035	Carlson	Continues discussing the SCF issues matrix. Explains that the last item, regarding "appropriate dispute resolution (ADR) services," is the focus of HB 2714. States that proposed legislative solutions for this issue are found in HB 2714-1 amendments dated 4/13/99 (EXHIBIT E). Refers to the amendments, EXHIBITS B-E, and provides additional summaries for each.
082	Chair Winters	Opens a public hearing on HB 2537 so that the bills may be heard together.
<u>HB 2537 PUBLIC HEARING</u>		
088	Timothy Travis	Project Manager, Office of the State Court Administrator, submits and presents written testimony regarding the Juvenile Court Improvement Project (JCIP) (EXHIBIT F). States that mediation and settlement procedures regarding parental rights and other dependency cases must be improved. Supports HB 2714-1 as these amendments create this improvement. Believes that mediation services should be available to families from the first day they enter the system. Discusses the philosophical disagreement between SCF and the Judicial Department of whether or not a party to a mediation should be in charge of that mediation. States that the Judicial Department believes it is imperative to have an impartial mediator in charge of the process.
155	Rep. Piercy	Refers to HB 2714 ñ1 amendments, page 2, line 1, and asks about the \$500,000 sum that "may" be expended. Wonders if proponents of this amendment want the word "may" to remain.
162	Nancy Miller	Director, Citizen Review Board (CRB), explains that she will address changes that the CRB would like to see in HB 2714ñ1 amendments. States that proposed changes will be significant.
168	Alice Phalan	Appropriate Dispute Resolution (ADR) Advisor, Office of the State Court Administrator, submits and presents written testimony regarding HB 2714-1 (EXHIBIT G). Explains that if HB 2714-1 is passed into law, Oregon will join eleven other states who currently have similar legislation or programs regarding nonadversarial case resolution States that there are numerous other states that are looking into these issues.

190	Phalan	Refers to EXHIBIT G, page 1, and discusses the review and implementation of mediation, arbitration, and settlement conferences by the Judicial Department.
220	Phalan	Continues by referring to EXHIBIT G, page 2, and begins discussing components of "mediation." Refers to page 3, and states that the independent Judicial Department is the most appropriate entity to house the juvenile dependency mediation programs.
288	Phalan	Refers to EXHIBIT G, page 5, and discusses how mediation assists the court and child welfare agencies. Summarizes eight points listed on page 5.
305	Phalan	Refers to EXHIBIT G, page 6, and discusses best practices for mediation programs.
320	Phalan	Continues by referring to EXHIBIT G, pages 7, 8, and 9, and discusses the lessons learned from other state programs and plans. Highlights the fact that "mediated contested cases were less likely than nonmediated contested cases to result in later contested hearings" and wonders at the court costs that might be saved by the state with a mediation program in place. Points out that agreements produced in mediation are similar to outcomes promulgated by judges.
375	Honorable Terry Leggett	Marion County Circuit Court Judge, testifies in regard to HB 2714. Explains that the court's mediation experience began in the 1980s, and although it was resisted by all parties in the beginning, it is now a welcome and integral component to the judicial process. States that she has personally been pursuing the implementation of mediation services in child welfare cases. Believes that agencies do not understand the court's role in child welfare cases. Maintains that the court is <u>not</u> a party to any case.
440	Rep. Piercy	Asks Judge Leggett if she believes agency concerns are based on issues of limited financial resources, or if they come out of an ignorance of the role that mediation plays in a case as well as the role of the court.
TAPE 10, A		
006	Judge Leggett	Responds that her experience leads her to believe that the agency misunderstands the role of the court as well as the role that mediation would play in the processes and procedures of child welfare cases.
015	Travis	Explains that he has been authorized by the Juvenile Rights Project (JRP) to report their support of HB 2714's amendments and the comments of the Judicial Department.
023	Chair Winters	Understands that Travis does not believe the agency has any mediation services available in their child welfare program at this time. Asks which aspects of the SCF program are not "mediation."
027	Travis	Responds that the SCF process is not mediation because there is only one

		<p>outcome, i.e., the relinquishment of the child. There is not a range of options or outcomes. Comments that SCF files a termination of parental rights and tells the parent(s), "You will negotiate with us about the surrender of your child, or you will get nothing." Explains that birth parents go into the process with the understanding that if they ever want to see their child again, they must do what the agency tells them to do. States that SCF hires the "mediator" and controls the situation. Contends that what SCF creates is a "settlement tool." Believes that SCF is involved in "negotiated surrender" and not mediation.</p>
048	Phalan	<p>Concurs with the testimony that SCF is not providing "mediation" services. States her continued concern with the development of the SCF program. Explains that she sees the program at SCF to be more like "relinquishment counseling processes." States that the system "does need a broad range of appropriate dispute resolution processes that meet the diverse needs of the parties involved." Concedes that mediation is not for everyone. Reports that other states have found that the appropriate role of the child protective agency is dealing with family decision making, family conferencing, and relinquishment counseling. Maintains that mediation must be moved to the "independent branch of government."</p>
090	Nancy Miller	<p>Director, Citizen Review Board (CRB), submits and present written testimony in regard to HB 2714-1 (EXHIBIT H) and proposed conceptual changes to the ñ1 amendments (EXHIBIT I). Explains two reasons why the ñ1 amendments were originally written the way that they appear before the committee:</p> <ul style="list-style-type: none"> • It was assumed that the amendments would be going into an SCF bill. • Legislative Counsel (LC) looked for a statute relating to mediation, and found what they needed in law regarding child relinquishment. <p>Concurs with previous testimony, and states that the Judicial Department has been working towards a child welfare mediation program for a long time.</p>
110	Miller	<p>Walks the committee through proposed changes to the ñ1 amendments (EXHIBIT I). Maintains that these changes make it very clear that this is not an attempt to get in the middle of SCF's current program.</p>
150	Dianne Lancaster	<p>Assistant Administrator, Program Operations, SCF, submits and presents written testimony and information regarding the SCF mediation program for child dependency cases (EXHIBIT J). Discusses many components of the mediation program including different phases of growth the SCF program has experienced.</p>
200	Lancaster	<p>Notes for the committee the list of statewide mediators, EXHIBIT J, pages 5 and 6.</p>
244	Pat Melius	<p>Branch Manager, Linn County SCF, supports the use of mediation and concurs with some of the comments of Mr. Travis regarding the need for SCF to review their concepts of neutral mediation. Believes that "word interpretations" have been the problem between SCF and the Judicial Dept. Explains that the agency's policy is very clear when mediation is being used in a termination case: "Mediation occurs only at the time that an adoptive family has been selected, and it has been determined that the birth parents can work to create a post-adoptive communication agreement." Explains that a "settlement conference" takes place to determine if a case is ready for mediation.</p>

277	Melius	Discusses the local steering committee he has formed to oversee the creation of mediation services for families who are in the child welfare process. Provides the committee with an overview of the steering committee's membership. States that SCF uses a family decision-making model.
304	Chair Winters	Asks if the caseworkers are involved in mediation.
308	Melius	Responds that caseworkers are involved in the family decision making model. Explains that they are not a party to the post adoption mediation meetings. States that this mediation involves the birth parents and the adoptive parents with a mediator.
315	Chair Winters	Asks for clarification of the process in the pilot project.
324	Melius	Responds that the pilot project has not been implemented yet. Explains that the vision includes a neutral, contracted mediator who sits down with family members and agency caseworkers to negotiate agreements that ensure the safety of the child.
337	Chair Winters	Asks if this is similar to "contract buy-ins."
340	Melius	Responds negatively. States that the role of mediation does not function with a set of outcomes in place.
350	Chair Winters	Asks about the comments that birth parents feel they have no power or choice in the process, if they want future contact with the child.
363	Melius	Responds that the point of mediation occurs after the birth parents have relinquished their parental rights. Explains that the purpose for mediation is to engage the birth parents, if they are interested, in an agreement with the adoptive parents for visitation options.
380	Lancaster	Comments that mediation services need to be brought into cases earlier so parents can feel empowered through the process.
394	Gin Dennison	Director, Governor's Advocacy, Children's Ombudsman, and Dispute Resolution Office, testifies in regard to HB 2714 and the proposed §1 amendments. Discusses the dispute resolution coordinator position within her office and how this position worked with SCF, CRB, and the Justice Dept. to implement a statewide parental rights termination mediation program. Explains that the dispute resolution coordinator will provide and oversee training for statewide approved mediators.
TAPE 9, B		
018	Lancaster	States that SCF is supportive of the proposed changes to the §1 amendments. Explains that the agency hopes to compliment the work being done by the

		Judicial Dept. Supports an interim process that would continue the creation of a working mediation program.
032	Chair Winters	Thanks the presenters for their time and information. Closes the public hearings on HB 2714 and HB 2537 and opens a work session on HB 2714.
<u>HB 2714 WORK SESSION</u>		
043	Rep. Kruse	MOTION: Moves to AMEND HB 2714-1 amendments on page 1, in line 5, delete "ORS 419B.517 is amended to read:" and insert "section 2 is made a part of ORS 419B," and on page 1, delete lines 6 through 10, and on page 1, in lines 23 and 24, delete "State Office for Services to Children and Families" and insert "Judicial Department," and on page 2, in lines 1 and 2, delete "which may be expended for contracting with the Judicial Department," and on page 2, in line 2, after "in," insert "juvenile dependency" and on page 2, in line 2 , delete "involving" and on page 2, delete line 3.
		VOTE: 3-0 EXCUSED: 2 - Morrisette, Piercy
089	Chair Winters	Hearing no objection, declares the motion CARRIED.
100	Rep. Kruse	MOTION: Moves HB 2714 to the full committee on Human Resources with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Morrisette, Piercy
114	Chair Winters	The motion CARRIES.
115	Chair Winters	Closes the work session on HB 2714 and opens a public hearing on HB 2701.
<u>HB 2701 PUBLIC HEARING</u>		
118	Chair Winters	Closes the public hearing on HB 2701 and opens a work session on HB 2537.

HB 2537 WORK SESSION

129	Nancy Miller	Citizen Review Board (CRB), reports that Judge Terry Leggert is in support of HB 2537 and the ñ1, -2, and ñ3 amendments (EXHIBITS B, C, and D). Reviews the provisions of the amendments.
177	Dianne Lancaster	SCF, submits and presents written testimony regarding HB 2537 (EXHIBIT K).
185	Kathie Osborn	Juvenile Rights Project (JRP), testifies in opposition to the ñ1 amendments. Refers to HB 2537-1, page 2, lines 1-3, and opposes the reference to caseworkers providing family counseling. Comments that counseling should be facilitated by a neutral party and remain confidential. States that JRP supports the ñ2 and ñ3 amendments.
227	Chair Winters	Asks if JRP has concerns with section 2 of the -1 amendments.
228	Osborn	Replies that there are instances where there is animosity between the family and the caseworker and this should be considered "good cause." States that turnover within SCF is concerning.
258	Margie Lowe	States that terms in the bill are very ambiguous in their definition and make it difficult to look at future budget needs. Asks if phone conversations can take place to define terms such as "family counseling" and "contact."
270	Chair Winters	Asks if all parties are agreeable to deleting lines 1, 2, and 3 on page 2 of HB 2537-1 amendments.
277	Lancaster	States that SCF will support this change to the ñ1 amendments.
279	Osborn	States that JRP will support this change to the ñ1 amendments.
280	Miller	States that CRB will support this change to the ñ1 amendments.
286	Chair Winters	Asks if all parties are agreeable to changing HB 2537-2 amendments on page 1, line 19, inserting "at least once" between "that" and "month."
288	Lowe	Explains that SCF would be unable to meet this change if a parent cannot be found. States that SCF would require an exception attached to this change.
294	Osborn	States the JRP would be concerned with the requirement of "direct contact" being face to face contact, since some parents are out of state.
302	Miller	Concurs with the comments of SCF. Suggests that better language is "if the parents live in the state."

312	Rep. Kruse	Asks if language defining "direct contact" as face to face <u>or</u> phone conversations is sufficient.
316	Miller	States that the words "direct contact" are too broad and can be interpreted in a number of ways. Agrees with adding language referring to parents living in the state.
319	Osborn	States that out of state parents, working toward reunification, need to have consistent contact with the caseworker.
330	Rep. Kruse	Suggests that the possibility of conceptually amending the amendments to HB 2537 is becoming confusing and suggests that a whole new set of amendments be drafted to include the changes discussed.
333	Chair Winters	Concurs.
340	Rep. Kruse	MOTION: Moves to ADOPT HB 2537-1 amendments as CONCEPTUALLY AMENDED on page 2, delete "lines 1-3".
		VOTE: 3-0 EXCUSED: 2 - Morrisette, Piercy
350	Chair Winters	Hearing no objection, declares the motion CARRIED.
355	Rep. Kruse	MOTION: Moves to ADOPT HB 2537-2 amendments dated 4/13/99.
		VOTE: 3-0 EXCUSED: 2 - Morrisette, Piercy
359	Chair Winters	Hearing no objection, declares the motion CARRIED.
361	Rep. Kruse	MOTION: Moves to ADOPT HB 2537-3 amendments dated 4/13/99.
		VOTE: 3-0 EXCUSED: 2 - Morrisette, Piercy

363	Chair Winters	Hearing no objection, declares the motion CARRIED.
367	Rep. Kruse	MOTION: Moves HB 2537 to the full committee of Human Resources with a DO PASS AS AMENDED recommendation.
		VOTE: 3-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Morrisette, Piercy
375	Chair Winters	The motion CARRIES.
378	Chair Winters	Closes the work session on HB 2537 and adjourns the meeting at 5:01 PM.

Submitted By, Reviewed By,

Diane M. Lewis, Janet L. Carlson,
Administrative Support Administrator

EXHIBIT SUMMARY

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A ñ Services to Children and Families issues matrix, staff, 2 pp.

B ñ HB 2537-1 amendments dated 04/13/99, staff, 2 pp.

C ñ HB 2537-2 amendments dated 04/13/99, staff, 2 pp.

D ñ HB 2537-3 amendments dated 04/13/99, staff, 2 pp.

E ñ HB 2714-1 amendments dated 04/13/99, staff, 2 pp.

F ñ HB 2714, written testimony, Timothy Travis, 3 pp.

G ñ HB 2714, written testimony, Alice Phalan, 9 pp.

H ñ HB 2714, written testimony, Nancy Miller, 2 pp.

I ñ HB 2714 ñ1 amendments as conceptually amended, Nancy Miller, 2 pp.

J ñ Written information regarding mediation in child dependency cases, Dianne Lancaster, 56 pp.

K ñ HB 2537, written testimony, Dianne Lancaster, 2 pp.