

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

February 03, 1999 Hearing Room 357

1:00 p.m. Tapes 19 - 20

**MEMBERS PRESENT:** Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

**MEMBER EXCUSED:** Rep. Kathy Lowe

**STAFF PRESENT:** Aaron Felton, Counsel

Nancy Richards, Administrative Support

**MEASURE/ISSUES HEARD:** HB 2234

HB 2228

HB 2230

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 19, A		

004	Vice Chair Williams	Calls meeting to order at 1:08 p.m.
<b>HB 2234 Public Hearing</b>		
006	Vice Chair Williams	Opens public hearing.
010	Counsel Felton	HB 2234 Allows motion for modification of support order any time support enforcement services are being provided.
020	<b>Ronelle Shankle</b>	<b>Department of Human Resources; Adult and Family Services Section; Department of Justice, Support Enforcement Division</b>  Testifies in support of HB 2234 ( <b>EXHIBIT A</b> ). Discusses the amendments that would expedite the processes that the department are currently using and reduce confusion for all others involved in these processes. Discusses Care Taker Relative cases and the purposes of addressing all relevant child support issues in a single legal action which will result in children receiving the child support they are entitled to.
103	Rep. Uherbelau	If the proper custodial provider is not getting the support payments, can the obligor request a hearing?
110	Shankle	Yes, that is correct.
114	Rep. Lowe	Will the obligor have the information of where the children are and where the support payments are going?
123	Shankle	All parties will be notified and have the opportunity to object.
132	Rep. Lowe	This action upon the motion of the new caretakeris, could be a defacto abrogation of the parental rightsÖif they have custody and suddenly they are seeking support. Do you see any problems in that area, with this modification.
133	<b>Jean Fogerty</b>	<b>Assistant Attorney General, Family Law Section of the Department of Justice</b>  Currently, we are not affecting parental rights by making sure the money gets to the child. Under the administrative system, a person with physical custody even if they are absent, a legal determination of custody can be an obligee and can receive the support payments. The judicial process is the forum in which legal custody is determined, but anyone with physical custody can use the administrative process to obtain a support order.
152	Rep. Lowe	What are the assurances that everybody will have an opportunity to be heard and that the hearings will be held in a forum convenient for the custodial parent?
172	Fogerty	This proposal expedites the process and the notice to the parties involved.

		Discusses the existing support orders and the new support orders of modification.
184	<b>Layne Barlow</b>	<b>Oregon Menís Association</b> Testifies in support of HB 2234. Discusses the four our amendments that needs to be made to the bill.
242	Rep. Uherbelau	I would like to know what the Department of Justice thinks about how this bill would effect what they are trying to do?
255	Vice Chair Williams	Reviews the four amendments and what they accomplish. Would the DOJ respond to these amendments and what effect they would be on your department.
274	<b>Jean Fogerty</b>	<b>Assistant Attorney General</b> Discusses that these amendments would have to analyze the application they would have on the existing rules.
298	Vice Chair Williams	Would most of the parties be represented?
303	Fogerty	No they would not.
305	Vice Chair Williams	Is anyone represented in this kind of proceeding?
307	Fogerty	The state has their District Attorney or the Assistant Attorney General available to them. States that the administrative process is user friendly, cheap, and has legal access.
312	Vice Chair Williams	What procedure would be used for a joinder rule? Was it to give notice to everybody who has an interest or would it be more defined by administrative rule?
316	Fogerty	We were going to work this out in administrative rule.
317	Vice Chair Williams	There is some pragmatic regular usage in ORCP 29 and could be used with some sense among the legal community.
320	Fogerty	We were trying to make sense from this multi-level process in trying to get all those involved working together to get the money to the child. This could be done in rule or in statute with further analyzing.
333	Rep. Lowe	Would you use a Notice of Financial Responsibility proceeding with this process?

341	Fogerty	This bill would reduce the modification order from two steps to one step. We would issue an order of modification with the caretaker relative involved the first time instead of the second time.
350	Rep. Lowe	You have the ability to seek modification of any order after the passage of two years without showing a substantial change of circumstances on the record. If after two years the caretaker relative still has the child, would there be anything in this statute that would obligate you to seek an order or split the support between the obligee and obligor?
367	Fogerty	Both parents have an obligation to support the child who is not under their custody. This process allows us to have everybody there, have one order, and two judgement debtors.
391	Rep.Uherbelau	Discusses way to make the statute more user friendly by giving references.
410	Shankle	Yes, that would be helpful.
414	Barlow	The Administrative Law Judges need direction from the legislature.
424	Fogerty	Comments that ORCP, unless specifically referenced, does not apply to the administrative process.
428	Vice Chair Williams	Would you respond to Mr. Barlow's suggestion of changing the "a" person to "all" persons?
433	Shankle	This will have to be something our attorney will have to further look at.
449	Fogerty	Discusses the consideration of having separate proceedings to involve the multiple creditors and debtors.
462	Shankle	Were you worried about joining the multiple new persons who have custody of the child?
478	Barlow	Discusses the persons who have custody of the child and that there needs to be one order and one judgement for all those involved.
<b>Tape 20, A</b>		
043	<b>Kevin Aguirre</b>	<b>Assistant Administer, Adult &amp; Family Services Division, Department of Human Resources</b>  Testifies in support HB 2234 ( <b>EXHIBIT B</b> ). Discusses that this bill will be a useful tool for assisting families as they progress toward self-sufficiency and still enables the children on welfare to receive their child support.

057	Rep. Edwards	Any thoughts on the proposed amendments that were contemplated by the last session?
059	Aguirre	States that would be complicated having dual payee checks.
063	<b>Maureen Mcknight</b>	<b>Legal Aid Services of Oregon</b>  Testifies in support of HB 2234. The premise of the bill is that the state would be initiating the action involving the caretaker relative. Discusses the procedures that are encompassed within the language of the bill that allows the parents to initiate the modification of support order. States that it is unclear on Page 2, Lines 18 & 19 of this bill, whether the intent is to allow a party, who is not the administer, to join the caretaker relative.
<b><u>HB 2228, Public Hearing</u></b>		
117	Counsel Felton	HB 2228 modifies certain procedures used by support enforcement agencies.
124	<b>Ronelle Shankle</b>	<b>Department of Justice, Support Enforcement Division</b>  Testifies in support of HB 2228 ( <b>Exhibit C</b> ). Discusses how this bill clarifies the mandated use of registering foreign orders under Uniform Interstate Family Support Act, now it removes a duplicative process in the statutes, and how it narrows the focus of the remaining language in ORS 416.429.
165	<b>Layne Barlow</b>	<b>Oregon Menís Association</b>  Testifies against HB 2228. Discusses their concerns with the changes in the billís language.
216	Rep. Uherbelau	Why are we taking out A, B, and C in the bill?
223	Shankle	Discusses why the changes to the bill.
237	Rep. Uherbelau	Would it be available to the person who gets this notice and they do wants to challenge it on jurisdiction grounds, that they could ask for it to be removed to the circuit court?
240	<b>Jean Fogerty</b>	<b>Assistant Attorney General, Family Law Section</b>  Testifies in support of HB 2228. Previously, you could register a foreign order administratively or judicially. We want to take out the administrative process, but still keeping the judicial forum where the questions about personal jurisdiction can be raised under the validity of the underlying order. Discusses the defenses that are to be deleted in the bill.
262	Rep. Uherbelau	How does the person that is objecting to what is on the notice know what to do next?

270	Fogerty	Discusses the process where they can establish arrearage under an Oregon order
263	Chair Shetterly	This foreign support order is registered under the enforcement of Foreign Judgement Act and that is when the person gets the notice that a judgement is coming in from another state. This procedure is done in circuit court before you get to the point of objection.
286	Barlow	States that administrative judges should be able to cancel out and overturn a foreign order if they find jurisdiction problems. Oregon Menis Association would like our administrate logits, potential obligors, and obligees to be fully informed about their available defenses.
313	Rep. Uherbelau	If you do a registration for a foreign judgement in Oregon, you have jurisdiction for all purposes, but can you do that in an abbreviated manner for child support?
327	Fogerty	The controlling law here is the Uniform Interstate Family Support Act and this is the process we use to register foreign support orders. Discusses Oregonis jurisdiction for these orders.
347	Rep. Uherbelau	Regardless of what kind of registration filing, do they have to go through the circuit court?
357	Fogerty	Yes they do.
360	Rep. Witt	Is the language that is being deleted on the second page of the bill, "limiting the focus of any proceeding to arrearages", required under the Federal law?
370	Fogerty	No, it is not a requirement. We just want to clarify who should be the registering tribunal.
382	Barlow	Discusses the duties of an Administrative Law Judge. States that going to circuit court to correct a judgement is very intimidating.
420	Chair Shetterly	Discusses the judgments in the district court and how they affect registration.
443	Barlow	States that the registration is automatic.
448	Chair Shetterly	Registration in foreign judgement is tied to the same issues that are set out in the bill, so you get the same review in the circuit court as you would with passage of this bill.
452	Rep. Uherbelau	What is the process with support orders?
469	Fogerty	Discusses Statute 110.420 A-G and how it expands the basis of objection in the

		statute.
494	Barlow	Oregon Menis Association withdraws its objection.
500	Rep. Uherbelau	States Statutes, 110.414 through 110.120, and describes the whole objection process.
<b>Tape 19, B</b>		
042	Chair Shetterly	Please describe the change of intent in Section 1.
046	Shankle	In Section 1, there is duplicate of language, regarding the administrator registering the foreign order, that is not necessary and is found in UIFS Chapter 1, 10.
<b><u>HB 2228 Work Session</u></b>		
074	Rep. Edwards	<b>MOTION: Moves HB 2228 to the floor with a DO PASS recommendation.</b>  <b>Vote: 8-1 Excused: Rep. Lowe Carrier: Shetterly</b>
<b><u>HB 2230 Public Hearing</u></b>		
089	Kevin Walling	HB 2230 modifies provisions designating tribunal when foreign support order is registered for enforcement or modification.
110	Ronelle Shankle	<b>Department of Justice, Support Enforcement Division</b>  Testifies in support of HB 2230. Discusses why ORS 416.419 should be repealed in order to ensure uniformity of processes and why our program needs to operate under ORS Chapter 110.
166	Rep. Uherbelau	States that this bill is necessary and valid.
173	Bradd Swank	<b>State Court Administrators Office</b>  Discusses the use of the work "tribunal" as used in this bill and the changes of using this work for circuit courts and how it effects work load and costs of their department.
239	Layne Barlow	<b>Oregon Menis Association</b>  Testifies in support of HB 2230. States that this bill will facilitate the process for the courts and for the people involved.

**HB 2230 Work Session**

253	Rep. Uherbelau	<b>MOTION: Moves HB 2230 to the floor with a DO PASS recommendation.</b> <b>Vote: 8-1 Excused: Rep. Lowe Carrier: Rep. Uherbelau</b>
252	Chair Shetterly	Adjourns meeting at 2:40 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

- A - HB 2234, Written testimony, Ronelle Shankle, p. 3**
- B - HB 2234, Written testimony, Kevin Aguirre, p. 1**
- C - HB 2228, Written testimony, Ronelle Shankle, p. 2**
- D - HB 2230, Written testimony, Ronelle Shankle, p. 2**