

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

March 10, 1999 Hearing Room 357

3:00 p.m. Tapes 60 - 61

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Larry Wells

MEMBER EXCUSED: Rep. Walker

Rep. Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: SB 408

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 60, A | | |
| | | |

| | | |
|-------------------|------------------------|---|
| 004 | Chair Bryant | <p>Calls meeting to order at 3:13 p.m.</p> <p>Explains the purpose of the joint Senate/ House committee meeting.</p> |
| 018 | Steve Christian | <p>Senior Policy Specialist, National Conference of State Legislatures (NCSL)</p> <p>Introduces the 10 minute video titled, "The Adoption & Safe Families Act of 1997: Why legislators Must Make It Happen" (EXHIBIT A) regarding speedy adoption of children.</p> |
| 175 | Christian | <p>Gives a brief overview of the federal law, Adoption Safe Family Act (ASFA). Explains and gives examples of, "reasonable efforts" regarding uniting the adopted child with the parents. Discusses the three aspects of the federal law regarding parental rights in an adoption. Describes the process of a permanency hearing regarding adoption. Discusses the effects of ASFA on state laws.</p> |
| 406 | Chair Bryant | <p>Why didn't the federal government allow funds to the state for implementing the new adoption laws?</p> |
| 409 | Christian | <p>Usually the NCSL is successful in lobbying against unfunded mandates, but not this time. States that the only way congress could pass ASFA was to make it revenue neutral.</p> |
| 426 | Chair Bryant | <p>States that it will cost the State of Oregon \$10-\$12 million (according to the Governor's projected budget) to implement ASFA. Will there be any funding for ASFA later?</p> |
| 445 | Christian | <p>I do not know for sure, but I believe a Senator congressman is working on funding ASFA.</p> |
| 458 | Chair Bryant | <p>Have there been any problems with the adopted legislation regarding ASFA in other states?</p> |
| 469 | Christian | <p>It is too soon to know of any problems yet.</p> |
| 490 | Chair Shetterly | <p>What is the time line for implementing our state's legislation according to ASFA?</p> |
| Tape 61, A | | |
| 030 | Christian | <p>The implementation date was November 19, 1997, however, states can delay the effective date if there is any legislation. The effective date would be the first day of the first calendar quarter immediately proceeding the end of the first regular legislative session. If the State of Oregon's legislature ends on June 28, legislation would have to be in place on July 1. If the State of Oregon's legislature ends in July, it would be October.</p> |
| | | |

| | | |
|-----|-------------------------|---|
| 048 | Rep. Uherbelau | Asks about the appropriation section in ASFA that appropriates \$325 million for each fiscal year. |
| 060 | Christian | Suggests that the appropriation might be the funds of the Family Preservation and Support Act that were initially authorized in 1993. |
| 098 | Kay Toran | Administrator, State Office for Services to Children and Families (SCF), State of Oregon Testifies and submits written testimony in support of SB 408 (EXHIBITS D & E). Discusses the purposes of SB 408. Discusses what SCF is doing to prepare for the new legislation regarding ASFA. |
| 125 | Connie Gallagher | Special Assistant, State Office for Services to Children and Families, State of Oregon Testifies in support of SB 408. Discusses what has been accomplished by SCF since ASFA was passed by congress. Discusses SB 689 that was passed in the 1997 session regarding child welfare in adoption situations. Gives an overview of the six key provisions included in SB 408 that are mostly linked to ASFA. |
| 180 | Linda Gus | Assistant Attorney General, Oregon Department of Justice (DOJ) Discusses the drafting process of the legislation and the provisions that are currently in SB 408, as well as the proposed amendments. |
| 283 | Rep. Uherbelau | Asks if SCF will have guidelines concerning the adoption process. |
| 289 | Gus | Discusses the intent of SCF regarding the rules of adopting children. |
| 303 | Rep. Uherbelau | Asks for explanation of sub-section (6) on page 10, of SB 408 regarding "reasonable efforts". |
| 317 | Gus | Explains that sub-section (6) on page 10 of SB 408 states that if the court excuses SCF from making reasonable efforts, where there are aggravated circumstances to reintegrate the child with the family, there must be a permanency hearing within 30 days. At the permanency hearing, a permanent placement plan for the child must be determined. |
| 326 | Sen. Burdick | Was there any discussion by SCF to add optional circumstances such as substance abuse, mental illness, or emotional distress for not reintegrating the child with the family? |
| 333 | Gus | Discussed several drafts that included a variety of different circumstances under the "aggravated circumstances" exception. States that the final decision was to not include those optional circumstances. |
| 346 | Rep. Burdick | Why were those optional circumstances not included in SB 408? |

| | | |
|-------------------|-----------------|---|
| 351 | Gallagher | We had problems with inserting the exact language to be used for describing these optional circumstances. |
| 366 | Rep. Brown | Asks if there is any flexibility about the changing circumstances regarding family situations that would effect reasonable efforts to reintegrate the child with the parents. |
| 380 | Gus | Explains that the amendments will address the problem of changing circumstances by having the courts determine each case separately. |
| 387 | Rep. Uherbelau | Discusses a case where a parent had a mental disease, and asks if SB 408 should include a situation where a parent refused treatment. |
| 413 | Gus | Discusses the goal of simplicity that the SCF wanted in implementing the required legislation for ASFA. |
| 441 | Gallagher | Discusses "reasonable efforts" of SCF toward unification of the child with their families |
| 472 | Gus | Discusses section (18) on page 13, line 35 of SB 408, regarding the permanency time line. |
| Tape 60, B | | |
| 025 | Chair Shetterly | How does section (18) relate to section (11) regarding the changes that are made in lines 41 & 42? |
| 037 | Gus | Section (11) relates to the shelter care hearing, 24 hrs after the child is removed from the home. |
| 036 | Chair Shetterly | Asks about the steps of reasonable efforts regarding unification of the child with family. |
| 042 | Gus | Discusses the three types of reasonable efforts that are mandated by federal legislation. |
| 064 | Rep. Uherbelau | Asks about finding no definition in the statute that defines mental health. |
| 069 | Gus | States that it is the general consensus of the SCF that mental health is included in the definition of "health". |
| 072 | Gallagher | Discusses the word, "findings" at the permanency hearing. |
| | | |

| | | |
|-----|----------------|---|
| 086 | Gus | Describes the two circumstances when a permanency hearing would occur. Discusses section (17), page 12, of SB 408 regarding the process of a permanency hearing. |
| 121 | Sen. Burdick | Under what circumstances can a child request a permanency hearing? |
| 123 | Gus | States that children are a party to juvenile court proceedings and have attorney representation. |
| 132 | Rep. Wells | Asks about the reaction of the group that worked on SB 689 when congress passed ASFA. |
| 146 | Gus | States that the federal bill followed the philosophy of SB 689. |
| 165 | Toran | Discusses the differences between ASFA and SB 408 and the possibility of working out those differences. |
| 175 | Rep. Wells | Does SB 408 eliminate any of the parental protections that are in SB 689? |
| 180 | Toran | No it does not. |
| 184 | Rep. Uherbelau | Expresses her concerns about SB 408 which hasten the permanency process for the child. |
| 203 | Toran | Discusses the hearing process regarding hastening the permanency process for the child. |
| 216 | Chair Bryant | Discusses the revenue costs for the State of Oregon if they do not comply with the new federal law. |
| 244 | Gallagher | Discusses "filings of petitions for termination" of AFSA and how it effects the State of Oregon. States that there are 750 children that will be terminated from foster homes due to the passage of SB 408. |
| 295 | Rep. Wells | What is the definition of a permanent living arrangement for a foster child and how is it arranged? |
| 304 | Gus | Describes a "permanent foster care" as it pertains to the foster parents and the foster child. |
| 337 | Toran | Discusses the situations where a permanent foster home would be needed for the foster child. |
| | | |

| | | |
|-------------------|-----------------------|---|
| 357 | Steven Herrell | <p>Circuit Court Judge, Multnomah County</p> <p>Describes the purposes of the National Council of Juvenile and Family Court Judges. Expresses his appreciation for everyone who worked on SB 408. Discusses what the purpose of the Expert Work Group was in regards to ASFA legislation. Discusses the three issues that concerned the Expert Work Group regarding time line issues, reasonable efforts, and the filing of a petition to terminate parental rights in SB 408.</p> |
| Tape 61, B | | |
| 040 | Herrell | Discusses the cost to the Judicial Department to implement SB 408. |
| 059 | Chair Bryant | States that there are no funds to implement the federal legislation into state legislation in the governoris budget. |
| 057 | Rep. Uherbelau | Did the Expert Work Group resolve the three concerned issues in SB 408? |
| 060 | Herrell | Agreement has been made on these three areas. |
| 066 | Dan Murphy | <p>Circuit Court Judge, Linn County</p> <p>Discusses how AFSA, SB 689, and SB 408 effect the executive and judicial system. Discusses and explains the harm done to children left in foster care too long and how SB 408 helps hasten the process of placement. Discusses the governoris budget regarding implementing ASFA.</p> |
| 121 | Deanne Darling | <p>Circuit Court Judge, Clackamas County</p> <p>Discusses her agreement with the previous judgesí testimonies. Discusses the changes in the duties of judges. Discusses the Citizen Review Boardis involvement regarding children. Discusses the process of time lines regarding permanency hearings and how critical time lines are regarding adoption of children.</p> |
| 246 | Claude Derr | <p>Family Preservation Kinship Care</p> <p>Discusses how SB 408 needs to put more emphasis on putting foster children with relatives.</p> |
| 278 | Marilyn Fuller | <p>Residents of Sisters Cities</p> <p>Discusses her concerns with SB 408 stating who they are that makes a determination regarding the welfare of the adopted child.</p> |
| 323 | Chair Bryant | Adjourns meeting at 5:00 p.m. |

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton

Administrative Support Counsel

EXHIBIT SUMMARY

A - SB 408, Video, "The Adoption & Safe Families Act of 1997", Steve Christian

B - SB 408, Written testimony, Steve Christian, p. 15

C - SB 408, Written testimony, Steve Christian, p. 11

D - SB 408, Written testimony, Kay Toran, p. 4

E - SB 408, Written testimony, Kay Toran, p. 5

F - SB 408, Written testimony, Judge Herrell, p. 3

G - SB 408, Written testimony, Claude Derr, p. 52

H - SB 408, Written testimony, Marilyn Fuller, p. 170

I - SB 408, Written testimony, Claude Derr, p. 8

J - SB 408, Written testimony, Marilyn Fuller, p. 16