

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

April 14, 1999 Hearing Room 357

1:00 p.m. Tapes 103 - 106

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. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2803 - Public Hearing

HB 3451 - Public Hearing

HB 3452 - Public Hearing

HB 2870 - 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 103, A

004	Chair Shetterly	Calls meeting to order at 1:17 p.m.
<u>HB 3451 - PUBLIC HEARING</u>		
	Counsel Felton	HB 3451 requires court to provide for joint custody of minor children after commencement of suit for marital annulment, dissolution or separation.
023	Rep. Jane Lokan	State Representative, House District 25 Testifies in support of HB 3451. Discusses the intent of HB 3451.
073	Della Clare	Citizen, Milwaukie, Oregon Testifies and submits written testimony in support of HB 3451 (EXHIBIT A). Relates the story of her son and daughter-in-law and their problems with child custody and how HB 3451 will help solve their problems. States that the welfare of the children is the primary concern.
162	Rep. Lokan	Discusses the language change in the n1 amendments regarding the criminal status of both parents (EXHIBIT B).
174	Rep. Uherbelau	What would be proposed in the -1 amendments regarding joint custody if one of the parents moves away?
183	Rep. Lokan	The courts might have to decide or HB 3451 could have some modifications to address the issue of joint custody.
196	Rep. Uherbelau	The considerations in HB 3451 would be to modify the language regarding joint custody?
199	Rep. Lokan	Yes.
208	Rep. Uherbelau	Asks whether the courts let the children choose which parent to stay with when the daughter-in-law moved to Massachusetts.
218	Clare	Explains that the children were 10 and 14 years old when the daughter-in-law moved to Massachusetts and they were not given a choice.
234	Chair Shetterly	States that HB 3451 does not address permanent custody as stated in Ms. Clare's testimony.
248	Rep. Lokan	Explains that HB 3451 does not address the custody situation at the time of the

		divorce.
257	Rep. Lowe	Was there a restraining order after the divorce decree was filed concerning Ms. Clare's circumstance?
262	Clare	No.
263	Rep. Lowe	Explains how a restraining order works in relationship to temporary custody. Asks about the race of the parents to the courthouse after filing the divorce decree to get temporary custody of the children.
296	Clare	Comments on the restraining order regarding her son's situation.
303	Rep. Lokan	Explains the difficulty of restraining orders when there is an abusive parent.
330	Rep. Lowe	Discusses when joint custody does not work for the children. Would HB 3451 have solved your grandchildren's problem with custody?
360	Clare	Yes. HB 3451 would have helped the children tremendously regarding joint custody.
380	Rep. Lowe	Does the pre-decree divorce have a remedy in current law for grandparent visitation?
400	Clare	Yes. Much time was spent looking for loopholes in the law to help with grandparent visitation.
430	Sherrill Deckelman	Citizen, Milwaukie, Oregon Testifies and submits written testimony in support of HB 3451 (EXHIBIT C). Explains her divorce, custody problems and how HB 3451 would have helped her situation.
Tape 104, A		
040	Chair Shetterly	Closes public hearing.
<u>HB 2803 - PUBLIC HEARING</u>		
045	Counsel Felton	HB 2803 requires that grandparent of child born to minor parent is financially responsible for child's needs until minor parent of child is 18 years of age.
056	Rep. Jim Hill	State Representative, House District 5

		Testifies and submits written testimony in support of HB 2803 and submits written testimony on behalf of Douglas McKean in support of HB 2803 (EXHIBITS D, E & F) . Discusses the history and purpose of HB 2803.
122	Rep. Uherbelau	Asks about implementing the procedure in HB 2803 concerning the grandparentís monetary responsibility.
145	Rep. Hill	Discusses the concerns of HB 2803 regarding implementing the policy of grandparentís responsibility for the needs of their grandchild born to a minor child.
163	Rep. Lowe	Gives suggestions for solving procedural difficulties of the grandparentís responsibility as stated in HB 2803.
181	Rep. Hill	States that the policy of HB 2803 is when the parents of the minor parent are financially responsible for their childís offspring.
195	Rep. Lowe	Why is the purpose of HB 2803 a good public policy?
197	Rep. Hill	Explains why HB 2803 is good public policy.
220	Rep. Walker	Asks about insurance companies that do not provide coverage for prevention of pregnancy and yet the law is asking the parents to support the unmarried child.
241	Rep. Hill	I disagree with you. States that public policy should be to provide support for the baby born to the minor child. This is a financial responsibility issue. Discusses a proposed bill this session that addresses dependent teen pregnancies covered under their parentís insurance.
281	Chair Shetterly	Closes public hearing.
<u>HB 3452 ñ PUBLIC HEARING</u>		
304	Counsel Felton	HB 3452 requires judge to take one or more actions to enforce judgment relating to parenting plan.
330	Rep. Jane Lokan	State Representative, House District 25 Testifies in support of HB 3452. Discusses the -2 amendments in HB 3452 regarding what the court "may" do (EXHIBIT G) .
358	Kurt Jaeger	Coalition for Family Law Reform Testifies and submits written testimony in support of HB 3452 (EXHIBIT H) . Discusses why he is involved in family law reform in relation to HB 3452.

		Explains why current law does not offer adequate protection against the injustice of the parenting plan involving the noncustodial parent.
Tape 103, B		
015	Layne Barlow	Oregon Menís Association Testifies and submits written testimony in support of HB 3452 (EXHIBIT I). Discusses the state policy regarding childrenís association with both parents in a divorce.
046	Michael Fogle	National Clearinghouse for Divorce Equity Testifies and submits written testimony in support of HB 3452 (EXHIBIT J). Gives statistics on custody and visitation rights. Discusses unfair noncustodial rights in a divorce. Explains why the intent of HB 3452 provides no interference for the non-custodial parent to see their children. States that the problem with non-custodial rights is on the increase because of the lack of legal representation.
145	David Nebel	Oregon Law Center Testifies in opposition of HB 3452. Explains why HB 3452 does not solve the problem with violations of child custody.
185	Rep. Witt	Does HB 3452 only give a partial remedy for violations of child custody?
188	Nebel	Explains that if a judge does not see the need for a change in custody then nothing happens.
201	Rep. Edwards	By changing "may" to "shall" in section 1, line 27 of HB 3452, it does not enforce the issue of custodial rights.
210	Nebel	Explains how a judge can order remedies for custodial issues.
235	Rep. Witt	Does section 1, line 27, page 1 of HB 3452 contemplate that there has been a judgment relating to the parenting plan?
241	Nebel	Yes.
242	Rep. Witt	Seems that the language in subsection (a) on line 29, page 1 of HB 3452 requires some additional force to make sure the parenting plan is complied with.
254	Nebel	The enforcing of the parenting plan is only one of the options that the court could consider.

262	Rep. Witt	Doesn't at least one of the steps of the parenting plan in HB 3452 give the judge some responsibility to enforce that plan?
268	Nebel	Yes.
271	Rep. Witt	Would you agree that previous testimony shows that not enough is done for the noncustodial problem?
276	Nebel	Yes, and I am not trying to minimize the noncustodial problem.
278	Rep. Witt	Doesn't HB 3452 direct the court to take action to solve the noncustodial problem?
286	Nebel	That may be the intent of the legislature, but sometimes the court overlooks the action it is supposed to take.
291	Rep. Backlund	States that the non-custodial parent has no justice in the legal system regarding child custody. Asks about the correctness of the HB 3452 concerning solving the custodial problem.
306	Nebel	Explains why HB 3452 does not remedy the situation of child custody for the non-custodial parent. States that it is not a good idea to make directives in a statute toward courts and judges.
336	Rep. Backlund	States that if custodial action does not happen then there should be a remedy through the laws.
375	Nebel	Discusses the judge's lack of time to deal with minor custodial issues. Gives examples of custodial problems that the courts think are insignificant issues. States that judges do not routinely circumvent legislative intent, but looking at insignificant cases do not justify action by the court.
445	Tammy Dentinger	Family Law Section, Oregon State Bar Testifies in opposition of HB 3452. Discusses why the Family Law Section is opposed to HB 3452 regarding violations of the parenting planning.
Tape 104, B		
020	Rep. Uherbelau	Would the Family Law Section supports HB 3452 if language was changed regarding the intentional violation of the parenting plan.?
026	Dentinger	Yes, there would be more support if HB 3452 emphasized more on an intentional violation of the parenting plan.

037	Roberta LiEsperance	Assistant, Rep. Jane Lokan Testifies in support of HB 3452. States that she would be available for questions concerning the amendments to HB 3452 or HB 3451.
053	Chair Shetterly	Closes public hearing.
<u>HB 3451 n PUBLIC HEARING</u>		
070	Tammy Dentinger	Family Law Center, Oregon State Bar Testifies in opposition of HB 3451. Explains the process of joint custody for children in a divorce. Discusses the problems for the children if both parents are forced to work together on custodial relationships. States that the current law allows grandparents visitation rights upon request.
106	Rep. Uherbelau	If HB 3451 does not have solutions to the problems of custodial issues then what are the solutions?
127	Dentinger	The courts need to mandate custodial decisions because there is no way to force people to cooperate.
143	Rep. Uherbelau	Suggests taking issues of custody out of the adversary situation and leaving in the issue of property settlement.
147	Dentinger	People cannot advocate for themselves in some custodial situations.
152	David Nebel	Oregon Law Center Testifies in opposition to HB 3452. Explains why the Oregon Law Center is opposed to HB 3452.
184	Layne Barlow	Oregon Menis Association Testifies in support of HB 3452. Explains the difference in fundamental rights and custodial rights regarding joint custody of children. States that there should be a law that creates legal penalties for parents involved in custodial battles that are detrimental to the children involved. Discusses how HB 3452 helps solve the custodial problems involved in a divorce.
299	Roberta LiEsperance	Legislative Assistant for House District 25 Discusses whether the language in HB 3452 is too broad to solve problems with the harm done to children involved in custodial battles.
340	Chair Shetterly	Closes public hearing.

HB 2803 n PUBLIC HEARING

352	Tammy Dentinger	Family Law Section, Oregon State Bar Testifies in opposition to HB 2803. Discusses the other rights of grandparents besides financial rights. Explains how HB 2803 will be administered and what the costs involved will be. Explains how child support will be calculated. HB 2803 does not addresses the situation when grandparents are divorced concerning the obligation of the non-custodial grandparent.
419	David Nebel	Oregon Law Center Testifies in opposition of HB 2803. Discusses that the responsibility of the grandparents should be the responsibility of the parent. Discusses the unfairness to grandparents concerning financial responsibility for a second child born to their unwed child. HB 2803 would complicate divorce proceedings with the involvement of grandparents.
Tape 105, A		
040	Carl Stecker	Oregon District Attorneys Association Testifies neutrally to HB 2803. Discusses support obligations for the grandparents if there is rape involved. States that there is a lot of policy concerns with HB 2803 and the legislature should proceed with precaution.
075	Timothy Travis	Oregon Judicial Department (OJD) Testifies neutrally to HB 2803. States that the concerns with HB 2803 are the fiscal implications.
079	Jerry Hickey	Citizen, State of Oregon Testifies in opposition of HB 2803. States that it is unfair that the noncustodial parent supports the grandchild when they had no input legally other than visitation or parenting time.
090	Kathie Osborn	Juvenile Rights Project Testifies in opposition of HB 2803. Discusses the broad language of HB 2803 concerning unaddressed custody situations. States that HB 2803 would encourage abortions because of the financial responsibility.
113	Layne Barlow	Oregon Menis Association Expresses the opposition of the Oregon Menis Association to HB 2803.
117	Chair Shetterly	Closes public hearing.

HB 2870 n PUBLIC HEARING

122	Counsel Felton	HB 2870 requires parent or legal guardian of youth to attend juvenile court hearings involving youth.
127	Joseph Keizur	Legislative Assistant, House District 21 Testifies in support of HB 2870. Discusses the three points of the n1 amendments concerning parents obligations to attend the juvenile court proceedings (EXHIBIT K). Explains the intent of HB 2870 concerning the presence of the parents at the juvenile court proceedings.
184	Rep. Lowe	Expresses her concerns that HB 2870 does not fix the problem of parents not attending the juvenile court proceedings.
204	Keizur	States that the intent of HB 2870 to make parents attend the hearings is to give support to the juvenile.
225	Layne Barlow	Oregon Menís Association Testifies and submits written testimony in support of HB 2870 (EXHIBIT L). Discusses why Oregon Menís Association supports HB 2870 concerning divorced parents attending the hearings.
265	Sarah Snyder	Oregon District Attorneys Association (ODAA) Testifies in support of HB 2870. Discusses why it is important for a parent to be present at a juvenile hearing. Explains the initial concerns for parents to be present at a hearing and how the amendments change it. Discusses the original intent of HB 2870. Discusses the concern of the ODAA with the mandatory appearance of parents at a juvenile hearing.
411	Kathie Osborn	Juvenile Rights Project Testifies in support of HB 2870. Discusses the policy of HB 2870 regarding the presence of the parents at the juvenile court proceedings. Discusses why the Juvenile Rights Project would not support a criminal action toward the parents if they did not come to court.
Tape 106, A		
029	Timothy Travis	Oregon Judicial Department (OJD) Testifies in opposition to HB 2870. Explains why the OJD is opposed to HB 2870 concerning the -2 amendments.
076	Rep. Uherbelau	Did the -2 amendments deal with the dependency instead of delinquency?

078	Travis	Explains the -2 amendments that deal with amending the delinquency code.
119	Rep. Uherbelau	Did OJD support HB 2870 in the original form?
120	Travis	Explains that OJD became opposed to HB 2870 after seeing the -2 amendments which created more court hearings.
128	Rep. Uherbelau	Closes public hearing.
132	Rep. Uherbelau	Adjourns meeting at 3:45 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,
Administrative Support Counsel

EXHIBIT SUMMARY

A - HB 3451, Written testimony, Della Clare, p. 3

B - HB 3451, Proposed amendments, Rep. Lokan, p. 1

C - HB 3451, Written testimony, Sherrill Deckelman, p. 2

D - HB 2803, Written testimony, Douglas McKean, p. 4

E - HB 2803, Written testimony, Rep. Hill, p. 1

F - HB 2803, Written testimony, Rep. Hill, p. 2

G - HB 3452, Proposed amendments, Rep. Lokan, p. 1

H - HB 3452, Written testimony, Kurt Jaeger, p. 4

I - HB 2870, Written testimony, Layne Barlow, p. 1

J - HB 3452, Written testimony, Michael Fogle, p. 2

K - HB 2870, Proposed amendments, Counsel, p. 3

L - HB 2870, Written testimony, Layne Barlow, p. 1