

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**May 26, 1999 Hearing Room 357**

**1:00 p.m. Tapes 178 - 179**

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

**Rep. Judy Uherbelau, Vice-Chair**

**Rep. Vic Backlund**

**Rep. Randall Edwards**

**Rep. Kathy Lowe**

**Rep. Vicki Walker**

**Rep. Larry Wells**

**MEMBER EXCUSED: Rep. Max Williams, Vice-Chair**

**Rep. Bill Witt**

**STAFF PRESENT: Aaron Felton, Counsel**

**Nancy Richards, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 1075A - Public Hearing and Work Session**

**SB 916A - Public Hearing and Work Session**

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 178, A**

002	Chair Shetterly	Calls meeting to order at 2:05 p.m.
<b><u>SB 1075A PUBLIC HEARING</u></b>		
006	Counsel Felton	SB 1075A modifies factors court must consider in determining child custody in domestic relations matters.
030	<b>Rep. Karen Minnis</b>	<b>State Representative, House District 20</b>  Testifies and submits written testimony on behalf of Maureen McKnight and Judge Stephen Herrell in support of SB 1075A ( <b>EXHIBITS A &amp; B</b> ). Discusses the background of a domestic violence case that lead to the drafting of SB 1075A.
057	Rep. Uherbelau	Line 21 on page 5 of SB 1075A refers to the "preference for the primary caregiver of the child". It is unclear if this refers to the child's "preference" with regards to custody, or that the primary caregiver to the child should get "preference" in being awarded custody.
069	Rep. Minnis	Preference in awarding custody should be given to the primary caregiver as long as that person is not the abuser.
081	Rep. Wells	If there are no visitation rights granted to the abusive parent, why would the parent with custody have to notify the other parent if they are moving? Is there a 60-mile limit to where people can move?
090	Rep. Uherbelau	It is usually expected by the court that one parent notify the other parent when a move occurs.
098	Rep. Wells	Why would a parent without custody or visitation rights have the expectation of being notified about the child moving?
101	Rep. Uherbelau	Even in cases where abuse has occurred, there are usually some kind of visitation rights, so that parent would have to know where the child was living.
103	Chair Shetterly	The issue here isn't how far a child is being moved, but that notice is given when a move does occur.
116	Rep. Wells	Expresses confusion if this legislation allows the abusive parent any parenting time or visitation rights?
124	Counsel Felton	Discusses that the statutes related to the Family Abuse Prevention Act (FAPA) created special parenting time circumstances under the Act. The changes to

		statute proposed by SB 1075A relate to cases where child abuse has occurred which means parenting time and visitation rights are different.
140	Rep. Lowe	What do we do about the parent that was wrongfully awarded the children?
173	Rep. Minnis	That is why rebuttable presumption was put in the bill.
175	Rep. Uherbelau	Judge Herrell speaks to that issue of rebuttable presumption in his testimony (EXHIBIT B).
180	Rep. Minnis	Explains that this legislation is being proposed based upon a ruling made by a judge.
189	<b>David Nebel</b>	<b>Coalition Against Domestic and Sexual Violence</b>  Testifies in support of SB 1075A. Discusses Judge Herrell's testimony regarding the rebuttable presumption that it is detrimental to the child to be placed in any type of custody with an abusive parent.
248	Chair Shetterly	Rebuttable presumption does require a finding that a parent has committed abuse.
260	Rep. Lowe	Discusses actions brought under the FAPA that could result in a falsely-accused person not being able to challenge a FAPA action. If SB 1075A is in place, do you think FAPA orders will become more contested?
284	Nebel	States that a person would not be precluded from challenging a FAPA order in a subsequent domestic relations proceeding that involved the issue of custody.
299	Rep. Uherbelau	References the written testimony of Maureen McKnight in regard to the rebuttable presumption v. the conclusive presumption. Discusses getting ex parte orders pursuant to the dissolutionment trial.
343	Nebel	Describes a bill enacted in the 1997 session that affected the ability of litigants to get ex parte orders in a domestic-relations case.
393	Chair Shetterly	Closes the public hearing on SB 1075A.
<b><u>SB 1075A WORK SESSION</u></b>		
<b>399</b>	<b>Rep. Lowe</b>	<b>MOTION: Moves SB 1075A to the floor with a DO PASS recommendation.</b>

		<p><b>VOTE: 7-0-2</b></p> <p><b>AYE: In a roll call vote, all members present vote Aye.</b></p> <p><b>EXCUSED: 2 - Rep. Williams, Rep. Witt</b></p>
	<b>Chair Shetterly</b>	<p><b>The motion CARRIES.</b></p> <p><b>REP. MINNIS will lead discussion on the floor.</b></p>
411	Chair Shetterly	Closes the work session on SB 1075A.
<b><u>SB 916A PUBLIC HEARING</u></b>		
416	Counsel Felton	SB 916A exempts from certain discrimination laws homeowners who rent their primary residence and share common space with occupants.
432	<b>Sharon Fleming-Barrett</b>	<p><b>Oregon Rental Housing Association, Inc.</b></p> <p>Testifies and submits written testimony in support of SB 916A (<b>EXHIBIT C</b>). This legislation would allow the homeowner who needs to rent out part of their primary residence for financial reasons to be able to discriminate against families with children and a person of the opposite gender.</p>
<b>TAPE 179, A</b>		
024	<b>Cynthia Ingebretson</b>	<p><b>Executive Director, Fair Housing Council of Oregon</b></p> <p>Testifies as neutral to SB 916A and states reasons why the Council is not opposed to this legislation.</p>
053	<b>Bill Linden</b>	<p><b>Metro Multi-family Housing Association</b></p> <p>Testifies in support of SB 916A. Discusses that this bill does not permit discrimination if the tenant lives in the basement or a garage apartment.</p>
068	Rep. Uherbelau	Aren't there federal laws that presently permit some forms of discrimination, like senior citizen villages?
074	Ingebretson	Yes.
080	Rep. Uherbelau	Why are basement apartments exempted?

088	Linden	We were addressing the issue of a basement apartment with a separate entrance and a secured door in between the basement and the primary residence.
099	Rep. Edwards	How are you breaking the law with respect to advertising?
101	Ingebretson	It is against the law to advertise for only a same-sex occupant under the Federal Fair Housing Act unless the occupants would share a common bathroom or bedroom.
129	Rep. Edwards	Is sexual orientation covered?
132	Fleming-Barrett	Only in the locales of Portland, Eugene, Corvallis, Benton County and Ashland.
137	Rep. Wells	Describes seeing ads that state a male or female roommate is "preferred". Is that legal?
142	Fleming-Barrett	Under the Federal Fair Housing Act it is illegal to advertise a preference for one gender over another.
150	Rep. Wells	Is there any section in this legislation that stipulates that the owners have to occupy the residence while renting out a portion? What if the owners are gone for extended periods of time?
159	Chair Shetterly	That would be a factual issue that would be determined case by case.
161	Rep. Edwards	How is this type of legislation being enforced today and how will SB 916A be enforced?
164	Fleming-Barrett	Enforcement is by the state under the civil rights division of the Bureau of Labor and Industries (BOLI). The law currently allows for discrimination based on sex if there is a shared bedroom or bathroom. BOLI does not currently enforce discrimination against families with children because they don't have the funding for that.
177	Rep. Lowe	Is familial status defined anywhere in housing law?
180	Fleming-Barrett	Yes. It is the presence of one or more children under age 18 in the household with a parent or designated custodian. It would also include a family that is pregnant or in the process of adopting or gaining custody of a child, including foster families.
190	Rep. Wells	What laws govern senior home parks?
194	Fleming-Barrett	Discusses the statutes that relate to designation of senior housing.

229	Chair Shetterly	Closes the public hearing on SB 916A.
<b><u>SB 916A WORK SESSION</u></b>		
233	Rep. Walker	<b>MOTION: Moves SB 916A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0-2</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Rep. Williams, Rep. Witt</b>
	Chair Shetterly	<b>The motion CARRIES.</b>  <b>REP. WALKER will lead discussion on the floor.</b>
242	Chair Shetterly	Closes the work session on SB 916A.
243	Chair Shetterly	Adjourns meeting at 3:00 p.m.

Transcribed By, Reviewed By,

Patsy Wood, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A ñ SB 1075A, written testimony of Maureen McKnight, Legal Aid Services, submitted by Rep. Karen Minnis, dated 5/26/99, 12 pgs.**

**B - SB 1075A, written testimony of Judge Stephen Herrell, submitted by Rep. Karen Minnis, dated 5/4/99, 3 pgs.**

**C - SB 916A, written testimony submitted by Sharon Fleming-Barrett, Oregon Rental Housing, Inc., dated 5/26/99, 3 pgs.**