

SENATE COMMITTEE ON JUDICIARY

February 23, 1999 Hearing Room 343

3:00 pm Tapes 47-48

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Tarno

MEMBER EXCUSED: Sen. Qutub

STAFF PRESENT: Aaron Felton, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: Possible Measure Introduction

Public Hearing and Possible Work Session

SB 60

SB 82

HB 2290

HB 2291

HB 2292

HB 2235A

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 47, A		
003	Chair Bryant	Calls the meeting to order at 3:08 p.m. Opens the public hearing on HB 2290.
<u>HB 2290 PUBLIC HEARING</u>		
014	Ron D. Bailey	Attorney, Oregon State Bar, Estate Planning Section Submits written testimony and testifies in support of HB 2290 (EXHIBIT A). Discusses the modifications to Oregon's Uniform Simultaneous Death Act which are in HB 2290.
041	Chair Bryant	Closes public hearing and opens work session on HB 2290. Notes that a quorum is present.
<u>HB 2290 WORK SESSION</u>		
043	Sen. Courtney	MOTION: Moves HB 2290 to the floor with a DO PASS recommendation.
		VOTE: 4-0 EXCUSED: 3 - Brown, Burdick, Qutub
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BRYANT will lead discussion on the floor.
046	Chair Bryant	Opens the public hearing on HB 2291.
<u>HB 2291 PUBLIC HEARING</u>		
052	Ron D. Bailey	Attorney, Oregon State Bar, Estate Planning Section Submits written testimony and testifies in support of HB 2291 (EXHIBIT B) which allows a devise to be made by will to the trustee of a trust that is not funded at testator's death.

061	Chair Bryant	Closes public hearing and opens work session on HB 2291.
<u>HB 2291 WORK SESSION</u>		
066	Sen. Nelson	MOTION: Moves HB 2291 to the floor with a DO PASS recommendation.
		VOTE: 4-0 EXCUSED: 3 - Brown, Burdick, Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED. SEN. NELSON will lead discussion on the floor.
<u>HB 2292 PUBLIC HEARING</u>		
071	Ron D. Bailey	Attorney, Oregon State Bar, Estate Planning Section Submits written testimony and testifies in support of HB 2292 (EXHIBIT C). Indicates that HB 2292 repeals the law that defines a spouse for the purposes of intestacy to include person with whom decedent lived for at least ten years as husband or wife.
154	Chair Bryant	Closes the public hearing and opens the work session on HB 2292.
<u>HB 2292 WORK SESSION</u>		
156	Sen. Bryant	MOTION: Moves HB 2292 to the floor with a DO PASS recommendation.
		VOTE: 4-0 EXCUSED: 3 - Brown, Burdick, Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED. SEN. BRYANT will lead discussion on the floor.

167	Chair Bryant	Opens the public hearing on SB 60.
<u>SB 60 PUBLIC HEARING</u>		
175	Dale R. Koch	Circuit Court Judge, Multnomah County Submits written amendments and testifies in support of SB 60 (EXHIBIT D). Indicates he is testifying as the Chair of the State Family Law Advisory Committee and discusses the history of the committee. Recognizes that sometimes a coordinated effort is needed for families with multiple contacts with the court system. Pilot programs were established in Jackson and Deschutes County to coordinate these families. SB 60 would allow the establishment of family court advocate programs in all counties designated by the Chief Justice, expanding these pilot programs. Indicates he has submitted amendments to SB 60 to make technical changes. Recommends that the Family Law Boards should continue. Indicates his support for SB 82.
270	Ernest Mazorol	Court Administrator for Deschutes, Jefferson and Crook Counties Testifies in support of SB 62. SB 62 integrates court proceedings with schools, human services and the legal community. Discusses the integrated Family Court model (EXHIBIT E). Enumerates the benefits of this integration for the families as well as for the judicial system. Reviews the research done in Deschutes County, site of one of the pilot programs (EXHIBIT F and G).
419	Rebecca Orf	Circuit Court Judge, Jackson County Submits written testimony and testifies in support of SB 60 (EXHIBIT H). Discusses the role of the community in the Family Court Program. Discusses the case study provided in the material provided in Exhibit H. Indicates that the families they are trying to reach with this program often have several generations that have had contact with the court system.
Tape 48, A		
051	Orf	Continues discussing integrated services in Jackson County.
104	Gary Weeks	Director, Department of Human Resources Testifies in support of SB 60. Shares his vision of integrated social/judicial services for families and children at risk. Discusses the linkage of services and how this increases the focus on prevention and intervention. Discusses dual record keeping regarding adoption proceedings as that relates to the amendments submitted by Judge Koch, Exhibit D.
185	Koch	Indicates that the dual adoption record keeping has been removed from the bill and will be dealt with in SB 408.

205	Chair Bryant	Discusses the original legislation which established the two pilot programs. Discusses the fiscal priorities of the Judicial Department.
208	Mazoral	Indicates that SB 60 enables the establishment of family courts if and when the funding is available but doesn't mandate funding. The fiscal priorities would be established by the Chief Justice and the Judicial Department. Thinks the development of a good automated system would have the biggest impact on the implementation of family court systems.
243	Chair Bryant	Have you run into questions about legal or judicial ethics and conflicts?
241	Orf	We are not aware of any problems. This issue has been discussed and care must be taken, but so far this has not proven to be a problem.
268	Chair Bryant	Has there been any resistance to signing the waiver of confidentiality to enter the program?
270	Orf	Yes. But before they can be involved they must sign. Most families, when they understand what this is all about, are eager to sign.
282	Chair Bryant	Discusses the Jackson County case study found in Exhibit H.
310	Sen. Brown	Asks how this would work in a county like Multnomah County. How would the difficulties of coordination be handled in such a large system?
319	Orf	Says it is difficult in Jackson County. Each county, including Multnomah County, would have its own challenges.
339	Chair Bryant	How many judges in Jackson County?
340	Orf	We have seven. We've only been able to pull together 22 families like this.
353	Koch	Indicates that the Family Abuse Prevention Act is a great example of the need to coordinate services. Discusses an example of how orders issued under this act need to be coordinated with other actions being taken in relationship to a given family.
375	Orf	Our staff has developed a way to connect these family records on our computer system. Once you pull up a case it will also pull up the related cases.
381	Sen. Brown	Have you had the experience of trying a custody juvenile dependency case at the same time and what did you do with the issue of court appointed lawyers who couldn't represent their clients in the family law cases?

405	Alta Brady	<p>Circuit Court Judge, Deschutes County</p> <p>A court appointed attorney is not expected to represent his client in matters not covered by that appointment. I have heard a criminal case at the same time as a dependency case. Both of the cases that I heard were sex abuse cases and they were heard at the same time so the victim would not have to testify twice.</p>
434	Chair Bryant	Discusses judicial ethics and potential conflicts which might arise when one judge hears related cases.
439	Brady	Indicates that these issues have not been a problem in Deschutes County, in fact quite the opposite. Families have learned to expect "their judge" and are quite upset if they have to appear in front of another judge.
448	Chair Bryant	They find the proceedings to be less adversarial?
452	Brady	That's right.
Tape 47, B		
009	Chair Bryant	Asks how this could be done in the Portland metro area.
011	Koch	Multnomah County also has seven judges and four referees in our family court, so in some ways it won't be any more difficult to coordinate. Some of the components may not be the same, but we will operate under the same general principles. The more difficult coordination issue will be with the community services available to these families, such as schools and human services agencies.
029	Chair Bryant	Have these community service agencies been active in Jackson and Deschutes Counties?
034	Brady	Absolutely, in Deschutes County. The schools and human service agencies are very pleased to be included and have been very helpful.
039	Orf	Jackson County has had that experience also.
042	Brady	It seems that handling the family as an entity seems to result in fewer trials.
052	Chair Bryant	It would be wonderful if you could put a dollar figure on that.
060	Layne Barlow	<p>Oregon Men's Association</p> <p>Submits written testimony containing three conceptual amendments and testifies in support of SB 60 (EXHIBIT I). Indicates support for the direction that SB 60 is taking court proceedings on family matters.</p>

100	Chair Bryant	Closes public hearing on SB 60.
102	Counsel Felton	Introduces: LC 3003, relating to school attendance.
105	Sen. Bryant	MOTION: Moves LC 3003 BE INTRODUCED as a committee bill.
		VOTE: 6-0 EXCUSED: 1 - Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED.
<u>SB 82 PUBLIC HEARING</u>		
118	Kristena LaMar	Chair, Oregon Family Law Legal Services Commission (OFLSC) Submits written testimony and testifies in support of SB 82 (EXHIBIT J). Judge LaMar is a Circuit Court Judge in Multnomah County. Indicates the commission was created by the 1997 legislature to address concerns in family law. Notes that public hearings and meetings were held all over the state to research these concerns. Discusses their recommendations, the major thrust being the authorization of local facilitation programs to provide procedural assistance to family law litigants.
224	Paul Lipscomb	Vice Chair, Oregon Family Law Legal Services Commission Judge Lipscomb is the presiding judge in Marion County. Indicates that SB 82 demonstrates the Judicial Department's willingness to open the process and become more user-friendly. Describes Marion County's program to assist people seeking divorces without legal help (EXHIBIT K). Emphasizes that they try to not give anymore help than is needed. Believes that giving help at the beginning of the process benefits both the families involved and the court system.
371	Sen. Brown	In Section 2 there is a reference to the child support program providing notice to parents about resources. Is that intended to mean individual forms or conversations that the agency must document?
379	LaMar	It is whatever the agency feels is appropriate to enlighten the persons in front of them. However they can best get the information to their clients.
401	Alta Brady	Circuit Court Judge, Deschutes County

		We borrowed this program from Marion County and made it our own. Over 50% of our divorces filings this year were pro se and this percentage is fairly consistent. We provide an administrative service but not legal advice. We provide the forms to local businesses free of charge and they copy and sell them at a fair price (EXHIBIT L and EXHIBIT M).
Tape 48, B		
005	Russ Lipetzky	Attorney, Member of the Oregon Family Law Legal Services Commission Testifies in favor of SB 82.
017	Chair Bryant	Discusses pro se divorce. Indicates that most attorneys that he knows would be happy for any facilitation of the pro se process.
030	Lipetzky	We did solicit input from the Family Law Section of the Oregon State Bar and they do support this legislation.
033	Dick Baldwin	Member, Oregon State Bar Board of Governors (Region 5) Submits written testimony and testifies in support of SB 82 (EXHIBIT N). Indicates that particular assistance will be given in the area of child support and domestic violence issues.
098	Jeff Carter	Attorney, Oregon State Bar, Chair of the Access to Justice Conference Supports the current program in Marion County and SB 82.
142	Robin Smith	Paralegal Submits written testimony and testifies in support of SB 82 (EXHIBIT O).
180	Tom Bessanette	Legislative Assistant Submits written testimony and testifies in support of SB 82 (EXHIBIT P). Discusses the benefits which will accrue to children through passage of SB 82.
204	Chair Bryant	Discusses potential cost of SB 82 and suggests that anyone who has a basis to challenge the stated cost to the state of 2.8 million, through potential savings as yet unnoticed, has just a small amount of time to communicate this to decision makers.
206	Layne Barlow	Oregon Menís Association Testifies in support of SB 82.
296	Bill Holt	Oregon Menís Association

		Discusses the potential difficulties parents can have during divorce and custody proceedings and supports the passage of SB 82.
425	Chair Bryant	Adjourns hearing at 4:45 p.m.

Submitted By, Reviewed By,

Judith Minnich, Aaron Felton,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ HB 2290, written testimony dated February 23, 1999, Ron D. Bailey. 1 pp

B ñ HB 2291, written testimony dated February 23, 1999, Ron D. Bailey. 1 pp

C ñ HB 2292, written testimony dated February 23, 1999, Ron D. Bailey. 1 pp

D ñ SB 60, suggested amendments dated February 23, 1999, Dale R. Koch, 3 pp

E ñ SB 60, Integrated Family Court flow chart, Ernie Mazoral, 1 pp

F ñ SB 60, research on Family Court dated September 11, 1995, 2 pp

G ñ SB 60, research on Family Court Coordination of Human Services in Deschutes County, 4 pp

H ñ SB 60, written testimony dated February 23, 1999, Rebeca Orf, 9 pp

I ñ SB 60, written testimony and proposed amendments dated February 23, 1999, Layne Barlow, 1 pp

J ñ SB 82, OFLLSC Report, Executive Summary, 3 pp

K ñ SB 82, Marion County Courts Dissolution Resource Services Brochure, 1 pp

L ñ SB 82, letter to Ernest Mazorol dated 2/23/1999, 1 pp

M ñ SB 82, letter to Ernest Mazorol dated January 22, 1999, 1 pp

N ñ SB 82, written testimony dated February 23, 1999, Richard C. Baldwin, 2 pp

O ñ SB 82, written testimony dated February 23, 1999, Robin Smith, 4 pp

P ñ SB 82, written testimony dated 2/23/99, Tom Bessonette, 1 pp