

SENATE COMMITTEE ON JUDICIARY

March 15, 1999 Hearing Room 343

3:00 PM Tapes 72 - 73

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Qutub

Sen. Tarno

MEMBER EXCUSED: Sen. Nelson

STAFF PRESENT: Bill Taylor, Counsel

Aaron Felton, Counsel

Kathy Courtney, Administrative Support

MEASURE/ISSUES HEARD: SB 662 ñ Public Hearing

SB 660 ñ Work Session

SB 319 ñ Work Session

SB 387 ñ Work Session

HB 2230 ñ Public Hearing

SB 74 ñ Public Hearing

HB 2298 ñ Public Hearing, Work Session

HB 2232 ñ Public Hearing, Work Session

HB 2231 ñ Public Hearing, Work Session

HB 2228 ñ Public Hearing, Work Session

TAPE/#	Speaker	Comments
TAPE 72, SIDE A		
004	Chair Bryant	Calls meeting to order at 3:10 PM.
009	Chair Bryant	MOTION: Moves LC 3996 be withdrawn.
		VOTE: 4-0-3 EXCUSED: 3 - Sen. Burdick, Sen. Nelson, Sen. Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED.
013	Chair Bryant	MOTION: Moves LC 2524 be withdrawn.
		VOTE: 4-0-3 EXCUSED: 3 - Sen. Burdick, Sen. Nelson, Sen. Qutub
Chair Bryant		Hearing no objection, declares the motion CARRIED.
<u>SB 662 PUBLIC HEARING</u>		
023	Sen. Kate Brown	State Senator, District 7 Testifies in support of SB 662. Discusses the routine judicial procedure in service and entry of divorce decrees.
044	Tammy Dentinger	Family Law Section, Oregon State Bar Testifies and submits written testimony in support of SB 662. (EXHIBIT A) Discusses the need to draft temporary orders to collect child support during the 90-day waiting period interim.
089	Robin Pope	Family Law Practitioner Testifies in support of SB 662. Discusses the refusal of some judges to waive the 90-day waiting period in divorce decree cases.

108	Chair Bryant	Closes SB 662.
<u>SB 660 WORK SESSION</u>		
120	Sen. Brown	MOTION: Moves SB 660 to the Senate Committee on Water and Land Use WITHOUT RECOMMENDATION as to passage.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Courtney, Sen. Nelson
Chair Bryant		Hearing no objection, declares the motion CARRIED.
136	Chair Bryant	Closes SB 660 Work Session.
<u>SB 319 WORK SESSION</u>		
147	Layne Barlow	Oregon Menis Association Testifies and submits written testimony in support of SB 319. (EXHIBIT B) Discusses the Violence Against Womenis Act and its legal challenges. Discusses enticement and entrapment and the lack of accountability of claimants in divorce cases.
202	Chair Bryant	What is your experience with judges who modify or dismiss cases in which the claimant entraps or misrepresents the respondent?
236	Barlow	Most judges do not modify or dismiss these cases. Explains hearing procedures in which a respondent can address misrepresentation. Asserts that SB 319 will yields consequences to misrepresentation.
271	David Nebel	Oregon Law Center Testifies with neutrality on SB 319. Discusses police procedures for responding to restraining order cases and due process procedures. Explains the mandatory arrest provision in SB 319.
426	Sen. Courtney	MOTION: Moves SB 319 to the floor with a DO PASS recommendation.
		VOTE: 5-0-2

		EXCUSED: 2 - Sen. Nelson, Sen. Qutub
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
TAPE 73, SIDE A		
<u>SB 387 WORK SESSION</u>		
019	Counsel Taylor	SB 387 allows courts to continue with termination of parental rights cases during appeal. Explains why the SB 387 ñ1 amendments may not be needed. (EXHIBIT C)
030	Sen. Courtney	Is there any opposition to this bill?
035	Counsel Taylor	Discusses the Oregon State Bar and the Department of Justiceís perspective on SB 387.
042	Michael Livingston	Department of Justice, Appellate Division Testifies in support of SB 387. Discusses termination cases, appellate court reviews, and overturning of lower court decisions. Explains the legal risk of jurisdiction case adoptions.
059	Sen. Brown	What is the procedure when termination cases are not appealed?
061	Livingston	Explains that a jurisdictional hearing would be then be moot.
062	Sen. Courtney	How long does one have to file an appeal to a jurisdictional case decision?
066	Livingston	30 days.
072	Sen. Brown	Questions why a jurisdiction finding would be moot since it is the basis for termination of parental rights.
079	Melinda Bruce	Department of Justice, Family Law Section Testifies and submits written testimony in support of SB 387. (EXHIBIT D) Explains that the termination order and judgement are not entered until appeal

		is final. Clarifies that SB 387 addresses the interim between the jurisdiction case filing and the trial date.
099	Sen. Brown	How many cases would SB 387 address?
101	Livingston	It would address more and more cases.
108	Chair Bryant	Would these cases increase with the Safe Adoption and Family Act caseload?
110	Livingston	Yes.
118	Kathie Osborn	Juvenile Rights Project Testifies with neutrality on SB 387. Discusses delay in jurisdictional appeals which result in delay in termination proceedings. Explains why termination adjudication and appeals are not a basis for jurisdiction findings. Suggests adding a sunset provision for SB 387.
159	Sen. Brown	Supports SB 387 in terms of transition and speed of process. Expresses concern about the potential to allow termination of parental rights while a case is on jurisdictional appeal.
169	Livingston	Explains why termination is unlikely to occur during a jurisdictional appeal. Supports a sunset provision to SB 387.
194	John Richardson	Oregon State Bar Testifies with neutrality on SB 387. Discusses the differences between jurisdictional and termination facts. Explains the timing of termination hearings in relation to jurisdictional appeals.
243	Chair Bryant	What is your position on SB 387 excluding fast tracking case?
245	Richardson	I support adding a sunset clause to the bill.
258	Timothy Travis	Oregon Judicial Department, Appellate Division Testifies in support of SB 387. Discusses combining jurisdiction and termination appeals. Supports adding a sunset clause to SB 387.
313	Sen. Courtney	MOTION: Moves SB 387 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1

		EXCUSED: 1 - Sen. Nelson
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.
<u>HB 2230 AND SB 74 PUBLIC HEARING</u>		
319	Sen. Qutub	Questions why SB 387 amendments were not drafted.
356	Counsel Taylor	Explains that Legislative Counsel must receive a request to draft amendments. Explains why SB 387 ñ1 amendments are not needed.
394	Chair Bryant	Explains the need for a fiscal and revenue analysis on SB 74.
405	Ronelle Shankle	State Enforcement Division (SED) Testifies and submits written testimony in support of HB 2230. (EXHIBIT E) Compares the costs of HB 2230 and SB 74.
419	Bradd Swank	State Court Administratorís Office Testifies and submits written testimony in support of SB 74. (EXHIBIT F) Discusses foreign support obligation registrations. Explains the rationale for a single tribunal from a policy perspective. Opposes the circuit court notification requirement.
TAPE 72, SIDE B		
004	Swank	Continues discussion of the SB 74 notification requirement. Discusses SED notification responsibility under current statutes. Encourages SED to fulfill this responsibility.
107	Merry Larsen	Department of Justice Testifies and submits written testimony in opposition to SB 74. (EXHIBIT G) Discusses why shifting the notification requirement to SED would hinder customer service. Explains the fiscal impact of the notification requirement.
189	Chair Bryant	Inquires about the federal government matching funds for the notification requirement.

191	Larsen	Yes, federal dollars may be available.
217	Chair Bryant	How long has the Department of Justice handled the notification requirement?
218	Swank	Since January 1998. Explains why the notification requirement is a hardship on small courts. Discusses the fiscal and time costs of applying for federal matching funds.
259	Shankle	Discusses the necessity of establishing a single tribunal.
284	Chair Bryant	Would SB 74 accomplish the same goals as HB 2230?
284	Swank	No. Explains the shift of the notification requirement from the Support Enforcement Division to the circuit courts administrative rule. Explains that this administrative rule is contrary to the current statutes.
312	Chair Bryant	Closes HB 2230 and SB 74 Public Hearing.
<u>HB 2298 PUBLIC HEARING</u>		
325	Robin Pope	Oregon State Bar, Standing Committee On Adoption Testifies and submits written testimony in support of HB 2298. (EXHIBIT H) Discusses need for waiver from advising parents of voluntary adoption registry. Explains the intricacies and differences of various types of adoptions.
403	Kathy Ledesma	State Office for Services to Children and Families Testifies and submits written testimony in support of HB 2298. (EXHIBIT I) Explains why the term "good cause" is too broad.
TAPE 73, SIDE B		
003	Ledesma	Continues discussion on "good cause" and proposes changing the language to require accountability and demonstrate effort.
021	Chair Bryant	Why didn't you object to the term "good cause" during the presentation of HB 2298 on the House side?
025	Ledesma	Explains her failure to object on the House side as an oversight.
030	Felton	Discusses legislative history of HB 2298.

034	Chair Bryant	Is HB 2298 connected with Ballot Initiative 58?
036	Pope	No, we started to draft this bill over 3 years ago.
039	Sen. Brown	Would specifically listing grounds for a waiver allay your concerns, Ms. Ledesma?
045	Pope	No, that would be too limiting. Discusses Rep. Lowe's suggestion to allow judges to determine "good cause."
066	Sen. Courtney	You refer to "good cause" as relating to situations in which you cannot locate a parent. Do you have other reasons for choosing not to locate a parent as your term "punitive fathers" imply?
080	Pope	Yes. A punitive father is a father who is not married to the mother.
088	Sen. Courtney	So an unmarried father has fewer rights regarding his children than a married father?
095	Pope	Yes.
106	Chair Bryant	But one has the means for establishing paternity. Closes HB 2298 Public Hearing.
<u>HB 2298 WORK SESSION</u>		
129	Sen. Courtney	MOTION: Moves HB 2298 to the floor with a DO PASS recommendation.
		VOTE: 5-0-2 EXCUSED: 2 - Sen. Brown, Sen. Nelson
		Chair Bryant Hearing no objection, declares the motion CARRIED. CHAIR BRYANT will lead discussion on the floor.
148	Chair Bryant	Closes HB 2298 Work Session.
<u>HB 2232 PUBLIC HEARING</u>		

150	Ronelle Shankle	Support Enforcement Division Testifies and submits written testimony in support of HB 2232. (EXHIBIT J) Discusses the inefficiency of deletion instead of verification of an address of record.
194	Sen. Courtney	Closes HB 2232 Public Hearing.
<u>HB 2232 WORK SESSION</u>		
195	Sen. Courtney	MOTION: Moves HB 2232 to the floor with a DO PASS recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Chair Bryant, Sen. Brown, Sen. Nelson
Sen. Courtney		Hearing no objection, declares the motion CARRIED. SEN. TARNO will lead discussion on the floor.
<u>HB 2231 and HB 2228 PUBLIC HEARING AND POSSIBLE WORK SESSION</u>		
207	Ronelle Shankle	Support Enforcement Division Testifies and submits written testimony in support of HB 2231. (EXHIBIT L) Discusses how HB 2231 amends statute to allow for modification of child support obligations due to incarceration.
237	Layne Barlow	Oregon Menís Association Testifies in support of HB 2231. Asserts that HB 2231 encourages fathers to take responsibility for their children.
252	Sen. Courtney	MOTION: Moves HB 2231 to the floor with a DO PASS recommendation.
		VOTE: 4-0-3 EXCUSED: 3 - Chair Bryant, Sen. Nelson, Sen. Brown

	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. TARNO will lead discussion on the floor.</p>
260	Ronelle Shankle	<p>Support Enforcement Division</p> <p>Testifies and submits written testimony in support of HB 2231. (EXHIBITS K and L) Discusses out-of-state docket registration and modification of child support orders due to parental incarceration.</p>
270	Sen. Qutub	Inquires why the term "obligator" is used.
293	Shankle	The terms are used to maintain consistency within the Oregon statutes.
302	Sen. Qutub	You could simply state which parent is referenced.
325	Sen. Courtney	MOTION: Moves HB 2228 to the floor with a DO PASS recommendation.
		<p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Chair Bryant, Sen. Nelson</p>
	Chair Bryant	<p>Hearing no objection, declares the motion CARRIED.</p> <p>SEN. BROWN will lead discussion on the floor.</p>
332	Sen. Courtney	MOTION: Requests unanimous consent that the rules be SUSPENDED to allow SEN. BROWN to BE RECORDED as voting AYE on HB 2231 and HB 2298.
		<p>VOTE: 5-0-2</p> <p>EXCUSED: 2 - Chair Bryant, Sen. Nelson</p>
	Sen. Courtney	Hearing no objection, declares the motion CARRIED .

371	Sen. Courtney	Adjourns meeting at 5:00 PM.
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Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Manager

EXHIBIT SUMMARY

A ñ Testimony in support of SB 662, Tammy M. Dentinger, 1p

- B. Testimony and proposed amendments to SB 319, Layne Barlow, 6pp**
- C. Proposed amendments to Senate Bill 387, 1p**
- D. Testimony in support of SB 387, Melinda Bruce, 2pp**
- E. Testimony in support of SB 74 and HB 2230, Bradd Swank, 4pp**
- F. Testimony in opposition to SB 74, Merry L. Larsen, 26pp**
- G. Testimony in support of HB 2298, Robin Pope, 2pp**
- H. Testimony in opposition of HB 2298, Kathy Ledesma, 2pp**
- I. Testimony in support of HB 2232, Ronelle Shankle, 2pp**
- J. Testimony in support of HB 2230, Ronelle Shankle, 2pp**
- K. Testimony in support of HB 2228, Ronelle Shankle, 2pp**
- L. Testimony in support of HB 2231, Ronelle Shankle, 2pp**