

SENATE COMMITTEE ON JUDICIARY

April 08, 1999 Hearing Room 343

3:00 p.m. Tapes 114-115

MEMBERS PRESENT: Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Qutub

Sen. Tarno

MEMBER EXCUSED: Sen. Bryant

Sen. Nelson

STAFF PRESENT: Aaron Felton, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: SB 817 - Public Hearing and Work Session

SB 784 - Public Hearing and Work Session

SB 789 - Public Hearing and Work Session

SB 662 - 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 114, A		
003	Vice-Chair Courtney	Calls meeting to order at 3:05 p.m.

SB 784 PUBLIC HEARING

005	Sen. Brown	Indicates that this is the second session the issue addressed in SB 784 has been considered. Thank you for your consideration.
013	Mark Kramer	Attorney, Family Law Submits written testimony and testifies in support of SB 784 (EXHIBIT A). SB 784 allows the court to award attorney fees and costs to grandparents seeking visitation rights. Indicates that attorney's fees can be awarded in most types of family law cases, but not for grandparent visitation cases. Passing SB 784 will bring grandparent visitation cases in conformance with the rest of family law.
045	Tammy Dentinger	Oregon State Bar, Family Law Section Testifies in support of SB 784.

SB 817 PUBLIC HEARING

074	Sen. Brown	In the drafting of this legislation we neglected to consider the Indian Child Welfare Act, so we need to include amendments to address this.
098	Mark Kramer	Attorney, Family Law Submits written testimony and testifies in support of SB 817 (EXHIBITS B, C & D). SB 817 establishes the jurisdiction of the juvenile court over the review of an adoption decision by the State Office for Children and Families (SCF) and establishes the procedure for review. Adoption decisions by SCF are currently not subject to review except by utilizing the awkward Administrative Procedures Act (APA). Discusses the specific procedures available in SB 817 for review of SCF decisions after an adoption decision has been made. Discusses the reasons for and the specifics of the amendment submitted as Exhibit C.
304	Sen. Brown	Isn't it really grandparents who haven't been able to adopt their grandchild which has led to this bill?
309	Kramer	Grandparents, relatives, and foster care families have not been able to adopt these children. Discusses an adoption case in which a foster care family was denied the possibility of adopting the young child due to unreflective enforcement of SCF rules.
364	Vice-Chair Courtney	Have you tried to work with the Department of Justice or SCF on this bill?
366	Kramer	In part. Our discussions led to the amendment (Exhibit C) which narrows the class of people who can ask for review. I am willing to keep working for a suitable compromise, as long as the goal is to give the court some discretion to review SCF adoption decisions.

SB 784 WORK SESSION

367	Sen. Brown	Discusses the intent of SB 784 and summarizes the previous testimony.
398	Sen. BROWN:	MOTION: Moves SB 784 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 5-0 EXCUSED: 2 ñ Bryant, Nelson
Vice-Chair Courtney		Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.

SB 817 PUBLIC HEARING

424	Melinda Bruce	Assistant Attorney General, Department of Justice (DOJ) Testifies in opposition to SB 817 which establishes jurisdiction of juvenile court over review of a decision by SCF consent to adoption of a child. Indicates that she will not distribute her written testimony since there seems to be interest in a work group to iron out the differences. Discusses the increased workload as a serious concern. Annual cases which would be reviewed are estimated from 40 to 200 each year. DOJ has not budgeted for this. Indicates some concern that SB 817 would be in violation of federal mandates to move children into adoptive families in a timely fashion. Indicates they would be glad to work with others to make the bill acceptable.
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Tape 115, A

034	Nancy Miller	Citizen Review Board (CRB), State Court Administrator's Office Testifies on SB 817 and indicates that although there are concerns with the bill as written, they would like to continue to work towards addressing the issue. The CRB has seen the frustration of some of the participants in adoption proceedings and has a continuing dialogue with SCF regarding the lack of anyone's ability to impact the adoption process. Discusses possible solutions that would be compatible with new federal legislation.
055	Kip Leonard	Circuit Court Judge, Lane County Testifies on SB 817 and indicates that the workload issues will be dramatic. Believes it will delay adoptions. Indicates that SCF are the experts in this area and the juvenile courts are not.

117	Kathy Ledesma	<p>State Office for Children and Families (SCF)</p> <p>Submits written testimony and testifies in opposition to SB 817 (EXHIBIT E). Discusses the difficulties with the process outlined in SB 817. Discusses the increased costs to SCF and the increased delays in finalizing adoptions under SB 817. Indicates the adoption disruption rate in Oregon is one of the lowest in the nation which indicates a successful process.</p>
198	Sen. Brown	Does anyone know if any other state has some type of adoption agency review by the courts?
202	Miller	It would be easy to find out, and I would be happy to do it.
208	Sen. Tarno	I would like Mark Kramer to comment on some of the information supplied by the Department of Human Resources (Exhibit E). In particular, could the process delay adoption in the way this describes?
219	Kramer	Permanency may be delayed, but it does not prevent the child from being in the proposed adoptive home.
242	Vice-Chair Courtney	Closes the Public Hearing on SB 817.
<u>SB 789 PUBLIC HEARING</u>		
252	Sen. Kate Brown	<p>State Senate, District 7</p> <p>Testifies in support of SB 789 indicating that it repeals the previous child custody act and replaces it with an updated statute. Discusses history of child custody cases and federal legislation. The Uniform Child Custody Jurisdiction Act (UCCJA) was replaced with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) in 1997. UCCJEA reconciles the differences between UCCJA and the Parental Kidnapping Prevention Act (PKPA) and adds interstate civil enforcement for child custody orders (EXHIBIT F).</p>
389	Gordon L. Dick	<p>Oregon State Bar, Family Law Section</p> <p>Testifies in support of SB 789. The UCCJEA also expands enforcement for child custody orders into the international arena. Indicates that adoption issues haven't been properly addressed and</p> <p>there is a potential need for clarification in relation to the Family Abuse Prevention Act.</p>
Tape 114, B		
002	Bradd Swank	Department of Justice, State Court Administrator's Office

		<p>Testifies on concerns about SB 789. Indicates there are sections inconsistent with Oregon law. Voices concerns regarding the costs of SB 789, if enacted.</p> <p>Discusses a section of the bill that allows an adverse inference to be made from a refusal to testify which may pose a constitutional problem. Objects to the inclusion of an emergency clause in the bill. Indicates willingness to work with those concerned to clear up the inconsistencies.</p>
095	David Nebel	<p>Oregon Coalition Against Domestic and Sexual Violence</p> <p>Testifies in support of SB 789. Discusses three provisions of the bill that will favorably impact victims of domestic violence.</p>
<u>SB 662 WORK SESSION</u>		
133	Counsel Felton	<p>SB 662 has the effect of waiving the ninety-day waiting period for dissolution of marriage if the parties have reached a stipulated judgment. Discusses the provisions of the ñ2 amendments which expand the court's authority to investigate the parents financial situation, physical well-being and psychological health (EXHIBIT G).</p>
173	Sen. Brown	<p>The ñ2 amendments are basically housekeeping amendments.</p>
182	Tammy Dentinger	<p>Oregon State Bar, Family Law Section</p> <p>Indicates that the Oregon State Bar Family Law Section supports the ñ2 amendments.</p>
189	Sen. Qutub	<p>It looks like the ñ2 amendments are more substantive than just housekeeping.</p>
191	Dentinger	<p>In practice, in any case involving custody of a child, the courts have broad discretion to order investigations. This will make it more explicit.</p>
210	Sen. Qutub	<p>This bill gives the court the right to investigate parental financial resources.</p>
214	Sen. Brown	<p>The court has these rights already. Discusses the types of financial information required during a divorce and/or child custody proceeding.</p>
227	Sen. Qutub	<p>This has to do with the custody of the child, not divorce.</p>
232	Counsel Felton	<p>Indicates that the word "expansion" in the staff measure summary means formalizing the authority for the court to order investigations in the existing statute. It does not give the court greater authority.</p>
244	Sen. Brown	<p>If there is child support awarded, the parties must provide financial information.</p>

259	Sen. Brown	MOTION: Moves to ADOPT SB 662-2 amendments dated 4/1/99.
		VOTE: 5-0 EXCUSED: 2 - Bryant, Nelson
	Vice-Chair Courtney	Hearing no objection, declares the motion CARRIED.
266	Sen. Brown	MOTION: Moves SB 662 to the floor with a DO PASS AS AMENDED recommendation.
268	Sen. Qutub	Notes that she will vote aye, but may change her vote on the floor.
		VOTE: 5-0 EXCUSED: 2 - Bryant, Nelson
	Vice-Chair Courtney	Hearing no objection, declares the motion CARRIED. SEN. BROWN will lead discussion on the floor.
277	Vice-Chair Courtney	Adjourns the hearing at 4:20 p.m.

Submitted By, Reviewed By,

Judith Minnich, Aaron Felton,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ SB 784, written testimony from Mark Kramer, 1 pp

B ñ SB 817, written testimony from Mark Kramer, 4 pp

C ñ SB 817, hand-engrossed page 1 of SB 817, Mark Kramer, 1 pp

D ñ SB 817, letter dated April 8, 1999 from Richard David Cohen, 3 pp

E ñ SB 817, written testimony dated April 8, 1999, State Office for Services to Children and Families, 2 pp

F ñ SB 789, Uniform Child Custody Jurisdiction and Enforcement Act, A Summary, 6 pp

G ñ SB 662, -2 amendments dated 4/1/99, 11 pp