

HOUSE COMMITTEE ON CHILDREN AND FAMILIES

April 3, 1997 Hearing Room D

1:00PM Tapes 56-57

MEMBERS PRESENT:

Rep. Liz VanLeeuwen, Chair

Rep. Kitty Piercy, Vice-Chair

Rep. Bob Jenson

Rep. Jeff Kruse

Rep. Dennis Luke

Rep. Kurt Schrader

Rep. Mark Simmons

MEMBER EXCUSED:

STAFF PRESENT:

Janet Carlson, Administrator

Berri Sellers, Administrative Support

MEASURE/ISSUES HEARD:

HB 2009 Public Hearing and Work Session

HB 3060 Public Hearing and Work Session

HB 2169 Public Hearing

HB 2749 Public Hearing

HB 2934 Public Hearing

HB 3661 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
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TAPE 56, A		
003	Chair VanLeeuwen	Chair calls meeting to order at 1:12. Opens public hearing on HB 2009.
<u>HB 2009 PUBLIC HEARING</u>		
011	Chair VanLeeuwen	Closes public hearing on HB 2009. Opens work session on HB 2009.
<u>HB 2009 WORK SESSION</u>		
015	Rep. Luke	MOTION: Moves HB 2009 to the floor with a DO PASS recommendation, and BE REFERRED to the committee on Ways and Means by prior reference.
	Chair VanLeeuwen	Hearing no objection, declares the motion CARRIED.
039	Chair VanLeeuwen	Opens public hearing on HB 3060.
<u>HB 3060 PUBLIC HEARING</u>		
041	Chair VanLeeuwen	Closes public hearing on HB 3060. Opens work session on HB 3060.
<u>HB 3060 WORK SESSION</u>		
046	Rep. Schrader	Would like the committee to note that we have HB 3060 with -5 amendments and they appear with the changes as they had previously discussed.
059	Janet Carlson	Committee Administrator. Has additional information regarding HB 3060 that was provided by Judy Newman and Katherine Weit, (EXHIBIT A).
073	Rep. Schrader	MOTION: Moves HB 3060 to the floor with a DO PASS AS AMENDED recommendation.
	Chair VanLeeuwen	Hearing no objection, declares the motion CARRIED.
086		Rep. Schrader will lead discussion on the floor. Opens public hearing on HB 2169, HB 2749 and HB 2934.
<u>HB 2169, HB 2749, HB 2934 PUBLIC HEARING</u>		
104	Carlson	

		Provides an overview of the three bills that have to do with confidentiality and expungement of Services to Children and Families records.
175	Caleb Heppner	Deputy Director of Services to Children and Families. Provides testimony about HB 2169 and HB 2749. Provides written testimony (EXHIBIT B).
207		Explains that the purpose of HB 2169 is to make it clear what information can and cannot be disclosed in the statutes. Has provided a sheet called "Confidentiality Basics" (EXHIBIT B) to help the committee understand the issues.
258		Believes that this bill will allow them to broaden their ability to release information.
296		Explains that it is not their intention to create a statute for the agency to hide behind, but to better help them to serve the public's need for information.
297	Linda Guss	Staff at the Department of Justice. Here at the request of Services to Children and Families in order to respond to requests for information.
301	Rep. Luke	Have there been audits about the agency's ability to withhold information?
306	Heppner	Not that he is aware of, needs additional clarification. Can find out if there has been an audit.
320	Rep. Luke	Who decides what is in the best interest of the child, is it the agency?
328	Heppner	It is one of the discretionary abilities that the agency has.
336	Rep. Luke	Was this issue discussed last session in the Children and Families committee?
344	Heppner	Does not know.
359	Vice-Chair Piercy	Explains that she was here last session and does not remember this issue being discussed.
348	Victor Congelton	There were case specific discussions, but he does not recall an audit based on a programmatic approach.
362	Rep. Schrader	Do sensitive review committees include the citizen review boards?
378	Heppner	No, this would be a separate group of people.
380	Rep. Schrader	What function does a citizen review board have then?
386	Heppner	They are charged with reviewing case files. They decide if a case practice was appropriate for that case.
394	Rep. Schrader	Why is it bad to allow the perpetrator access to the files?
400	Heppner	That clause is to protect the child and so that this information cannot be used to harm the child later.

TAPE 57,A		
050	Rep. Luke	What if there is a disagreement between the person who wants the file and what your agency deems to be discretionary?
053	Heppner	They can ask for the request to be reconsidered or the courts could determine that the information should be released.
057	Guss	Another option might be a public records request in which the agency has an obligation to review the request and provide the information that is available. In this instance if the person is not satisfied they have the ability to have the Attorney General's office review the record.
064	Rep. Luke	What if the agency disagrees with the Attorney General's office?
068	Guss	It is a directive from the Attorney General's office.
092	Chair VanLeeuwen	Can a citizen go directly to the Attorney General?
095	Guss	Yes they can go directly according to ORS 192.
102	Rep. Kruse	How would a person know that they had that option?
104	Guss	It is in the statutes.
115	Heppner	Comments that Services to Children and Families does have procedures that they give to individuals that inform them of their rights surrounding grievances that deal with the agency.
128	Chair VanLeeuwen	Do you have written material that informs them of their options?
135	Heppner	We explain their recourse to them, but we don't give the person anything in writing.
192	Rep. Jenson	Comments that he agrees that there needs to be direction to clients in writing as to how they can request information and what recourse they have if they have a grievance with the agency.
207	Rep. Luke	Are you required to explain why records won't be released?
211	Heppner	Each individual request is given as much information as possible. If there is information that cannot be released, we detail each specific request and explain the statutory reason for not being able to disclose those records.
228	Rep. Kruse	Where would this bill be positioned in the statutes?
239	Heppner	Explains that this clause would be an addition to the existing statutes in 419B.
264	Chair VanLeeuwen	How does HB 2169 meld with HB 2749?
269	Heppner	These two bills complement each other in that ORS 419B.035 has certain areas that require mandatory disclosure. We don't readdress those in our bill, but HB 2749 does readdress those in terms of what it requires.

284	Guss	HB 2169 defers to the current statutes. The other specifically governs records under the child abuse statute. They would meld in that it would allow disclosure on ORS 419B.035
300	Chair VanLeeuwen	What are the differences?
304	Guss	HB 2169 refers to records held by Services to Children and Families but does not intend to supersede the statutes. HB 2749 amends ORS 419B.035.
360	Carlson	If a relative requests information, are they one of the parties in the case that can access records?
370	Heppner	A parent already has access. If a grandparent has a close relationship with the parent, they might already have access to that information through the parents. A relative is not considered a party to the case. Sometimes they are able to meet with family and share information but it would be verbal and not written.
400	Carlson	Have the laws regarding who has access to records changed since August 1996 within the Federal Child Abuse Prevention and Treatment Act?
420	Guss	Yes, the law has changed. Much of the language remains in the bill, including that the state is mandated to protect the records in order to protect the child.
TAPE 56,B		
020	Carlson	Is Oregon stricter than the federal law?
022	Heppner	There are two issues which they looked at. These include child fatalities and providing information to the child.
076	Vice-Chair Piercy	What is the difference in standing between parents and grandparents?
081	Guss	The statute is written that parents have primary rights. The legislature has acknowledged that grandparents have significant roles in the intervenor statutes. Under juvenile court statutes, grandparents are not identified, but intervenors are. There might not be a legal or constitutional right, but grandparents have been acknowledged as having a significant role.
106	Vice-Chair Piercy	What happens when the parents and grandparents don't agree on the best interest of the child?
113	Guss	Cites specific statutes and cases that allow the grandparents to become involved.
122	Rep. Schrader	Comments that it is sometimes a problem for the grandparents to have access to their children.
132	Guss	Discusses ORS 109.119. Outlines the type of relationship that is available to the grandparents.
179	Rep. Luke	If there is a fatality or major abuse case, what happens to the confidentiality laws?

185	Heppner	We make all records available. Understanding is that there are mandatory requirements to provide them with the records. For juvenile records, there are court requirements on what they can release.
214	Victor Congelton	Wants to testify in opposition of HB 2934. Provides written testimony (EXHIBIT C).
296		Comments that the destruction of history can be very dangerous for children.
321	Chair VanLeeuwen	Believes that in some cases the records should be destroyed.
335	Rep. Kruse	Provides specific example of how the law works in a divorce case.
399	Heppner	By expunging unsubstantiated reports, it can hurt someone who is trying to clear their name by showing a person who is repeatedly reporting a person as vengeance rather than reality.
TAPE 57,B		
011	Vice-Chair Piercy	Comments that often times a pattern can be established in abuse situations by saving records. If a child has a history of abuse, then the caseworker can go back and see the history of problems.
025	Heppner	It is helpful to them to be able to refer to records to determine a history of abuse, if it applies.
029	Congleton	Explains that this very argument is what led New York to change their laws.
034	Tim Travis	Juvenile Rights Project, Inc. Provides written testimony (EXHIBIT D). Testifying about HB 2169. Has a list of amendments that he would like to be made to HB 2169.
050		Explains that his amendments fit with the relating clause of the bill and that it refers to ORS 419. Explains that these amendments will enhance the practice and credibility of the agency.
065	Travis	Explains that the confidentiality laws are seen as screens that protect the perpetrators and the agency.
070		Explains that his problem with the agency bill is that it is discretionary, leaving all of the decisions up to the agency.
083		After the death of a child, a family does not receive the complete record. The family receives a summary of information.
100		Explains that if grandparents were listed in ORS 115, they would have access to information and documents in the case.
115		Explains that parents in dependency cases have rights to all information. Parents who are perpetrators have access to reports but may not know where the child is in foster care

		placement if the agency sees the parent as a threat to the child.
138		Discusses SB 965 that provides that State Office of Services to Children and Families send a formal letter to the client if the claims are unsubstantiated.
147	Chair VanLeeuwen	Recesses hearing. Opens public hearing on HB 3661.
<u>HB 3661 PUBLIC HEARING</u>		
155	Travis	Explains HB 3661, children living in foster care and their problems as they get older. Would like Services to Children and Families to report children placed in homeless shelters to the courts.
182	Karen Everhart	Staff to Services to Children and Families. Provides written testimony (EXHIBIT E). Explains that this bill is putting in a safeguard for children living in the metro area.
205		Explains that this is a good idea, but that any funding for this would be beyond the governor's budget.
211	Rep. Luke	If an unofficial practice is put into statute does that then require you to go into the shelter and do background checks on the people who are there?
215	Everhart	Explains that at most of the facilities, if licensed, at least an Oregon criminal history check would be done on the primary providers.
226	Chair VanLeeuwen	Closes public hearing on HB 3661 and re-opens public hearing on HB 2960, 2749 and 2934.
<u>HB 2960, HB 2749, HB 2934 PUBLIC HEARING</u>		
228	Janet Overholser	Retired Oregon School teacher. Provides written testimony (EXHIBIT F).
254		Explains that she supports HB 2494 and HB 2934. Explains that the committee should start and end their hearings in prayer.
288	Claude Derr	Grandparent's Advocate. Discusses his problems with ORS 109.119.
325	Mike Ramsby	Sergeant of the Oregon State Police, Criminal Services Investigative Division. Provides written testimony (EXHIBIT G).
337		Testifying on HB 2749. Concerned that access to information for on-going cases not be provided under these confidentiality laws.
357		

		Explains that three days is not sufficient time to provide written reports to the public.
372		In regards to HB 2934, the statute of limitations can extend up to six years and can last until the child is 24.
392	Chair VanLeeuwen	Explains to the committee that the Ombudsman work group will be beginning their work on the confidentiality bills Friday.
424		Closes public hearing on HB 2961, 2749 and 2934.
425	Rep. Luke	MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. Piercy and Rep. Simmons an opportunity to vote.
		VOTE: 7-0
	Chair VanLeeuwen	Hearing no objection, declares the motion CARRIED.
455		Adjourns committee at 3:00pm.

Submitted By, Reviewed By,

Berri Sellers, Janet Carlson,

Administrative Support Administrator

EXHIBIT SUMMARY

A - HB 3060, written materials, Kathryn Weit, 16pp.

B- HB 2169, written testimony, Caleb Heppner, 6pp.

C - HB 2934, written testimony, Victor Congleton, 2pp.

D - HB 3661, HB 2691 written materials, Timothy Travis, 8pp.

E - HB 3661, written testimony, Karen Everhart, 1pg.

F - HB 2934, written testimony, Janet Overholser, 2pp.

G - HB 2749, written testimony, Sgt. Mike Ramsby, 2pp.