

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON FAMILY LAW**

February 11, 1997 Hearing Room 357

3:15 P.M. Tapes 15 - 16

**MEMBERS PRESENT:**

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Judy Uherbelau

**MEMBER EXCUSED:** Rep. Charles Starr

**STAFF PRESENT:**

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2324 - Public Hearing

HB 2316 - 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.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 15, A</b>		
003	Chair Sunseri	Calls the meeting to order at 3:22 P.M.
<b><u>OPENS PUBLIC HEARING ON HB 2324</u></b>		
005	Chair Sunseri	Opens a public hearing on HB 2324.

006	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2324.
019	Maurice L. Russell II	Debtor-Creditor Section of the Oregon State Bar (Polk County) Testifies in opposition only because of provisions in it that provoke some concerns and presents written testimony. <b>(EXHIBIT A)</b>
050	Russell II	Continues testimony.
100	Russell II	Continues testimony.
102	Chair Sunseri	Will you be available to answer some questions later?
104	Russell II	Yes.
120	Rep. Eighmey	This proposed legislation is promulgated by federal law. In going through it I note that the Department of Justice makes specific cross references to the federal law that mandates this law. Is there some chart or anything like that the department could do for us?
128	Bob David	Manager and Child Support Liaison for the Support Enforcement Division, Department of Justice Testifies in support of HB 2324 and presents written testimony. <b>(EXHIBIT B)</b>  We will be able to do that but not available today.
133	Chair Sunseri	Is it your intention to read all of your presentation material?
135	David	No, it is not. I have prepared a short testimony due to the volume of speakers and the multitude of areas to address.
137	Chair Sunseri	Where are we required to make changes? Could you point those out to the committee?
139	Rep. Courtney	Could you particularly point out where if we don't do the changes we will lose \$33 million dollars of welfare assistance funding? What kind of leeway do we have?
141	David	I have a copy of it here, but I don't have the exact cite handy.
142	Chair Sunseri	That gives you the scope of what the committee is interested in receiving on this measure.
145	Rep. Uherbelau	Some of it is not required by federal law. That is what I find extremely important. We need to be able to weed out the differences.
154	David	We have tried to keep all extraneous requests out of this legislation.
204	David	Continues testimony.
234	David	Presents proposed amendments plus a commentary to HB 2324. <b>(EXHIBIT C)</b>
245	Rep.	This is going to have a multitude of questions.

	Eighmey	What would be the best way to proceed?
261	Taylor	I suggest that we have the proponents get together and prepare a basic overview of each section.
275	Rep. Uherbelau	I have concerns under the withholding of worker's compensation section. Where in the federal law does it mandate that we had to look toward worker's compensation disability awards and so forth. Also, I want to know if you have run this by the workers compensation section?
289	David	The mandate comes from the definition of "income." We have not run it through the workers compensation section.
290	Rep. Uherbelau	Is there a definition of "income" in the federal bill?
295	Chair Sunseri	I suggest we have committee members work with the interested parties and Counsel will facilitate a room where you can meet and work. Then I suggest bringing the final product to committee for review section by section. Advising us as to what has to be changed and the reasoning behind those changes.
307	Rep. Beyer	Mr. Chair are you going to let all people signed up to testify do so today?
310	Chair Sunseri	We will go through the balance of the people who want to testify today.
312	Rep. Eighmey	I would like to add to that suggestion that it be a brief overview. Let's present a general objection to the section and not get into the details each proposed change. Let's go into the details outside.
325	Art Kapteyn	Department of Human Resources We have made presentations on this measure that have gone two whole days and could give such a presentation. We, however, understand why we would not do that today.
344	Chuck Sheketoff	Oregon Law Center One item that is missing from HB 2324 is that the federal law requires that a recipient of public assistance assign to the state the child support that is collected. Federal law used to require that the first \$50 received no matter how many obligors belongs to the family. Today only 1 out of 5 Aid to Dependent Children ("ADC") families receive the \$50 dollar pass through as it is called. Another bill is being introduced that would continue the \$50 pass through. Our reasons for introducing it are: (1) acts as an incentive, (2) helps the obligor, and (3) moves the people from welfare to work.
		Continues testimony.

394	Sheketoff	<p>&gt;problem with ADC families is that there collecting on about 39% of the 16,000 support orders</p> <p>&gt;15,000 cases where paternity is established but there is no support order as of last May</p> <p>&gt;14,000 cases where neither paternity nor support collected</p> <p>Therefore, the lack of support coming in for ADC families is because paternity and support orders haven't been established. We are only collecting on 37% of them.</p> <p>If this proposal is not enacted then 1 out of every 5 families will have their income reduced 10%.</p>
433	Courtney	Under the present law the first \$50 is passed through?
438	Sheketoff	Under the old federal law it was required to be under the presents state's regulations and it is.
449	Courtney	Presently under the old law only 1 out 5 families are getting the \$50 pass through and the other remaining 4 families do not receive the funds. Correct?
<b>Tape 16, A</b>		
032	Sheketoff	The state is not collecting child support for 4 out of 5 ADC families.
033	Rep. Courtney	Should they be collecting it?
034	Sheketoff	<p>If they didn't have 16,000 paternity orders not established and 14,000 support orders not established then they would be collecting it.</p> <p>For the 1 out 5 ADC families it is working well.</p> <p>For 1 out of 5 ADC families it is working very well. Most importantly it is what's helping Human Resources boost of having the highest case load reduction. Receiving child support is what helps welfare cases go down and move people from welfare to work.</p>
042	Rep. Uherbelau	I thought I heard you say that 1 in 5 get the pass through because of those who have paternity & support orders established. Then the 4 out of 5 ADC families fall either where there is no paternity but a support order has been established or one where the parentage is established but no support has been ordered. Is that correct?
049	Sheketoff	Regarding the other 4 out 5 there is also 16,000 support orders that are established but the department is only collecting 37% of them. So 60% of the support orders go uncollected. That attributes to the 4 out of 5 ADC families who are not receiving the pass through.
053	Rep. Courtney	How do you choose the 1 out of 5 ADC families to receive the pass through?

054	Sheketoff	It is luck from the recipient's perspective. If we have a recipient who has a problem with collections that is one of the reasons why my associates are looking at trying to consolidate the child support collection agency with the department of justice and human resources.
063	Rep. Uherbelau	Is the pass through the only concern you have regarding the entire bill?
065	Sheketoff	Yes, that it is not included is my only concern with HB 2324. >adds comments regarding SB 1117 of the 68th Legislative session.
075	Russell Lipetzky	Chair of the Family & Juvenile Law Section of the Oregon State Bar Testifies in support and against certain sections of the HB 2324 and presents proposed amendments. <b>(EXHIBIT D)</b>
098	Rep. Uherbelau	How long have you had the bill?
101	Lipetzky	I first received a Legislative Counsel Draft a few months ago.
105	Rep. Uherbelau	I wish to focus on the withholding section of the bill and have some questions. Have you then had it long enough to review HB 2324?
109	Lipetzky	I've read HB 2324 in-depth.
114	Bradd Swank	State Court Administrator's Office Testifies neutrally on HB 2324. >concerns are primarily procedural
124	Layne Barlow	Oregon Men's Association Testifies in opposition to HB 2324 and presents written testimony. <b>(EXHIBIT E)</b>
174	Barlow	Continues testimony.
228	Rep. Courtney	I assume from your testimony that you are very familiar with HB 2324?
230	Barlow	Sections of it.
231	Rep. Courtney	Is your testimony today to mean you are categorically opposed to the measure?
240	Barlow	No, there are sections that are workable.
242	Rep. Courtney	You will join with the Attorney General's office to go over your concerns.
244	Barlow	Yes.
251	Sandy Wood & Joan Plank	Department of Transportation - DMV Services Testifies neutrally and presents written testimony. <b>(EXHIBIT F)</b>

272	Jeff Mills	<p>Private citizen with experience in constitutional law.</p> <p>Testifies in opposition to certain sections of the HB 2324.</p> <p>Problems with HB 2324:</p> <ul style="list-style-type: none"> <li>&gt;maybe allowing certain violations of state's rights</li> <li>&gt;challenges 10th amendment provisions</li> <li>&gt;conflicts with federal law regarding the obtaining of social security numbers</li> </ul>
324	Mills	<p>Continues testimony.</p> <ul style="list-style-type: none"> <li>&gt;joint custody is inexplicably connected even if not addressed in this measure</li> <li>&gt;let's select the way of getting the money to those children who need it</li> </ul>
359	Frank Brawner	<p>Oregon Banker Association</p> <p>Testifies to ensure that HB 2324 is operational.</p>
391	Rep. Courtney	<p>Did your industry take a roll in the federal regulation development and passage?</p>
395	Brawner	<p>I do not believe the association did. However, I can check that out and get back to you. I do recall, however, we had technicians working on the compliance portions but I do not believe we took a stance on the measure.</p>
402	Taylor	<p>Have your lawyers been in touch with the title companies concerning these issues?</p>
405	Brawner	<p>I believe one such company has been alerted.</p> <p>I can find out and advise other title companies that the measure is before the committee.</p>
427	Carl Steker	<p>Marion County Deputy District Attorney on behalf of the Oregon District Attorney Association</p> <p>Testifies in support of HB 2324.</p> <ul style="list-style-type: none"> <li>&gt;our existing statute has been the model for a lot of this federal legislation</li> </ul>
<b>Tape 15, B</b>		
036	Steker	<p>Continues testimony.</p> <ul style="list-style-type: none"> <li>&gt;will improve our capacity to do automated data searches</li> </ul>

		>our ability to locate parents of our children >enforcement ability
044	Chair Sunseri	Closes the public hearing on HB 2324.
<b><u>OPENS WORK SESSION ON HB 2316</u></b>		
051	Chair Sunseri	Opens a work session on HB 2316.
052	Taylor	Reads a Preliminary Staff Measure Summary on HB 2316. (Note: -2 Amendments supersedes the -1 Amendment) Explanation given on similarity of -2 and -3 Amendments.
082	Ronelle Shankle	Support Enforcement Division of the Department of Justice  The -2 Amendment is a result of a conversation which our agency had with Russell Lipetzky of the Family & Juvenile Law Section of the Oregon State Bar.  >asked to clarify some language regarding the actual execution of a satisfaction  >added language that says we would only do these satisfactions when it was received upon a request of the obligor. The agency would not initiate a satisfaction without receiving first a request.
095	Rep. Beyer	Council, you said that we are, also, deleting Line 45 on Page 2 and Lines 1 & 2 on the top of Page 3 of the printed bill. Is that correct?
099	Taylor	We are deleting only Lines 33 through 44 on page 2 of the printed bill.
102	Rep. Beyer	Then, we are retaining Line 45 on Page 2 & Lines 1 & 2 on page 3?
104	Taylor	Yes.
108	Rep. Uherbelau	I understand from Rep. Eighmey's legislative assistant that Russell Lipetzky would be familiar with the -3 amendments as proposed by Rep. Eighmey.
114	Rep. Beyer	Asks for clarification as to which lines are remaining of the original printed bill.
116	Taylor	Responds by stating that the language in both the -2 and -3 Amendments appear to go to the exact same sections and goes on to further explain likeness/differences in both Amendments.
125	Rep. Beyer	Is Rep. Eighmey trying to with the -3 Amendment the same thing that is being done with the -2 Amendment?

130	Russell Lipetzky	<p>Domestic Relations practitioner.</p> <p>My understanding of the -3 Amendment from a conversation with Rep. Eighmey (not having seen the printed versions of either amendments prior to this meeting) was to go further than the -2 Amendment by requiring the obligor to provide a sworn affidavit. The affidavit is to state that the obligation has been paid in full and to ensure that the Department of Human Resources records are in fact complete records before the department issues a satisfaction of the support obligation of the third party obligee.</p> <p>The other portion beginning at Line 6 would require that a copy of the affidavit and the certification by the department be served upon the obligee when the obligee is served notice of the department's intent to enter a satisfaction on the obligee's behalf.</p> <p>I believe that the -3 Amendment provides a little more burden to the obligor.</p>
155	Rep. Uherbelau	Regarding your testimony before the public hearing, you talked about this as a major policy shift. We need to at least present a prima face document showing that support payments are current. Do you think Rep. Eighmey's proposed amendment would make you feel more comfortable?
161	Lipetzky	Yes.
163	Bob David	<p>Department of Justice, Support Enforcement Division</p> <p>The reason we initially did not go into obtaining an affidavit is because under ORS 25.220, the Department of Human Resource's computer print outs are prima face evidence of the child support account.</p>
171	Rep. Uherbelau	We need, also, to discuss where the department's print outs may show that not all support payments have been made. So, therefore, the obligor will need to come in and show you that they have made them. Do you think an affidavit should be required?
177	David	Responds and reads from the -2 Amendment Lines 7 - 12.
187	Rep. Uherbelau	What would the Department of Justice consider to establish a completed support obligation to your satisfaction?
192	Chair Sunseri	Rep. Eighmey since you sponsored the -3 Amendment, could you provide your reasoning behind the drafting.
194	Rep. Eighmey	Responds.
211	Rep. Courtney	Please confirm the -2 Amendment are Rep. Eighmey's?
213	Rep. Eighmey	No, mine are the -3 Amendment.
214	Rep. Courtney	So the -2 Amendment are the Department of Justice's?



215	Rep. Eighmey	Correct and I did not see the -2 Amendment prior to submitting my request.
216	Rep. Courtney	So you do not know if they are reconciled?
217	Rep. Eighmey	No, I haven't compared the two amendments.
218	Rep. Uherbelau	They do not still require in the -2 Amendment a showing of a document from the obligor. They just say it's to the department's satisfaction and do not provide any means as to what would satisfy them. I believe your -3 Amendment would cover what is needed to satisfy. Correct?
221	Rep. Eighmey	Responds.
227	David	We didn't want to place a greater burden on the obligor than what needed to be placed on them and went on further to explain their intentions.
247	Chair Sunseri	Does that satisfy, Rep. Eighmey, what you are trying to get at?
250	Rep. Eighmey	The department sometimes has inaccurate records and that is an unfortunate fact. A sworn affidavit would subject them to penalties even if they have received an inaccurate department record. They can't make that without some type of perjury.
269	David	Then you are simply asking for a sworn statement from obligor that the payments have been made. Not a break down of the payments?
270	Rep. Eighmey	Also, from the department a certification as to the records.
272	David	Correct.
275	Rep. Uherbelau	The amendments do not require that the pay records be current. Only asks that they be complete pay records. I think that needs to be clarified.
289	David	Yes, I see it.
291	Rep. Eighmey	Asks for time to compare the -2 & -3 Amendments.
300	Chair Sunseri	Agrees to re-address HB 2316 and associated Amendments in a couple of weeks.
302	Rep. Beyer'	Expresses his concern that we are making this burden on the obligor but not actually changing the law.
315	Chair Sunseri	Closes the work session on HB 2316.
323	Chair Sunseri	Adjourns the meeting at 4:38 P.M.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - HB 2324, written testimony, Maurice L. Russell II, 4 pages.**

**B - HB 2324, written testimony, Bob David, 11 pages.**

**C - HB 2324, proposed amendments, Bob David, 140 pages.**

**D - HB 2324, proposed amendments, Russell Lipetzky, 1 page.**

**E - HB 2324, written testimony, Layne Barlow, 11 pages.**

**F - HB 2324, written testimony, Sandy Wood, 2 pages.**