

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON FAMILY LAW**

February 20, 1997 Hearing Room 357

3:15 P.M. Tapes 24 - 25

**MEMBERS PRESENT:**

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Charles Starr

Rep. Judy Uherbelau

**MEMBER EXCUSED:**

**STAFF PRESENT:**

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

**MEASURE/ISSUES HEARD:**

**Overviews on Adoption - Invited Testimony Only**

- 1) Adoptions
- 2) Adoptions from a Court Perspective
- 3) Adoptions from a Lawyers Perspective

**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 24, A</b> |                  |                                     |
| 003               | Chair<br>Sunseri | Calls meeting to order at 3:20 P.M. |
|                   |                  |                                     |

| <u>OPENS HEARING ON ADOPTION</u> |               |  |
|----------------------------------|---------------|--|
| 004                              | Chair Sunseri | Opens hearing on adoption.   |
| 010                              | Kelly Shannon | Permanency and Adoption Program Manager, Services to Children & Families ("SCF")<br>Presents a brochure on Adoption 1996 Trends. <b>(EXHIBIT A)</b><br>>provides statistics  |
| 025                              | Rep. Beyer    | Are the statistics your providing in our handouts?   |
| 028                              | Shannon       | No, but can be provided.   |
| 029                              | Chair Sunseri | What was the time frame in 1993?   |
| 030                              | Shannon       | Continues testimony.<br><br>In 1993 it was 38.3 months and now in 1996 it is 34.6 months.<br><br>Main areas that effect the adoption process: 1) requirement to work with families to ameliorate the problems of child safety [Proposed legislation to try to reduce the length of amelioration time from 18 months to 1 year from time jurisdiction occurs.], 2) resource issues, 3) court delays, 4) recruiting and training of potential adoptive parents, 5) completing finger based criminal records check,   |
| 078                              | Shannon       | Continues testimony.<br><br>6) delays in adoption assistance program, and 7) required supervision period after children are placed with an adoptive family [Up until rewriting our policy last year the time required for supervision was up to a year - now only 6 months or even less with current care takers.].<br><br>>Oregon is a leader in concurrent planning and gives a summation of what the planning entails.<br><br>>Four years ago, Oregon was the first state in the union to start child welfare mediation. Explains process.<br><br>>looking to make "early" placements |
|                                  |               | Continues testimony.<br><br>>We are submitting this session an adoption capacity package as part of the Governor's Budget. The measure will increase the number of homes that are certified as an adoptive resource, increase the number of cases with concurrent planning and decrease the over all length of time for the  |

|     |                   |   |
|-----|-------------------|---|
|     |                   | adoptive process.   |
| 128 | Shannon           | >There is legislation from the Best Interest of the Child work group which will reduce the length of time parents have to resolve the safety issues down to twelve months and to address the issue of reasonable efforts that both families must make to resolve their issues before the return of the child.<br><br>Our agency will be supportive of this measure. |
| 145 | Rep. Beyer        | If there is 36 adoption workers statewide, does that mean 1 per county?   |
| 148 | Shannon           | No, there are some adoption workers who work more than one county. We actually have 42 branch offices in the state.   |
| 152 | Rep. Beyer        | Is your agency a county or state based program?   |
| 153 | Shannon           | All of our programs are state based.  |
| 157 | Rep. Beyer        | You mentioned the Indian Child Welfare Act. Does this mean that an Indian child cannot be adopted by a non-Indian home? Is that a state or federal program?   |
| 162 | Shannon           | It is a federal act that requires that we pay attention to the heritage of a Native American child.   |
| 174 | Chair Sunseri     | Is that Act serving the Indian nation well? Have you any feedback?  |
| 176 | Shannon           | I believe it has been a very effective act in protecting the rights of Native American children.  |
| 182 | William E. Taylor | Counsel<br><br>The children that you have before you for adoption have come in to the juvenile court under a dependency petition?   |
| 183 | Shannon           | That is true. These are children who have been abused and neglected and are in the custody of the agency due to a dependency petition.  |
| 187 | Taylor            | I understand that your first duty is to return the child to their parents, if possible?   |
| 189 | Shannon           | Expect in extreme cases of abuse, that is correct.  |
| 191 | Taylor            | Do they stay with their parents during the dependency matter or does the child go to a foster parent or institution?  |
| 192 | Shannon           | When they come under our care they are placed in foster homes. Occasionally for children with serious issues they may be placed in treatment centers.   |
| 195 | Taylor            | Is the time period a child spends in foster care increasing or decreasing?  |
| 196 | Shannon           | Decreasing and provides an example.   |
| 210 | Taylor            | I assume the expense is tied up with the fact that both parents and the child have a right to counsel?  |

|     |                |  |
|-----|----------------|--|
| 213 | Shannon        | Almost always parties are represented by counsel.  |
| 217 | Rep. Uherbelau | Shares her concerns that it is in fact increasing per her research.<br>Is the decrease that you are talking about from statistic you've collected? Do you have supporting information?   |
| 230 | Shannon        | Responds by clarifying where the statistics were drawn from.   |
| 238 | Rep. Uherbelau | My question is still the same, however. Do you keep statistics that show how long each child is in the foster care system until adoption has occurred? Do you have statistics for 1996 vs. 1994?   |
| 240 | Shannon        | We keep a data base only back to 1985. They can be provided to the committee.  |
| 253 | Rep. Eighmey   | What I recall is if there was an indication as to religious beliefs of the natural parents that they had to be placed or attempted to be placed in the home with the same religion. Is that a written or an unwritten practice?                      |
| 265 | Shannon        | Our policy states at this point we will consider the preference of the birth family and of the child in terms of placement around issues of religion. If the resource is available, we will certainly try to make that match.                        |
| 272 | Rep. Eighmey   | I find this curious that this practice of considering the preference of the birth parent's religion is still in place and shares his concerns.   |
| 284 | Shannon        | Responds that it depends on your views of religion as much as it is a cultural issue and explains.   |
| 295 | Rep. Eighmey   | Do you have statistics on how many religious preference matches have been made?  |
| 297 | Shannon        | Not sure if any statistics are available on our data base but it would be in the individual case records and could be gathered through a manual search of the files. We could look into procuring the figures if it is of interest to the committee? |
| 306 | Rep. Eighmey   | It is of interest to me.   |
| 308 | Chair Sunseri  | What is the cost of home study?  |
| 310 | Shannon        | Home studies done for special needs children adopted through our agency there is no charge. There is a charge, however, for home studies completed by a private adoption agency. They charge \$545.00.   |
| 313 | Chair Sunseri  | The state doesn't do home studies. The private adoption agency does them. Correct?   |
| 316 | Shannon        | In some cases.   |
| 317 | Rep. Eighmey   | In a special needs adoption, you waive the home study fee?   |
| 320 | Shannon        | If that home study is conducted by an agency there is no charge for the service.   |

|     |                |  |
|-----|----------------|--|
| 325 | Rep. Eighmey   | In a private adoption, where you have one child who is the natural child of one parent, another child who is the natural child of the other parent, the two people are married, and they want to cross adopt, what's the policy?   |
| 333 | Shannon        | In most of those cases we would waive the home study fee. We would in fact waive the whole home study process.   |
| 338 | Rep. Eighmey   | In a special needs adoption, what is the policy?   |
| 339 | Shannon        | You said an independent adoption.  |
| 341 | Rep. Eighmey   | That is what I want. You say you would waive the home study fee?   |
| 343 | Shannon        | We would waive the fee. If there was a criminal matter?  |
| 346 | Rep. Eighmey   | No criminal matter. Just a normal cross adoptive proceeding.   |
| 348 | Shannon        | A foster parent adoption or a step parent adoption?  |
| 350 | Rep. Eighmey   | A natural child of one parent and a natural child of another parent, married and want to cross adopt.  |
| 355 | Shannon        | Let me check with staff. I could think of a couple of situations where payment of fees was done by both sides.   |
| 357 | Rep. Eighmey   | Repeats concerns as to why would natural parents have to pay for a home study for their respective natural children. The home study fee should be waived automatically for both parents.   |
| 363 | Rep. Uherbelau | If the abusing family asks you to place a child with a friend or someone they choose, what kind of investigation do you perform when placing the child with a stranger?  |
| 383 | Shannon        | We try to make our home study process very complete.   |
| 400 | Rep. Uherbelau | Shares her concerns by providing a specific case as an example.  |
| 413 | Shannon        | Is the case you reference where the woman's husband was a supervisor?  |
| 415 | Rep. Uherbelau | It may have been, or it may well be a different case.  |
| 420 | Shannon        | Not familiar enough with the details of that case. Could talk to you later on it.  |
| 423 | Chair Sunseri  | What is the over all cost of adoptions?  |
| 425 | Shannon        | Not sure of the figures. I can tell you in an adoption assistance program there is made available \$2,000.00 to cover the non-recurring costs. Non-recurring funds can be used for any miscellaneous costs directly related to the adoption process. Most attorneys who agree to provide services to complete the adoption process at a cost to around \$287.00. |
| 442 | Chair Sunseri  | Are we talking about generally an amount under \$5,000.00 for total adoption costs?  |

|                   |                |  |
|-------------------|----------------|--|
| 445               | Shannon        | For the legal process of adopting a child that would be about accurate.  |
| 447               | Susan Cox      | Director of Development - Holt International Children Services<br>>there is a great variance in fees (ranges from a few hundred dollars to fifty thousand) that doesn't include travel costs.  |
| <b>Tape 25, A</b> |                |  |
| 032               | Cox            | >fees are an issue in getting children into the homes  |
| 036               | Chair Sunseri  | Please talk a little about revocation of adoptions. Is there anything the legislative body can do to prevent some of the traumatic experiences with revocation?  |
| 041               | Shannon        | The adoptive disruptions rate in Oregon is under 5% which is one of the lowest in the nation.<br><br>Revocation are extremely painful. High damage to children and provides a variety of reasons. Post adoptive services help in these situations. For instance, support groups like adoptive parent associations.<br><br>Not a lot of organizations out there that have the resources in terms of training nor understanding of what assistance is needed in revocation situations.     |
| 078               | Cox            | In addition to post adoptive services, one of the most critical needs is pre-adoption services. We need legislation that focuses on the kinds of processes which demand that there is preparation of families. Provides examples.  |
| 100               | Chair Sunseri  | Regarding records of adoptive children, are they readily available?  |
| 103               | Shannon        | The state, by statute, has an adoption registry.<br><br>There is a national debate as to how readily available these records should be made to the interested party.<br><br>>need to take in account the privacy rights of people<br><br>>protective process by allowing only one contact to birth parents<br><br>I believe that the answer who is your natural birth parents should occur much earlier on in the adoptive process. I would like to see a more open adoption proceeding. |
| 122               | Cox            | Presents informational material. <b>(EXHIBIT B)</b>  |
| 172               | Cox            | Continues testimony.   |
| 180               | Rep. Uherbelau | You oppose the uniform adoption process. Is there any move in Oregon to have it adopted?   |
|                   |                | I believe Oregon has been targeted as one of the states to consider enacting the "uniform adopting process." So far no state has adopted it  |

|     |                |   |
|-----|----------------|---|
| 185 | Cox            | in total, however, there is a strong movement underway to attempt to do that. It is opposed by the Child Welfare League of America, Court Judges, and others. There really is little support to enact it.   |
| 193 | Rep. Uherbelau | We don't have a copy of the proposal.   |
| 195 | Cox            | I can provide a copy of the entire proposal.<br>Within your informational materials are positions against the enactment the "uniform adoption process."   |
| 204 | Taylor         | Under the Haag Convention you can not deny an adoption based on race? Correct?  |
| 205 | Cox            | >not from the Haag Convention but from the Multi-Ethnic Placement Act ("MEPA")  |
| 208 | Taylor         | How will that effect the Indian Child Welfare Act?  |
| 210 | Cox            | The Indian Child Welfare Act is exempt.<br>Explains MEPA.   |
| 218 | Taylor         | So you could give a preference to race?   |
| 219 | Cox            | Yes.  |
| 220 | Rep. Eighmey   | Is there any other classifications for nondiscrimination?   |
| 222 | Cox            | It depends. In different states there are certainly different restrictions.<br>Good practice dictates that you look at every child individually.<br>Gives example of a ethnic child adoption process.   |
| 253 | Chair Sunseri  | Do you get many referrals from Planned Parenthood or Right to Life organizations?   |
| 255 | Cox            | Actually, adoption is not considered as real as families who come together by birth and gives examples.   |
| 283 | Chair Sunseri  | There is a measure out for review by legislature this session in regards to baby selling? Is there much of that going on in Oregon?   |
| 287 | Cox            | Responds with her concerns.   |
| 297 | Rep. Courtney  | Hope you have a chance to review it and provide comments and shares concerns.   |
| 318 | Rep. Uherbelau | You were asked a question about counseling to a pregnant women and stated, for instance, in Planned Parenthood programs, they do not receive counseling regarding adoption. However, I believe they do include adoption as an option.<br>Where are you coming from when you state counseling on adoption as an option isn't happening very often? |

|                   |                |  |
|-------------------|----------------|--|
| 335               | Cox            | I was referring more to literature in doctors offices, in college and high school counseling programs. More generally I am referring to the public feel or tone towards offering adoption as an option.  |
| 347               | Rep. Uherbelau | It should be part of counseling and continues with her concerns.   |
| 360               | Cox            | Responds in kind by expressing her views and reasons for her statements regarding adoptions being offered as option when receiving counseling.   |
| 374               | Rep. Eighmey   | Shares concerns by providing an example.   |
|                   |                | [Susan Cox present written testimony for inclusion into public record after Overview Hearing on February 25, 1997] <b>(EXHIBIT E)</b>  |
| 425               | Nancy Miller   | Citizen Review Board Administrator<br>Presents written testimony. <b>(EXHIBIT C)</b>   |
| <b>Tape 24, B</b> |                |  |
| 037               | Miller         | Continues testimony.   |
| 087               | Miller         | Continues testimony.<br>>Home studies to achieve certification are being performed twice. Once at time of consideration as a foster parent and then again later when you may want to be certified as an adoptive parent.<br><br>Numerous states are now doing "dual" certifications.                     |
| 125               | Rep. Uherbelau | Is the information your seeking in the certification process for foster care or for adoption? Is it similar?   |
| 128               | Miller         | Yes, I believe it is similar. The adoptive home study is probably more comprehensive but some of the same issues are covered in the adoptive as well in the foster parent certification.   |
| 132               | Rep. Uherbelau | If we had a dual certification process, are we just then building on what we have to do for foster care certification? Correct?  |
| 135               | Miller         | Continues testimony.<br><br>The Judiciary department is currently planning comprehensive training for judges. The federal government passed Public Law 96.272 in 1980 for improvement in the child welfare agencies and the courts. However, the funding has not been received until now for the courts. |
| 152               | Rep. Uherbelau | Shares concern regarding the training of judges.<br><br>Are you planning this training as mandatory for the judges?  |
| 157               | Miller         | Strong encouragement for attendance. Difficult to make mandatory.  |
| 168               | Rep. Uherbelau | Again, expresses her concerns regarding judges participating in training.  |
|                   |                |  |



|     |                     |   |
|-----|---------------------|---|
| 181 | Miller              | There is significant training for judges but the issue is it focused on juvenile dependency and further explains her concerns.  |
| 192 | Rep. Uherbelau      | Again expresses her concerns regarding training for judges.   |
| 199 | Judge Terry Leggert | Marion County Judge<br>Responds with her concerns on judge's training. Explains to what level of training is needed by a judge.   |
| 215 | Rep. Uherbelau      | Explains concerns regarding training for judges from what she heard yesterday in testimony. A judge needs to be aware of the whole environment of child abuse so they could understand the testimony and dynamics of the families.  |
| 233 | Miller              | The judicial education committee has met once on this issue. One of the key components requested in the training is child development and understanding of abuse.   |
| 253 | Rep. Eighmey        | Expresses his concern that a judge's decision does effect the entire process of adoptions especially when the proceeding is being too expeditious.  |
| 276 | Leggert             | In regards to the expeditious process, I do let the parties let me know what is desired. I will listen to the extent that the parties are moving forward and whether or not we have a trial or whether we take jurisdiction. Continues with an example.   |
| 291 | Miller              | Continues testimony.  |
| 309 | Leggert             | In regards to delays after a termination of parental rights petition has been filed, I have reviewed our court system and found the time frame between four and nine months before a final decree. Gives reasons for time delays.<br><br>The length of a trial is usually three to five days. There is a statute that states we must hear a case within six months. |
| 350 | Leggert             | Continues testimony.<br><br>Gives an example of one case which had a long delay.<br><br>>A pilot program in Marion County is Mediation Post the filing of a Termination Petition. Further explains the program and issues which have arisen.  |
| 400 | Leggert             | Continues testimony surrounding the mediation process.  |
| 411 | Rep. Eighmey        | The mediation is post the filing of a termination petition which is equivalent to a pre-trial settlement conference? Correct?   |
| 416 | Leggert             | Yes.  |
| 417 | Rep. Eighmey        | Is the process an in camera proceeding?   |
|     |                     | Yes.  |

|                   |                |  |
|-------------------|----------------|--|
| 418               | Leggert        | There is a model and is available for any courts interested in reviewing the materials, i.e. videos, on the mediation process.   |
| 435               | Miller         | In answer to Rep. Uherbelau's earlier question, we do also keep comprehensive data on the length of stay children spend in foster care homes. The data has shown the overall length of stay has been continually coming down. The average time appears to be twenty three months.  |
| <b>Tape 25, B</b> |                |  |
| 035               | Robin Pope     | Attorney in private practice in the Portland area, member of Academy of Adoption Attorneys, and Vice Chair of the Oregon State Bar standing committee on Adoption, which is a subcommittee of the Family & Juvenile Law Section.<br><br>In independent adoptions in non-SCF agency adoptions, they last about four and a half months from time of filing the petition to the final decree of adoption. Other states may take six months or longer to finalize adoptions. |
| 060               | Chair Sunseri  | Where do these children originate from prior to independent adoptions?   |
| 063               | Pope           | Responds by giving examples of the population.   |
| 068               | Chair Sunseri  | How is the connection made through your law firm?  |
| 069               | Pope           | The connection is made through a variety of ways, for instance, by the news media, by people networking, and direct to the agencies.   |
| 076               | Chair Sunseri  | Who provides the home study in independent adoptions?  |
| 078               | Pope           | A state certified agency.  |
| 080               | Chair Sunseri  | What are the attorney fees for an independent adoption?  |
| 081               | Pope           | They range from as low as \$1,000.00 to as high as \$10,000.00.<br><br>I believe there is a bill pending in regards to mandatory counseling of birth mothers in adoption process.<br><br>Your billed by the hour. Do not usually do "flat" fees.   |
| 093               | Chair Sunseri  | Are the prospective parents paying for the expenses of the birth mother and counseling?  |
| 095               | Pope           | Not always. However, counseling and attorney fees are usually paid by the prospective parents. Sometimes living expenses for the birth mother are covered. In the tri-county area the judges have set ceilings and for how long expenses will be paid.   |
| 100               | Rep. Uherbelau | You mentioned that the average time for independent adoptions is 4 1/2 months. Do you have any concerns about this length? Provides an example and shares her concerns on the process.   |

|     |                  |   |
|-----|------------------|---|
| 117 | Catherine Dexter | <p>Attorney in private practice in the Portland area, member of Academy of Adoption Attorneys, and Chair of the Oregon State Bar standing committee on Adoption, which is a subcommittee of the Family &amp; Juvenile Law Section.</p> <p>The time from filing a petition to the final decree is different than the period of time a birth parent has to revoke their consent.</p> <p>Once the agency has placed a child in an adoptive parent's home, consent given to the agency is irrevocable except under fraud and duress.</p> <p>In an independent adoption there are certain steps that have to be gone through in order for the birth parents' consent to become irrevocable. Provides an example.</p>                                 |
| 145 | Chair Sunseri    | What if you don't get the father's consent because he is unavailable or the father is unknown, etc.?  |
| 148 | Dexter           | <p>In ORS 109.096 and ORS 109.098, as far as who's consent is required. If a man is married to his wife and cohabiting with her at time the child is conceived he has an irrebuttable presumption of paternity. If he is not residing with her, say they are separated, then the presumption is rebuttable as to paternity. If she is pregnant by another the presumption of paternity is rebuttable merely by her presenting an affidavit.</p> <p>In Oregon we are not party to the uniform parentage act so we do not give automatic rights to unwed fathers. Further explains when the father's rights are to be addressed.</p> <p>It is based on a legal presumption of what you do - not that you are merely the carrier of the sperm.</p> |
| 187 | Chair Sunseri    | So that covers a situation where you have a young man who says I might be the father and who does not want to sign a parental notification or release for adoption thus acknowledging he is the father.   |
| 191 | Pope             | There are tailored affidavits for those situations.   |
| 193 | Dexter           | If the paternal father just refuses to sign he can not hold up an adoption.   |
| 195 | Pope             | I believe it has been the legislature's intent over the years that independent adoptions come into line with agency adoptions.  |
| 199 | Rep. Eighmey     | <p>Provides example.</p> <p>I am assuming that even in a non-adoptive issue that I could have a blood test taken without saying I am the father for purposes of paying child support? Correct?</p>  |
| 215 | Dexter           | Yes. Who's going to pay for the paternity tests? You won't get any done for under \$600.00.   |
| 221 | Taylor           | I take it that one of the issues in the baby Jessica situation was that the punitive father was not given notice. It was a due process issue under  |

|     |                  |   |
|-----|------------------|---|
|     |                  | the US Constitution. Correct?   |
| 225 | Dexter           | <p>My understanding in the baby Jessica situation is that it was an issue between Iowa birth parents and Michigan adoptive parents. At that time in Michigan they did not allow any independent adoptions and agencies were not able to place a child in an adoptive home until the child had been in foster care for ninety days.</p> <p>Continues by providing what happened in the baby Jessica situation.</p> <p>Oregon doesn't require the biological consent. In Oregon, we need only the father who has demonstrated that he is taking responsibility and is interested in that child. This is the person to whom we are protecting their rights.</p> <p>Continues testimony by stating what is now happening in Michigan.</p> <p>Michigan now mirrors Oregon's adoption laws.</p> |
| 278 | Chair<br>Sunseri | <p>Closes hearing on Adoption.</p> <p>Adjourns meeting at 5:00 P.M.</p>   |

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

**EXHIBIT SUMMARY**

**A - Adoption Hearing, Adoption 1996 Trends Brochure, Kelly Shannon, 4 pages.**

**B - Adoption Hearing, informational materials, Susan Cox, 37 pages.**

**C - Adoption Hearing, written testimony, Nancy Miller, 5 pages.**

**D - Adoption Hearing, video recording, Staff, OVERSIZED**

**E - Adoption Hearing, written testimony, Susan Cox, 78 pages.**