

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON FAMILY LAW

February 25, 1997 Hearing Room 357

3:15 P.M. Tapes 26 - 27

MEMBERS PRESENT:

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Charles Starr

Rep. Judy Uherbelau

GUEST MEMBERS: Senator Shirley Stull

Rep. Bill Markham

Rep. John Minnis

Rep. Kitty Piercy

Rep. Floyd Prozanski

STAFF PRESENT:

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

MEASURE/ISSUES HEARD:

HB 2423 Public Hearing

HB 2557 Public Hearing

HCR 6 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
Tape 26, A		
003	Chair Sunseri	Calls meeting to order at 3:24 P.M.
<u>OPENS PUBLIC HEARING ON HCR 6</u>		
006	Chair Sunseri	Opens a public hearing on HCR 6.
008	Rep. Bill Markham	Testifies in support of HCR 6.
051	Sen. Shirley Stull	Testifies in support of HCR 6.
081	Rep. Bill Markham	Continues testimony.
095	David Fidanque	<p>American Civil Liberties Union - Oregon</p> <p>Testifies in opposition to HCR 6.</p> <p>We note that the first amendment of the US Constitution has never been amended.</p> <p>There are additional measures that are being proposed that will amend the first amendment, for instance, areas which limit campaign financing and to the context of political campaign speeches.</p> <p>HCR 6 addresses the physical desecration of the flag and not to the burning of the flag.</p> <p>What Congress and the States' have tried to do is outlaw the burning of flag for the wrong reasons. It is the political motivation behind the act not the act itself that is being punished. You can stop the burning of the flag today, if you were not prohibiting it based on their reasoning for burning.</p>
140	Grover Simmons	<p>Oregon Elks Association.</p> <p>Reads letter from Senator Hatfield before the committee.</p> <p>Shares concerns from testifying in 1995 legislative session.</p>
198	Chair Sunseri	Closes the public hearing on HCR 6.
<u>OPENS PUBLIC HEARING ON HB 2423</u>		
	Chair	

200	Sunseri	Opens a public hearings on HB 2423.
201	Rep. Prozanski	Present to answer questions if asked upon.
203	Rep. Kitty Piercy	<p>Testifies against HB 2423.</p> <p>>too broad of a bill</p> <p>>makes a criminal out of a person who has not committed a crime</p> <p>>concerned with its relationship to victims of domestic violence</p>
232	Rep. Uherbelau	Will there be parties testifying today, who will able to provide their reasons for drafting the measure?
234	Chair Sunseri	Responds.
235	Rep. Uherbelau	Who was involved with the drafting of HB 2423? My questions are directed to the party or parties who drafted the measure.
241	Rep. John Minnis	<p>Testifies in support of HB 2423 which was introduced by the District Attorneys Association.</p> <p>I introduced a similar measure last session.</p> <p>Reads an excerpt from a police investigation and provides examples from his work experience in law enforcement.</p> <p>Additional measures are being presented with respect to obtaining an enforceable domestic violence restraining order.</p> <p>This measure was not intended to be directed towards domestic violence victims. HB 2423 is directed toward someone who has specific knowledge of an ongoing abuse with an individual that they have a responsibility to protect.</p>
296	Susan M. Tripp	<p>Deputy District Attorney in Marion County and represents the District Attorneys Association</p> <p>HB 2324 as written is overly broad and we are willing to work with interested parties to narrow the language.</p> <p>Provides reasons why HB 2324 is necessary.</p> <p>HB 2324 is intended to protect a child from sexual abuse on an ongoing basis and if this is not done to make it a crime.</p>
352	Rep. Prozanski	In regards to testimony just heard, maybe it is premature to address HB 2324 at this time.
364	Rep.	Shares her concerns also on hearing HB 2324 at this time.

	Uherbelau	
369	Chair Sunseri	Rep. Minnis, are you going to work with others to create the new language?
371	Rep. Minnis	Actually, I wouldn't mind that. However, I believe it would be preferable to have someone from this committee, also, to participate. I recommend Rep. Uherbelau as that player.
380	Chair Sunseri	Rep. Uherbelau, are you agreeable to participate in the redrafting?
381	Rep. Uherbelau	Yes.
395	Chair Sunseri	Asks the audience, if anyone present wishes to testify today or to await until after the new language has been created on HB 2324?
399	Rep. Prozanski	I would like added to the records that Rep. Minnis has stated before the committee that HB 2324 is not intended to be focused on domestic violence victims.
409	Chair Sunseri	Is there any other input anyone wishes to put forward on HB 2324?
410	Faye Fagel	Oregon Youth Authority Southern Valley Area Coordinator Would you be willing to look at written testimony already prepared when redrafting the language of HB 2324? Received written testimony. (EXHIBIT A)
414	Chair Sunseri	Yes. Closes the public hearing on HB 2324.
		[Phillip Lemman from the Oregon Criminal Justice Commission Executive Director submitted written testimony for the record.] (EXHIBIT B)
OPENS PUBLIC HEARING ON HB 2557		
420	Chair Sunseri	Opens a public hearing on HB 2557.
Tape 27, A		
025	Rep. Courtney	Testifies and submits written testimony in support of HB 2557. (EXHIBIT C)
073	Rep. Uherbelau	Did the committee introduce a similar measure? I have before me two measures with similar issues, however, with different measure numbers. [HB 2557 & HB 2652]
075	Rep. Courtney	There are two measures.

078	Rep. Uherbelau	Thank you.
079	Rep. Courtney	Then there are three measures introduced on the issue of baby selling.
080	Chair Sunseri	We can address the issue of different measures during the work session.
088	Rep. Minnis	Testifies in support of HB 2557. Provides a legislative history surrounding the topic of selling children and shares his concerns.
110	Rep. Eighmey	Rep. Minnis, would you consider an amendment to Line 9 of the printed bill where it states "Prohibit a person contemplating the adoption of a child ..." ? I would like to also protect the person who is adopting not just contemplating an adoption. I would the suggest changing the language to "Prohibit a person contemplating an adoption or adopting a child ..." so the process of adoption is protected as well.
119	Rep. Minnis	I agree that what is created here does not conflict with the ordinary process of adoption and will defer to your guidance in that area. Attended a conference in Missouri which dealt with child deaths and presented an example from the conference.
135	Rep. Eighmey	Oregon is nationally known for its progressiveness of its adoption statutes. Shares his concerns with regards to the downside of this observation.
149	Sergeant Michael Ramsby	Oregon State Police Department Testifies in support of HB 2557 and presents written testimony. (EXHIBIT D)
185	Timothy Travis	Staff Attorney in Juvenile Rights Project in Portland, Oregon. Testifies in support in HB 2557. Provides an example to explain his support of bill. Passage of HB 2557 will make it easier in the future to get jurisdiction to initiate juvenile dependency action when a child is sold.
		Chair of the Family & Juvenile Law Section of the Oregon State Bar. Testifies in support to the rationale presented by all the earlier witnesses, however, I have a questions to the intent of HB 2557. This

		maybe explained by a statement of legislative intent.
214	Russell Lipetzky	How would this effect negotiation between parties in a domestic relations proceeding or discussing issues of child support, spousal support, and other financial issues in the context of custody? I would like to add an amendment to reflect that it would not apply to custody discussions between parties of a domestic relations proceeding, settlement discussions, and things of that nature.
232	Rep. Courtney	Please explain further.
234	Lipetzky	Responds by restating his earlier concerns of HB 2557. If any of the domestic relations proceedings in the financial arena are seen as bartering, offering to buy or sell a child, or barter and trade legal physical custody of a child then the language of HB 2557 could conceivably bring these players into the net of this measure.
250	Rep. Courtney	Responds by presenting an example for clarification. Could this example be considered a form of selling?
256	Lipetzky	Yes.
259	Rep. Courtney	That had not been my intent.
273	Rep. Uherbelau	Since we have <u>Section 2 (b)</u> in the printed measure that addresses child support arrearages or other settlement action, I would recommend holding off until we had an amendment addressing dissolution of marriages.
280	Lipetzky	Agrees to draft the amendment.
287	Chair Sunseri	Counsel, do you believe that <u>Section2 (b)</u> does not cover those financial situations surrounding custody of a child within a dissolution of marriage proceeding?
288	William E. Taylor	Counsel It could be read that <u>Section2 (b)</u> addresses an event that happens <i>after</i> the divorce proceeding but does not address what happens <i>during</i> the proceedings.
291	Chair Sunseri	In regards to <u>Section 2 (b)</u> where it addresses "or other settlement in favor of a parent of a child in exchange for consent of the parent ...", does this not cover what happens during the divorce proceedings?
300	Lipetzky	That subsection only applies to adoption situations not to domestic relations proceeding.
301	Chair Sunseri	I would ask you to draft an amendment before February 27, 1997 as it is my intent then to hold a work session on HB 2557.
303	Lipetzky	Yes.

306	Rep. Minnis	Usually in a dissolution of marriage there is some kind of court of competent jurisdiction that signs off on a settlement? Correct?
311	Rep. Uherbelau	The court when you enter into a property settlement agreement usually just signs off without reviewing the document in my experiences.
318	Lipetzky	I am concerned merely with unforeseen consequences, if we do not address the issue now.
322	Chair Sunseri	Closes the public hearing on HB 2557. Adjourns meeting at 4:12 P.M.
		Susan Cox, Director of Development of Holt International Children's Services presents written testimony to made part of the public record. (EXHIBIT E)

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2423, written testimony, Faye Fagel, 2 pages.

B - HB 2423, written testimony, Phillip Lemman, 1 page.

C - HB 2557, written testimony, Rep. Peter Courtney, 3 pages.

D - HB 2557, written testimony, Sergeant Michael Ramsby, 3 pages.

E - HB 2557, written testimony, Susan Cox, 1 page.