

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON FAMILY LAW

March 18, 1997 Hearing Room 357

3:15 P.M. Tapes 49 - 50

MEMBERS PRESENT:

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Charles Starr

Rep. Judy Uherbelau

MEMBER EXCUSED: Rep. Ron Sunseri, Chair

STAFF PRESENT:

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

MEASURE/ISSUES HEARD:

HCR 23 - Public Hearing

SB 263A - Work Session

HB 2315 - 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 49, A		
003	Vice Chair Eighmey	Calls meeting to order at 3:20 P.M. Rep. Ron Sunseri, Chair excused.
<u>HCR 23 - PUBLIC HEARING</u>		

004	Vice Chair Eighmey	Opens a work session on HCR 23.
005	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HCR 23.
015	Vice Chair Eighmey	I notice on the witness sheet there are no interested parties for or against HCR 23.
017	Rep. Beyer	What is the cost of a Comprehensive National Program?
022	Taylor	Congress could make it a federal mandate upon all the States.
024	Rep. Uherbelau	Shares concern.
032	Victor Smith	DADS - Dads Against Discrimination Testifies neutrally on HCR 23. >encourages Oregon to create their own program >a table created from the state's statistical unit- Children Services Division shows mothers abuse more than fathers >suggests contacting Jim White, keeper of this statistical table >suggests placing children with their fathers
055	Rep. Starr	What percentages of the young children that you are following in the statistics are from single parent household where only the mother is present?
060	Smith	The statistics do not address single parent families. Further shares concerns.
067	Rep. Uherbelau	Shares her concerns.
073	Vice Chair Eighmey	Closes the public hearing on HCR 23.
<u>SB 263A - WORK SESSION</u>		
074	Vice Chair Eighmey	Opens a work session on SB 263A.
075	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on SB 263A. NOTE: Received from the editors in Legislative Counsel's office a request for additional changes to SB 263A. The -3 amendments makes changes of

		"parent" to "party" to make the language consistent in Lines 24 and Line 26 on the printed Measure. (EXHIBIT A)
096	Rep. STARR:	MOTION: Moves SB 263A to be reconsidered by the Subcommittee on Family Law.
098		VOTE: 6-0
	Vice Chair Eighmey	Hearing no objection, declares the motion CARRIED.
100	Rep. Starr	MOTION: Moves to ADOPT SB 263A-3 amendments dated 03/13/97.
104		VOTE: 6-0
	Vice Chair Eighmey	Hearing no objection, declares the motion CARRIED.
108	Rep. Starr	MOTION: Moves SB 263A to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 4-0-2
114		AYE: In a roll call vote, all members present vote Aye. EXCUSED: 2 - Rep. Courtney, Chair Sunseri
	Vice Chair Eighmey	The motion CARRIES. REP. EIGHMEY will lead discussion on the floor.
127	Vice Chair Eighmey	Closes the work session on SB 263A.
<u>HB 2315 - WORK SESSION</u>		
128	Vice Chair Eighmey	Opens a work session on HB 2315.
129	William E. Taylor	Counsel Reads a Preliminary Staff Measure Summary on HB 2315. NOTES: -3 amendments LC 1633 dated 3/18/97 (EXHIBIT B)
148	Vice Chair Eighmey	Provides additional background information. The -3 amendments will continue support until 21 years of age but with certain conditions. Those conditions are: 1) maintaining grades, 2) attendance at school, and 3) child support paid directly to the child. We will, also, address whether child support payments "shall" or "may" be paid directly to the child.

		There will be some hand engrossing to be done to the -3 amendments, also.
172	Rep. Beyer	<p>First: The -3 Amendment does not address the problem that the original Measure was brought forward to address which was to remove the Department of Human Resources from having to maintain grades and make sure the child is attending school.</p> <p>Second: I was not aware amendments were coming forward to the original Measure. I preferred the original measure.</p> <p>Third: This Measure gives children a hammer over the parents that is unnatural. The Parent should be voluntarily paying child support, if they choose.</p>
192	Rep. Uherbelau	HB 2315 does address the record keeping concerns where multiple children involved.
207	Russell Lipetzky	<p>Chair of Family & Juvenile Law Section of the Oregon State Bar.</p> <p>Testifies on a middle ground for HB 2315.</p> <p>Provides background information and intent of -3 amendments.</p>
237	Rep. Eighmey	Advises that the technical hand engrossed changes to HB 2315 are because "court" and "administrator" are not as inclusive as we said.
240	Taylor	<p>Page 2, Line 3:</p> <p>>after the word "court" remove "or"</p> <p>>after "administrator" insert ", or hearing officer"</p>
257	Taylor	<p>The reason for inserting ", or hearing officer" is that there is concern that administrative was too narrow because departments may contract outside of their office for hearing officers.</p> <p>A Measure is being introduced tomorrow which creates an independent hearing officer's office. This does not include Support Enforcement Division but it may sometime in the future.</p>
269	Rep. Uherbelau	Will these changes become -4 amendments?
271	Vice Chair Eighmey	No. We are going to hand engross the -3 amendments. When the amendment goes before the full committee then they will become the -4 amendments.
		<p>Page 2, Line 9:</p> <p>>add language after administrator ", or hearing officer"</p> <p>Page 2, Line 16:</p>

272	Taylor	<p>>insert at blank line "an equivalent of a C average each academic term" (deleting "grade point" from the originally printed Measure)</p> <p>OR</p> <p>>insert at the blank line "an equivalent of a C grade point average each academic term" (keeping "grade point average" from the originally printed Measure)</p>
281	Vice Chair Eighmey	No, we are not retaining "grade point"
282	Rep. Beyer	Are we beyond the point of discussing the amendments?
283	Vice Chair Eighmey	No.
284	Rep. Beyer	Are we not receiving language that has not been discussed?
285	Vice Chair Eighmey	No, we are going to discuss these hand engrossed changes. I am just first providing the information.
286	Taylor	<p>>after "an equivalent of a C average" add "each academic term"</p> <p>>delete "grade point average" and insert "an equivalent of a C average each academic term."</p> <p>>remove "and must be taking courses leading to a degree."</p> <p>Reason for this change is because on Page 3, Lines 3 through 10 and on Page 2, Line 16, they seem to be in contradiction of each other.</p>
307	Vice Chair Eighmey	<p>Page 2, Line 7:</p> <p>>delete "or" and add ","</p> <p>Page 2, Line 8:</p> <p>>after "administrator" add "or hearing officer"</p>
317	Rep. Beyer	Shares his concern by an example where a student enrolls and later withdraws half way through the term. Will the father be repaid?
323	Vice Chair Eighmey	No.
324	Rep. Beyer	Why not?
	Vice Chair	The Department of Human Resources needed at least a 2 to 3 months window to make any adjustments in the collection of child support payments. Should the department disperse the funds and then have to repay the obligor, where will the funds come from prior to recollecting?

325	Eighmey	If the child fails to comply with this Measure, the first time the department can get the information to the obligor is when the term is finished. Attempting to collect the funds from the child, even if they are only the direct recipients, is near impossible. There may be also a policy decision during the transition period that payments should continue.
354	Rep. Beyer	Shares concerns by an example.
359	Vice Chair Eighmey	Under HB 2315, your example of over payment could not occur.
360	Rep. Beyer	Why can't it happen?
361	Vice Chair Eighmey	Under HB 2315, the first time the child fails to comply, the payments cease as shown on Page 2, Line 25.
372	Rep. Beyer	Shares his concern by an example where multiple children receive payments and payment stops from the obligor on one or more of the children.
390	Bob David	Department of Justice Support Enforcement Division It is anticipated that the support payments would be paid through the Department of Human Resources. Funding would be directed by the department to the child or back to the obligee.
398	Rep. Uherbelau	Responds by stating that not all child support payments do go through the Department of Human Resources. Where the payments that are not directed by the Department of Human Resources, the custodial parent can not garnish wages. To garnish, you must go through an attorney or through a court ordered garnishment. If there is clear evidence that the father/mother has paid support to the child going to school, it would be extremely risky for both the custodial parent and the attorney assisting to make a claim for writ of garnishment in these situations. They may be subjecting themselves to their own penalties.
422	Lipetzky	I recognize your concerns. It is becoming more difficult for any child support order to exist that is not paid through the Department of Human Resources. Under HB 2315, payments would continue through the Department of Human Resources.
439	Rep. Uherbelau	However, not all child support goes through the Department of Human Resources.
440	Lipetzky	No, not all payments do, but the vast majority of support payments do go through the Department of Human Resources.
443	Rep. Beyer	Shares his concerns.
449	Lipetzky	In your example, that is a problem with the Department of Human Resources' records that triggers garnishments.

450	David	There is a requirement under existing statute that all orders entered include an income withholding provision. There is, also, a requirement under new Federal legislation which will be addressed under HB 2324 that requires all income withholding orders to be payable through the Department of Human Resources.
457	Vice Chair Eighmey	HB 2324 is a mandated Federal Welfare Act.
Tape 50, A		
035	Vice Chair Eighmey	Continues. I know this may not address your (Rep. Beyer) philosophical concerns but I can state Chair Sunseri has agreed to these concepts. The technicalities are just implementing these concepts. The open-endedness of which you (Rep. Beyer) are concerned about are a compromise and have been determined not to be as harmful to the obligors as what was complained of originally by the obligors under the present Act.
042	Rep. Beyer	In regards to the "C average" insertion there are many programs where a C average would not be good enough to remain in the program.
045	Vice Chair Eighmey	If it is not good enough for the institution then the child will not be attending school. Therefore, the child will not meet the requirements for this Measure. Page 2, Line 3: In the -3 amendments language exists as "shall", however, I note that there has been discussion to consider "may" instead.
055	Lipetzky	Proposes instead of "shall" or "may" on Page 2, Line 4: >delete after child "." add instead ", unless good cause is found for payments to be paid in some other manner."
060	Vice Chair Eighmey	Questions whether to retain "paid" or use "made" instead.
061	Lipetzky	>either "paid" or "made" would be fine
063	Taylor	Did we decide "made" or "paid" as the new language?
064	Vice Chair Eighmey	I suggest "made" as the new language and restates the proposed language addition to Page 2, Line 4 as: after child before the period add "unless good cause is found for payments to be made in some other manner" Agreed?
070	Lipetzky	"It appears it would be more correct to say "distribution of payments" rather than just using "payments" so that we are clarifying what we are directing to is the distribution of payments from Department of Human Resources after they received them whether those payments should be made to the obligee parent or to the child attending school."

073	Vice Chair Eighmey	Responds by stating that the new language then would read: after child before period "unless good cause is found for the distribution of payment to be made in some other manner."
077	Rep. Uherbelau	The language on Page 2, Line 3 and Line 4: "shall order that the support be paid directly to the child." That language could be interpreted that payments never go through Department of Human Resources but directly from the obligor to the child. Maybe we should consider using the word "distribution" here, also. I recommend the new language to be: "shall be distributed directly to the child".
084	Rep. Beyer	Is it your intent to vote on these amendments today? I would like to see these changes in written form prior to voting.
088	Vice Chair Eighmey	I will agree to await a redraft and set over this Measure to another work session. Rep. Uherbelau, how would you recommend inserting the word "distribution" on Page 2, Line 4?
099	Rep. Uherbelau	I would recommend the new language as "shall order the support to be distributed directly to the child".
101	Vice Chair Eighmey	"Oh distributed. Well that's still paid."
103	Rep. Uherbelau	Did we not say the new language as: "unless good cause is found for distribution to be made in some other manner", correct?
108	Vice Chair Eighmey	Correct.
109	Rep. Uherbelau	To be internally consistent, we need to insert the word "distributed" in both areas. [Page 2, Line 4: delete "paid" and insert "shall order the support to be distributed directly to the child" and after "child before period" insert "unless good cause is found for the distribution of payment to be made in some other manner"]
110	Vice Chair Eighmey	Page 2, Line 4: >delete " paid directly" and insert instead "distributed" Closes the work session on HB 2315. Adjourns meeting at 3:59 P.M.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - SB 263A, -3 amendments LC # 1170 dated 03/13/97, 1 page.

B - HB 2315, -3 amendments LC # 1633 dated 03/18/97, 7 pages.