

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON FAMILY LAW

April 30, 1997 Hearing Room 357

3:15 P.M. Tapes 81 - 82

MEMBERS PRESENT:

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Peter Courtney

Rep. Charles Starr

Rep. Judy Uherbelau

STAFF PRESENT:

Bill Taylor, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD:

HB 2777 - Work Session

HB 2324 - Work Session

HB 3703 - 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 81, A		
005	Chair Sunseri	Calls the meeting to order at 3:23 p.m.
<u>OPENS WORK SESSION ON</u>		

HB 3703		
013	Bill Taylor	Committee Counsel Discusses HB 3703 and -2 amendments [Exhibit C]
034	Bill Cross	<p>Wild Bill's, Inc. Explains HB 3703 -2 amendments which were crafted in conjunction with the Department of Justice. Addresses current 'Casino Nights' (Monte Carlo Nights) which allow non-profit organizations to use as fund raisers versus Department concerns regarding Monte Carlo Nights which could involve into larger games and activities, carrying additional risks.</p> <ul style="list-style-type: none"> >provide Department with regulatory flexibility >provisions set up limitations >parallel existing regulations on bingo, raffles and authority over same >page 10, lines 5 through 13 regarding licenses - exempt out requirements to small organizations
076	Chair Sunseri	Questions for clarification regarding inconsistency found by Rep. Urherbelau.
084	Taylor	I discussed that with Rep. Uherbelau - page 16 of the new amendments.
096	Cross	Yes. Explains.
102	Ross Laybourn	<p>Assistant Attorney General in Charge of Charitable Activities Section, Office of the Attorney General. Explains currently casino nights are legal under the Happy Canyon exception. You either comply or if you don't, it is criminal activity.</p> <ul style="list-style-type: none"> >amendments replace that particular exception >Department is comfortable with amendments >concept for tools to deal with larger games >Department will use an advisory committee as rules are adopted >Department will not adopt any licensing or record-keeping requirements that will deter a significant number of licensees from pursuing this activity.
197	Rep. Eighmey	MOTION: Moves to RECEDE the vote by which "HB 3703-1 Amendments were passed".
	Taylor	Explains why this is necessary.
		VOTE: 5-0
		EXCUSED: 1 - Rep. Starr
	Chair Sunseri	Hearing no objection, declares the motion CARRIED.

201	Rep. Courtney	MOTION: Moves to ADOPT HB 3703-2 amendments dated 04/30/97.
		VOTE: 5-0 EXCUSED: 1 - Rep. Starr
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
210	Rep. Courtney	MOTION: Moves HB 3703 to the full committee with a DO PASS AS AMENDED recommendation.
		VOTE: 4-1 AYE: 4 - Rep. Beyer, Rep. Courtney, Rep. Eighmey, Rep. Sunseri NAY: 1 - Rep. Uherbelau EXCUSED: 1 - Rep. Starr
	Chair Minnis	The motion Carries. REP. SUNSERI AND REP. JENSON will lead discussion on the floor.
<u>CLOSES WORK SESSION ON HB 3703</u>		
<u>OPENS WORK SESSION ON HB 2777</u>		
230	Georgia Stewart	Court Services Program Manager, Jackson County Juvenile Department on behalf of Alan Young, Juvenile Department Director, who authored HB 2777. Submits written testimony. [Exhibit C]
290	Chair Sunseri	You want this to happen on the first offense?
293	Stewart	That's the recommendation. Continues.
341	Chair Sunseri	Questions for clarification regarding child on probation.
350	Stewart	Point 5 on page 2. Continues.
355	Rep. Uherbelau	I think you cited page 2, lines 12 & 13...ORS 419C.570...kids on probation?
363	Stewart	Right. We are just asking that to be combined.
370	Bill Taylor	Committee Counsel. Comments for clarification regarding parent being sanctioned upon their first offense for failing to supervise. Continues.
	Stewart	They could be sentenced.

380	Taylor	Continues his comments. >child under age of 18
388	Stewart	Technically, that's correct. Explains.
397	Rep. Eighmey	Comments for clarification. If it can, it will. Continues.
412	Chair Sunseri	Comments. Agree with Rep. Eighmey. I have some concern about that. Continues. >first offense
421	Rep. Uherbelau	Expresses her concerns regarding `reasonable steps'. Continues. >sentencing on the first offense
TAPE 82, A		
019	Stewart	Replies. That is part of what the current statute is. The parent does need to present reasonable steps showing what they have gone through to control the conduct of their child. Continues.
033	Chair Sunseri	Continues questioning regarding `good parents'.
041	Rep. Beyer	Comments his concerns regarding first offense. >give statute a chance to prove itself >premature
049	Rep. Uherbelau	I want to focus on one of the amendments. >later combining supervision contract/parents >gives examples of what other counties are doing >first time around is bothersome
063	Stewart	Completes her comments. >preventative
<u>CLOSES WORK SESSION ON HB 2777</u>		
<u>OPENS WORK SESSION ON HB 2324</u>		
094	Bob David	Department of Justice . Where do you want to start? 26A?
		Explains Section 26A.

100	Murray McKnight	>release of information
113	Chair Sunseri	Is Section 21A necessary?
115	McKnight	It refers to a related but different concept. >confidentiality of the information
122	David	Page 20, middle of page, (h).
133	Ronelle Shankle	Division Management Assistant, Department of Justice, Support Enforcement Division. Section 21A of the bill is in part existing language. >added `or provide access to such' >those agencies are supposed to have access rather than asking for release
144	Chair Sunseri	Comments for clarification regarding access.
	David	I don't understand.
	Chair Sunseri	Further explains by example. Is that correct?
154	David	It's feasible. Explains. >access can be limited to the type of information they need to obtain
178	Rep. Uherbelau	Why didn't you leave in "upon request?"
184	David	Replies. Another interpretation of this. You are looking at it differently than we did. Explains.
191	Chair Sunseri	>Expresses his concerns. Committees in Judiciary have gone to length to limit information for inner agencies that is unnecessary. >more comfortable if information were obtained upon request. >problem with that?
202	David	I think that would be acceptable. Continues.
208	Taylor	Would we want to go back to the old language? Continues.
214	Shankle	Gives reason part was stricken. >employment security and worker's compensation
220	Chair Sunseri	Retain `upon request'?
223	Taylor	Questions for clarification: `shall provide information to other public

		agencies upon request as required by law'.
228	David	Verifies request.
	Chair Sunseri	Yes.
233	Taylor	I'm not sure what the difference between 'release' and 'provide'. Continues.
238	David	I don't know the difference in this context. Don't know the original intent.
242	Taylor	Removing because it is redundant...
244	Rep. Uherbelau	The federal law does not use the word 'release' just 'shall have access'
249	David	Continues. Article II, Paternity, page 28 >voluntary acknowledgment >minimum requirements >notice requirements >temporary support order
284	Chair Sunseri	Questions for clarification - elimination of trial?
300	David	Page 31, Section 25 & 26 >eliminates jury trials from paternity cases
316	Taylor	Comments for clarification regarding right to jury trial.
	Chair Sunseri	States his concerns with subject. >offensive to people to want a jury trial
	McKnight	Comments regarding discussions in prior legislative sessions. >trials only added emotionalism to a factual finding with a scientific base >very few done in the past five to seven years
340	David	Continues: Page 32, lines 5 through 8 >allows expenses to be submitted by affidavit and accepted as evidence >Section 27, lines 10 through 15 defines 'a blood test'.
343	Chair Sunseri	What does a blood test have to do with child support?
		Establishing the issue of paternity. Continues testimony.

349	David	<ul style="list-style-type: none"> >Section 28 - requires that tests be conducted when requested >state fronts money subject to recovery >state to order additional tests when requested by a party, paid for by the party >Lines 16 through 22, page 33 - provides that test can be admitted as evidence unless challenged >Page 34
365	Rep. Uherbelau	Comments her concerns regarding authenticity or accuracy of tests.
373	Shankle	<p>Reads from code on page 67.</p> <ul style="list-style-type: none"> >took the federal language
384	Taylor	Comments: Have to establish that the test was done properly. Continues.
395	McKnight	<p>Page 32 in Section 27....accreditation requirements.</p> <ul style="list-style-type: none"> >Section 29 mirrors federal language allowing that evidence
TAPE 81, B		
006	David	<p>Continues: Page 34, Lines 1 through 3. Creates a disputable presumption.</p> <ul style="list-style-type: none"> >page 36, lines 12-22...deals with temporary support order
015	McKnight	<p>Comments for clarity. Really two doors to establish paternity.</p> <ul style="list-style-type: none"> >administrative process >judicial process
019	David	<p>Continues: Administrative subpoena....</p> <ul style="list-style-type: none"> >Section 33 - allows for the issue by an enforcing agency >relieves liability >requires enforcement - remedy in the State of Oregon
029	Rep. Uherbelau	Questions serving of a subpoena by regular mail.
035	David	Method of service is not a mandate.
037	Rep. Uherbelau	More comfortable with certified mail - line 3, page 37
		Continues: (4), lines 11 through 15

044	David	<p>>civil penalty not to exceed \$250</p> <p>>lines 16 through 17 requires Department of Human Resources to adopt rules to implement the provisions of the subpoena section</p> <p>>Section 34 - requires the release of certain information to state agencies</p> <p>>Page 39, lines 13 through 14 - excludes provisions from the subpoena issue in Chapter 25</p> <p>>line 40 - Liens and Writs of Execution</p>
072	Rep. Uherbelau	Questions concerns related at previous meetings regarding liens.
075	David	<p>Tom Stelly? He left us the same concerns. We have not had contact with him since he did that.</p> <p>Continues testimony - Page 40. Process of recognition of another state's lien.</p> <p>>must be registered in State of Oregon</p>
090	Rep. Uherbelau	Questions 'B' on page 40. Talks about renewal.
094	David	<p>I believe that's in another section.</p> <p>>bottom of page 43</p> <p>>bottom of page 44 - enforcing agency to issue Writs of Execution - sets process and form</p> <p>>Section 42 creates liens by operation of law on personal property</p> <p>>sets process for perfecting those liens</p> <p>>Page 46, lines 6 through 10 - sets expiration date of the lien - 5 years from recording</p>
121	Darrell Fuller	Oregon Auto Dealer's Association. Submits proposed amendments and Side-By-Side Comparison of Oregon Auto Dealers Association and Workgroup amendments regarding Sections 42 and 43 of the bill. [Exhibits D & E] Also has support of the Oregon Banker's Association.
	Chair Sunseri	Have you seen these?
129	David	Yes.
	Chair Sunseri	Happy with them?
		Don't believe they meet the mandated requirements of the Welfare

138	David.	Reform Act. Continues. >Language needed to relieve the liability of the car dealers processing a transaction on a car and not knowing there was a lien. Amendment does not accomplish this.
139	Fuller	Turn your direction to page 63 of the federal code that deals with liens. >participated in workgroup meetings >concerns of impact of liens filed on personal property >offers alternative language which does meet the federal requirements
192	Rep. Uherbelau	Changes occur where?
193	Fuller	Refers to Side-By-Side Comparison [Exhibit E] >Differences - Section 42, lines 11 through 14
196	Rep. Uherbelau	Continues questioning for clarification. You want it to be recorded and a notice to be filed?
199	David	The objection we have is just that. The lien is created by filing.
202	Russell Lipetzky	Chair, Family and Juvenile Law Section, Oregon State Bar. Takes no position on bill. Member of workgroup and appears in that capacity. >something happens by operation of law, it happens automatically >gives examples
221	Rep. Uherbelau	Comments. Spelled out in statute. >operation of law
230	Fuller	Replies. If you have a judgment, you can execute on that judgment. Doesn't mean that a lien has been filed. Continues.
236	Taylor	'Operation of the law' - judgment becomes a lien. Continues.
242	David	Explains why he thinks these amendments are contrary to what the federal law requires.
248	Chair Sunseri	Comments. Only in the county it which it is recorded.
251	David	That's absolutely correct. That's all we wanted to accomplish...
266	Chair Sunseri	How does Mr. Fuller's amendment violate that?
269	David	Replies. Talks about causing a lien to be created. Continues.
271	Taylor	Questions for clarification - record somewhere?
	David	Correct. Page 45, lines 22 through 24.
286	Taylor	Continues questions. What would happen under your proposal?

288	Fuller	Replies: >taking assets >lien - page 45, lines 11 through 15, we keep current statute >cause a lien to be created by filing the paper required
318	Rep. Uherbelau	I think he has raised a valid concern...Oregon makes it an operation of law. Continues.
337	Fuller	Replies. I don't know that you would want to amend that statute, because I don't know to what else that applies. >child or spousal support
344	Rep. Uherbelau	Limited to those situations. Continues.
349	Lipetzky	Section 42, page 45 beginning at line 10. Language is essentially equivalent to that you read from the current statute regarding real property, doing it here to personal property >perfecting lien before execution - different from the existence of the lien >independent action from the existence of the lien
372	Rep. Uherbelau	I agree with you, but I don't think that goes far enough. Continues.
382	McKnight	Responds to Rep. Uherbelau's concern. >agrees with Mr. Lipetzky
419	Rep. Uherbelau	Continues questioning for clarification.
TAPE 82, B		
007	McKnight	Specific procedure in statute to determine what arrearages are. Continues.
024	David	Trying to accomplish that the lien be a flag. Explains. >additional steps to be taken - already exist in the law
033	Taylor	Describe system now and how it would be under your proposal regarding a lien on personal property.
037	David	Replies.
046	Taylor	Continues questioning for clarification
050	Fuller	What they mean by filing is what the current statute means by creating a lien. Continues.
056	David	That is exactly what this workgroup along with agencies did.

059	Taylor	How was your client put at a disadvantage by their proposed your system?
065	Fuller	I don't know that we have a direct interest in terms of all of the changes. Explains. >system not in place to check the title on a motor vehicle as there is on real property
124	Lipetzky	In workgroup there appeared to be a lot of concessions made. Continues.
143	Rep. Uherbelau	Where is the language you are arguing about?
146	David	Page 46, lines 16 through 28. Process for making that happen.
166	Rep. Uherbelau	Questions for clarification regarding lien on title.
173	Fuller	Generally, only liens on vehicles now are the banks.
175	Rep. Uherbelau	Continues questioning for clarification - 803.97?
177	David	That is correct. That was done at the advice of the Department of Motor Vehicles. (DMV)
184	Rep. Beyer	This is an extension of the mandate. Continues.
190	David	Trying to protect the car dealers. Explains.
197	Rep. Beyer	Continues questioning for clarification.
201	Shenkle	Part of that was at the request of DMV. Continues.
204	Rep. Beyer	In agreement to remove those lines.
206	David	Lines 16 through 28 - we don't object to that.
209	Fuller	That is a start. Continues. >bottom of page 46 - regarding sending of copies - County Clerk
224	David	The intent of the workgroup was the person causing it to be recorded send the notice.
228	Fuller	Comments on meaning of filing and recording.
254	Chair Sunseri	Asks interested parties to work together to resolve problems. Will bring bill back on Tuesday.
	Chair Sunseri	Adjourns at 5:05 p.m.

Transcribed by, Reviewed by,

Julie Clemente for

Lisa Fritz, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - Proposed HB 3703-2 Amendments - Staff - 23 pgs

B - Testimony in Support of HB 3703-2 Amendments - Bob Jenson - 1 pg

C - Testimony in Support of HB 2777 - Georgia Stewart - 3 pgs

D - Proposed Amendments to HB 2324 - Darrell Fuller - 3 pgs

E - Side-By-Side Comparison of HB 2324 Amendments - Darrell Fuller - 5 pgs