

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON FAMILY LAW

May 6, 1997 Hearing Room 357

3:15 P.M. Tapes 85 - 86

MEMBERS PRESENT:

Rep. Ron Sunseri, Chair

Rep. George Eighmey, Vice-Chair

Rep. Roger Beyer

Rep. Charles Starr

Rep. Judy Uherbelau

MEMBER EXCUSED:

Rep. Peter Courtney

STAFF PRESENT:

William E. Taylor, Counsel

Lauri A. Smith, Administrative Support

MEASURE/ISSUES HEARD:

HB 2324 - 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 85, A		
003	Chair Sunseri	Calls the meeting to order at 3:30 p.m.
<u>HB 2324 - WORK SESSION</u>		
008	Chair Sunseri	Opens a work session on HB 2324.
		Represents Oregon Auto Dealers Association

013	Darryl Fuller	Testifies in support of HB 2324 and presents revised proposed amendments to ones earlier presented before the subcommittee on April 30, 1997 (EXHIBIT A) .
040	Chair Sunseri	If I trade a vehicle in on Sunday, will I have a problem if there is an unknown lien?
042	Fuller	Under your example, the person is protected because you are a bona purchaser for value. Language within the current statute protects the purchaser from any existing liens on the vehicle.
045	Chair Sunseri	Gives an example.
047	Fuller	Same law applies.
052	Chair Sunseri	Are bankers in agreement with these proposed amendments?
053	Fuller	Per Frank E. Brawner of the Oregon Bankers Association, the association is in agreement with these proposed amendments.
055	Bob David	<p>Manager and Child Support Legislative Liaison for the Department of Justice Support Enforcement Division (SED)</p> <p>Testifies in support of HB 2324. Refers to the documents provided to the subcommittee on April 1, 1997 exhibited as B, C, D.</p> <p>>page 47, line 12 - ARTICLE III. EXPEDITED PROCESS B. LIENS/WRITS OF EXECUTION</p> <p>>pages 48 through 52 - ARTICLE III. EXPEDITED PROCESS C. GARNISHMENT</p> <p>>page 53, lines 27 through 31 - ARTICLE III. EXPEDITED PROCESS C. GARNISHMENT</p>
075	Rep. Uherbelau	What kind of past due support is addressed under ORS 419B and ORS 419C?
078	David	<p>Those sections of ORS deal with foster care where support payments are assigned to the state.</p> <p>Continues testimony on the -2 amendments.</p> <p>>page 59, lines 36 through 31 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p> <p>>page 60, lines 13 through 15 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p>
094	Rep. Uherbelau	Refers to page 53, line 29 and 30. Will this apply to a personal injury judgments, also? All judgments?
096	David	I believe, that is correct.

100	Rep. Uherbelau	Generally, personal injury judgments are exempted out.
102	Maureen McKnight	Oregon Legal Services Refers to page 79 of Personal Responsibility Work Opportunity Reconciliation Act (PRWORA) exhibited as "C" in the Subcommittee of Family Law hearing on April 1, 1997.
110	Chair Sunseri	How about inheritances?
114	Rep. Eighmey	There cannot be attachment to anticipatory income. However, once in your possession attachment could be done.
119	Chair Sunseri	Once probate has been settled, then SED could attach to an inheritance.
121	Rep. Uherbelau	Where is the language regarding judgments on page 78 of PRWORA?
123	McKnight	Authorization to attach judgments begins on page 78, subsection (c)(1) and continues through subsection (g) on page 79.
127	Rep. Uherbelau	Shares concern over attaching personal injury judgments. Gives example.
132	McKnight	I am not readily familiar with claims of exemptions, but there is nothing within PRWORA with regards to judgments on child support that grants any relief from claims of exemptions for medical expenses. Gives example.
138	Rep. Uherbelau	I will look into the attachment of personal injury judgments and report my findings.
140	Chair Sunseri	I share the same concern over attaching to personal injury judgments to pay child support obligations. Gives example.
145	David	Continues testimony on -2 amendments. >page 60, lines 29 through 31 continuing on page 61 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/ SUBSEQUENT SERVICE
152	Chair Sunseri	Gives example.
156	David	This measure would establish the amount to be paid for current support and there are arrearages at the court ordered amount plus 20% of the court ordered amount. There is a cap set at a maximum of 50% of a person's income.
163	Rep. Eighmey	Is the amount paid the combined amount in arrearage plus the current maximum amount of 50%? The amount withheld is not 50% of their earning applied to any past due child support and 50% applied to the present child support amount yet due?
169	David	It would be the total. The most withheld from an obligor's income would be capped at 50% . The current support amount plus the 20% of the court ordered amount is withheld when there are arrearages.

174	Rep. Eighmey	But the combined total could not be more than 50%.
176	McKnight	<p>The cap is 50% on all the circumstances.</p> <p>I believe, Chair Sunseri was referring to the minimum wage income which is to be left to the obligor where arrearages exist only. The -2 amendments changes the language to mean current support plus arrearage is 120% of the court order. If there is arrearage only, the obligor must be left with a federal minimum wage.</p>
182	David	<p>Continues testimony on -2 amendments.</p> <p>>page 61, line 2 through 13 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p> <p>>page 61, lines 14 through 16 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p>
200	McKnight	<p>Gives testimony on -2 amendments.</p> <p>>page 61, lines 22 through 30 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p> <p>>page 61, lines 31 continuing on page 62, lines 1 through 3 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p>
219	David	<p>Continues testimony on -2 amendments.</p> <p>>page 62, lines 4 through 11 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p> <p>>page 63, lines 22 through 24 - ARTICLE III. EXPEDITED PROCESS D. STATEWIDE JURISDICTION/SUBSEQUENT SERVICE</p>
235	Chair Sunseri	Is this provision federally mandated?
235	David	<p>This provision, on page 63, lines 22 through 24, is federally required.</p> <p>Continues testimony on -2 amendments.</p> <p>>page 64, beginning on line 27 - ARTICLE IV. INTERSTATE A. UIFSA (Uniform Interstate Family Support Act)</p>
254	McKnight	<p>Gives testimony on -2 amendments.</p> <p>>page 64 to page 94 - ARTICLE IV. INTERSTATE A. UIFSA (Uniform Interstate Family Support Act)</p>
		<p>Continues testimony on -2 amendments.</p> <p>>page 73, lines 10 through 13 - ARTICLE IV. INTERSTATE A. UIFSA</p>

259	David	<p>(Uniform Interstate Family Support Act)</p> <p>>page 73, lines 26 through 31 continuing on page 74, line 1 - ARTICLE IV. INTERSTATE A. UIFSA (Uniform Interstate Family Support Act)</p> <p>>page 85, lines 7 through 13 - ARTICLE IV. INTERSTATE A. UIFSA (Uniform Interstate Family Support Act)</p> <p>>page 95, lines 30 through 31, continuing on page 96, lines 1 through 3 - ARTICLE IV. INTERSTATE A. UIFSA (Uniform Interstate Family Support Act)</p> <p>>page 100, lines 7 through 10 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 100, lines 14 through 21 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p>
314	Rep. Eighmey	Is this provision federally mandated?
315	David	Yes.
320	Ronelle Shankle	<p>Legislative Liaison Department of Justice Support Enforcement Division</p> <p>The gathering of social security numbers is mandated on page 71 of PRWORA.</p>
331	David	<p>Continues testimony on -2 amendments.</p> <p>>page 100, lines 22 through 31 continuing on page 101, line 1 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 101, lines 4 through 20 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 101, lines 21 through 31 continuing on page 102, line 1 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 102, lines 2 through 15 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 102, lines 16 through 31 continuing on page 103, lines 1 through 18 - ARTICLE V. DATA MATCHES/INFORMATION SHARING</p>
353	Rep. Eighmey	Who covers the cost of <u>Section 122</u> of the -2 amendments?
		<p>The SED will reimburse a financial institution supplying financial records under <u>Section 122</u> on page 103, lines 2 and 3.</p> <p>Continues testimony on -2 amendments.</p>

357	David	<p>>page 103, lines 19 through 23 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 103, beginning on line 24 and continuing to page 105, line 7 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p>
386	Rep. Beyer	Is <u>Section 124</u> an extension of federal law?
392	David	I believe, <u>Section 124</u> is bringing existing language into compliance with PRWORA.
405	Rep. Eighmey	So, consumer reporting agencies have the right to request delinquent obligor information?
409	David	Consumer reporting agencies currently have the right to request delinquent obligor information.
412	Rep. Beyer	So, the changes in <u>Section 124</u> are merely an extension of federal law?
415	Shankle	PRWORA on page 68 requires SED to report periodically to consumer reporting agencies delinquent obligor information and the agency can upon request receive an update of the information.
423	McKnight	The concern from consumer reporting agencies has been over the timing of the last periodic report being outdated, for instance, at a real estate closing. Therefore, SED shall provide an updated delinquent obligor's information upon request of the consumer reporting agencies.
431	Rep. Eighmey	Gives example.
450	David	<p>Continues testimony on -2 amendments.</p> <p>>page 103, lines 10 through 13 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 103, lines 26 through 28 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 104, lines 3 through 7- ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 105, line 20 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p>
Tape 86, A		
030	David	<p>Continues testimony on -2 amendments.</p> <p>>page 108, lines 27 through 31 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p> <p>>page 109, line 16 - ARTICLE V. DATA MATCHES/ INFORMATION SHARING</p>

		>page 112, lines 4 -8 - ARTICLE VI. OTHER MANDATES A. TRIBAL AGREEMENTS
040	Rep. Beyer	Could you explain the extension on page 105, line 31?
050	David	On page 105, line 31 refers back to sections that address data matches with financial institutions.
052	Rep. Beyer	Why is this language considered an extension?
055	David	Defines "extension."
059	Rep. Beyer	Is the language on page 107, lines 26 -31 also an extension?
065	David	Yes, the new language merely brings the statute into compliance.
069	Shankle	On page 107, the -2 amendments deletes "court or administrative order" which brings the statute into compliance with the federal expedited process. This deletion of language is an adjustment, not a direct pull of language from PRWORA into the statute.
075	Rep. Uherbelau	Refers to page 109, lines 16, please advise the federal authority behind obtaining social security numbers at death?
083	Shankle	Refers to PRWORA on page 71.
087	Rep. Uherbelau	Gives example.
089	David	The gathering of social securities numbers will need to be done for everyone. This will provide SED notice of death of an obligor through a data match.
095	Rep. Uherbelau	Shares comments regarding obtaining social security numbers of decedents.
098	McKnight	Responds by referring to PRWORA Subsection (13) on page 71 which addresses obtaining social security numbers of decedent. SED efforts to locate and enforce support obligations can cease upon this knowledge. This new language is intended for all deceased individuals not just known obligors.
112	Shankle	Having the data match of a deceased individual's social security number is a secondary identifier for SED when confirming the obligor's identity.
119	Rep. Uherbelau	I don't believe the intent behind PRWORA is to obtain the social security numbers of all deceased individuals.
		<p>Continues testimony on -2 amendments.</p> <p>>page 112, beginning on lines 10 - ARTICLE VI. OTHER MANDATES A. TRIBAL AGREEMENTS</p> <p>>page 113, line 9, lines 27 through 31 continuing on page 114, line 1 - ARTICLE VI. OTHER MANDATES B. CONFIDENTIALITY</p>

121	David	<p>>page 115, lines 18 through 20 - ARTICLE VI. OTHER MANDATES</p> <p>>page 115, lines 21 through 31 continuing on page 115, lines 1 through 3 - ARTICLE VI. OTHER MANDATES C. ASSISTANCE ASSIGNMENT/SANCTION</p> <p>>page 116, lines 4 through 21 - ARTICLE VI. OTHER MANDATES C. ASSISTANCE ASSIGNMENT/SANCTION</p>
148	Rep. Eighmey	Refers to page 115, is this where the \$50 dollar pass through language will be inserted?
150	David	<p><u>Section 134</u> is not the section regarding the \$50 dollar pass through.</p> <p>Continues testimony on -2 amendments.</p> <p>>pages 116 and 117 - ARTICLE VI. OTHER MANDATES C. ASSISTANCE ASSIGNMENT/SANCTION</p> <p>>page 118, lines 3 through 27 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS</p> <p>>page 119, lines 18 through 31 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS</p> <p>>page 120, lines 11 through 18 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS</p>
168	William E. Taylor	<p>Counsel</p> <p>What does SED mean by "work" as it relates to the district attorneys office?</p>
174	David	The "work" SED is referring to is that the district attorneys office must accept a child support case.
176	Taylor	Any child support case?
177	David	Only those cases when there is an application for support enforcement services. Refers to page 120, lines 25 through 28.
182	Rep. Eighmey	When the support payments are paid directly to the obligee, can the obligee go to SED for enforcement of a child support obligation?
187	David	Usually, the district attorneys office will handle the case that does not involve public assistance. Should the case involve public assistance, the district attorneys office may contract with SED to handle the case. Cases involving public assistance are handled by SED.
192	Taylor	Will this increase the district attorneys workload?
195	David	Refers to page 120, lines 25 through 28, this language is intended as a clarification of the federal requirement. Cleaning up old law.
197	Rep. Uherbelau	Does federal law define the word "income?"

205	Rep. Eighmey	"Income" is defined in the IRS codes.
208	McKnight	The child support guidelines within the state regulations defines "income and growth income" in an extremely expansive notice.
209	Rep. Uherbelau	I asked where "income" is defined in the federal law?
212	David	"Income" is defined in the state child support administrative rules.
215	Rep. Uherbelau	Gives example. Where is "income" defined in the federal statute?
221	David	The federal definition of "income" is unknown at this time. The definition can be provided later to the subcommittee. Continues testimony on -2 amendments. >beginning on page 134 , lines 17 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS
230	Rep. Beyer	Why is the language on page 133 considered an extension?
242	David	Refers to page 133, line 17, this language is only a renumbering. Continues testimony on -2 amendments. >page 143, line 2 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS >page 149, line 14 - ARTICLE VI. OTHER MANDATES D. CONFORMING AMENDMENTS
250	Taylor	I believe Rep. Beyer's concerns regarding the \$25 fine, when an employer fails to comply with the provisions in <u>Section 21</u> , has been addressed. Mr. David stated the \$25 fine is not federally mandated.
257	Rep. Beyer	I have amendments that address my concerns in <u>Section 21</u> . However, I will await the subcommittee's next meeting on HB 2324 before addressing my amendments.
265	Taylor	Do you have additional amendments to HB 2324?
268	Rep. Beyer	No. However, per Rep. Sunseri there will be another meeting to work upon all amendments.
271	Taylor	With the subcommittee's consent, I would like to bring all amendments forward to Legislative Counsel in order to have only one new amendment due to the length of the present -2 amendments.
279	Rep. Eighmey	My -1 amendments are tied to the originally printed measure.
283	Taylor	The -1 amendments may be a logistical problem. Gives example.
292	Rep.	Shares comments regarding the inclusion of personal injuries awards to meet child support obligations. Gives example. I would like further research

	Uherbelau	done in this area. Refers to page 53, lines 27 through 31.
328	Rep. Starr	Shares same concerns over including personal injuries awards to meet child support obligations.
338	McKnight	Shares intention of the work group regarding garnishing personal injury awards. It was the work group's intent to specifically preserve claims of exemptions.
347	Rep. Uherbelau	I don't believe the -2 amendments language on page 53, lines 27 through 31, does that.
350	Taylor	Where within the PRWORA does it address the garnishing past due child support obligations?
355	McKnight	PRWORA addresses the issue of garnishment on page 78.
357	Rep. Uherbelau	Actually, if there is an agreement that present exemptions survive and written into the statute, then I think this will cover the issue.
361	Rep. Eighmey	Please confirm, if the -2 amendments excludes garnishing personal injury awards regarding past due child support obligations. Should the -2 amendments not exclude, please check with the federal government as to their intentions for not excluding personal injury awards from garnishment.
371	Rep. Eighmey	Closes the work session on HB 2324. Adjourns the meeting at 4:35 p.m.

Submitted by, Reviewed by,

Lauri A. Smith, Sarah Watson,

Administrative Support Office Manager

EXHIBIT SUMMARY

A - HB 2324, proposed amendments, Darryl Fuller, 3 pages.