

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL
ADMINISTRATION

April 1, 1993 Hearing Room 3S7 1:00 p.m. Tapes 58 - 59
MEMBERS PRESENT: Rep. Tom Brian, Chair Rep. Ken Baker Rep. Tom Mason
MEMBER EXCUSED: Rep. Jim Edmunson VISITING MEMBER: Rep. Kevin
Mannix STAFF PRESENT: Holly Robinson, Committee Counsel Melanie
Thompson, Committee Clerk MEASURES CONSIDERED: HB 3125 - Task force
on family law HB 2291 - Health support benefits in child support
enforcement actions HB 2680 - Domestic Relations SB 257 - Juveniles,
Appropriating money

These mmutes contain materials which paraphrase and/or summarize
state~ments made during this session. Only text enclosed in ~`otation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 58, SIDE A

001 CHAIR BRIAN: Calls the meeting to order at 1:17 p.m.

HB 3125 - PUBLIC HEARING

Witnesses: Rep. Beverly Stein, Dist. 14 Judith Armatta, Oregon
Coalition Against Domestic & Sexual Violence William Howe, Oregon State
Bar - Family Law Committee Rick Rabbin, Portland Mediation Center Ellen
C. Lowe, Ecumenical Ministries of Oregon

HB 3125 Creates a Task Force on Family Law which will develop a proposal
for providing a nonadversarial system for families undergoing divorce.

004 REP. BEVERLY STEIN, DIST. 14: Testifies in support of HB 3125
bill. 051 CHAIR BRIAN: Asks if there has been any indication from
other agencies of their ability and willingness to assist the task force
in terms of staffing. House Committee oo Judiciary Subecommittee on Civil
Law and Judkial Adm~stratico April 1, 1993 - Page 2

054 REP. STEIN: Staff is not available at this time. Suggests in the
interim the judiciary committee may be willing to provide some staff.
Also knows of some volunteers that are willing to staff the task force.
066 REP. BAKER: Asks Rep. Stein, if she would be willing to increase
the task force to 12 members instead of 9 members. 071 REP. STEIN: Fine
with her. 073 HOLLY ROBINSON, COMMITTEE COUNSEL: The task force is
sunseted on the 31st of December in 1995, it is between sessions, asks
if that is what Rep. Stein intended. 078 REP. STEIN: No. 079 HOLLY
ROBINSON, COMMITTEE COUNSEL: Refers to the task force on sex offenses
against children. Relays the task force ran into problems by sunseting
before a session started. Suggests the Family Law Task Force go through
the end of the session. Suggests July of 1995. 087 CHAIR BRIAN: Lines
14 and 15 state the 68th Assembly. 092 REP. STEIN: Willing to work out
an appropriate date. B 2680 - WORK SESSION Witness: David Nebel, Oregon
Legal Services HB 2680 allows parties in domestic relations proceedings
to use an address other than a residential address when required to
provide one. Allows parties to waive right to personal service if
subsequently charged with contempt and to select a method of substituted
service if the party chooses to use an alternative address. 101 HOLLY
ROBINSON, COMMITTEE COUNSEL: Explains the bill and discusses the
proposed amendments. (EXHIBlTS A, B & C) 132 REP. MANNIX: Refers to the
-1 amendments. Suggests the language should be changed to optional, and

that line 5, the word "shall" should be changed to "may". 138 COUNSEL: Explains a concern against making the change. 142 REP. MANNIX: Suggests making the change to read "the court shall allow the party to the decree or order upon any party its request". 145 REP. MASON: Suggests the word "allow" implies the necessity for a request. 148 REP. MANNIX: If the record makes it clear it is an optional provision then there is no need to change the language. 150 CHAIR BRIAN: Suggests making it clearer. House Committee on Judiciary Subcommittee on Civil Law and Judicial Administration April 1, 1993 - Page 3

153 REP. MANNIX: Suggests wording the language like "the court shall allow any party to the decree or order who so requests".

154 HOLLY ROBINSON, COMMITTEE COUNSEL: In practice the party will have to request it. The order would not be in front of the judge without affirmative action.

156 CHAIR BRIAN: Is it okay in its original form?

157 REP. MANNIX: Yes.

158 MOTION: REP. MASON: Moves to ADOPT the HB 2680-1 amendments.

VOTE: Hearing no objection, the amendments are ADOPTED. All members are present.

165 REP. MANNIX: Refers to the Oregon Legal Services, March 25, amendment.

169 REP. BAKER: Refers to the -1 amendments, suggests there is no need for this amendment.

179 REP. MANNIX: Explains his perception on the intention of the amendment is to simplify the procedure.

185 REP. BAKER: Asks if the opposing party would receive a copy of the waiver language.

189 REP. MANNIX: His assumption would be to always give notice to opposing counsel.

191 DAVID NEBEL, OREGON LEGAL SERVICES: Oregon Legal Services has no objection to the not)fication of the other party.

203 REP. MANNIX: Suggests adding a phrase stating "may file an amended waiver" in substantially the same form designating a different method of substitute service or a different address.

209 MOTION: REP. BAKER: Moves to ADOPT the Oregon Legal Services amendments to HB 26801.

VOTE: Hearing no objections, the amendments are ADOPTED. All members are present.

221 REP. MANNIX: Addresses Oregon Legal Services amendments dated February 17, does not support these amendments.

243 REP. BAKER: Asks if the parties to the decree have children, the directives from the court regarding visitation and contact between the parties regarding the children would have access to that information,

they are not excluded.

250 REP. MANNIX: Correct. House Committee on Judicial, Subcommittee on Civil Law and Judicial Administration April 1, 1993 - Page 4

253 HOLLY ROBINSON, COMMITTEE COUNSEL: Addresses a technical change to keep the bill consistent.

263 REP. MANNIX: Agrees with Counsel.

264 MOTION: REP. MASON: Moves to amend Line 1, Page 3 of HB 2680-1. VOTE: Hearing no objections the amendments are ADOPTED. All members are present. 268MOTION: REP. MASON: Moves HB 2680 AS AMENDED to the full commiKee with a DO PASS recommendation. VOTE: 3-0 Motion passes AYE: Baker, Mason, Brian NO: None

SB 257 - WORK SESSION Witness: Douglas Hutchinson, Oregon Commission for Indian Services.

~ SB 257 Reorganizes existing juvenile law, using existing language, into four chapters. 281 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses SB 257. Addresses letters received from Native American tribes. (EXHIBITS D & E) 300 CHAIR BRIAN: Asks Counsel if there is another bill that can directly address concerns of one tribe organization. 303 HOLLY ROBINSON, COMMITTEE COUNSEL: Correct. 312 DOUGLAS HUTCHINSON, EXECUTIVE OFFICER ON OREGON COMMISSION FOR INDIAN SERVICES: Discusses tribe concerns and having a new bill drafted. 326 REP. MASON: Asks Counsel if the new bill will be published as a separate volume. 328 HOLLY ROBINSON, COMMITTEE COUNSEL: May not be a new volume, however it will have new numbers. 333 REP. MASON: Asks if there is going to be a new juvenile code. 335 HOLLY ROBINSON, COMMITTEE COUNSEL: Right now the juvenile code is in back of the criminal code. Doesn't know if Legislative Counsel will decide to do a separate volume. It is up to the Legislative Counsel committee. 337 REP. BAKER: Suggests a private organization will put together separate statutes. 343 REP. MASON: Thinks the committee should dedicate the separate statutes to a practitioner in the juvenile code area. - House Committee on Judiciary Subccommittee on Civil Law and Judicial Administration April 1, 1993 - Page S

376 CHAIR BRIAN: Suggests the committee ask Counsel to draft a letter to Legislative Counsel Committee. 385 REP. BAKER: Asks if the legislature publishes separate volumes. 387 REP. MASON: Explains the volumes and the process. 405 CHAIR BRIAN: A letter of recommendation would be appropriate to suggest dedicating the volume to someone. 411 MOTION: REP. MASON: Moves SB 257 to the full committee with a DO PASS recommendation. VOTE: 3-0 Motion passes AYE: Baker, Mason, Brian NO: None HB 2291 - WORK SESSION Witnesses: John Ellis, Support Enforcement Division Maureen McKnight, Oregon Legal Services HB 2291 Requires obligors to provide medical coverage for subject child if it is available at a reasonable monthly cost. Deletes provision that child support obligations can be reduced by the cost of providing insurance. Allows support orders to be entered that require coverage in the future or at such time coverage is available. 436 HOLLY ROBINSON, COMMITTEE COUNSEL: Discusses HB 2291 and proposed amendments. (EXHIBITS F & G) TAPE 59, SIDE A 042 REP. MASON: Asks what the rationale is for the 25%. 045 HOLLY ROBINSON, COMMITTEE COUNSEL: Individuals are present to speak to that. Believes that the 25% comes from current federal law. 055 REP. MASON: Could be a significant amount of money. 056 CHAIR BRIAN: Invites testimony from audience. 058 JOHN ELLIS, SUPPORT ENFORCEMENT DIVISION:

Addresses the 25% issue, developed the idea from the state of Washington. 098 REP. MASON: Disputes testimony. 100 CHAIR BRIAN: Refers to a \$300 example and asks if the \$75 would be used. 101 ELLIS: Correct. Gives example. House Committee on Judiciary Subcomm;~c on Civil Law and Judkial Administration April 1, 1993 - Page 6

128 REP. MASON: The responsibility of taking care of the child is with the parent who has custody.

130 ELLIS: The responsibility of the child is with both parents and they both contribute to the child's support.

138 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: An obligor's support obligation can rise in increase of 25% . The extra expense would be prorated instead of making the obligor bear the full responsibility.

151 CHAIR BRIAN: Poses an example.

164 REP. BAKER: Goes to the chalkboard for an illustration.

193 REP. BAKER: Discusses who pays the deductible and who pays the cost.

202 REP. MASON: Ask how the 259G limit relates to the initial establishment of child support.

207 ELLIS: Guides the decision maker and the parties in the establishment of child support in the original decree.

234 CHAIR BRIAN: Oregon Legal Services approach seems the most fair.

262 ELLIS: The Support Enforcement Dhision does not disagree with the Oregon Legal Services Approach, however proration needs to be looked at more closely, a limitation is important.

300 REP. BAKER: Suggests a set of criteria a judge can use to adjust hardship situations.

307 ELLIS: Agrees, however, there are cases where people have not been properly adjusted because of hardship.

321 CHAIR BRIAN: The Support Enforcement Division amendment, Exhibit F, states at a reasonable cost. 329 ELLIS: Addresses Page 1, of the Support Enforcement Division March 23, amendments. 340 MCKNIGHT: Oregon Legal Services amendments, Exhibit G, are a compromise.

367 ELLIS: Does not disagree with proration, however there will be times when the ability to pay is going to be unreasonably burdensome.

388 REP. BAKER: Extremes are where injustice occurs. 423 ELLIS: The cost of health care for working class parents is burdensome.

434 CHAIR BRIAN: The cap can be unfair for both sides. 445 ELLIS: Proposes to remove the 25% limitation and increase the child support in the amount proportionate in the ability of the parents to pay. . House Committee on Judimary Subcommittee on Civil Law and Judimal Admi~tration April 1, 1993 - Page 7

473 CHAIR BRIAN: Suggests Ellis' idea is a fair try.

475 MCKNIGHT: Straight proration has the appearance as being the simplest solution. However, there are those who cannot afford to pay the

insurance.

TAPE S8, SIDE B

041 CHAIR BRIAN: Asks if the divorced parents have the option of not providing insurance. 043 ELLIS: It is up to the custodial parent.

048 CHAIR BRIAN: Asks about the prorated situation, and if the parents have a choice.

049 ELLIS: The custodial parent can choose to participate.

060 CHAIR BRIAN: Suggests Ellis and McKnight work with Holly Robinson, Committee Counsel.

064 HOLLY ROBINSON, COMMITTEE COUNSEL: Asks why the -2 amendments of HB 2291 cannot be used. 066 ELLIS: -2 amendments addressed a previous concern that is null and void. 092 REP. BAKER: Asks if there is a need to look again at exemption points. 096 MCKNIGHT: Specific mention of exemption points would be beneficial in the rebuttal.

101 HOLLY ROBINSON, COMMITTEE COUNSEL: Asks if it is possible to delete language in the Support Enforcement Division March 23, amendments that relate to the 25% issues and adopt the Oregon Legal Services amendments. 106 ELLIS: Yes, it is possible. 110 MCKNIGHT: Points out the changes would be lacking the rebuttal factors. 113 REP. BAKER: Wants to see the amendments on paper.

PUBLIC HEARING ON HB 3125 REOPENS

128 RICK RABBIN, PORTLAND MEDIATION CENTER: Submits and reviews testimony in support of HB 3125. (EXHIBIT H)

159 WILLIAM HOWE, OREGON STATE BAR - FAMILY LAW COMMITTEE: Submits and reviews testimony in support of HB 3125. (EXHIBIT I)

265 REP. MASON: Would like to hear adverse testimony in domestic violence situations.

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290 HOWE: Points out the task force is not proposing a mediation model. However, they are proposing to overhaul the family law system. Gives lengthy example regarding a family violence situation.

322 REP. MASON: Concerned about dual approach, with both mediation and adversary.

352 RABBIN: Explains purpose of the task force is to look at different systems of family law and changing the current system.

373 JUDITH ARMATTA, OREGON COALITION AGAINST DOMESTIC VIOLENCE: Submits and reviews testimony in opposition to HB 3125. (EXHIBIT J) Raises

concern domestic violence is not recognized in the bill.

402 CHAIR BRIAN: Comments on the make up of the task force, invites comments from Ms. Armatta to suggest in Section 1 the type of people she would like to see on the task force. Refers to the cost of the task force. Asks if there is going to be a consistent staff available.

474 RABBIN: There are people committed to the idea and will offer volunteer assistance.

TAPE 59, SIDE B

032 CHAIR BRIAN: Comments the task force is important to the system.

040 HOWE: Concerned about the composition of the task force and designating who would be on the task force.

057 ARMAITA: Concerned that particular expertise in regards to domestic violence is not represented would oppose any task force without them in it.

066 REP. MASON: Asks if there would opposition to having a dad's group on the task force.

068 ARMATTA: Opposes.

077 ELLEN LOWE, ECUMENICAL MINISTRIES OF OREGON: Testifies in support of the bill and comments on the list of areas that need to be represented in the task force.

127 ARMATTA: Clarifies the need for someone with domestic violence expertise on the task force, not someone who will advocate.

133 REP. MASON: Concerned about keeping a balance in the task force.

147 CHAIR BRIAN: Discusses someone will end up making the list. 155 ARMATTA: Clarifies she would support fathers who are members of fathers rights groups being on the task force if they have knowledge and expertise in domestic violence. 192 RABBIN: Discusses that the task force will not be a closed body and will study various cases and input.

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204 CHAIR BRIAN: Adjourns the meeting at 2:59.

Submitted by:
May Committee Clerk

Reviewed by: Melanie Thompson
Committee Coordinator

Anne

EXHIBIT LOG:

A - -1 Amendments to HB 2680, Legislative Counsel - 3 pages B - Amendments to -1 amendments on HB 2680, Oregon Legal Services - 1 page C - Amendments to HB 2680, Maureen McKnight - 1 page D - Letter on SB 257, Native American Program, Tim Simmons - 1 page E - Letter on SB 257, Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians, Indian Child Welfare Program, Douglas Hutchinson- 2 pages F - Amendments to HB

2291, Support Enforcement Division, John Ellis - 10 pages G - Amendments to HB 2291, Maureen McKnight - 1 page H - Testimony to HB 3125, Rick Rabbin - 10 pages I - Testimony to HB 3125, William Howe - 3 pages J - Testimony to HB 3125, Judith Armatta - 6 pages

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