

SENATE COMMITTEE ON  
JUDICIARY

February 24, 1993 Hearing Room C  
1:00 p.m. Tapes 32-33

MEMBERS PRESENT: Sen. Dick Springer, Chair  
Sen. Neil Bryant  
Sen. Bob Shoemaker  
Sen. Catherine Webber

MEMBERS EXCUSED: Sen. Grattan Kerans  
Sen. Jeanette Hamby

STAFF PRESENT: Karen Quigley, Committee Counsel  
Kirk Bailey, Committee Clerk

ISSUES DISCUSSED: Public Hearing and Work Session on SB 257, SB 211, SB 242  
Public Hearing and Possible Work Session on SB 413  
Public Hearing on SB 387 and SB 206

[--- Unable To Translate Graphic ---]

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

[--- Unable To Translate Graphic ---]

TAPE 33, SIDE A

003 SEN. SHOEMAKER: Opens the hearing at 1:05pm.

Public Hearing

SB 206: Provides that statements, written notes and reports made for purpose of critical incident stress debriefings are privileged, not subject to discovery and may not be admitted in evidence in judicial or administrative proceeding.

007 SEN. SHOEMAKER: Closes the public hearing in the absence of any witnesses on SB 206.

SB 387: Expands criteria that requires notice to putative father of adoption and other proceedings involving child.

WITNESSES:  
BETTY UCHYTIL, CHILDRENS SERVICES DIVISION

022 SEN. SHOEMAKER: Opens hearing on SB 387. Sen. Cease will  
be  
testifying.

030 BETTY UCHYTIL: Submits and reviews written testimony with addenda  
in  
support of the bill (EXHIBIT A).

090 SEN. BRYANT: Subsection c wording, does that mean filing petition  
or  
notifying state that individual is father?  
>Assume that in most states even if mother leaves state may complete  
proceedings?

UCHYTIL: First issue: Different states have different requirements for  
establishing paternity. Bill would recognize that if father has  
complied in another state they comply in Oregon.

>Second issue: Concern about amount of time and type of hearing to  
assure individuals legal rights. Relates to constitutional decisions  
on  
types of fathers and proceedings necessary.

121 KAREN QUIGLEY, COMMITTEE COUNSEL: Any problems concerning  
second  
amendment which extends time permanent proceedings can be set aside?

UCHYTIL: No problem with that. Not aware of any adoptions set aside  
for fraud.

130 SEN. SHOEMAKER: Suggests Uchytill and staff work on amendments.  
>Closes consideration on SB 387.

139 SEN. SHOEMAKER: Requests counsel and staff contact members for  
quorum.

SB 413: Increases amount of homestead exemption, mobile home and  
property  
exemption, and exemption for mobile home alone for single debtor  
and for joint debtors.

WITNESSES:  
DAVID JACK, OREGON STATE BAR

157 SEN. SHOEMAKER: Opens the public hearing on SB 413.

165 DAVID JACK: Testifies in support of the bill. Reviews  
statistical  
data.  
>12 years since last increase in exemptions.  
>Increase based on cost of living and cost of housing increases.

188 SEN. SHOEMAKER: Raises exemption limit?

JACK: On residence and mobile home exemption.

193 SEN. SHOEMAKER: To conform with current economy and you are comfortable amending SB 413 into SB 242?

JACK: Yes. However the committee wants to handle it.

196 QUIGLEY: Why not double figures? OSB thinks they are conservative?

>Is doubling too much?

>Yours are about 60%?

JACK: Approximately 60%.

>Great deal of discussion about the issue among the Debtor/Creditor

Section. This is a compromise.

223 QUIGLEY: Was section equally split, true compromise?

JACK: Couldn't say. Good compromise.

239 SEN. BRYANT: Comments in support of the compromise.

257 SEN. SHOEMAKER: Concludes public hearing on SB 413.

264 Committee stands in recess awaiting quorum.

269 SEN. SHOEMAKER: Reconvenes hearing to consider SB 387.

SB 387: Expands criteria that requires notice to putative father of

adoption and other proceedings involving child.

270 SEN. CEASE: Testifies in support of the bill.

281 SEN. SHOEMAKER: Comfortable with CSD amendments?

SEN. CEASE: Would take "c", new language under section 1 and move it under paren. three.

287 SEN. SHOEMAKER: Intent is to make it apply to children under 6 months.

289 SEN. CEASE: No problem with children under 6 months of age.

294 UCHYTIL: Reiterates second amendment.

>Subsection 2, requires statements from mother and another witness regarding putative father.

>Good protection in private adoption.

319 SEN. CEASE: Agreeable with amendment.

323 SEN. SHOEMAKER: Chance to review second and third amendment?

SEN. CEASE: No problem with third. Unsure on second. If first issue can be resolved, confident an acceptable measure can be formulated.

331 SEN. SHOEMAKER: Recommends work with staff to reach a compromise.

338 Committee stands in recess.

341 CHAIR SPRINGER: Reconvenes hearing with quorum.

344 QUIGLEY: Reviews LC drafts

LC 3052: At request of Gary Hanson, Multnomah County Commissioner

(EXHIBIT F).

LC 2106: At request of Oregon State Bar (EXHIBIT G).

LC 3619: At request of Oregon Bankers Association (EXHIBIT H).

LC 3561: At request of Oregon Trial Lawyers Association (EXHIBIT I).

LC 3562: At request of Oregon Trial Lawyers Association (EXHIBIT J).

LC 1204: At request of SEN. SHOEMAKER (EXHIBIT K).

LC 1205: At request of SEN. SHOEMAKER (EXHIBIT L).

LC 1206: At request of SEN. SHOEMAKER (EXHIBIT M).

SB 242: Increases value of certain property exempt from attachment,

execution and garnishment.

WITNESSES:

BETSY BAILEY, ASSOCIATED OREGON INDUSTRIES & OREGON RETAIL COUNCIL

425 BETSY BAILEY: Testifies in opposition to the bill, particularly

subsection k.

>Increasing exemptions impairs business' ability to collect on debt.

453 CHAIR SPRINGER: If not \$1000, is any increase acceptable?

BAILEY: Not adverse to small increase. \$1000 is per person is too much

to exempt.

474 MOTION: CHAIR SPRINGER: moves LC drafts be INTRODUCED as read by

counsel.

VOTE: Hearing no objection the motion CARRIES.

TAPE 33, SIDE A

SB 257: Reorganizes juvenile code.

029 CHAIR SPRINGER: Reviews previous public hearing. Chair has been

informed by Mary Botkin that her clients have no objections.

>Reviews SB 257-1 amendment (EXHIBIT B) proposed by Judge Herrell

055 MOTION: SEN. SHOEMAKER: moves to ADOPT the SB 257-1 amendments, dated

2/18/93.

VOTE: Hearing no objection, the amendments are ADOPTED.

063 MOTION: SEN. SHOEMAKER: moves SB 257, AS AMENDED, be sent to the floor

with DO PASS recommendation.

VOTE: In a roll call vote all members vote AYE. SEN. KERANS and SEN.

HAMBY are excused.

068 CHAIR SPRINGER: The motion CARRIES.

071 SEN. WEBBER will lead discussion on the floor.

SB 211: Allows persons who are interested in trust to modify terms of trust or clarify interpretation of trust by written agreement filed in circuit court.

076 QUIGLEY: Reviews bill and previous public hearing. Reviews SB 211-1, SB 211-2, and hand-engrossed amendments (EXHIBIT C).  
>Need to determine filing fees and fee to file objections.

116 CHAIR SPRINGER: Calls witnesses.

119 CHARLES MAURITZ, OREGON STATE BAR: Nothing to add to counsel's description.

120 CHAIR SPRINGER: Hand-engrossed amendments incorporate which amendments?

QUIGLEY: Only hand-engrossed. Does not include SB 211-1 or SB 211-2.

Based on February 1, 1993 letter from Charles Mauritz.

127 CHAIR SPRINGER: Letter of 10th?

QUIGLEY: February 10, 1993 letter from Mauritz (EXHIBIT D) are SB 211 -2 amendments.

142 MOTION: CHAIR SPRINGER: moves to ADOPT SB 211-2 amendments, dated 2/22/93.

VOTE: Hearing no objection, the amendments are ADOPTED.

147 MOTION: CHAIR SPRINGER moves to ADOPT SB 211-1 amendments, dated 2/4/93.

VOTE: Hearing no objection, the amendments are ADOPTED.

CHAIR SPRINGER: Reviews hand-engrossed amendments.

157 MOTION: CHAIR SPRINGER: moves to ADOPT hand-engrossed amendments, dated 2/24/93.

VOTE: Hearing no objection, the amendments are ADOPTED.

163 CHAIR SPRINGER: Anything on fees, objections?

166 BILL LINDEN, STATE COURT ADMINISTRATOR: Reviewed bill with trial court judges.  
>Proposes substituting arbitration language from ORS Chapter 36 into section 4 and 5.

>Concerned about section 5, subsection 4, where language limits court discretion.

>Fee issue recommends setting at regular circuit filing fee, \$65 to file and \$32.50 to object.

202 MAURITZ: No objection to procedure from ORS 36.350.

>On the discretion issue, courts finding of equitable wouldn't remake agreement.

>Fee recommendations are acceptable.

246 CHAIR SPRINGER: Response from Linden?

250 LINDEN: Not certain comments would appease judges and interested parties.

272 SEN. BRYANT: Experience with courts is that they attempt to be fair, we may not be able to give them any more guidance.

281 SEN. SHOEMAKER: Concurs with Sen. Bryant. No alternate language?  
LINDEN: Either have limiting language or nothing at all.

291 SEN. SHOEMAKER: That would leave the court where?

LINDEN: They would have general equitable powers that come with jurisdiction to fashion appropriate remedies.

303 CHAIR SPRINGER: Reviews committee's options. Carries bill over for further work session.

SB 242: Increases value of certain property exempt from attachment, execution and garnishment.

330 QUIGLEY: Reviews bill and previous public hearing.  
>Reviews SB 242-1 amendments (EXHIBIT E).  
>Reviews SB 413 as amendment.  
>Need to amend for effective date.

CHAIR SPRINGER: Calls David Jack, OSB, and David Nebel, Oregon Legal Services.

382 DAVID JACK: Comments on both SB 242 and SB 413.  
>SB 413 would replace SB 242-1 amendments with the exception of the increase in threshold for closing judgement lien from \$3000 to \$6000.

TAPE 32, SIDE B

033 CHAIR SPRINGER: Ready for SB 242-1 amendments. Observes that exemption amounts will likely be negotiated down on the House side.

047 SEN. BRYANT: Are you referring to amendments by Nebel?  
CHAIR SPRINGER: Correct.

050 SEN. WEBBER: When were original numbers implemented?  
JACK: 1981.

054 SEN. WEBBER: CPI in that time?  
JACK: Approximately 150%.

056 CHAIR SPRINGER: Or amount of increase in housing and assessed values?  
Comments on experience with housing increases.  
JACK: Cites January 29 memorandum which describes CPI increasing  
150 .8% since 1981. Housing prices have increased more than that during that period.

064 DAVID NEBEL, OREGON LEGAL SERVICES: Responds to Sen. Webber's question.  
Housing provision added in 1983.

070 SEN. BRYANT: Comments on subsection c, page 8. Should stay at \$3000.  
>Comments on SB 413, \$33,000 was more reasonable than \$40,000.

091 CHAIR SPRINGER: Inquires if Nebel would like to consider further modifications to the bill to assure passage?

097 NEBEL: Increases are warranted.  
>Changing this to apply for another 10-12 years. Need to raise exemptions substantially.  
>No time crunch on House side.

112 CHAIR SPRINGER: What is OSB 's opinion?  
JACK: Bar reviewed and forwarded SB 413 as compromise.  
>Don't want bill to get bogged down in committee.  
>Recommends adding SB 413 as SB 242-2 amendments.

140 MOTION: CHAIR SPRINGER: moves to ADOPT SB 413 as amendments to SB 242 ,  
and further excluding the amendment to section c, page 8 of SB 242 increasing amount from \$3000 to \$6000.  
VOTE: Hearing no objection, the amendments are adopted.

156 CHAIR SPRINGER: Anything further?  
QUIGLEY: Effective date?

158 CHAIR SPRINGER: Recommendation?  
JACK: No specific recommendation.

162 CHAIR SPRINGER: Date certain, is that right?

JACK: No problem with date certain of January 1, 1994.

171 MOTION: CHAIR SPRINGER: moves to ADOPT January 1, 1994 as effective date of SB 242.

VOTE: Hearing no objection, the amendment is ADOPTED.

175 MOTION: CHAIR SPRINGER: moves SB 242, AS AMENDED, be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. Sen. Hamby and Sen. Kerans are excused.

179 CHAIR SPRINGER: The motion CARRIES.

CHAIR SPRINGER will lead discussion on the floor.

188 MOTION: CHAIR SPRINGER: Moves to table SB 413.

VOTE: In a roll call vote all members present vote AYE. Sen. Hamby and Sen. Kerans are excused.

199 CHAIR SPRINGER: Adjourns hearing at 2:45pm.

Submitted by:

Reviewed by:

Kirk Bailey  
Assistant

Karen Quigley  
Administrator

EXHIBIT LOG:

- A - Testimony on SB 387 - Betty Uchytel - 2 pages
- B - Amendments to SB 257 - Staff - 1 page
- C - Amendments to SB 211 - Staff - 6 pages
- D - Amendments to SB 211 - Charles Mauritz - 3 pages
- E - Amendments to SB 241 - Staff - 9 pages
  
- F - LC 3052, Staff, 2 pages
- G - LC 2106, Staff, 2 pages
- H - LC 3619, Staff, 1 page
- I - LC 3561, Staff, 5 pages
- J - LC 3562, Staff, 3 pages
- K - LC 1204, Staff, 8 pages
- L - LC 1205, Staff, 3 pages
- M - LC 1206, Staff, 7 pages