

SENATE COMMITTEE ON  
JUDICIARY

May 17, 1993           Hearing Room C  
1:00 p.m.   Tapes 161 - 162

MEMBERS PRESENT:   Sen. Dick Springer, Chair  
                    Sen. Bob Shoemaker, Vice-Chair  
                    Sen. Jeannette Hamby  
                    Sen. Karsten Rasmussen  
                    Sen. Gordon Smith  
                    Sen. Catherine Webber

VISITING MEMBERS:  Sen. Frank Roberts  
                    Sen. Ron Cease

STAFF PRESENT:       Karen Quigley, Legislative Counsel  
                    Bill Taylor, Legislative Counsel  
                    Kate Wrightson, Committee Administrator  
                    Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED:   Work Session on SB 916, HB 2256, HB 2216.  
                    Public Hearing   &   Possible Work Session on SB 443,  
SB  
348 , SB 321,                                   SB 322, SB 1092.

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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.

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TAPE 161, SIDE A

003   CHAIR SPRINGER: Opens hearing at 1:20 p.m.

PUBLIC HEARING & POSSIBLE WORK SESSION

SB 348: Requires adoption registry or agency to notify birth parent if adult adoptee is seeking identifying information about birth parent.

007   SENATOR ROBERTS, DISTRICT: Reviews SB 348-4 amendments in support of SB 384. (EXHIBIT A)  
      - Private registry system allows contact

066   SEN. SHOEMAKER: Could you address section 5 of the amendments?  
      - Does a previous contact refer back to both the genetic sibling and the birth parent or just to the genetic sibling?

JAYME ARMSTRONG, SENATOR ROBERTS: This would allow a search for the

birth father or genetic sibling if birth mother doesn't want to be contacted.

085 SEN. ROBERTS: Comments on example of family adoption.  
SEN. ROBERTS: The principle reason is the individual that agrees to have contact can get counseling advice and guidance.

132 JAN CAMPBELL, BURNSIDE: Testifies in support of SB 348.  
- There would be more control over the searching organization.  
- One could learn about family medical history

191 GARY CONKLING, HOLT INTERNATIONAL CHILDRENS' SERVICES: Testifies in support of SB 348.

206 DIANA ROBERTS, CSD: Testifies in support of SB 348.

215 SEN. G. SMITH: What would you say to adoptive parents who may feel insecure about such a law?

CAMPBELL: I think the intermediary position has more impact than was thought. Counseling is a very important part of making the connection with birth parents.

254 SEN. G. SMITH: You feel the positive aspects outweigh the negative ones?

CAMPBELL: Yes, definately. With this bill it would be possible for adoptive parents to receive counseling.

273 QUIGLEY: The bill addresses parents who don't want to be contacted. CSD is overseeing the standards of these search organizations.

CAMPBELL: I think that, for medical reasons, this is a good bill.

307 MOTION: CHAIR SPRINGER: Moves that the SB 348-4 amendments be ADOPTED.

VOTE: Hearing no objection the amendments are ADOPTED.

309 MOTION: Moves that SB 348 as amended be sent to the floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. Sen. Roberts will CARRY.

WORK SESSION

SB 916: Requires petition for adoption be served to grandparents and persons

who have established

custody, visitation or other rights.

328 TAYLOR: Gives overview of SB 916-4 through SB 916-6 amendments.  
(EXHIBIT  
C)

347 SENATOR RON CEASE, DISTRICT 10: Testifies in support of SB 916.  
- The bill deals with grandparent visitation where there is  
step-parent adoption.

TAPE 162, SIDE A

008 SEN. RASMUSSEN: Aren't the -4 amendments what we didn't adopt?

TAYLOR: It adds section 29 & 30 in case of a step-parent adoption.

017 SEN. RASMUSSEN: What did we previously do with the -4's?

SEN. CEASE: Those were the -3 amendments. The -4's insert  
"grandparent"  
in place of the term "any person".

024 SEN. SHOEMAKER: Line 54, pg 2 of -4 version isn't that new?

SEN. CEASE: No. We've added language saying "the court must make the  
finding" instead of "the court must consider".

037 SEN. SHOEMAKER: The -5 excludes the existence of  
pre-established  
visitation rights and review of the facts?

SEN. CEASE: It has to make a finding on establishing visitation rights  
as in the best interest of the child.

044 SEN. RASMUSSEN: I didn't like the language in the -3 and -4  
amendments  
in section two. I see trouble with involving a grandparent in a  
step-parent adoption process.

068 MOTION: CHAIR SPRINGER: Moves to ADOPT deletion of SB 916-3  
amendments.

VOTE: Hearing no objections the amendments are adopted.

080 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 916-5 amendments.

VOTE: Hearing no objection the amendments are adopted.

082 MOTION: SEN. RASMUSSEN: Moves that SB 916 as amended be sent to  
the  
Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. Sen. Cease will CARRY.

PUBLIC HEARING & POSSIBLE WORK SESSION

SB 443: Extends termination of tenancy date by 30 days upon notice and proof to landlord that tenant is over 65 years of age.

097 SENATOR RON CEASE, DISTRICT 10: Testifies in support of SB 443.  
- It relates to month to month rentals

140 ROBERT HUGGINS, MULTNOMAH COUNTY LEGAL AID SERVICE: Submits and reviews written testimony in support of SB 443. (EXHIBIT F)  
- Currently a landlord can give month to month tenants a 30 day no cause notice. The main reason is that the landlord wants to sell the property.

288 EMILY CEDARLEAF, MULTIFAMILY HOUSING COUNCIL: Testifies in opposition to SB 443.  
- It separates people under landlord tenant.  
- Landlords don't evict for inadequate reasons.  
- HB 2968 has everything we could agree on.

318 SEN. WEBBER: I don't understand the Fair Housing Violation. A person asserting their age is a defense rather than their using it negatively against the landlord, which is the basis for discrimination.

CEDARLEAF: It adds age as a protected class. We can be sued.

335 SEN. SHOEMAKER: How does this work if the object of the landlord is to raise the rent?

CEDARLEAF: They can give a 30 day rent increase notice.

SEN. SHOEMAKER: If a tenant wants to move due to increased rent and gets a 60 day notice, will he still have to pay the last 30 days at the increased rate?

CEDARLEAF: Yes. This bill only works one way. We give 60 days, but the tenant doesn't have to give us 60 days notice.

350 QUIGLEY: The landlord gives notice and then the person responds within 10 days.

CEDARLEAF: Fair Housing cases involves the pulling of files and if there is documentation of issues we shouldn't have we're in violation.

386 MOTION: SEN. SHOEMAKER: Moves that SB 443 A engrossed be sent to

the

Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. Sen. Rasmussen is EXCUSED.

The motion is ADOPTED.

WORK SESSION

HB 2256: Expands category of persons who may draw blood for HIV testing following criminal conviction.

HB 2216: Requires juveniles within jurisdiction of juvenile court for certain conduct from which it appears sexual act occurred to be tested for HIV.

003 TAYLOR: We discussed amending HB 2256 into HB 2216. Gives overview of amendments for HB 2216. (EXHIBIT G)

038 SEN. WEBBER: All of these still require a conviction first?

TAYLOR: That's correct. A blood test cannot be taken upon arrest unless it had some connection with the charge.

048 SEN. WEBBER: I was hoping we could help the anxiety of the victim who has to wait 6 months before they know the results of the offender's HIV test.

CHAIR SPRINGER: What additional amendments should we consider?

060 SEN. WEBBER: If we amend HB 2256 into HB 2216 it would be easier.

TAYLOR: Additional amendments: the hand-written HB 2216 amendments.

079 MOTION: CHAIR SPRINGER: Moves to ADOPT hand-written language as an amendment, which will incorporate also in HB 2216.

VOTE: Hearing no objection the amendment is ADOPTED.

TAYLOR: The -A3 amendments, presented by ACLU.

085 DAVE FIDANQUE, ACLU: Testifies on behalf of the -A3 amendments to SB 2216.

- We urge the committee to delete line 3 on page 2.
- We would still oppose this bill with amendments.

103 SEN. WEBBER: When it says "law enforcement agencies", was the intent to put it on the LEDS System?

FIDANQUE: That was my understanding, which is one of the main reasons why we're opposed. We are also opposed to any action that would criminalize HIV status on policy grounds.

CHAIR SPRINGER: Ms. Edwards, how do you feel about the ACLU amendments?

117 EDWARDS: I think they do what House Judiciary intended. They deal with HIV+ sexual offenders more efficiently than the House amendments.

135 MOTION: CHAIR SPRINGER: Moves to ADOPT deletion of line 3 on pg. 2 of the bill, law enforcement agencies, and return it to the form the sponsors intended.

VOTE: Hearing no objection the amendment is ADOPTED.

140 MOTION: CHAIR SPRINGER: Moves that SB 2216 as amended be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

The motion is ADOPTED. Sen. Webber will CARRY.

#### PUBLIC HEARING & POSSIBLE WORK SESSION

SB 1092: Provides that fingerprints and photographs of child found within

jurisdiction of juvenile court for having committed act which if committed by adult would be felony may be kept in central depository with those of adults.

160 QUIGLEY: Gives overview of SB 1092-2 amendments. (EXHIBIT H, I)

170 LEE ERICKSON, STATE POLICE: Testifies in support of SB 1092.  
- The bill allows fingerprints to be entered into the Automated Fingerprint ID System (AFIS)

212 SEN. SHOEMAKER: Does expungement apply to the fingerprints also?

ERICKSON: Yes. They are physically removed with no copies retained.

228 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT: Testifies in opposition to SB 1092.

- We make law with the worst possible scenario in mind.
- The DA's policemen and victims are replacing the juvenile court counselor.
- The system is shifting from rehabilitation to punishment.

321 DAVE FIDANQUE, ACLU: Testifies in opposition to SB 1092.  
- Currently, if a juvenile is remanded to the adult system their

fingerprints already go into the adult system.

335 SEN. SHOEMAKER: The sooner you can intervene, the sooner you  
can redirect the child onto fruitful paths. Why would this not be in the  
child's interest?

TRAVIS: The child has been before the court in order to be  
fingerprinted. It's good that the information is used on a local level  
within the county.

SEN. SHOEMAKER: Why do the proponents want fingerprints available on a  
nationwide scale?

368 TRAVIS: Because they have a system and they want to use it. Its  
more efficient for them. There use to be a balance between community  
rehabilitation and public protection.

SEN. SHOEMAKER: If it doesn't help law enforcement agencies from  
identifying misB ehavior in children what harm does it do?

TRAVIS: Its a record and Tthere aren't many expunctions.

403 SEN. RASMUSSEN: Finish that thought.

405 FIDANQUE: The record will be found later in life. The House bill  
allows juvenile crimes to be erased after age 18.

TAPE 162, SIDE B

009 SEN. SHOEMAKER: Isn't expunction supposed to do that?

FIDANQUE: You have to get an attorney to do that, which cost money.

011 SEN. SHOEMAKER: One has to take the initiative to get it done?

TRAVIS: In many cases one can be appointed council to do it, but there  
are many children who don't do it.

015 SEN. HAMBY: Why can't it be done automatically?

TRAVIS: I don't know. I'll check.

022 SEN. HAMBY: Is there any way to confine the information just to  
Oregon,  
within the AFIS System, and would the objections you carry still hold?

TRAVIS: There aren't huge syndicates of child criminals crossing  
county  
lines. I don't know the limitations of the AFIS system.

036 SEN. HAMBY: I don't think the proponents are interested in records  
going  
national.

FIDANQUE: The bill allows them to be sent to the Central State or  
Federal depository.

042 SEN. HAMBY: What are the more heinous crimes?

TRAVIS: I don't have that list with me.

050 SEN. WEBBER: My intention was to get the violent offenders. The  
federal  
piece can be deleted.

SEN. HAMBY: We need language that would call for automatic expunction.

TRAVIS: One of the problems with the list is that an assault 3 can be  
a  
schoolyard fight and also crypt and a blood.

065 SEN. WEBBER: The intent was to get a serious violent behavior.  
- One can go into a court and just make a request for expunction.  
Is  
that the process?

TRAVIS: Its different from county to county.

SEN. WEBBER: Are juveniles routinely notified of the right to  
expunction?

085 TRAVIS: Yes, in our office. I don't know about other attorneys.

SEN. SHOEMAKER: What are the reasons for not expunging?

089 TRAVIS: There may be criminal charges pending or a subsequent  
violation  
of the law.

SEN. SHOEMAKER: Would it be pending adult charges or juvenile charges?

TRAVIS: It would be pending adult charges.

109 SEN. WEBBER: There is a provision for automatic expunction in the  
record  
and it has to do with a three year clear record.

SEN. SHOEMAKER: If we are going to burden the juvenile, we should  
expunge his record if its clean.

139 Senator Rasmussen recorded as an AYE vote on SB 443.

PUBLIC HEARING & POSSIBLE WORK SESSION

SB 321: Establishes crime of public investment fraud.

142 QUIGLEY: Gives overview of SB 312-A2 amendments. (EXHIBIT K)



159 PETE SHEPARD, DOJ: Testifies in support of SB 321A.

179 MOTION: CHAIR SPRINGER: Moves to ADOPT designation of a B felony crime category 6.

VOTE: Hearing no objection the amendment is ADOPTED.

183 MOTION: SEN. HAMBY: Moves that SB 321A as amended be sent to the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

SB 322: Prohibits knowingly presenting false claim to public body for payment

194 ELISE FULSANG, ODAA/MARION COUNTY DISTRICT ATTORNEY'S OFFICE: Submits and reviews written testimony in support of SB 322. (EXHIBIT J)  
- Amendments reflect major reorganization to clarify and differentiate between civil and criminal remedies.

234 PETER SHEPARD, DOJ: Testifies in support of SB 322 and speaks to Section 8.  
- It provides immunity to corrupt public officials, which can be obtained even if a prosecutor objects and creates transactional immunity for the public official, therefore, the Attorney General suggests the deletion of section 8.

259 TERRY LEGGERT, DOJ: Testifies in support of SB 322.

FULSANG: I have no opposition against the deletion of section 8.

282 MOTION: SEN. HAMBY: Moves to ADOPT the deletion of section 8.

VOTE: Hearing no objection the amendment is ADOPTED.

289 CHAIR SPRINGER adjourns hearing at 2:54 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal  
Assistant

Karen Quigley  
Bill Taylor  
Administrator

EXHIBIT LOG

A - Proposed SB 348-4 amendments-staff-7 pgs.

- B - Testimony on SB 348-William Carey-2 pgs. \*
- C - Proposed SB 916-4 to SB 916-6 amendments-staff-7 pgs.
- D - Testimony on SB 443-Kevin Hanway-1 pg.
- F - Testimony on SB 443-Robert Huggins-3 pgs.
- G - Proposed SB 2216-A3 amendments-staff-3 pgs.
- H - Proposed SB 1092-2 amendments-staff-5 pgs.
- I - Testimony on SB 1092-Catherine Webber-1 pg.
- J - Testimony on SB 322-Elise Fulsang-14 pgs.
- K - Proposed SB 321-A2 amendments-staff-1 pg.

\* Submitted written testimony only.