

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.

HOUSE COMMITTEE ON JUDICIARY FAMILY JUSTICE

May 24, 1991Hearing Room 357 2:00 p.m.Tapes 134 - 136

MEMBERS PRESENT:Rep. Kelly Clark, Chair Rep. Judy Bauman Rep. Marie Bell Rep. Jim Edmunson Rep. Kevin Mannix Rep. Tom Mason Rep. Del Parks Rep. Ron Sunseri

MEMBER EXCUSED:

STAFF PRESENT: Holly Robinson, Committee Counsel Kathy Neely, Committee Assistant

MEASURES CONSIDERED: SB 219 PH/WS (Paternity/Genetic Testing) SB 220 PH/WS (Child Support) SB 221 PH/WS (Automatic Wage Withhold/Child Support) SB 222 PH/WS (Representation in Child Support Cases)

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TAPE 134, SIDE A

003 REPRESENTATIVE CLARK, CHAIR: Calls the meeting to order at 2:05.

SB 219 PUBLIC HEARING Witnesses:Colleen Sealock, Dept. of Justice Steve Main, Family Law

013 HOLLY ROBINSON: (AMENDMENTS - EXHIBIT A) Reviews SB 219. *Bill in its current form would allow the Support Enforcement Division to establish paternity based on genetic testing. Motion to move bill with presumption language added to the ORS 109 .258 did not get sufficient votes. Proposed to delete Section 1 & 3 of the bill, Section 2 deleted and a new Section 2 added to the bill which deals with administrative procedures. *Line 4 of the SB 219-A4 amendments dated today reads "in line 19 delete 2 and insert 3," but the 3 should be 1. *Amendments in front of you are rewrites of the idea discussed last week.

049 COLLEEN SEALOCK, ADMINISTRATOR, SUPPORT & ENFORCEMENT DIVISION, DEPT. OF JUSTICE: (EXHIBIT B AND C) Wants SB 219-A4 amendments moved. *Division presently proceeds and if father is included in suit, we notify the father. SB 219 allows us to use more of the administrative process. Question was as to whether to insert into Chapter 109 or whether it should be in Chapter 416 (administrative process). Refers to chart (Exhibit B) to review process. *Automatic Certification means that

it moves it from an administrative process to a judicial proceeding where a formal judicial process must be filed. *Would like to first have blood test results back. Points out differences in chart between current procedure and proposed process. There would be no mandatory 120 days. We have retained the 120 -day opportunity but, in the amendment, if any party requests certification to court after initial denial then after 120 days we will jump directly to certification to court.

*Instead of it automatically going to Circuit Court, it would move in response to a party's request.

130 CHAIR CLARK: Then proposal in SB 219-A4 simplifies the whole process.

134 REP. MANNIX: Asks about a provision allowing a mother and an alleged father to stipulate as to paternity as opposed to formally going through administrative procedures.

137 SEALOCK: They can currently do that.

138 REP. MANNIX: Can a pregnant woman stipulate to paternity with the father?

141 SEALOCK: Deferred to Steve Main.

145 STEVE MAIN, FAMILY LAW, DEPT. OF JUSTICE: Within administrative process at this time that would allow the administrative Support & Enforcement Division to take an order establishing paternity of an unborn child.

148 REP. MANNIX: Nothing in the law allows you to do this?

150 STEVE MAIN: No. In the last session we have proposed language that would allow us to establish paternity for unborn children which was rejected.

153 REP. MANNIX: I think it died of other reasons. Are there any situations where a pregnant woman who is going to have a child and the father wants to establish paternity? Can you do anything to initiate support?

162 STEVE MAIN: We do not see many cases like that. It's a very small number where that would be the situation mostly because we get our cases by referral from Adult & Family Services Division and they don't normally open grants on those cases until the mother's in her 9th month of pregnancy.

170 HOLLY ROBINSON: Asks about the chart, on proposed side, "order establishing paternity." If subsequent to that order someone contests it, then the arrow goes up into other column "alleged parent does respond...?"

178 MAIN: That is correct.

180 HOLLY ROBINSON: She confirms that once you've established, by default, the appeal process is the same.

181 CHAIR CLARK: Is there any way for a person who has an order against him for not appearing to have the order set aside?

188 MAIN: Absolutely. It happens frequently and they are always litigated in Circuit Court.

192 CHAIR CLARK: What are the grounds for setting aside the order?

194 MAIN: Usually filed under ORCP Rule 71.

198 REP. PARKS: If you contest an order simply because you fail to respond, is that a procedural appeal rather than factual determination? What would be the basis for appeal after the administrative agency has established paternity?

209 MAIN: Administrative orders are filed with the court clerk and, in effect, judicial orders. Motions to re-open would be motions to vacate that whole process.

215 REP. MANNIX: So they could show up just on the grounds that they wanted to contest it?

217 MAIN: Yes.

220 CHAIR CLARK: Closes hearing and opens up work session on SB 219.

SB 219 - WORK SESSION

224 MOTION, REP. MANNIX: Moves the -A4 amendments (Exhibit A) to SB 219 with the change noted on page 4.

226 CHAIR CLARK: Rep. Mannix moves the -A4 amendments as modified.

229 No objection. Amendments adopted.

230 MOTION, REP. MANNIX: Moves SB 219-A4 to full committee with a do-pass.

231 No further discussion.

234 VOTE:Motion

AYE: REP. BAUMAN, REP. BELL, REP. EDMUNSON, REP. MANNIX, REP. PARKS, REP. SUNSERI, CHAIR CLARK NO: EXCUSED: REP. MASON

238 CHAIR CLARK: Bill passes to full committee, Rep. Mannix to carry. Closes work session on SB 219 and continues public hearing on SB 220.

SB 220 PUBLIC HEARING Witnesses:Michael Wells, Family & Juvenile Law Carl Stecker, Marion County DA Colleen Sealock, Dept. of Justice Helenjane Williams, Older Women's League Carol Alongi, Support Our Survival John Ellis Maureen McKnight, Oregon Legal Services 242 HOLLY ROBINSON: Explains that SB 220 contains a variety of provisions--some housekeeping/administrative. *Discussion required on the provision which is in concurrence with the adoption of child support guidelines and implementation of child support guidelines; a significant amount of federal dollars are attached to the program. One of the requirements is that support orders handled by public agencies have to be reviewed every two years. *What to do with outstanding child support orders that may have come through a divorce and there has either been non-payment or they want it enhanced. *There is a significant back-log of cases that may or may not need to be reviewed as to whether they are in compliance with the guidelines. States cases where reviews may be necessary.

303 REP. EDMUNSON: Comments on amendments proposed regarding spousal support which are outside the relating clause. There was a word omitted on line 17--it should be child support and there was no intent to broaden the scope of this bill. With that in mind I will not be moving my amendments. I apologize for inconvenience.

324 CHAIR CLARK: We may not be able to move these amendments.

326 REP. EDMUNSON: I would support an amendment to the bill to make it clear. It should say child support.

331 CHAIR CLARK: States that the Senate can amend relating clauses but the House cannot.

336 COLLEEN SEALOCK, ADMINISTRATIVE SUPPORT & ENFORCEMENT, DEPT. OF JUSTICE: (EXHIBIT D) (EXHIBIT E - amendments) Goes through the bill section by section (see written testimony EXHIBIT D).

378 CHAIR CLARK: Regarding Section 3--This was a provision the committee did not particularly like.

402 SEALOCK: Yes. Our concern was the equal protection issue that we had in some courtrooms across the state. Recognizing the controversy, she discusses the proposed amendment before you (EXHIBIT E). *Comments on chart (EXHIBIT F).

TAPE 135, SIDE A

031 SEALOCK: Continues discussion.

059 REP. EDMUNSON: The record may or may not be complete but this allows for a new fact- findings procedure.

063 SEALOCK: That is correct. She continues with her testimony. *If judge looks at a case and believes that something is amiss or that there is not enough information, he has opportunity to set it for a hearing. *The final 2 sections of the bill are mostly "housekeeping." *DHRstill has rule-making authority for modification proceedings for child support for the agencies, found under ORS 184.785. *Discusses amendment on line 17, page 1 (EXHIBIT G).

109 REP. EDMUNSON: Clarifies that this amendment is the language that was proposed in the Senate. Is this an inadvertent omission that "child" is not included because child support is the only thing this bill addresses, that there was no intent to broaden this section in terms of spousal or other types of support?

117 SEALOCK: Yes.

119 REP. PARKS: The wording is not in substantial compliance. Some kind of a presumption might be appropriate to guide the court in arriving at what is "substantial in compliance." There's a real disruption in the family with these proceedings. There may be some resolve and then financial issues come up and the whole thing starts all over again.

140 SEALOCK: That is real controversial. Making it law presents some difficulties. *Defers to her Assistant Administrator, John Ellis to respond.

150 JOHN ELLIS: We have handled this problem by DHRrule-making. *There is a state-supported child support system (the 4-D program) which uses a \$25/25% standard. So modification is assumed not to be appropriate unless the guidelines show a need for \$25 and a 25% change. *Suggestions were made last session that the \$25/25% was too high. Sometimes a \$10 change is very important to a family who needs it. This is a tough policy call. Discusses case where \$25/25% not appropriate.

184 REP. PARKS: If they really need it that desperately, they'll get it from the state. Isn't this money a reimbursement to the state?

188 ELLIS: Most of the time it is, but not all the time.

191 SEALOCK: If it is for the state, we may not move forward as quickly. If it's for the individual custodial parent, that's where judgement enters in. We want to allow fact-finders and judges to take that into consideration.

200 REP. PARKS: Presumption wouldn't make it the law.

205 ELLIS: Believes DHRand CSD will have guidance in this program by rule-making which will not bind non-state practitioners.

210 REP. MANNIX: If we try to define "substantial change in circumstances" then we have bound the private bar as well as the state in these kinds of proceedings. *Have the \$25 and 25% rule for the administrative valiative change. *Have escape clause of "substantial change."

217 ELLIS: Discussing substantial compliance for the guidelines. Two standards for dealing with modification of child support: *One is the substantial change of circumstances. *That is the case within substantial compliance with the guidelines where the 25% comes into it.

229 MICHAEL WELLS, FAMILY & JUVENILE SECTION, LAW: Gave testimony (EXHIBIT H). *Supports current version of the bill and Section 3, which provides a different treatment for the publicly and privately enforced cases and providing an incentive for people to go back and forth. Is not interested in amending it at all. *If Section 3 is removed, DHRwill have rule-making authority to determine what is substantial compliance.

334 CARL STECKER, DEPUTY DISTRICT ATTORNEY, MARION COUNTY: On federal cases less than 2 years old, this procedure can be pursued which gives a window between the 2nd and 3rd year during which these types of reviews can be conducted. *If money's assigned to the state and SED is doing the case, then that review will become an automatic process for all of those cases. If DA's enforced these orders, one of the parties must request that the modification can go forward. *Supports Section 3 for reasons Wells mentioned. *Delays can be prejudicial. With current opt-in/opt-out option, that is happening. *ORS 25.050 is a wage-withholding statute that's on the books. Under that law, formerly ORS 23.777, we've been able to attach for collection of spousal support wages, social security and other types of benefits. Any attempt to restrict the application of this statute solely to cases involving child support is a mistake. Under other state law, you cannot attach unemployment nor workers' compensation. We are required to enforce spousal support when there is current obligation as well. Doesn't want amendment to affect the ability to attach wages and benefits that are currently subject to such assignment.

TAPE 134, SIDE B

019 MAUREEEN MCKNIGHT: gives testimony (EXHIBIT I). *Agrees with Mr. Wells that Section 3 should stay in as is.

050 CHAIR CLARK: Asks for clarification.

055 MCKNIGHT: Every one can get a modification based on change of service. In order to get a modification solely to see whether support order conforms with the guidelines you need to be on the 4D system. With the change to this section, a substantial number of clients will have a "disincentive"--will choose not to be on the 4D system--simply because they can get this periodic review modification.

072 CHAIR CLARK: So you oppose the idea of extending the guidelines of change of circumstance to private practitioners.

074 MCKNIGHT: Yes. But this does not directly affect our section directly. This is really just a policy choice.

084 CAROL ALONGI, SUPPORT OUR SURVIVAL, OREGON FAMILY ADVOCACY GROUP: Spoke to submitted information (EXHIBIT J). Asked about fiscal impact statements on SB 220.

092 CHAIR CLARK: No fiscal impact statements.

094 ALONGI: Supported Rep. Mason's point that if guidelines are changed every two years, then we generate cost impacts. *Other states already have these problems covered because the constitutional have been cleaned up, best interests of the child are cleaned up and educational benefits were federally told to be added instead of subtracted.

107 CHAIR CLARK: Is your opposition to the guidelines themselves or to the bill?

109 ALONGI: The first 1-2 sections I'm not opposed to at all. In the rest of the bill, I am opposed to modification because it is going to impose modification on all orders in the state of Oregon by federal mandate. Private attorneys have to do this also. *Private attorneys and courts are going to be bonded in the very level as with a 4D case. *In Oregon, the 4D standards are not in the best interests of the child in many cases, particularly the lower quarter of our population.

121 CHAIR CLARK: Right now, in a modification case brought because of change of circumstance by a private attorney, a court is going to be required to look at guidelines. Unless a case is brought in front of a judge, based on allegation of change of circumstance, the judge doesn't have the ability to review an existing support order based on guidelines. You're correct that a judge is bound by the guidelines, but only if the case is in front of him. This bill gives private practitioners the authority to bring a case based solely on guidelines.

137 ALONGI: My understanding is that last session they changed the ability to come back at any time for a substantial change of circumstance to the 2-year criteria.

144 CHAIR CLARK: But the case has to be in front of a judge. The only way to get the case in front of the judge is for one of the parties to move for re-examination in the support issue. Maybe your objection is

that a lot more of these support orders are going to come in front of judges and that a lot more of the court orders are going to be adjusted in line with the guidelines.

151 ALONGI: I don't think you should extend and expand the power of these modifications until those guidelines have been fixed. *There are ways to handle this burden administratively; this bill forces custodial parents to go and hire a private attorney because they are not a party to that action in the hearing. So you're only representing the state with the non-custodial parent. *Equitable support for the children is the issue and it is not happening with this bill. *We shouldn't impose ADC standards on the rest of the population.

182 CHAIR CLARK: Is it Section 3 you especially don't like.

183 ALONGI: Yes.

185 CHAIR CLARK: So you're in agreement with the amendments that have been offered to take Section 3 out.

187 ALONGI: We just received them.

203 HELENJANE WILLIAMS, OREGON OLDER WOMEN'S COALITION: (EXHIBIT K) is opposed to amendments. *Needs a phrase regarding the garnishing of retirement money. Begins citing a specific case.

227 REP. MASON: Why, in 14 years, do personal domestic relations cases keep coming our way? Horror stories shouldn't be coming up here.

239 REP. BAUMAN: I have appeared in court a fair amount and I have never heard judges use language as uncompromising as the language that was used in this case.

248 WILLIAMS: Have done research on divorce cases for a number of years and have never known a court to be that drastically unfair. My research proved shocking. *Federal guidelines are set to all the percentages and looking at what other states have done, especially at the low and high ends--they are set much too low. Lower end should be brought up. Would like to see guidelines become part of the statute under the domestic relations area. *We've lost the concept of the best interest of the child in Oregon. *In ORS 107.105 under (a), we had financial resources of both parents "to the extent it is possible..."---would like to see language returned so that it's not just taking a percentage that's being emphasized.

304 CHAIR CLARK: Closes public hearing on SB 220 and opens the work session.

SB 220 - WORK SESSION

310 MOTION, REP. EDMUNSON: Moves the -2 amendments proposed by the Department of Justice (EXHIBIT G)

314 No objection. -2 amendments adopted.

322 MOTION, REP. PARKS: Moves the -1 (EXHIBIT E) amendments to SB 220.

326 CHAIR CLARK: Asks if PARKS wants to elaborate on motion.

327 REP. PARKS: Expresses distress with private bar having access to

"change of circumstance." I think the substantial change of circumstance will keep it to those circumstances where it really should be changed and it won't be unduly disruptive in the family.

352 CHAIR CLARK: Further, the Department of Justice has informed me that they think the statutory scheme would survive an equal protection challenge. They're willing to defend the system on that basis. If they're not successful, they'll be back here next session.

361 No objection. -1 amendments adopted.

365 HOLLY ROBINSON: Questions Dept. of Justice whether there were any other amendments in the original testimony that didn't show up in today's amendments.

369 MOTION, REP. MANNIX: Moves SB 220 as amended to the full committee, do-pass.

VOTE: Motion

AYE: REP. EDMUNSON, REP. MANNIX, REP. MASON, REP. PARKS, REP. SUNSERI,
CHAIR CLARK NO: EXCUSED: REP. BAUMAN, REP. BELL

379 REP. MASON: Comments that substantial numbers of society have to go to the government regularly, have to rely on the government and the structure to modify support. His opinion is that society will not go along with this as a permanent condition. SED people are not a substitute for responsible behavior on the part of people who have children. This cannot go on forever.

415 CHAIR CLARK: Closes work session on SB 220 and opens public hearing for SB 221.

SB 221 - PUBLIC HEARING Witnesses: Colleen Sealock, Dept. of Justice
Carol Alongi, Support Our Survival

422 HOLLY ROBINSON: Gives overview of the bill. She explains that this is the 3rd in 5 bills introduced by the Dept. of Justice. This one is more housekeeping in nature and deals with the issue of automatic wage withholding in order to pay child support.

428 COLLEEN SEALOCK, DEPT. OF JUSTICE: Summarizes testimony (EXHIBIT L).

TAPE 135, SIDE B

035 CHAIR CLARK: So you're saying that if you have a situation where a supporting ex-spouse is behind on child support and the child turns 18, and they are \$2,000-\$5,000 in arrears, a private attorney would be able to take the paying spouse back into court and would be able to garnish bank accounts, etc., since that is a judgement; it can't be wiped out by the court. You're asking for the same authority.

044 SEALOCK: We're asking to be able to reach those monies by doing it through an automated system. The principal's the same.

047 CHAIR CLARK: So the principal is that child support, once ordered--if the judgement is not paid--survives. It doesn't matter that the child is not under 18 anymore. And in this situation it would have the effect of making the state hold for money it had paid out already.

051 SEALOCK: Correct. And if the party did receive that kind of wage withholding appealed it, it would automatically be reviewed by Circuit Court. So there's an automatic appeal process. She completes her testimony.

082 REP. PARKS: Once a judgement is assigned to you it becomes dischargeable in bankruptcy, is that right?

084 JOHN ELLIS: No that's not true.

085 REP. PARKS: So even though the state holds--and is owner of--the judgement will now be discharged?

087 ELLIS: I'm aware of a ninth circuit decision which said that if the amount of money assigned to the state is a result of missed monthly child support payments, it cannot be discharged in bankruptcy. If the state went out and sued somebody for a lump sum amount to reimburse itself, that is looked at as a judgement of law and that is dischargeable in bankruptcy.

095 DEBORAH WILSON: If it's assigned to the state it's not dischargeable. There was a case in 198 1 that clarified that.

104 CAROL ALONGI: Approves of the bill (EXHIBIT J). It has already been in the law. It is very repetitive. Thinks the unemployment situation clarification is useful. *Concern that they did not add the private attorney--all entities should be able to do all these processes, just so that it's not limiting in any way. *The state keeps any debt it collects the way the law reads now. Before, any arrears is distributed pro rata to the families. That needs to be addressed.

125 CHAIR CLARK: Closes the public hearing on SB 221 and opens the work session.

SB 221 - WORK SESSION

127 MOTION, REP. MANNIX: Moves SB 221 to the full committee do-pass.

129 CHAIR CLARK: Asks if further discussion desired.

130 REP. MANNIX: As far as the last few comments by the last witness--when we go through this process, we're talking about people already receiving benefits from the state. I understand that the arrearages that the state collects is simply to offset some of the benefits that the state has been paying out to this family.

134 VOTE:Motion

AYE: REP. BELL, REP. EDMUNSON, REP. MANNIX, REP. MASON, REP. PARKS, REP. SUNSERI, CHAIR CLARK NO: EXCUSED: REP. BAUMAN

139 CHAIR CLARK: SB 221 is passed to the full committee, with REP. EDMUNSON carrying the bill. Closes work session on SB 221 and opens public hearing on SB 222.

SB 222 - PUBLIC HEARING Witnesses:Carl Stecker, Marion County DA Colleen Sealock, Dept. of Justice Carol Alongi, Support Our Survival Maureen McKnight, Oregon Legal Services

143 HOLLY ROBINSON: Gives overview of the bill. It's another housekeeping bill which clarifies that both the Dept. of Justice and the District Attorney represent the state of Oregon in a support action and are not parties to a particular case. It also expands confidentiality provisions to protect obligatory information to the extreme extent that recipients of public assistance have.

152 COLLEEN SEALOCK, DEPT. OF JUSTICE: Gives testimony (EXHIBIT M), saying the bill is a clarification of confused language.

176 CHAIR CLARK: On the change of "may" to "shall"--why do you think federal law requires that?

179 SEALOCK: The federal law says that if we're in a 4D program, we must begin routine modifications. It doesn't say you may, it says you must.

186 JOHN ELLIS: There are 2 sources for that interpretation. The Family Support Act of 1988 which will require that but there are current CFR's (Code of Federal Regulation Rules) on the child support program which requires this.

188 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: Gives testimony in support of SB 222 as written (EXHIBIT N). *"May" and "Shall" concern deals with modifications based on change of circumstance. There is a Federal Regulation 45-CFR-303.7 which requires the states in the 4D program to conduct on those 4D cases modifications without regard to this whole periodic review requirement. SED and Legal Services are of the opinion that these changes of circumstance modifications are required. *The obligation will remain even if not in the books--both periodic review every two years and change of circumstance. So it tracks federal requirements.

273 CARL STECKER, MARION COUNTY DA'S OFFICE: Refers to copy of 42 US Codes Section 666 (EXHIBIT O). *Continue to disagree with Oregon Legal Services. Refers to Section 10(B)ii (Exhibit O). In non-welfare related cases, the only time a review needs to be conducted is when one party or the other so requests. There is no more expansive requirement than that under federal law. I don't think any change needs to be made specifically to the bill ("shall" should remain). We're only required to do those reviews once requested. *Concerned about Subsection (i), line 23 of the A-Engrossed version. Wanted to clarify that DA's office is not the guarantor or surety of these orders; if it's not a 4D case, it's a private case entirely and the DA should not be involved.

316 REP. MANNIX: "insure" means to be a financial guarantor. "ensure" means to make sure it happens. I think we need "ensure" here.

335 STECKER: We're bound under Section G--we have to comply with the federal statutes and regulations; we're not disputing that.

339 REP. MANNIX: This is a grammar issue; I think it should be "ensure" rather than "insure."

343 CAROL ALONGI: We'll maybe need to track federal grammar to find out whether it's correct or not.

363 ALONGI: Speaks to SB 222. *Section 1, Subsection 4, both (e) and (i), are again confining modification to ORS 25.285 which confines all modifications strictly to the guidelines instead of what used to be

Oregon Law for many years. This is not an equitable impact. This was not the intent in the federal law. There is no federal law that ever tried to eliminate both types of substantial change of circumstances.

383 CHAIR CLARK: Are you referring to the A-Engrossed version? On line 15, page 2, it uses the phrase, "based upon a substantial change of circumstances and modification conducted under ORS 25.285..."

387 ALONGI: Yes, that's very limiting. I don't believe that's two different types of substantial change; I believe that's one and the same. *There is enough history with DHR and DOJ to further their powers, which this bill does, by giving them rule-making authority for enforcement, not just for establishment and modification, which this bill does. This would be very destructive. You did not get correct information from them in the 1989 session; guidelines were not put into the bill promoting the best interest of the child. There is no federal law that says that in a 3 or 4-year period they ever have to change their guidelines. They only have to look at a review of some of the orders that have been done. *This is changing the policy that the man does not have to support his children because those guidelines are so low. *We can study this in interim session and that's what we're asking for. *Out of 39 other states that use the courts to do this, Oregon is only 1 of 11 that ever tried to put the guidelines into administrative rules. *They have taken out so many of the "best interest of the child" statute laws. There is not one line left in there that clarifies what the needs of the child are anywhere in Oregon law.

TAPE 136, SIDE A

022 REP. BAUMAN: Looking at the A-Engrossed deleted language. Are you saying that the best interests of the child language has been deleted in some other instance?

026 ALONGI: It all happened in the 1989 session. The child support guidelines which all these modifications are based on, were not even created during your 1989 session. You only saw maybe one or two exhibits of a few support order computations.

030 CHAIR CLARK: I have to disagree. I was on the subcommittee and we spent hours on the guidelines.

032 ALONGI: Did you go over all the Oregon Administrative Rules as they are now?

033 CHAIR CLARK: We went over the federal guidelines and how they were going to be enacted in Oregon which were proposed DOJ rules at that time.

034 ALONGI: Those are not the rules. They are changing them at whim and not submitting them back to Legislative Counsel for approval. They have reduced child support orders by 340% in the last few years for one-fourth of the population. Within one year they have reduced the child support orders 127%.

042 REP. MANNIX: We're not dealing with the guidelines specifically here. Courts and private counsel and proceedings are not bound by them; they are guidelines. And courts may go outside of them in the interest of justice. This bill is not establishing or implementing guidelines. It has peripheral impact on guidelines in the sense that it deals with some process on following through on the guidelines. A proposal for

re-vamping the guideline legislation should be done through other bills.

056 ALONGI: It should be a legislative and executive responsibility. The Department of Justice has continued to refuse to do this. We are seeking your help to do that. *Our bill, SB 1198, did not even get a hearing and I would like to address all these issues during interim. *Believes this bill does expand the power of who is going to make the rules to enforce these things. There is no separation of powers here.

065 REP. MANNIX: States she's getting off the topic. It's important to focus on this bill; you've answered my question.

067 ALONGI: Who was the rule-making agency if it wasn't the Dept. of Human Resources for enforcement?

069 CHAIR CLARK: On SB 222, page 2, line 15--"substantial change of circumstances and modification"--would it address some of your concern if the word "and" was changed to "or."

073 ALONGI: Yes. My other question was page 1, line 22--Human Resources was not the rule-making body before.

083 SEALOCK: We feel we will have to provide both those services--that we can't choose one versus the other.

088 CHAIR CLARK: Does there have to be a determination both that there's a substantial change of circumstance and a 25.285 modification? Can it be one or the other?

091 ELLIS: It can be one or the other. We cannot prosecute a modification under both of those standards at the same time. The professional question is, how are we going to modify this? Either the case is 2 years old and outside the guidelines or there is a substantial change of circumstances. We need both standards available at the same time but we're not going to use both at the same time.

097 CHAIR CLARK: So it should be "or."

100 MCKNIGHT: Line 14, page 2, (e) refers to mandating initiating and response to the two types of proceedings. Having "and" is necessary because the 4D agency is required to provide both of those services.

109 CHAIR CLARK: That is taken care of by the word "shall."

111 REP. BAUMAN: Expresses concern over the language and the word "and"--if you had a case that was just modification where child support modification proceedings were based just on modifications and there was no substantial change of circumstances, are we going to be filtering out some otherwise deserving modifications?

119 REP. MANNIX: That's the whole reason for the use of the word "or."

126 HOLLY ROBINSON: The question is: what does change of circumstances and modifications modify? I think McKnight's point is that they want it to modify "initiate and respond;" or does it modify what the proceedings are based upon? I think the committee's intention is that it's modifying what the proceedings are doing.

133 REP. MANNIX: Suggests: "What if had a comma after 'proceedings' and then said 'based either upon a substantial change of circumstances or a

modification?"

135 MCKNIGHT: Her concern remains because of the recalcitrance of some district attorneys in this state; they would use that language to support a position where they need provide only one service.

138 REP. MANNIX: What if we added "or both as appropriate" at the end.

140 MCKNIGHT: Her concern remains; the federal government mandates 2 services. *Suggests creating a new (f) subsection that differentiates between the services.

152 ALONGI: The words "substantial change" would go in both parts. Substantial change of circumstances--cancer or whatever--and substantial change for modification according to the guidelines.

154 REP. MANNIX: No.

155 ALONGI: Otherwise for a dollar you could go back in.

156 REP. MANNIX: No, under the \$25/25% rules.

157 MCKNIGHT: These are two discrete proceedings, two discrete standards; it might make more sense to break them out into distinct paragraphs.

161 ALONGI: Discusses testimony given on March 27 on the Senate side, on page 1 and 2, we detailed the separation of these two proceedings.

167 CHAIR CLARK: Closes public hearing and opens the work session on SB 222.

SB 222 - WORK SESSION

169 MOTION, REP. MANNIX: Moves splitting Sub (e), page 2, line 14, into 2 parts as testified just now, so it would read, "Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a substantial change of circumstances; [new Sub (f)--all others get moved down] "Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon modification conducted under ORS 25.285 concerning existing child support orders."

181 No objection. Motion passes.

183 MOTION, REP. MANNIX: Moves on page 2, lines 19 and 23, change "insure" to "ensure."

186 No objection. Motion passes.

187 MOTION, REP. MANNIX: Moves the bill as amended to full committee, do-pass.

189 No objection. Motion passes.

VOTE: Motion

AYE: REP. BAUMAN, REP. BELL, REP. EDMUNSON, REP. MANNIX, REP. PARKS, REP. SUNSERI, CHAIR CLARK. NO: EXCUSED: REP. MASON

198 CHAIR CLARK: Adjourns at 4:15 p.m.

Transcribed by: Reviewed by:

Darcie Jackson

Office Manager

EXHIBIT LOG

A -Proposed Amendments to A-Engrossed Senate Bill 219 (SB 219-A4) - Staff - 3 pages B -Establishment of Paternity Chart - Colleen Sealock - 1 page C -Testimony on SB 219A - Colleen Sealock - 2 pages D -Testimony on SB 220A - Colleen Sealock - 4 pages E -Proposed Amendment to SB 220 A Engrossed by Dept. of Justice - Colleen Sealock - 1 page F -Modification Process for IV-D Child Support Cases - Colleen Sealock - 1 page G -Proposed Amendment to SB 220 A Engrossed by Dept. of Justice - Colleen Sealock - 1 page H -Testimony on SB 220A-Engrossed by Michael Wells - Submitted for the record - 3 pages I -Testimony on SB 220 - Maureen McKnight - 2 pages J -Handouts/Information on SB 220 - Carol Alongi - 45 pages K -Testimony and Handouts from Oregon Older Women's Coalition - Helenjane R. Williams - 38 pages L -Testimony on SB 221A - Colleen Sealock - 3 pages M -Testimony on SB 222A - Colleen Sealock - 2 pages N -Testimony on SB 222 - Maureen McKnight - 1 page O -Copy of USC Rules - Carl Stecker - 2 pages