

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

June 10, 1991Hearing Room 357 3:00 p.m.Tapes 146 - 147

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:

VISITING MEMBER:Rep. Margaret Carter, District 18

STAFF PRESENT: Holly Robinson, Committee Counsel Jeff Steve, Committee Assistant

MEASURES HEARD:HB 2673 PH/WS (Prohibits Baby-Selling)

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TAPE 68, SIDE A

006 CHAIR CLARK: Opens Subcommittee on Family Justice at 2:17 p.m.

HB 2673 - PUBLIC HEARING Witnesses:Rep. Margaret Carter, District 18 Reverend Joshua Phillips, One Church-One Child Nate Hartley, Child Advocate, Portland Toni Peterson, Children's Services Division

008 CHAIR CLARK: HB 2673 brought back to committee to discuss Section 2 of the bill. *Amendments offered to prohibit Children's Services Division (CSD) from delaying adoptions based on their preference policy. *Brings attention also to HB 3173--did not come out of Human Resources Committee--may be provisions of that bill (Sections 3, 4, 5, 6) we can fold into HB 2673.

036 REPRESENTATIVE MARGARET CARTER, DISTRICT 18: Testifies on the amendment placed in HB 2673-A (EXHIBIT A). *Updates committee on concerns: CSD went on record in support of HB 3173, went on record as being against Subsection 2 of the amendment to HB 2673 because of the good faith effort that was made between them and One Church-One Child. *HB 2673 is not designed to grandfather any information into the law at

all in terms of whites not being able to adopt black kids. *Not designed to create a separatist movement in this country or in this state.

*Designed to educate Afro-American communities so as to help the situation that black kids are adopted less often than any other group of kids--in order for that to happen, we need to go into the community, get people involved and have systems in place. *Deleting Section 2 of this bill maintains integrity of intention in HB 267 3A--to keep people from selling and buying kids through adoption means in the state.

092 CHAIR CLARK: Wants to ask about HB 3173. *Committee motive behind Section 2 was to make sure that kids being placed for adoption weren't unnecessarily delayed. *Preference order advocated in HB 3173 makes sense, but provision on page 2, line 31--"If placement priority cannot be made..."--seems to mean that CSD/whoever's involved would make diligent efforts to place a child according to priority for up to a year, at which time they place a child elsewhere.

122 REP. CARTER: Yes, and that number was taken from existing legislation in other states for identical situations. This was modeled after the California Heritage Act; whether Asian, Hispanic or Black, the same type is used by people who have years of service with this particular issue. *Addresses concern that people have with the bill in that kids who are not nurtured during that critical period--by 6 months to 1 year--can develop psychopathic behavior (concerns brought about by a book entitled High Risk Kids). Believes issue extends further--black kids are not being adopted at an early age and this is of great concern. *Thinks the issue is greater with foster care side of the issue than with the adoption side; the adoption was made the issue here.

164 REVEREND JOSHUA PHILLIPS, ONE CHURCH-ONE CHILD: Bill does not prohibit trans- racial adoption. *Sets forth a simple priority in searching placements of children of color. *Doesn't feel trans-racial adoption should be the first choice when many families of color are waiting and willing to adopt children of ethnic background. *Does not advocate for the removal of children in foster homes who have been there for 2-3 years and have bonded. *Does not promote racism or segregation. *Promotes placement of children in families able to prepare them for racial and prejudice attitudes. *He is an adoptive parent. Gives personal experience in adopting a Korean child--gave her as much exposure to her culture as they could but he feels it was not enough because she ended up assimilating. Concerned that someday she will resent the adopting. *Concerned with the preservation of black families. Is an emotional issue, not a racial issue. Would like to see black children go to black families whenever that is possible. *Recognizes that may not always be possible in Oregon where there are not as many black families; One Church-One Child has worked very hard to bring black families into the adoptive arena and preparing them for adoption.

232 NATE HARTLEY, CHILD ADVOCATE, PORTLAND: Addresses the 1 year search situation. *Misunderstanding of what we meant when that was put in the bill. *When a child comes into a CSD program, the best plan is for the child to go back to the family; if a child goes into permanent planning, that child will be there for a long time--especially if the parents' rights are terminated. *Children are sometimes in foster care for 2-3-4 years. *HB 3173 doesn't inhibit the adoption process, it enhances it; once a child gets into permanent planning and goes into a foster care home--if the search has started at that time, family members and extended family will be found before the child goes through the process and is ready for adoption. *Child will end up in permanent planning longer than that 1 year anyway.

269 TONI PETERSON, CHILDREN'S SERVICES DIVISION: Speaks to HB 3173. *At the time of the public hearing, Dr. Virginia Phillips of One Church-One Child, submitted amendments to reduce the waiting period to 6 months instead of 1 year; this is good practice nationally--child welfare agencies consider 6 months a reasonable amount of time to following the child being free to obtaining placement.

285 REP. PARKS: What is the scope of the problem (how many kids? how long are you keeping them)?

291 PETERSON: Oregon Children Service's Division had 400 finalized adoptions last year; this is a fairly small number. Of those adoptions, about 73% were white children; the remaining 27% were a variety of races--African-American, Indian.

304 REP. PARKS: How long did you keep them?

306 PETERSON: It varies significantly. *If a child comes into care at birth--for kids who are picked up at the hospital who are drug-affected--and that parent chooses to voluntarily release that child at that time, we can place that child fairly quickly. If the parent says no and wants child returned, the agency is required by statute to return that child or, if that isn't successful, to free the child through termination of parental rights. That's about a year-long process. *Majority of kids come in at an older age--preschool. They end up waiting at least a year, usually 18 months before we're able to have them legally free and place them in a home.

322 REP. PARKS: Race doesn't seem to matter though here; what does the bill do that has people excited?

327 PETERSON: In this country, and in Oregon, we have had children who were free for adoption and have not pursued hunting for same-race resources. Communities of color are saying that adopted children of same-race need to be adopted into their communities. White social service agencies have said there aren't any resources in these communities. What we're hearing from communities now is that there are but we haven't been looking in the right place. *We have joined One Church-One Child in Oregon and in other parts of the country and have been able to find these families. In the last 2 years, our placement of Afro-American children and African-American families has gone up 25%; we anticipate that will increase. *Are increasing number of relative placements; we didn't hunt for relatives before.

355 CHAIR CLARK: Concern with HB 2673 is in the delay, not in the policy per se. *Concerning HB 3173--wonders if the age of the child makes a difference in the critical delay period. PETERSON confirms that delays for younger children are significantly different than for older children. *Suggests amending HB 3173 into HB 2673 and changing the delay time to be age-appropriate.

398 REP. SUNSERI: Has been involved with 30-40 adoptions in the past. *Concerned about the new-born child--bonding and association with family is most critical. *Agrees that it is important for children to be raised in same-race families, finding a loving home for the child is the most important issue. *Seems that children would appreciate being loved, cared for and removed from poverty-stricken situations than not appreciate being in a same-race family. *Doesn't have a problem with the

language; just doesn't want process delayed.

TAPE 147, SIDE A

012 REV. PHILLIPS: Doesn't feel that children don't care about their heritage in cross-racial adoptions. *Black kids have problems with their own identity; need to consider what is best for the child in the long-run, not just the short-run. *Can't say that you're interested in the welfare of a child and yet not interested in the preservation of a black or hispanic family.

025 REP. SUNSERI: Involved with a multi-racial case--black child in a white home. There is a lot of heartache there; the child has been there for nearly 2 years. The child will go to his black grandmother. That's fine but it has created some real emotional trauma for the child and for the family.

032 REV. PHILLIPS: You don't think that child will heal over time?

034 REP. SUNSERI: Feels the bonding process that takes place early on affects child the rest of their life. *Thinks taking kids out of home does have a long-term affect. *Suggests that 16-year-olds of all races--whether adopted or not--have identity problems.

044 REV. PHILLIPS: Feels that is the case with white children in white homes. *Feels like the assumption is that Blacks don't have a right to their own children--either they can't rear them or have them. SUNSERI says no, he was not implying that.

053 CHAIR CLARK: Sees that there is some benefit to a speedy adoption process. *We're trying to balance that--that we agree with that policy, to have no unnecessary delay.

061 REP. BELL: Thinks they're getting off the subject. Addresses the No. 2 priority--time line and delay. *Her own family is not prepared to deal with her kids should something happen to her. *Doesn't want to buy into too short of a time line--even if family members are willing to take on the kids, it may still take them 3-6 months to prepare for taking them in. Too short of a time line may in fact exclude extended family members--not just race or culture.

083 REP. BAUMAN: Does CSD have Administrative Rules pertaining to time preferences on adoption?

086 PETERSON: No. Are proposing draft rules which would move to 6 months, very similar to HB 317 3.

090 REP. BAUMAN: So there has been discussion that timing has to do with your general instruction to do this within the best interest of the child. What is CSD's general instruction having to do with adoption?

092 PETERSON: We have Federal Public Law 96.272 which requires us to seek permanency for every child in our custody. All cases are reviewed every 6 months. If a child is legally free for adoption, there has to be a compelling reason why we have not been able to make a placement in that 6 months following the child being free.

098 REP. BAUMAN: So without any instruction from the Legislature, you've been working with One Church-One Child in order to enable that

organization to be more effective in its community with regard to adoption, particularly black kids and other children as well. *Greatest concern with the process is the integrity and good faith capacity of the process to deliver a bill this late in the session. *This is primarily a baby-selling bill--not an effort to fine-tune one particular aspect of the way CSD does business. *Suggests asking for report but not burdening bill to try to comply with One Church-One Child wishes and CSD. *Wants to keep to commitment to these people and to the floor to expedite process and get the bill through; worried that it will end up getting buried.

123 CHAIR CLARK: What about amending HB 3173 into HB 2673--adopting preference with perhaps some time line--would that be helpful?

129 REP. CARTER: Appears that if Administrative Rules are being put into place to look at the request that this bill has asked from the Legislature, that maybe neither of the bills would be appropriate at this point.

135 CHAIR CLARK: Recesses Committee for 5 minutes at 2:50 p.m.

137 CHAIR CLARK: Reconvenes Committee at 3:05 p.m. Closes the public hearing on HB 2673 and opens work session on HB 2673.

HB 2673 - WORK SESSION

141 MOTION, CHAIR CLARK: Moves deleting Section 2 from HB 2673 and the insertion of language from HB 3173--Sections 3, 4, 5, 6--with one change, that "one year" on line 31, page 2, be changed to "6 months". This takes what I feel are the guts of HB 3173, including the policy that CSD is currently practicing and preparing to put into place by rule--with the one change--from 1 year to 6 months--so that the committee can take comfort that the delay will not be longer than necessary.

162 REP. BAUMAN: Suggests friendly amendment. Delete "minority children" from line 26, page 1 of HB 3173 since the same section, Subsection 2, says "If placement with a relative is...the second preference shall be placement with a foster parent with the same racial or ethnic identification...". This would help us avoid the definition of minority child that we're omitting from Section 1 and 2.

175 CHAIR CLARK: So that the phrase "minority children" throughout the bill should be changed to "children" with the policy still in place. REP. BAUMAN agrees.

180 REP. MANNIX: Thinks the Chair's amendment is very appropriate. We focus on children, whatever their ethnic background, saying we should first look to their ethnic background in trying to place those children. We also put a speed governor for all children--that we should try to do this within 6 months. *Section 7 and 8 bothers him because fiscal impacts mean sending the bill onto Ways & Means-- meaning the death of the bill with no time and money. *The policy is priority.

193 CHAIR CLARK: Accepts REP. BAUMAN's amendment as a friendly amendment.

196 REP. SUNSERI: Would like to see some attention given to the foster parents. *If the ethnic group is not available for the child, would like some consideration given to foster parents who have had that child for a

few years.

203 REP. CARTER: There is a legal preference for that now with CSD.

206 PETERSON: There are two parts: (1) if the child has been in the home less than 3 years and the foster parent is interested in adopting, they are given preferential consideration because of their relationship with the child; (2)--this one in statutes--if the child has been there 3 years or longer, they can file for intervenor status, which gives them legal preference for that child.

213 CHAIR CLARK: Wants to develop a conceptual amendment for part (1); if you can't make the preference established in HB 3173, the next thing you'd look at would be the foster parent.

219 PETERSON: We already do that now.

224 REP. CARTER: Suggests language "if they are interested" into the amendment so that it is not a forced situation.

226 REP. PARKS: Is the intention that the 3rd preference is race over all other issues?

233 CHAIR CLARK: There is a key phrase used in HB 3173--"unless it is not in the best interests of the child."

236 REP. PARKS: This is a large social policy. Is worried about possible harm to children if race is the main consideration.

244 REP. BAUMAN: The first concern is the welfare of the child and that's why there's the language bill--"unless shown to be inappropriate and inconsistent with the best interests"; in addition to that, we're also linking this with a 6-month time limit because time has such a close connection with the best interests of the child. CSD already has this priority of permanent placement decision so we don't leave children hanging. At the same time, the community has resources like One Church-One Child in training the community to accept responsibility for the children of the community.

270 REP. PARKS: Sounds like we're developing the social policy for the state for everybody of all races based on this one church.

274 CHAIR CLARK: Thinks that the bill adopts a policy that when there's temporary placement or adoption, you'll go through a certain priority order of searching.

287 REP. MASON: This is supposed to apply to all adoptions--private as well as public. Why are we controlling the policy of private adoption agencies?

294 PETERSON: HB 3173 addresses CSD adoptions and private agency adoptions; that was the way it was proposed. The policy the Division is working on is just for Division children.

301 REP. MASON: Why does it apply to private agencies?

306 REP. CARTER: The intent was to address CSD issues, not private agencies.

314 MOTION, REP. MASON: Moves a conceptual amendment that the bill be

limited to public agencies.

324 REP. PARKS: Wants to make sure that, in the bill, after natural blood connection, the single most important factor that would rule out all others is the race of the child.

326 CHAIR CLARK: Religion is also given consideration.

329 REP. PARKS: So religion or race could over rule all other possibilities.

330 REP. BAUMAN: Unless inappropriate to the best interests of the child.

331 REP. SUNSERI: Give an example.

333 REP. BAUMAN: In a situation where a same-race family is inappropriate to adopt a child.

342 REP. SUNSERI: If you have a family--3 children--and one of the children has been adopted, is it appropriate that the siblings go to the adopted family that adopted the first child or to a family of the same ethnic background?

348 CHAIR CLARK: CSD would have the ability to show that, in that case, same-race adoption would not be in the best interest of the child because the siblings are somewhere else.

355 PETERSON: We have similar situations now--may have a child with a severe disability and we're not able to recruit a same-race family and their extended family isn't able to care for them and everyone supports a trans-racial placement because that's best for the needs of the child. *We want the ability to tailor-make the placement to best match the needs of the child.

365 REP. SUNSERI: One of the considerations of CSD is that, if a sibling is already placed in a family, you would want brothers and sisters there. Is that statute or Administrative Rule?

370 PETERSON: That is not statute.

386 VOTE: Motion passes (Chair's motion).

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

394 ROBINSON: On page 2, line 44--there's another reference to "one year." Should that conform to the 6 months on line 31? PETERSON clarifies that should be "6 months" also.

406 No objections to Mason's deletion of "private agencies." Motion passes.

408 MOTION, REP. MASON: Moves change on Page 2, Line 35, "A child shall not be...section." That's an immense amount of work for CSD.

420 REP. CARTER: They presently do that.

423 PETERSON: Will not be a burden. We now document all the steps we've taken in freeing child and in seeking placement.

TAPE 146, SIDE B

005 REP. MASON: How do you know what the child's/adoptive family's religious background is?

007 PETERSON: Many times we don't but we ask that parent at the time the child is placed; sometimes we have a parent who wants the child to go into a home with a specific religious background.

013 REP. MASON: Thinks asking people for their religious background is improper.

018 CHAIR CLARK: In church-state legal perspective, there is a distinction between the state making accommodation for religious heritage and religious background--we do this in prisons. Understands sensitivity and concern but thinks, in this context, the state is trying to accommodate.

028 REP. MASON: Even though motivation is good, thinks that if situation involved white people pushing for the same concept--maintaining ethnicity--it would be considered racist.

044 REP. CARTER: There is a "silent rule"--there have only been about 3 accounts in this nation where black families have been able to adopt white children.

052 REP. MASON: Is it not true that, under this bill, white families would get preference when it came to white children. REP. CARTER says yes.

056 MOTION, REP. MANNIX: Moves as a conceptual amendment, recommendation of Rep. Sunseri that for foster parents--after going through priority steps--be able to have special consideration within the first 3 years.

066 REP. BAUMAN: This is, for one thing, late in the Session to be doing this. *There is a difference between foster parent and being an adoptive parents. They are different roles; there will continue to be a need for both roles. Doesn't want to let the foster parenting be a "back door" into the long-term commitment responsibility of adoption. The purposes are very different. *Feels uncomfortable fine-tuning rules for the agency--suggests that CSD come back next session to talk about fine-tuning that issue in time. *At some point we need to extend some trust to this agency that has such a tremendous responsibility for our children.

088 CHAIR CLARK: Does the post 3-year preference that goes to foster parents also specify "unless otherwise shown to be inconsistent with the best interests of the child."

093 PETERSON: No. They can obtain legal intervenor status by default; if the agency hasn't taken action to place that child adoptively and those foster parents have hung in there, they have a legal right a party in that child's life.

097 CHAIR CLARK: A party to the case but not automatically be appointed to the adoptive family. PETERSON agrees. *So the judge still looks at that and balances that off with what is in the best interests of the child. PETERSON agrees. *Would like to see bill go in that direction.

102 REP. BELL: Comments on religious discussion. *Testimonies committee has heard from adoptees and adoptive parents--and the problems they've faced--support this bill in making the processes go smoother. If they are the same religious/cultural background it may just make the transition that much easier.

111 CHAIR CLARK: Adjourns Family Justice Subcommittee at 3:30 p.m.

Transcribed by: Reviewed by:

Darcie Jackson

Office Manager

EXHIBIT LOG:

A -HB 2673-A Amendments