

ARIZONA STATE SENATE

46TH LEGISLATURE
FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON FAMILY SERVICES

DATE: March 6, 2003 **TIME:** 9:00 a.m. **ROOM:** SHR 3

CHAIRMAN: Senator Anderson **VICE CHAIRMAN:** Senator Tibshraeny

ANALYST: Barbara Guenther **COMMITTEE SECRETARY:** Debbee Kennedy

INTERN: Stephen Matcha **ASSISTANT ANALYST:** Tracey Landers

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Brotherton	X			HB 2109	DPA
Senator Giffords	X			HB 2131	DP
Senator Rios	X			HB 2132	DP
Senator Verschoor	X			HB 2134	DP
Senator Weiers	X			HB 2139	DP
Senator Tibshraeny, Vice Chairman	X			HB 2181	DP
Senator Anderson, Chairman	X			HB 2259	FAILED

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
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Chairman Anderson called the meeting to order at 9:07 a.m., and roll call was taken.

CONSIDERATION OF BILLS

HB 2109 – adoption; confidential intermediaries; age requirement – DO PASS AMENDED

Stephen Matcha, Family Services Research Intern, explained that the bill adjusts the age requirements at which time given individuals can receive services from a confidential intermediary (CI). Specifically, the age at which an adoptee may use the services of a CI is being changed from 21 to 18 and the age at which a CI may contact an adoptee is being changed from 18 to 21. Also, the CI Program was established in 1992 to facilitate the search process between adopted adults, adoptive parents and birth parents. Mr. Matcha explained that the 7-line Rios amendment dated 3/5/03, 3:37 p.m. reinserts adoptive parents to the list of people permitted to use a CI.

David Sands, Legislative Officer, Administrative Office of the Courts, testified in support of the bill. Mr. Sands explained that CI's facilitate contact between adoptive parents, adopted individuals, birth parents and biological siblings. The records are confidential and certified by the Arizona Supreme Court. When this statute was first drafted in 1991, the policy decision was made that to either use or be contacted by a CI, a person must be 21 years of age. Last year the bill was changed and stated that you must be 21 to use a CI to arrange a contact, but you could be contacted if you were 18 years of age. The current bill now states that you can use a CI when you are 18, but you must be 21 years of age before a CI can contact you. The professionals who work in this program are concerned about the disparity that exists in this bill and that it is a stigma to birth mothers. Although a child can initiate a contact at age 18, the birth mother must wait until age 21.

In response to Senator Rios, Mr. Sands stated that under the current law, a CI could contact a child under the age of 21 if the birth mother has reached out for the child. However, under current law, you must be 21 to initiate the contact as the adoptee.

Nancy Swetnam, Director of Certification and Licensing Division, Arizona Supreme Court, testified in support of the bill. Ms. Swetnam stated that one of their responsibilities is the CI Program. Ms. Swetnam further stated that the average age of people contacted or the subject of the search is 37 years of age.

In response to Senator Rios, Ms. Swetnam confirmed that since the law was changed last year, there have not been any disruptions in the past year but there have been two contacts with 18 year olds and two pending cases. Ms. Swetnam confirmed that the proposed legislation changes the age back from 18 to 21 for the adoptee before they can be contacted. She further pointed out that the CI's in the field feel the biggest point is consistency—that it should be the same age. Ms. Swetnam noted that it is confusing and difficult to explain, because the birth parent can contact, but the adoptee cannot contact until they reach the age of 21.

In response to Senator Verschoor, Ms. Swetnam confirmed that the law previously, before the first change was made, was 21 years of age for everyone.

Barbara Guenther, Research Analyst, explained that before the CI Program began, adoptions were closed altogether and there was no mechanism to assist people in searching regardless of age. When the CI Program began, it was decided that age 21 would be the age that either the adoptee or the CI could make contact. However, there was an exception that if the adoptive parents initiated the

search on behalf of an adoptee that was at least 18 years of age, there could be an exception. Last year, the constituent who brought the legislation had an understanding with the adoption agency that when the child turned 18, the child would receive the file of information and the adoptive agency would help them reunite. At some point, the adoption agency notified her that they could not do that because of the CI statute from 1992 that prohibited contact from being made until the child was 21. The bill was brought forward to state that if there are any adoptions granted before 1992, the age would be 18, and after 1992, it would be 21. That was found confusing, so it was amended onto another adoption bill to say that at age 18 a CI could contact the child and it was an oversight that it was not granted to allow the child to contact the CI at age 18.

In response to Senator Verschoor, Mr. Sands pointed out that they brought this legislation back on behalf of the CI Program because of the inconsistency. The House Human Services Committee decided that all 18 year olds should be able to initiate the search, but could not be contacted by a CI until the age of 21.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

Senator Tibshraeny moved HB 2109 be returned with a DO PASS recommendation.

Senator Tibshraeny moved the 7-line Rios amendment dated 3/5/03, 3:37 p.m. be ADOPTED (Attachment B). The motion CARRIED by a voice vote.

Senator Tibshraeny moved HB 2109 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-0 (Attachment 1).

HB 2131 – execution of judgments; children – DO PASS

Tracey Landers, Research Assistant Analyst, explained that currently a party who receives a favorable judgment and requests a writ of execution to enforce the judgment must make the request within five years of the judgment or renewal. Cases of spousal maintenance that are included in a child support order are exempt from the five-year limit. However, other spousal maintenance orders are not exempt from expiring. This bill blends statute and adds spousal maintenance and dependent children's expenses to the types of orders that are exempt from expiring.

Representative Hershberger, sponsor of the bill, explained that this bill came from the child support committee statute clean-up work group. It combines a dual enactment and broadens the five-year limit of exemptions of writ of executions to include all spousal maintenance judgments and orders, and it exempts orders and judgments from supervision fees of juveniles found incorrigible or delinquent from the five-year limitation.

In response to Senator Verschoor, Representative Hershberger explained that the main part of this bill is eliminating the dual enactment and it also eliminates the five-year limitation on writ of executions. You do not have to go back to court to re-establish the writ of execution. Currently, a spouse has to go back to court every five years to obtain support.

Senator Tibshraeny moved HB 2131 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-0 (Attachment 2).

HB 2132 – child support committee – DO PASS

Ms. Guenther explained that the bill modifies the membership of the Child Support Committee (Committee). This Committee has been reviewing the child support guidelines and various enforcement mechanisms of the different agencies. Last year, Pima County gave up their contract to provide child support enforcement services themselves. Now the Department of Economic Security (DES) is providing those services with the assistance of the Office of the Attorney General. The Committee has one seat for a county attorney from an urban county that contracts with DES to provide enforcement services. Since there are no more urban counties with a DES contract, this bill eliminates that position.

Senator Tibshraeny moved HB 2132 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-1 (Attachment 3).

HB 2134 – child support; consumer reports(NOW: consumer reports; child support) – DO PASS

Ms. Landers explained that the bill clarifies the consumer report used in establishing an obligor's capacity to make support payments, determining the amount of payments, defining the purpose of setting the original support amount or modifying an existing support order. The bill also makes an obligor gender neutral.

Senator Tibshraeny moved HB 2134 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-1 (Attachment 4).

HB 2139 – child support enforcement – DO PASS

Mr. Matcha explained HB 2139 permits DES to issue or adjust an income withholding against an obligor for arrearages once current child support payments are no longer owed. Additionally the bill allows voluntary acknowledgements of paternity to be either witnessed or notarized.

Representative Hershberger, bill sponsor, testified the bill allows DES to administratively adjust child support orders for arrearages once the child turns 18 and saves going to court. He noted that currently, this is done for children when current support is due.

Judge Armstrong, Maricopa County Domestic Relations Presiding Judge (Superior Court) and member of the Child Support Committee, testified that the bill would avoid the necessity of having to go back to court to adjust the withholding for arrearages, which are child support payments that were due and not paid.

Herschella Horton, Chief, Legislative Services, DES, testified in support of the bill and noted that this will hopefully save the State some money, while getting the money that the children deserve.

Senator Verschoor moved HB 2139 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-0 (Attachment 5).

HB 2181 – incapacitated persons; rights; guardianships – DO PASS

Ms. Landers explained HB 2181 requires the court to encourage the development of maximum self-reliance and independence of incapacitated persons. The bill also requires the petition for appointment of a guardian to include why a limited guardianship is not appropriate, if a general guardianship is requested. H.B. 2181 also allows a judge to consider use of appropriate technological assistance when considering the least restrictive needs of an individual.

Representative Hershberger, bill sponsor, explained that this bill came from the developmentally disabled (DD) community and it represents an effort to follow a national trend to allow maximum self determination for DD citizens and offer an alternative to full guardianship. The bill will allow the courts to determine, and prescribes that the courts must look at different criteria for, what an individual may be in charge of in his or her own life. Currently, there are only full guardianships and no guardianship options.

Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).

Senator Tibshraeny moved HB 2181 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-0 (Attachment 6).

HB 2259 – domestic relations committee; membership – FAILED

Ms. Guenther explained HB 2259 modifies the membership of the Domestic Relations Committee. She noted the bill changes the legislative membership to three members from each body, no more than two of whom are from the same political party.

Senator Tibshraeny moved HB 2259 be returned with a DO PASS recommendation. The motion FAILED by a roll call vote of 3-4-0 (Attachment 7).

There being no further business, the meeting was adjourned at 9:52 a.m.

Respectfully submitted,

Tracey Moulton for Debbie Kennedy
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)