

HOUSE COMMITTEE ON JUDICIARY

SUBCOMMITTEE ON CRIMINAL LAW

May 16, 1997 Hearing Room 357

3:15 P.M. Tapes 119 - 120

MEMBERS PRESENT:

Rep. John Minnis, Chair

Rep. Jo Ann Bowman, Vice-Chair

Rep. Peter Courtney

Rep. Floyd Prozanski

Rep. Lane Shetterly

Rep. Ron Sunseri

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Scott Lumsden, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD:

SB 614 - Public Hearing

SB 541 - Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

| Tape/# | Speaker | Comments |
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| TAPE 122, A | | |
| 006 | Chair Minnis | Calls the meeting to order at 4:05 p.m. Opens public hearing on SB 614. |
| <u>SB 614</u> <u>PUBLIC</u> | | |

| HEARING | | |
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| 012 | Steve Doell | President, Crime Victims United, provides testimony in support of SB 614, issues discussed: * felony murder charges * statute of limitations |
| 045 | John Bradley | First Assistant to Multnomah County District Attorney, submits and provides testimony in support of SB 614 [EXHIBIT A]. |
| 100 | Bradley | Continues with discussion on charges against individuals who intentionally cause serious or physical injury to a child. |
| 150 | Bradley | Continues with discussion on reckless conduct. |
| 201 | Charlene Woods | Multnomah County District Attorney, submits written testimony and summarizes the purpose of the bill [EXHIBIT B]. |
| 235 | Rep. Bowman | Asks whether a minor who kills another minor would be subject to the proposed 30-year jail sentence. |
| 240 | Bradley | Responds that the 30-year aggravated murder charge requires that a person "intentionally kills" another person. |
| 252 | Rep. Bowman | Refers to a case in Salem where three 14-year old children had intended to shoot another juvenile; asks if the 14-year olds would be subject to proposed law. |
| 260 | Bradley | Responds that they would fall under the law as it relates to an "intentional killing" but questions whether they would be tried as an adult. |
| 280 | Steve Doell | Multnomah County Crime Victims United, responds that the death penalty would not apply to 14-year olds because it only applies to people over the age of 18 years old. |
| 284 | Rep. Bowman | Asks to define the word "reckless." |
| 286 | Bradley | Responds that reckless is specified in the statute. |
| 288 | Rep. Prozanski | Asks about the unlimited statute of limitations language proposed in the bill. |
| 294 | Bradley | Responds that it is very seldom that people are convicted of attempted murder because a jury would want to know that a person wanted to kill another person. |
| 366 | Chair Minnis | Comments on physical injury issues involving persons intentionally hurting someone they know. |
| 380 | Bradley | Comments on the difficulty in solving attempted murder cases that involve strangers. |
| 404 | Ingrid Swenson | Representing Oregon Criminal Lawyers' Defense Association, submits and provides testimony on SB 541 [EXHIBIT C]. |
| TAPE 120, A | | |
| 010 | Swenson | Continues with testimony on Federal Constitution requirements. |

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| 018 | Rep. Prozanski | Asks how expansion of the law would compare to other states. |
| 022 | Swenson | Responds that she will provide the information at a later date. |
| 072 | Swenson | Continues with testimony on aggravated murder statutes. |
| 120 | Swenson | Continues with testimony on child neglect statutes. |
| 137 | Woods | Comments on situations involving medical neglect. |
| 163 | Rep. Prozanski | Refers to Section 2 of the bill and suggests that the word "neglect" should be changed to read "criminal neglect." |
| 173 | Woods | Agrees with proposed language. |
| 209 | Bradley | Comments on "intended" consequences. |
| 211 | Rep. Bowman | Refers to earlier question concerning protection for minors who kill other minors and whether they can be tried as an adult; suggests that language should be included to address the issue. |
| 225 | Bradley | Responds that there are some situations wherein a minor should be tried as an adult. |
| 235 | Rep. Bowman | Asks if the district attorney decides whether to try a minor as an adult. |
| 236 | Bradley | Responds that in order for criminal charges to be filed against a minor, a petition has to be filed and findings have to be presented that shows that the minor should be tried as an adult. |
| 250 | Dale Camp | Representing Oregon District Attorneys' Association, provides testimony in support of SB 614. |
| 270 | Rep. Sunseri | Asks Mr. Camp if he supports Rep. Prozanski proposal to include "criminal neglect" language into the bill. |
| 274 | Camp | Agrees to proposed language. |
| 280 | Darin Campbell | Representing Oregon Association Chiefs of Police, provides testimony in support of SB 614. |
| 298 | Rep. Bowman | Refers to the Senate vote on the bill; asks if anyone voted in opposition to the bill. |
| 301 | Campbell | Responds that to his knowledge there was no opposition. |
| 320 | Jaquelyn Bellamy | Parent, submits and reads testimony in support of SB 614 [EXHIBIT D]. |
| 370 | Bellamy | Continues with testimony concerning the death of her son. |
| 410 | Bellamy | Continues with testimony on charges filed against a day care provider. |
| TAPE 119, B | | |
| 015 | Bellamy | Continues with testimony concerning sentencing period for murder by abuse. |
| 030 | Rep. Bowman | Asks if her child had shown signs of abuse prior to being murdered. |

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| 063 | Bellamy | Responds that her son had sustained a few minor injuries which were all explained. |
| 049 | Rep. Bowman | Asks if SB 614 had been in affect during the murder of her son, whether the "intent" would have applied in her case. |
| 051 | Bellamy | Responds that the testimony presented indicated that it was an intentional act. |
| 061 | Rep. Bowman | Comments that a pattern of abuse has to be established prior to filing murder by abuse charges; asks if the day care provider had ever been charged with child abuse. |
| 064 | Bellamy | Responds that she was unaware of any charges. |
| 071 | Ted Buckley | Hillsboro resident, submits and provides testimony in support of SB 614 [EXHIBIT E] . |
| 135 | Rep. Prozanski | Asks about the disproportionality of sentencing for minors. |
| 177 | Bradley | Responds that changing the law to aggravated murder will only involve one or two cases a year statewide. |
| 231 | Rep. Prozanski | Comments that the District Attorney's (DA's)office will have to review how they render decisions on sentencing for aggravated murder. |
| 230 | Bradley | Comments that they if the case is there, charges will be filed; that the DA's office handles the disposition of cases. |
| 232 | Woods | Comments that the bill was drafted with the goal in mind of protecting children under the age of three who are murdered by caretakers. |
| 280 | Woods | Continues with discussion on sentencing minors. |
| 312 | Chair Minnis | Asks about Rep. Prozanski's issue with the disproportionality of sentencing. |
| 318 | Swenson | Responds that if the perpetrator is 15 year old and the victim was less than 14 years of age, the change in the law would mean that the perpetrator could be subject to a true life sentence. |
| 347 | Chair Minnis | Asks if sentencing for a perpetrator who was 19 or 20 would be the same if they were 15; questions the disparity of sentencing. |
| 351 | Swenson | Responds that sentencing for a 15 year old defendant would be different from one that was 20 years old. |
| 366 | Chair Minnis | Comments on the disparity in sentencing minors. |
| 370 | Swenson | Comments on the unfairness in sentencing minors. |
| 375 | Chair Minnis | Comments on conduct, and victims being in a protective class. |
| 395 | Rep. Courtney | Comment that the bill appears to be geared to a protective class and suggests that perhaps the age should be lowered. |
| 415 | Swenson | Comments on the 3-year age difference sex offense statute. |
| | Kathleen Pugh | Submitted but not read, testimony in opposition to SB 614 on behalf of Oregon Coalition to Abolish the Death [EXHIBIT F] . |

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| 427 | Chair Minnis | Closes public hearing on SB 614; opens work session on SB 541. |
| TAPE 120, B | | |
| <u>SB 541</u> <u>WORK</u> <u>SESSION</u> | | |
| 009 | Rep. Sunseri | MOTION: Moves to ADOPT SB 614-8 amendments dated 5/12/97. |
| 012 | Rep. Bowman | Questions the need to adopt the amendments due to the Governor's decision on prison siting [EXHIBIT G]. |
| 015 | Chair Minnis | Responds that the issue involves concern over being able to continue an on-going dialogue with the governor and the public, relating to future prison sitings. |
| 021 | Rep. Courtney | Asks if the amendments would cancel the decision made by the chief executive officers. |
| 024 | Rep. Shetterly | Comments that legislation has to become law. |
| 026 | Rep. Shetterly | Asks about the impact to the other facilities that have been sited. |
| 036 | Sue Acuff | Department of Corrections, responds that there are some sites that have been nominated in Jackson County that would not be impacted ,but the other sites would depend on the actual language of the amendment. |
| 043 | Rep. Shetterly | Clarifies that the hand-engrossed amendments deletes the word nominate and include "site or build." Submitted but not read, by Rep. Ron Adams [EXHIBIT H]. |
| 049 | Rep. Shetterly | Asks if passage of the bill would delay the development of prisons and corrections facilities. |
| 056 | Acuff | Responds that if language "may not site or build" and "if the local jurisdiction wants us..." is included into the bill, then they would continue with development. |
| 069 | Rep. Courtney | Asks if the bill amends the super siting legislation passed in the 1995 session and if the legislature would authorize future sittings. |
| 077 | Chair Minnis | Agrees and clarifies that the amendment does not speak to the future siting issue. |
| 079 | Rep. Courtney | Comments on the magnitude and effect if legislation is passed. |
| 097 | Rep. | Refers to line 3 of the -1 amendments which addresses the issue of prison |

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| | Shetterly | development [EXHIBIT I]. |
| 113 | Rep. Courtney | Asks if the legislation would allow a resident to file a lawsuit which would prohibit any and all public activity involving children within a number of square feet or area adjacent to a prison. Further states that the City of Salem is planning to build many soccer ball fields adjacent to the Oregon State Penitentiary (OSP). |
| 129 | Rep. Shetterly | Refers to line 4 of the -8 amendments which reads that the prohibition is against a siting or a building and that the OSP is already sited. |
| 136 | Rep. Courtney | Asks if any expansion of OSP would be affected by the legislation dealing with restrictions. |
| 138 | Rep. Shetterly | Responds that he does not interpret the bill in that manner. |
| 142 | Rep. Prozanski | Comments that the proposed legislation could have an impact to any type of facility expansion. |
| 151 | Chair Minnis | Asks Rep. Courtney if he wants to amend the bill to include public activity restrictions. |
| 147 | Rep. Courtney | Responds that he supports ballfields for children. |
| 160 | Chair Minnis | VOTE: 4-3 AYE: 4 - Shetterly, Sunseri, Wells, Minnis NAY: 3 - Bowman, Courtney, Prozanski The motion CARRIES. |
| 163 | Rep. Sunseri | MOTION: Moves SB 541 to the floor with a DO PASS AS AMENDED recommendation. |
| 165 | Chair Minnis | VOTE: 4-3 AYE: 4 - Shetterly, Sunseri, Wells, Minnis NAY: 3 - Bowman, Courtney, Prozanski The motion CARRIES. REP. MINNIS will lead discussion on the floor. |
| 173 | Chair Minnis | Adjourns at 5:40 p.m. |

Submitted by, Reviewed by,

Lisa Fritz, Scott Lumsden,

Administrative Support Counsel

Transcribed by,

Nora Carlson

Administrative Support

EXHIBIT SUMMARY

A - SB 614, written testimony, John Bradley, 5 pp

B - SB 614, written testimony, Charlene Woods, 1 p

C - SB 614, written testimony, Ingrid Swenson, 7 pp

D - SB 614, written testimony, Jacquelyn Bellamy, 3 pp

E - SB 614, written testimony, Ted Buckley, 5 pp

F - SB 614, written testimony, Kathleen Pugh, 1 p

G - SB 541, proposed amendments, Committee Staff, 1 p

H - SB 541, written testimony and proposed amendments, Rep. Ron Adams, 11 pp

I - SB 541, proposed amendments, Committee staff, 1 p