

HOUSE JUDICIARY
SUBCOMMITTEE ON
JUVENILE JUSTICE

Hearing Room
Tapes - 3

MEMBERS PRESENT:
Rep. Del Parks, Chair
Rep. Lisa Naito, Vice-Chair
Rep. Kate Brown
Rep. Floyd Prozanski
Rep. Eileen Qutub
Rep. Veral Tarno

STAFF PRESENT:
Holly Robinson, Committee Counsel
Janet Ellingsworth, Committee Assistant

MEASURES HEARD: Public Hearing on HB 2699
 Public Hearing on HB 2714
 Public Hearing on HB 2883
 Public Hearing on HB 2884
 Public Hearing on HB 2912

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.

TAPE , A

004 CHAIR PARKS: Convenes meeting at 8:33 A.M.

OPENS the PUBLIC HEARING on HB 2699

006 REPRESENTATIVE JOHN MEEK, DISTRICT 5: Testimony on HB 2699.

044 CHAIR PARKS: What would be possible to allow the family to design it's
own service
program?

048 REP. MEEK: It's a matter of making sure that there is an effort to
bring the family together so if
a family is split up, because of a mishap and the child has to be removed,
it's an encompass on Children's Services Division (CSD) to bring that
family back together.

058 CHAIR PARKS: The reason people are having dealings with CSD is
because in some cases
their family is dysfunctional.

065 REP. MEEK: You really hit on the core of the discussion that occurred
from the 1991
session establishing the task force on services to children and families.

091 CHAIR PARKS: You don't design something for someone and impose it on
them and expect it
to work. But this says that whenever possible, allow the family to design
it's own service programs.

098 REP. MEEK: Once CSD has been given jurisdiction as far as the warrant
goes their job is to
protect the safety and welfare of that child.

103 REP. BROWN: The first couple of lines regarding the case planning shall bare a rational relationship to the jurisdictional findings. Gives example.

112 REP. MEEK: You are correct.

115 REP. BROWN: Regarding lines 11 through 13, if CSD is working with a family and the child was brought in for child abuse and the mom comes in and said "Hey, I have an alcohol problem" that would then allow the family to self motivate in terms of working in treatment.

123 REP. MEEK: That is correct.

124 REP. PROZANSKI: In your intent, where do they fit? Who is going to control if there is a disagreement?

130 REP. MEEK: The court does have the final say in regards to the plan.

159 REP. PROZANSKI: You just want to make sure the family has input and that if they are in disagreement with CSD, the judge as the arbitrator will be allowed to hear their position?

162 REP. MEEK: Correct.

163 CHAIR PARKS: Doesn't this bill say that the family can design there own service program?

173 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT, INC.: Testimony on HB 2699.

177 REP. NAITO: What happens if CSD gets more information after there has been a jurisdictional finding about something else? Would this prohibit CSD from taking any further action?

182 REP. MEEK: It would not. CSD has exclusive and final authority to petition the court at any time.

192 REP. NAITO: So you envision that they would seek a new jurisdictional finding to the judge on that basis?

194 REP. MEEK: Yes they could .

198 REP. NAITO: Your really trying to put the family unity model into statue? Is it not in statue already?

200 REP. MEEK: The description and the definition of the family unity model is in statue but as far as it's application and procedural process's are not.

204 REP. BROWN: My concern is having CSD run over the family even with the current language. If the court is the final arbiter, if the family did not agree with the plan, or if CSD wouldn't allow the family to participate in the planning, the parents could then go to court and have a judge decide, correct?

213 TRAVIS: Correct.

218 BETTY UCHYTIL, ASSISTANT ADMINISTRATOR, CHILDREN'S SERVICES DIVISION (CSD): Testimony on HB 2699. Submits [EXHIBITS A].

243 CHAIR PARKS: How would we address your concern, by an insertion?

245 TIMOTHY TRAVIS: I don't agree that it is appropriate to order any services unless you can show that they are needed.

251 CHAIR PARKS: If we chose to do that how would we write that into the bill?

256 UCHYTIL: Perhaps, "bears a rational relationship to the reasons for the jurisdictional finding" or something to that effect.

266 ROBINSON: There are generally allegations that support the

jurisdictional finding. Couldn't we
clarify this by saying "the allegations supporting the jurisdiction"?

276 CHAIR PARKS: Are we talking about alcoholism of the child or the
parent?

280 ROBINSON: Generally in dependency cases, the parent.

282 UCHYTIL: That is correct. I think the practice of how those
jurisdictional findings are written
varies from court to court.

285 REP. BROWN: This would be satisfactory language to me as currently
written.

299 REP. PROZANSKI: On line 12, based on the intent of this bill, would
you oppose putting in
after the word "to", "assist in" and then expanding the word "design" to
"designing"
so it would read "the family to assist in designing it's own plan"?

315 REP. MEEK: Generally the way the process works today, the family has
representation. Explains process.

351 REP. QUTUB: Whether this pertains to a child's behavior, or whether it
has to do with things that are happening within the family? Can you give
an example of a conflict with a family and
CSD in a plan?

376 REP. MEEK: The family, irrespective of how dysfunctional it is, have
resources out there that
they can tap into.

421 UCHYTIL: When we try to do service planning with parents that are
employed, and lay out
a service plan that may not be possible from their perspective possible to
do and maintain their
employment, I think this gives greater weight to the family's input about
"yes we want to make this better but we also need to keep our jobs".

TAPE 2, A

020 TRAVIS: The Mormon church has a very good social service agency within
the church and there are some instances where social workers have been
hostile or skeptical of that kind of
planning, that is an important aspect that sometimes takes a back seat.

CLOSES the PUBLIC HEARING on HB 2699
OPENS the WORK SESSION on HB 2699

030 REP. PROZANSKI: I think it's important we put a law out that is very
clear on it's face, and based on the intent of what the parties want to
accomplish, if we would insert on line 12 the words "assisting in" after
the word "to" before "design" and make that "designing".

039 ROBINSON: Do you want to make that same motion on line 23?

041 REP. PROZANSKI: Yes.

042 REP. TARNO: This is a mandate for CSD to assist the family, and what
I'm hearing is that the
family will assist CSD in drafting a plan, am I wrong?

045 REP. NAITO: What we are trying to do is give the family greater weight
and more input in this
process. CSD still retains the control over the ultimate decision.

048 REP. TARNO: So then CSD would assist the family in this planning
process?

050 REP. PROZANSKI: They will be working together in putting together a
plan and if there is
a disagreement it will go in front of a judge to make a final decision.

053 REP. QUTUB: Previously on the sentence it says "whenever possible" and
to me what you have
done is added another hurdle.

058 REP. NAITO: There are times it's simply not possible, a family does

not want to be involved
or what is happening to the family is so egregious to the child it's not
possible to include them in
the process.

063 REP. QUTUB: We've already inserted fundamentally, what Rep. Prozanski
is now wanting
to add.

068 REP. BROWN: I would support the amendment, for the reason that CSD
takes charge and most
families don't have the knowledge of what resources are available to make
there own plan.

081 REP. QUTUB: My only concern is that what it's doing is watering it
down and I think the intent
was to give the family a chance to be more involved.

085 REP. NAITO: I do support the amendments and I do think it's best to
move forward.

090 REP. TARNO: I can support the amendment also.

093 MOTION: REP. PROZANKSI: Moves amendments to HB 2699.

096 CHAIR PARKS: Hearing no objections the motion CARRIES. All
members are present.

098 MOTION: REP. NAITO: Moves HB 2699 as amended to the full
committee with a do pass recommendation.

101 REP. BROWN: Broadening the jurisdictional findings, I want to get a
better sense of whether
legally we are going to be OK.

116 REP. NAITO: I think the idea of a rational relationship is something
where a reasonable person would believe that it has a connection with a
jurisdiction finding.

123 NANCY MILLER, ADMINISTRATOR, CITIZENS REVIEW BOARD: Testimony on
HB 2699. We would be happy to work with the court in terms of educating
them about the
new bill, helping to design new orders. I think if we hit those two issues
this will work fine.

133 CHAIR PARKS: The way it is?

134 MILLER: Yes.

135 CHAIR PARKS: In my experience there has been an underlying adult
alcohol problem in at
least half of these kid's cases.

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

143 CHAIR PARKS: The motion CARRIES.

CLOSES the WORK SESSION on HB 2699
OPENS the PUBLIC HEARING on HB 2884

158 REPRESENTATIVE BRYAN JOHNSTON, DISTRICT 31: Testimony on HB 2884.
[EXHIBITS B & C].

162 REPRESENTATIVE MIKE LEHMAN, DISTRICT 47: Testimony on HB 2884.

201 REP. JOHNSTON: I have decided that we made a mistake and we should not
have called it
"parental responsibility".

265 REP. TARNO: Did you think about emancipation?

268 REP. LEHMAN: Yes, I think the emancipation statutes begin at age 15 or

16.

281 REP. NAITO: I don't have a problem when a child, by a court order, is put into custody of the parents for supervision, but I think this goes beyond that.

287 REP. JOHNSTON: Gives example.

309 REP. NAITO: Lets assume the child is 14 years old, perhaps it's a working family and they don't have any other options, what will be the standard for what is reasonable for that family?

320 REP. LEHMAN: We have received some criticism that this will hit economically deprived families and single women harder than anyone else.

350 REP. JOHNSTON: In the initial situation of leaving that 14 year old home is a reasonable occurrence.

375 REP. NAITO: So much of this happens at the late end.

388 REP. JOHNSTON: To accept these as punitive is to mischaracterize them.

They are made to engage the family in a partnership that needs to be corrective.

396 REP. PROZANSKI: Are there any other states that have similar statutes now, and if not, do you feel that what's been proposed will with stand any constitutional challenge?

404 REP. JOHNSTON: Yes. There are other states such as California who holds parents responsible for the willful acts of children. Hawaii, Michigan and Colorado all follow similar shared responsibility pieces.

416 REP. LEHMAN: In looking through the other statutes, most of them are a civil liability statutes which is already in place in Oregon.

429 CHAIR PARKS: What does the statute actually say?

438 ROBINSON: ORS 30.765 talks about liability of parents for tortes by children.

443 CHAIR PARKS: If we were to adopt this suggestion then this would be two laws and it seems to me that what your suggesting is a fundamentally different way of approaching the same problem, is that correct?

448 REP. JOHNSTON: That is correct. That law limits it to dollars and it tells you how to recover it.

TAPE 1, B

030 REP. QUTUB: I feel it really behooves us to make parents aware right from the onset.

042 REP. LEHMAN: The one thing I think is important to emphasize is that there is a civil liability or a torte statute out there that is used in a very limited amount of time to enforce any damage amounts on the parent that their child caused.

056 REP. BROWN: I understand that foster parents take care of our more troubled children, but it seems to me that they should be held to the same if not a higher standard as other parents. Why would you exempt them from this bill?

061 REP. JOHNSTON: Because the state would then remove the children from the care of these people.

065 REP. LEHMAN: One of the things we have dealt with is that getting foster parents is very difficult and it's very limited availability, and I'm concerned that if we add one more liability to these folks we're just compounding the problem rather than solving it.

069 REP. BROWN: I know there are some foster parents simply in it for the money, why should we allow the bad apples to continue doing business the way they have been doing?

075 REP. LEHMAN: That may be true. My experience in the juvenile justice system says there's a better way to attack that problem.

080 REP. QUTUB: What might be the result of an habitual run away child?

087 REP. JOHNSTON: This law directly does not alter that situation.

105 REP. NAITO: One of my concerns is that since there appears to be a great deal of discretion involved, is that there might be a greater impact among certain ethnic groups.

113 REP. JOHNSTON: That is an excellent issue, it's going to be a problem.

119 ROBINSON: You've spoken about the fact that this bill is intended to cover affirmative acts of parents, and yet when you look at the list it includes children who are expelled from school.

129 REP. JOHNSTON: There are some reasons for expulsion, there are some we thought, that are at the parents discretion, failure to attend may result in expulsion.

134 ROBINSON: It's my understanding of education law that if you don't attend for 10 days your dropped from the rolls but your not expelled.

140 REP. LEHMAN: There is already a statute in place for citing a parent for a child failing to attend school.

162 REP. NAITO: Gives an example of a child expelled from school.

166 CHAIR PARKS: Discusses amendments, [EXHIBIT B].

172 REP. JOHNSTON: Failure to supervise resets upon the finding that the child did something that he or she should not have done.

180 CHAIR PARKS: If that is the case then why isn't this defense is not an answer to these various objections that people have?

183 REP. JOHNSTON: That would be an answer but that's at the back end, we are also trying to filter some out at the front end so you don't have to raise that defense.

195 YOSSI DAVIDSON, ATTORNEY, AMERICAN CIVIL LIBERTIES UNION: Testimony in opposition to HB 2884.

311 CHAIR PARKS: When the term "reasonable" is used, you could make up hundreds of examples or a judge could say " is this reasonable or is that reasonable". In fact, almost all cases that are tried for any reason involving human conduct has a reasonable person standard.

334 DAVIDSON: It's different because in a normal situation there is a definite behavior that is not allowed, whether it' stealing or punching someone in the nose.

342 CHAIR PARKS: Isn't that exactly what a judge does when he decides the issue of terminating the issue of parental responsibility?

350 DAVIDSON: A custody dispute between two people seems to be an entirely different situation.

367 REP. PROZANSKI: In your review you've stated that the relationship between a parent and child is a private relationship, one that they have to work out. From your comments I assume that you feel parents should not be held accountable for conduct of their

children.

375 DAVIDSON: Gives example.

400 REP. PROZANSKI: Do you believe that a parent should not be held accountable?

415 DAVIDSON: I think they should be held accountable. Talking about the juvenile system is a good way to focus.

444 REP. PROZANSKI: Rep. Qutub said that maybe we need to start holding the parents accountable for their conduct before the child, under the new ballet measures that have passed, is going to be locked up for 10 years.

TAPE 2, B

026 DAVIDSON: No one disagrees that parents have an enormous responsibility to their children, but like a lot of things in this society passing a law to make them take on a responsibility or perform better, I don't think will add to their ability to do what is right or what they think is right.

030 CHAIR PARKS: We will take a recess during the full committee meeting and then we will resume after that meeting.

CLOSES the PUBLIC HEARING on HB 2714
RE-OPENS the PUBLIC HEARING on HB 2714

035 REPRESENTATIVE CAROLYN OAKLEY, DISTRICT 36: Testimony on HB 2714 [EXHIBIT D].

083 REP. NAITO: I noticed that in the proposed amendments [EXHIBIT D] you say there is a rebuttable presumption.

090 REP. OAKLEY: That is correct.

100 KEN HECTOR, CITY OF SILVERTON, MAYOR: Testimony in support of HB 2714.

120 CHAIR PARKS: Does your ordinance go to age 18?

122 HECTOR: Age 17.

124 CHAIR PARKS: Discusses ballet measure 11.

125 ROBINSON: These provisions would not apply to kids 15 and older charged with adult offenses.

130 REP. PROZANSKI: That is just for that particular offense, correct?

132 ROBINSON: Correct, so for the non ballet measure 11 offenses, kids under 18, this would apply.

134 REP. PROZANSKI: There would not be an emancipation based on them being charged under one of those ballet measure 11 offenses for any other offense that occurs after that time that's not under ballet measure 11?

136 ROBINSON: That is a question the assembly will have to address, the ballet measure does not address that issue.

138 CHAIR PARKS: Once they make ballet measure 11, they will no longer be juveniles because they won't get out of jail until long after that.

140 ROBINSON: In that situation where a child was arrested and released on bail as those kids are entitled to, and then reoffended, there is a question as to whether or not those new offenses while they are under pre trial release would be a juvenile or adult offenses.

143 CHAIR PARKS: This bill says "the restitution shall not be imposed if the financial resources of the parent and the burden of payment of restitution will impose on the

parents ability to support the child or to meet the other obligations of the parents". Does your ordinance have that kind of language in it?

150 HECTOR: In drafting our ordinance we got together law enforcement, our municipal judge and some council people and staff and talked about what our goal was in terms of what we were trying to accomplish.

165 REP. NAITO: Do you think we could include the word "necessary" before "obligations"?

170 HECTOR: That makes very good sense.

175 REP. BROWN: I'm not clear how this would impact the parent on making the child behave?

185 HECTOR: Your correct in that it is new, our ordinance became effective January 1.

215 OTTO STANLEY, COUNCILMAN, CITY of SILVERTON: Testimony in support of HB 2714.

280 REP. BROWN: Have you seen a reduction in graffiti and vandalismsince the ordinance was passed?

285 STANLEY: We've only had one break in since the law has been in effect.

290 RANDY LUNSFORD, CHIEF OF POLICE, CITY of SILVERTON: Testimony on HB 2714.

305 REP. TARNO: In your opinion is there any validity in printing the names of those kids in the paper?

307 LUNSFORD: There is validity of printing the names of those who are convicted in the paper.

CLOSES the PUBLIC HEARING on HB 2714
OPEN the PUBLIC HEARING on HB 2912

320 REPRESENTATIVE LIZ VANLEEUWEN, DISTRICT 37: Testimony on HB 2912.

371 REP. PROZANSKI: Is this to expand it to be a more inclusive list?

375 REP. VANLEEUWEN: Yes.

378 CHAIR PARKS: It's in the bill, because it just shows us a small addition.

380 REP. BROWN: I assume that this will help the prosecution in terms of helping child witnesses to be more comfortable in that process?

383 REP. PROZANSKI: I think it will. There have been studies where young witnesses are intimidated by the settings that they're in, especially in these situations.

TAPE 3, A

CLOSES the PUBLIC HEARING on HB 2912
OPENS the WORK SESSION on HB 2912

019 MOTION: REP. NAITO: Moves HB 2912 to the full committee with a do pass recommendation.

023 VOTE: In a roll call vote all members vote AYE.
REP. QUTUB is EXCUSED.

024 CHAIR PARKS: The motion CARRIES.

OPENS the PUBLIC HEARING on HB 2883

028 REPRESENTATIVE BRYAN JOHNSTON, DISTRICT 31: Testimony on HB 2883.

050 REP. NAITO: I really don't think you would need the affirmative defense type issue because

it would be up to the judges discretion to determine if there was a breach of the contract.

056 CHAIR PARKS: Is it a contempt?

058 REP. JOHNSTON: You would be cited for failure to meet the conditions of the probation contract which would be the equivalent of a citation of contempt.

060 REP. BROWN: What do you think about requiring the terms of the contract to be rationally related to the reasons why the children was adjudicated in the first place?

066 REP. JOHNSTON: I would think that the language more appropriately ties it to what were trying to accomplish.

069 REP. BROWN: It would tie into a bill we heard earlier.

070 CHAIR PARKS: But is it really necessary? Isn't this a negotiated contract?

073 REP. JOHNSTON: It creates the ability of the parents to frustrate the concept of what we're trying to accomplish.

078 CHAIR PARKS: It seems like it gives a parent a little bit of a cover.

081 REP. JOHNSTON: If it became the committee's intention to move with HB 2883 instead of HB 2884, I would like to see an amendment to HB 2883 that would authorize the court to engage the parent in parental skills as part of the contract as well.

088 CHAIR PARKS: It says "contract with the court containing the terms that the parent and the child must adhere to".

090 REP. JOHNSTON: I'm not sure that it is broad enough.

093 CHAIR PARKS: So you would move to amend it to say "including parental skills"?

095 REP. JOHNSTON: "Including but not limited to parental skills and supervisory tasks".

OPENS the WORK SESSION on HB 2883

100 REP. NAITO: On line 23, after the word "contract", I would insert a conceptual amendment that would say "including but not limited to parenting skills".

103 ROBINSON : Or "parent training".

108 MOTION: REP. NAITO: Moves above conceptual amendments to HB 2883.

111 CHAIR PARKS: Hearing no objections the motion CARRIES.

113 MOTION: REP. NAITO: Moves HB 2883 to the full committee with a do pass recommendation.

115 VOTE: In a roll call vote all members vote AYE. REP. QUTUB is EXCUSED.

118 CHAIR PARKS: The motion CARRIES.

OPENS the PUBLIC HEARING on HB 2884

125 KEN HECTOR, CITY of SILVERTON: Testimony on HB 2884.

190 RANDY LUNSFORD, CHIEF OF POLICE SILVERTON: Testimony on HB 2884. This bill does reflect our ordinance.

208 CHAIR PARKS: We will allow the sponsor to do some amending and we will bring these bills back possibly next week. With nothing further the meeting is adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth	Debby Johnson
Committee Assistant	Committee Coordinator

EXHIBIT SUMMARY:

- A - Testimony on HB 2699 - Uchytel - 2 pages
- B - Amendments to HB 2884 - Johnston - 1 page
- C - Testimony on HB 2883 and HB 2884
- D - Amendments to HB 2714 - Oakley - 2 pages