HOUSE JUDICIARY SUBCOMMITTEE ON JUVENILE JUSTICE Hearing Room Tapes 9 -11 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: HB 2884 - Public Hearing and Work Session HB 3202 - Public Hearing and Work Session HB 3359 - Public Hearing 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 9, A 004 CHAIR PARKS: Convenes meeting at 8:33 A.M. OPENS THE PUBLIC HEARING ON HB 2884 Witnesses: Diane Walton, Director, Oregon Commission on Children and Families Ted Kulongoski, Attorney General Judge Aiken, Klamath County, Circuit Court Judge OSB orne, Klamath County, Circuit Court Meg Kiran, P.C. Jerry Wagler, Attorney DIANE WALTON, DIRECTOR, OREGON COMMISSION ON CHILDREN AND FAMILIES: 008 Discuses the request to the commission to take a look at the adequate representation and advocacy for children from the 1993 legislative session which was embodied in SB 735. The commission requested that the Governor's Task Force on Juvenile Justice to address this issue. -A report was prepared by this task force an presented to the Commission [EXHIBIT A]. 017 TED KULONGOSKI, ATTORNEY GENERAL: Introduces Judge Aiken and Judge OSB orn as the two members of the task force who were behind the development of the report itself. JUDGE ANN AIKEN, CIRCUIT COURT, LANE CO.: Introduces the sponsor of SB 026 735, Jerry Wagler, who instigated the process of review, and was a member of the subcommittee involved in developing the report [EXHIBIT B]. 030 JERRY WAGLER, ATTORNEY: I've been involved in organizing Oregon Lawyers

for Children. I introduced this bill and asked to have this problem studied because of representation of children in abuse and neglect dependency cases is so fragmented in the state of Oregon.

-The purpose of the report was to come up with a good study of the system and make recommendations for the best kind of representation of children who were in court in dependency litigation.

055 JUDGE AIKEN: Introduces Judge Roxanne OSB orne, who is a circuit court judge from Klamath county.

058 JUDGE ROXANNE OSB ORNE, CIRCUIT COURT JUDGE, KLAMATH COUNTY: Testifies that in some counties some children do not get attorneys. Dependent children don't get attorneys, but in Klamath County they receive representation immediately. -We have the "cadillac" of CASA programs in Klamath County.

077 CHAIR PARKS: The attorney's in Klamath county are paid out of the indigent defense fund. We are going to do some work on that, however, the cost of the indigent defense in Klamath county is significantly less than 30 other counties in the state and they do more.

082 JUDGE AIKEN: What we did as a task force, was to bring to the table a variety of players on this particular issue. The task force was put together with very little resources. We had to go out and find information

which simply did not exist.

095 MEG KIRAN, P.C.: Discuses the people involved with the report produced who were from all over the state, including legislators, judges, attorneys,

and CSD. Despite that broad based membership we still had trouble gathering information.

-Comparison of the data from agency to agency was very difficult with the variations in terminology.

-Discuses the main components of the report; Exhibit A.

-The recommendation of the report was that the legislature fund and recommend an attorney for every child who is involved in a dependency proceeding, and that the CASA program be fully funded in order to have an advocate there who can do the leg work, and someone who can interview people and report to the court judges, who are making decisions, so that those decisions are the best informed decisions that can be made.

134 JUDGE AIKEN: We now have 30 CASA's (Court Appointed Special Advocate).

It is our hope to come up with a meshing of the CASA's and the attorneys so

that the attorneys are doing legal work on the behalf of the child and the CASA's are out gathering information so that a judge makes an informed decision about what combination of services and placement should be available for a child.

156 CHAIR PARKS: Your also providing children with lawyers through the indigent defense system. Why can't we leave it at that, and just let the counties do it, and leave it up to the judges.

160 JUDGE AIKEN: Is it a public policy decision to decide how a child should be represented county by county or is it enough of a decision that the state should set standards and have a public policy regarding this.

165 CHAIR PARKS: I do agree with your stand point that it should not make a

difference where a child lives, as to the quality or kind of representation

he/she receives.

167 WAGLER: The problem is that the indigent defense fund has been contracting on a flat basis with various providers of legal services. A public law firm will get so many dollars to do so many cases. What happens, particularly with the new sentencing guidelines, is more and more of those dollars that the lawyers are getting to represent kids are going to be funneled toward the delinquency cases.

-If you are going to have legal assistance and lawyers representing kids in

abuse and neglect cases, 1), they ought not be paid with government money for work that volunteer can do better and more effectively, 2) the lawyer ought to work with the volunteer as a team and 3), the lawyer that does

that ought to be a lawyer who is getting paid and who is focused on getting

the kid special representation.

191 REP. BROWN: My concern is not that we don't agree with your proposal or

your position, its whether or not that we have the ability to fund that indigent defense.

199 JUDGE AIKEN: The issue in the ABA study, was effective representation of all children in all cases. They examined a model that is a combination of CASA and lawyer. There are other ways to look at this.

217 WALTON: We've had a work group form, subsequent to the report being submitted to the state, and the people on that work group are struggling with how to meet the needs addressed given the fiscal restraints.

227 JUDGE AIKEN: It is important to review the setting up systems to analyzing data; you can make some decisions this session so that consistent

data can be obtained across the board.

236 REP. PROZANSKI: From your perspective of doing the report and of checking with all of the counties, when could we, if everything was implemented in the report, see the results up and running? How much time would it take for all 36 counties and to have some kind of tracking system?

242 WALTON: We could make a substantial amount of progress during the next biennium. It would take approximately 4 years to have a full blown effort in place.

246 JUDGE AIKEN: Bill Wheatly who served as president of the Bar Association, sat on this subcommittee and took the report to our board of governor's and received unanimous support in this direction.

258 REP. TARNO: Realizing that Measure 11 is going to have a tremendous impact on the indigent defense fund in Oregon, is there a need for anyone to consider separating out the costs that we will have to set aside for in defense of our kids accused of criminal actions as well as dependency cases

and taking it out from the adult section of indigent defense and looking at

two different funding sources. 1) One that is just targeted toward the defense of children, 2) and then the adult section. Is their a need here to do this?

272 KULONGOSKI: The primary objection to that is that it appears that every

time we pit adult versus children, the children lose. I am not in favor of

splitting this because I am afraid what we would do is grossly under fund the juvenile side of this.

288 WAGLER: To me, whether it's a child accused of a crime or an adult, in court there is the same problem. There is a prosecutor trying to convict the offender and then there is someone trying to "get them off" or plea bargain to a lessor defense. The dependency is a different ball game.

328 KIRAN: Advocacy for these children saves money in the long run.

361 JUDGE AIKEN: One of the ending comments in the report is, providing a mediated adoption process in cases where we have a chance to look at other ways in resolving the end of a case where a parent does have some contact, but is able to negotiate their child's problems.

397 CHAIR PARKS: In one criminal adult case we spent half as much as we are

considering here for all the children of the state. I point out that the chair took back the unitary assessment bills, and I still have those. Discuses one of the provisions of SB 1 in which 12 year old children are remanded to the adult court system. Could each of the judges here please comment on that.

418 $\,$ JUDGE OSB ORNE: Why is it that people want to see children remanded to adult court? what is it about adult court that is any different than the

way we are handling 12 year olds now. I assume one of the things being sought is punitive, because when a 12 year old commits a serious crime the people want some sort of moral justification. At this point a 12 year old who commits murder, isn't eligible for remand.

TAPE 10, A

025 JUDGE OSB ORNE: I would think that there would be a way to protect the community by passing a different sort of legislation without remanding that

child to adult court.

036 REP. BROWN: Would you support expanding the age of jurisdiction in the juvenile court to the age of 25?

040 JUDGE AIKEN: We did. One of the efforts is that the second look allows

us to manage children in a more effective way. I feel it is a nightmare to

send kids at 13, 14 into the adult system with no incentive to alter their behavior and then release them back into the community.

063 REP. PROZANSKI: You believe the second look is a must, Judge Aiken?

066 JUDGE AIKEN: Look at the whole package.

074 KULONGOSKI: I personally think there should be a unified system. Once you pick the age of culpability, I would put them all in the adult system.

The debate has to be around the disposition side of this. We have not spent enough time talking about this.

117 JUDGE AIKEN: We need to start earlier in these children's' lives so that their is some advocacy to stop them from ending up as a part of the system.

128 REP. NAITO: Thank you all for your advocacy for children.

132 KULONGOSKI: On the issue of the data collection for HB 3202; if there is any objection to the report it is the debate on what data was used. There is no common data base to monitor what is being done with these kids who have become a part of the system.

142 CHAIR PARKS: We're going to be considering two bills

COMMITTEE RECESS FOR 10 MINUTES

OPENS the WORK SESSION on HB 2884

Witnesses: Representative Mike Lehman, District 47 Representative Bryan Johnston, District 31

153 ROBINSON: Gives brief overview of HB 2884, and discuses the proposed (-2) amendments [EXHIBIT C].

173 REPRESENTATIVE MIKE LEHMAN, DISTRICT 47: Testifies in support of HB 2884 and discuses components of the -2 amendments.

215 REPRESENTATIVE BRYAN JOHNSTON, DISTRICT 31: Testifies in support of HB 2884.

-Discuses the goals of correction embodied in HB 2884 and the amendments.

241 REP. PROZANSKI: What would be the purpose for the first appearance besides a warning before the courts then set down some appropriate behavior? Would the court not be allowed to use the parenting classes as a

means to get at the problem based upon the first contact with the parents or would they have to wait?

252 REP. LEHMAN: I would suspect that a judge will explain to the parent what needs to be done for the first appearance and also provide the warning

to the parent of possible fine on their second appearance.

261 REP. JOHNSTON: The only thing we restrict is the fine. The court would

be able to order any necessary parenting classes, anger management etc. after the appraisal has been made. 272 REP. NAITO: The ability with this bill is here to give, in many circumstances, a ticket to a parent whose child is miSB ehaving. REP. LEHMAN: I'm not sure there will be a raft of parental complaints 284 out there. 300 REP. NAITO: At the local level it will be the judges deciding the cases. I really worry about the judicial standards of parenting. 321 REP. JOHNSTON: Those are both post supervision actions. The task here for the judge is to decide what happened before the incident not after the action took place. REP. LEHMAN: The bottom line is that every statute and ordinance is 330 subject to local interpretation. CHAIR PARKS: It always comes down to the judge. 347 354 MOTION: REP. TARNO: Moves to ADOPT the -2 amendments to HB 2884. CHAIR PARKS: The motion CARRIES. 358 MOTION: REP. TARNO: Moves HB 2884 as amended to the full committee with a DO PASS recommendation. VOTE: In a roll call vote, REPS. PROZANSKI, QUTUB, TARNO and 360 PARKS vote AYE. REPS. NAITO and BROWN vote NAY. CHAIR PARKS: The motion CARRIES. 366 OPENS the PUBLIC HEARING on HB 3359 Witnesses: Representative Eileen Qutub, District 8 Brenda Rocklin, Asst. Attorney General Judge R. OSB orne, Klamath Co. Circuit Court Kingsley Click, State Court Administrator Marie Bell, Children's Justice Task Force 380 REPRESENTATIVE EILEEN QUTUB, DISTRICT 8: Testifies in support of HB 3359. -Discuses the emotional trauma caused by victimization of children who are involved with a person who has sexually or physically abused them. TAPE 9, B 030 REP. QUTUB: Continued testimony on HB 3359. -Requests that Oregon extend the protection offered children in court room situations to any juvenile or adult, who by reason or developmental disability, is developmentally at the age of 12, or under. -Suggests filling in the blanks on HB 3359 with the age 12, which corresponds to the age for using the hearsay exception. -Suggests the deletion of lines 25 and 26 on page 1 of the bill. MARIE BELL, CHILDREN'S JUSTICE ACT TASK FORCE: Testifies in support of 066 HB 3359. KINGSLEY CLICK, STATE COURT ADMINISTRATOR: Testifies in support of HB 080 3359 with the proposed amendments offered by the Oregon Judicial Department [EXHIBIT D].

099 JUDGE OSB ORNE: Testifies that she feels that a law to the effect of HB 3359 is not really needed but that something should be done at the uniform trial court level to ensure that judges are acting consistently across the state.

121 BRENDA ROCKLIN, ASSISTANT ATTORNEY GENERAL, OREGON DISTRICT ATTORNEY'S : Testifies in general support of HB 3359 along with the Oregon

District Attorney's whom she is representing.

-1) Subsection 2 of the bill, page 1, requiring that all child testimony be taken in the morning. Generally this may be a good idea but it may not be good in all cases. We suggest the deletion of subsection 2 or that you amend it so that the judge can make a decision as to what would be in the best interests of the child. 2) Subsection 1 on the mandatory break period; it may be beneficial in some circumstances, however, we don't want the bill to require the court to have break periods at certain intervals. 150 REP. BROWN: I like the fact that this bill allows the developmentally disabled to come under, Section 2, page 3, the hearsay exception. Could you respond to that? 155 ROCKLIN: The DA's would fully support section 2 of this bill. 158 REP. QUTUB: Asks Ms. Rocklin if she has seen the proposed amendments. They take out lines 4 - 24 and essentially they address the issues which the DA's have a problem with. 168 REP. NAITO: We will recess for the full committee meeting and reconvene following that meeting. 170 REP. NAITO: Reconvenes the meeting. CLOSES the PUBLIC HEARING on HB 3359 OPENS the PUBLIC HEARING on HB 3202 Witnesses: Representative K. Brown, District 13 Muriel Goldman, Children First for Oregon Glenn Vest, Director, Klamath Co. Juvenile Department Allen L. Hunt, Children First for Oregon Witnesses Continued: Tammy Schilling, Administrative Asst. to Representative Meek Rebecca Crisp, Self Betty Skeen, Owner/Operator for a juvenile women's correctional home Lana Groves, Self Cathy Evans, Director, Commission on Children and Families Rick Hill, Executive Director, Juvenile Corrections Judge R. OSB orne, Klamath Co. Circuit Court Cheryl Pellegrini, District Attorney's office Angela Lee, Self 172 REPRESENTATIVE KATE BROWN, DISTRICT 13: Testimony in support of HB 3202. -Refers to 1993 session HB 3576; explained what the bill accomplished [EXHIBIT E]. MURIEL GOLDMAN, CHILDREN FIRST FOR OREGON: Testifies in support of HB 215 3202 [EXHIBIT F]. -Discuses the programs and pilot projects which are modeled after the P.A.C.E. programs which began in 1983. -Continues to read her testimony. 361 REP. NAITO: Is the program a voluntary program? GOLDMAN: Yes it would be voluntary. 366 374 REP. NAITO: Is it a purely voluntary program for all of the participants. GOLDMAN: I would suspect that if they are being referred by the 378 juvenile court that it would not be voluntary, but for the others it would be. REP. NAITO: Are prostitutes considered in the level 7 category? 380 382 REP. BROWN: Yes they are. 388 REP NAITO: I don't believe a non-residential facility for prostitutes will work in most cases, because the pimps have so much control over these women. 390 GOLDMAN: What we are talking about when we say "non residential", is

not in an institutional type program, or removed from the community. Some of these girls will be in small group homes, and family foster care.

397 REP. NAITO: In Multnomah county, when they pick up young women prostitutes, it is nearly a question of moving them on. They are basically

doing nothing with these young women.

414 GOLDMAN: We believe this type of program will help those types of girls.

410 TAMMY SHILLING, LEGISLATIVE ASSISTANT TO REPRESENTATIVE MEEK: Testifies

in support of HB 3202 on behalf of Rep. Meek. -Proposes conceptual amendments; On line 10 word "shall" to "may"; and line

14 asks that the pilot programs funding be continued or implemented if the pilot programs are good.

TAPE 10, B

020 ALLEN HUNT, CHILDREN FIRST FOR OREGON: Testifies in support of HB 3202.

[EXHIBIT G]

-Summarizes his written testimony.

052 GLENN VEST, DIRECTOR, KLAMATH COUNTY JUVENILE DEPARTMENT: Testifies in support of HB 3202.

070 BETTY SKEEN, KLAMATH COUNTY: Testifies in support of HB 3202. -Discuses the level 7 girls who are currently "falling through the cracks" because of lack of services. Girls in Klamath Co. are ignored until they have committed a crime.

113 LANA GROVES, SELF: Testifies in support of HB 3202. -Explains her circumstances through the lack of services for girls who haven't committed crimes.

138 CHAIR PARKS: Do you live with Ms. Skeen now?

139 GROVES: No, I live on my own. I never lived with Ms. Skeen because I had never committed a crime.

142 CHAIR PARKS: What school do you go to?

144 GROVES: Klamath Union High School.

146 CHAIR PARKS: How do you take care of your son?

148 GROVES: I just take care of him. I take him to the day care at my school and my job has free day care services. I work for youth corp.

150 SKEEN: Basically the New Foundations program that Miss Groves is talking about, no longer exists. She left the program right after the program "went under".

154 REP. PROZANSKI: What is the name of the program which you operate?

155 SKEEN: I just operate a corrections home. I call it Hillside Girls Home. I handle only those girls in corrections.

157~ REP. PROZANSKI: New Foundations is no longer around. And this was the program which helped girls who were not in the corrections system?

160 SKEEN: Right.

162 GROVES: The director at the time was able to get the money from her huSB ands business as a mechanic.

167 REBECCA CRISP, SELF: Testifies in support of HB 3202. -Explains her experience as a young woman.

208 REP. PROZANSKI: How long were you under the program?

211 CRISP: All together I was there about 15 months.

212 REP. PROZANSKI: For your situation you felt the 15 months was needed.

214 CRISP: I am home now. Her program is very important.

224 SKEEN: Rebecca is "sugar coating" in explaining her situation. She was

severely on drugs and running away most of the time.

ANGIE LEE, SELF: Testifies in support of HB 3202. -Explains her situation as a young woman and the need for programs to help women like her.

266 REP. QUTUB: Ms. Skeen, your program must include drug treatment.

270 SKEEN: Yes, we have a counselor.

271 $\,$ REP. BROWN: All four of you women are incredible women and I wish you lots of luck.

275 CHAIR PARKS: I want to say publicly, that Betty Skeen has truly made a difference in the Klamath Falls Community. Ms. Skeen, I am convinced that you do more for the state of Oregon than I will ever do in this job, and I want to thank you for it.

286 JUDGE ROXANNE OSB ORNE, CIRCUIT COURT JUDGE: Testifies in support of HB 3202. -We ask that you pass this bill and give Klamath County an opportunity to

be one of the pilot projects.

323 CHERYL PELLEGRINI, DISTRICT ATTORNEY'S OFFICE: Testifies in support of HB 3202.

-Discuses the future of women who are the victims of abuse and are not treated and have no opportunities yet their offenders receive treatment in the corrections system once convicted.

-P.A.C.E. program provides only half of what girls need.

367 CATHY EVANS, EXECUTIVE DIRECTOR, COMMISSION on CHILDREN and FAMILIES: Testifies in support of HB 3202.

436 REP. QUTUB: Can someone please define "Level 7".

441 EVANS: Level 7 girls are non-adjudicated, acting out and are beyond control.

443 JUDGE OSB ORNE: The term came from CSD and level 7 is the bottom of those delineation's for girls and boys and they aren't going to be served by the services through CSD.

451 REP. QUTUB: This sounds wonderful for the Klamath County individuals because you have a residential program. How are we going to protect these

girls from the kind of trouble they get into and educate them without having some sort of residential program.

TAPE 11, A

JUDGE OSB ORNE: We have a plan. In the juvenile law there is a thing called "beyond parental control" in the form of a petition. It is never filed because there everyone knows that there are no services for those kids, so why bother to do that.

-We would file that petition and then the court would be ordered to provide

these types of services.

037 PELLEGRINI: In that regard, the district attorney's office would be acting in the steed of children services and filing the petition.

040 EVANS: And in the event that the child leaves the system, then the district attorney's office would be able to place that child in contempt.

043 REP. QUTUB: Is this going to be something that will be a statewide effort?

044 EVANS: We are in support of the P.A.C.E. program state wide. We want

to make this very clear, that we hope we would be considered as a rural site, because we do meet the definition. 046 JUDGE OSB ORNE: The truth is really that these girls are committing crime but they aren't being caught. 050 REP. QUTUB: I am in support of this. I think that there is a need of intercession before the children are adjudicated. EVANS: I did bring letters of support from people and agencies that 060 were unable to come to this hearing today [EXHIBITS H - K]. 063 RICK HILL, ASSISTANT ADMINISTRATOR, JUVENILE CORRECTIONS, CSD: Testifies in support to HB 3202. -The funding is simply not available for the programs which are proposed. CLOSES the PUBLIC HEARING on HB 3202 OPENS the WORK SESSION on HB 3202 119 MOTION: REP. PROZANSKI: Moves HB 3202 be referred to the full committee with a subsequent referral to Ways and Means. 123 REP. BROWN: Discuses the conceptual amendments from Rep. Meek. 130 REP. TARNO: Comments are inaudible. 135 REP. PROZANSKI: I would entertain that as an amendment to the motion. REP. QUTUB: Are we saying "shall" or "may". 137 146 REP. PROZANSKI: Restates his motion but recognizes that the conceptual amendments from Rep. Meek should be adopted first. 155 REP. BROWN: Questions legal counsel regarding the committee's ability to amend the bill and if it needs to be referred out or does the committee need to wait for the amendments from legislative counsel? 156 ROBINSON: You can amend the bill and then the amendments will be present when the bill reaches the full committee. MOTION: REP. PROZANSKI: Moves the conceptual amendment to HB 158 3202, section 1 at line 10, the word will be changed from "shall" to the word "may" REP. TARNO: Either 2 or up to 4; at least one pilot program. 169 172 REP. QUTUB: Once you have one successful pilot program, we can look at the P.A.C.E. program and say, yes it is successful. 178 REP. PROZANSKI: Can we make the specification on the pilot programs and have two, one in rural and the other in an urban location. 181 ROBINSON: We could probably do that. 188 CHAIR PARKS: The motion CARRIES. 200 REP. QUTUB: In taking a look at the effectiveness of the possible pilot programs, is that what is addressed in section 2? Line 35, page 2 of section 2? 203 REP. BROWN: Yes. It was the intent that section 2 be reported on before it was on a state wide basis. REP. QUTUB: So this does address the concerns of Rep. Meek? 204 206 REP. BROWN: I believe so, yes. ROBINSON: Asks if Rep. Brown still wishes to consider the -1 amendments 217 which she submitted? ROBINSON: Explains the -1 amendments which are primarily clarification 223 to the bill.

238 MOTION: CHAIR PARKS: Moves the -1 amendments to HB 3202.
247 CHAIR PARKS: The motion CARRIES.
247 MOTION: REP. PROZANSKI: Moves HB 3202 as amended to the full committee with a subsequent referral to ways and means.
VOTE: In a roll call vote. All members present, vote AYE.

250

CHAIR PARKS: The motion CARRIES.

255 CHAIR PARKS: Adjourns the meeting.

Submitted by,

Reviewed by,

Janet Ellingsworth, Committee Assistant Debra Johnson, Committee Coordinator

EXHIBIT SUMMARY

- A Testimony on HB 2884 Diane Walton 46 pages
- B Testimony on HB 2884 Diane Walton 68 pages
- C Proposed amendments to HB 2884 Staff 3 pages
- D Proposed amendments to HB 3359 Kingsley Click 1 page
- E Testimony on HB 3576 37 pages
- F Testimony on HB 3202 Muriel Goldman 8 pages
- G Testimony on HB 3202 Allen L. Hunt 1 page
- H Testimony on HB 3202 J. Haggard, D. Epling 1 page
- I Testimony on HB 3202 Mike O'Brien 3 pages
- J Testimony on HB 3202 W. LouEllyn Kelly 1 page
- K Testimony on HB 3202 Stanley Gilbert 1 page
- $\rm L$ Testimony on HB 3359 Jamese Rhoades 2 pages
- M Testimony on HB 3359 S. Kelly Isgrig 3 pages
- N Testimony on HB 3359 Eugene Organ 1 page