

HOUSE JUDICIARY
SUBCOMMITTEE ON
JUVENILE JUSTICE

Hearing Room
Tapes - 30

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: Work session on HB 2776
 Public hearing on SB 1

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 WORK SESSION on HB 2676

006 ROBINSON: Gives brief overview of HB 2676. [EXHIBIT A]

018 JOHN FOOTE, DEPUTY DIRECTOR, DEPARTMENT of CORRECTIONS: HB 2676 is one of the ways we want to implement measure 17.

038 REP. PROZANSKI: Do you think this would require a super majority approval by both Houses?

043 FOOTE: This will require a 2/3 majority vote.

046 CHAIR PARKS: Your amendment provides for 20 percent?

050 ROBINSON: We've been told that in order to become eligible for federal money, that the earned time credit can be no more than 15 percent, is that true?

054 FOOTE: I have been informed that under the crime bill, in order to get funding, that there will need to be a change in the earned time credit system.

060 CHAIR PARKS: Why shouldn't we change it now in this bill?

062 FOOTE: I have some concerns about the stability of our institutions.

070 REP. PROZANSKI: Would you be opposed to modifying the language to allow for that to occur?

080 FOOTE: That seems like a reasonable approach to me.

082 REP. QUTUB: How will this be implemented? It does say "earned", when an inmate comes in, do they actually have to earn this time?

086 FOOTE: Explains the "earned time credit" system.

103 FRANK THOMPSON, WARDEN, OREGON STATE PRISON: We are already aware of recent statistics that reflect the Oregon Department of Corrections as having one of the lower inmate to staff ratio's.

122 CHAIR PARKS: How many beds do you have in the intensive management unit?

125 THOMPSON: Approximately 176.

126 CHAIR PARKS: How many people do you have in intensive management now?

127 FOOTE: It's about 109, today.

128 CHAIR PARKS: Isn't your bench mark to have it only half full?

130 FOOTE: Yes, because we have disturbances and we have to take large groups of people down,

we need the capacity.

131 CHAIR PARKS: How many people over capacity are you today?

132 FOOTE: We are approximately 500 to 600 inmates over our recommended capacity.

134 CHAIR PARKS: That's just in Salem institutions?

135 FOOTE: No, that is in our entire system.

138 CHAIR PARKS: How many in Salem and Oregon State Prison?

140 FOOTE: Most of the 500 to 600 are in the Salem institutions.

143 CHAIR PARKS: In reference to the main penitentiary, where are those people in over capacity staying by way of bed space?

146 FOOTE: Most of our overcrowding are going into what we call "D" and "E" block which are two large tiered cell blocks.

151 REP. BROWN: You said you've been having some disturbances lately, can you give us more information on that?

154 FOOTE: Yes, we've recently implemented no smoking in the penitentiary, what we call "blue sky". Describes instances of disturbances.

176 REP. TARNO: Are we under any kind of a federal consent decree order?

179 FOOTE: No, we are not.

180 REP. TARNO: Have we been threatened with that in the past decade?

182 FOOTE: I am not familiar with that.

186 REP. TARNO: A lot of county jails in Oregon are currently under or have been under a consent decree issued by the federal court for a variety of reasons. We have two inmates sharing a 40 square foot area, I can only assume that they are out of those cells often in order to have more exercise and fresh air.

197 THOMPSON: They do have regular exercise periods, the majority of the inmates are in work programs either in institutional services or with industries.

202 REP. TARNO: If they were not in some type of work environment or rehab setting, would they be spending more time in that 4 by 10 cell?

204 THOMPSON: Yes, they would be spending more time in that cell.

206 REP. TARNO: Wouldn't that up our chances of having some type of federal mandate put down around our shoulders?

207 THOMPSON: That is correct.

208 REP. BROWN: My concern is putting the provisions in measure 17, onto measure 11 and changing what the voters have recently passed.

214 FOOTE: This is not intended to effect measure 11. This is a way to implement another ballot measure which the voters voted for very strongly.

241 MOTION: REP. TARNO: Moves the -1 amendments to HB 2676.

244 CHAIR PARKS: The motion CARRIES.

246 MOTION: REP. PROZANSKI: Moves to conceptually amend the -1 to HB 2676.

ame

253 ROBINSON: There was some language passed out in yesterday's crime committee dealing with records that talks about the FBI policies and how it gets implemented here. I would suggest that this committee could use that same language.

266 CHAIR PARKS: That's to qualify for federal funding.

270 ROBINSON: That is correct.

272 REP. TARNO: How about "so modified by federal government standards"?

274 CHAIR PARKS: Or, "and the state elects to avail itself the opportunity".

276 ROBINSON: I understand the amendment, let me come up with some language and when the bill gets to full committee we can look at it.

278 CHAIR PARKS: The motion to conceptually amend the -1 amendments CARRIES.

289 MOTION: REP. TARNO: Moves HB 2676 to the full committee with a do
pass recommendation.

291 VOTE: In a roll call vote REPS. BROWN, PROZANSKI, TARNO and
CHAIR PARKS vote AYE. REP. QUTUB votes NAY. REP. NAITO is
EXCUSED.

294 CHAIR PARKS: The motion CARRIES.

CLOSES the WORK SESSION on HB 2676
OPENS the PUBLIC HEARING on SB 1

307 CHAIR PARKS: We have one hour to take further testimony on SB 1.

313 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT: Testimony in support of SB 1.

Proposed amendments submitted. [EXHIBIT B]

359 REP. PROZANSKI: It's my understanding that even if there was an
expungement that the system is now set up that there will be registration
required of sex offenders so there will be a
way of tracking individuals who have been convicted of sex crimes.

366 TRAVIS: That is true. My understanding is that all of the
registration provisions allow someone
after 10 years to petition to be removed from that registration.

383 LARRY OGLSB Y, OREGON JUVENILE DEPARTMENT DIRECTOR'S ASSOCIATION:
Testimony in support of SB 1.

TAPE 30, A

020 REP. TARNO: You just heard Mr. Travis raise another issue about
creation of expungement for juvenile offenses under a closed register
system, do you understand what he's talking about?

023 OGLSB Y: Yes, I do. I believe that's a good solution to the problem,
he accurately describes the tension in juvenile court in terms of not
trying to have an unexpungable life time record.

028 REP. BROWN: Rep. Meek was concerned about creating a whole separate
agency with the Oregon Youth Authority, and my other concern is why not
leave the Oregon Youth Authority for
measure 11 kids only?

032 OGLSB Y: Our main concern was that it be removed from CSD so you don't
have that struggle for resources within the agency and that it not go in to
the adult system and get lost there.

038 REP. BROWN: Can you respond to why you made that particular
recommendation under the
umbrella of the Department of Human Resources (DHR)?

040 OGLSB Y: The pro's for being under DHR was the availability of
resources such as alcohol and drug and mental health which are also a part
of DHR. The other issue is the cost of creating a separate department.

047 REP. BROWN: If we have the Oregon Youth Authority to deal with the
measure 11 kids, wouldn't it be easier for families that have delinquent
and dependent kids to address those family needs within the DHR as opposed
to having two separate agencies dealing with one family?

051 OGLSB Y: It was never our intention for the Youth Authority to deal
with just measure 11 kids.
My understanding was that they would continue to deal with youth who are
committed to the training schools just as they are now.

058 REP. BROWN: What about families who have got both delinquent and
dependent children and
providing services to those families?

061 OGLSB Y: That continues to be a difficulty. In many cases you have
youth who are dependent who become delinquent and there is dialog between
Children's Service Division and the Juvenile
Department as to who is appropriate to carry the case and what services are
appropriate.

065 REP. NAITO: I do support the need to keep all the delinquent youth in
the same type of program but my concern is the structural conversation, I
don't see the need for two case
managers.

080 OGLSB Y: I was not implying that we would have two case managers for
the same child, but you may have two case managers for the same family who
would need to do that coordination.

083 REP. NAITO: I don't see the need to have two case workers for the same
family in all cases, if some of these people can be trained to handle all
these types of situations these families are
dealing with, you don't need to have the specialized training where one
person is dealing with only one issue.

089 OGLSB Y: That would be a major departure of how we currently do
business and I think it would have significant issues in terms of training

the staff.

093 CHAIR PARKS: Could you please meet with Rep. Naito to discuss this with her in more detail?

097 MARK MACDONALD, DEPUTY DISTRICT ATTORNEY, MULTNOMAH COUNTY:
Testimony in support of SB 1.

158 REP. QUTUB: How do you feel about the expungement issue?

163 MACDONALD: I think it's essential that those individuals and organizations that are responsible for the care of children, have the ability to track both juveniles and adults.

185 CHAIR PARKS: I think you said it both ways, I think you gave the argument for non-expungement. Did you say that the fact that someone has had adjudication in juvenile court should be available through out their lifetime?

192 MACDONALD: I think that information should be available to agencies that are responsible for the care of children.

195 REP. PROZANSKI: You think closed registration would take care of that need as well as having the registration in place that at least for 10 years they will have to maintain registration, then for the protection of the public an agency that needs that information will still be able to get it after the 10 years?

200 MACDONALD: I don't have a strong feeling on registration one way or the other. What my concern is that those agencies that care for children need to have that information available.

205 REP. QUTUB: Does the closed registry help to be able to adjudicate so games are not played because of not being able to expunge them?

209 MACDONALD: Yes, I think it would help.

212 REP. BROWN: Gives example of sex abuse case.

223 MACDONALD: My understanding of the bill is that the Oregon Youth Authority does not come into effect until they are committed to the Juvenile Justice system.

232 REP. BROWN: So the distinction here is not delinquency, I thought delinquency was the line for the Youth Authority.

236 MACDONALD: That is not my understanding of the bill. It's only when they are committed to the training school that the Youth Authority would obtain jurisdiction over the individual.

240 MIKE LIVINGSTON: There are a number of thresholds for Youth Authority involvement. Explains the criteria for Youth Authority.

248 ROBINSON: At that point the other option is to maintain it like the current system which is to place the kid on probation at which point the juvenile department would handle the case in the way that is now being done.

251 REP. BROWN: So, an adjudication of delinquency is not when the Oregon Youth Authority kicks in, it's in the dispositional phase

254 LIVINGSTON: That is correct. All of the options that are now available at disposition remain and are unchanged in SB 1.

275 ROBIN WRIGHT, OREGON STATE BAR TASK FORCE ON JUVENILE LAW:
Testimony on SB 1. [EXHIBITS C & D]

323 CHAIR PARKS: On the proportionality issue, do you think there is a constitutional issue on second degree robbery?

327 WRIGHT: I believe it certainly would be raised, the members of our committee did seem to think that was a large concern.

330 CHAIR PARKS: Let's assume it was unconstitutional, just a second degree robbery, would that invalidate measure 11?

334 WRIGHT: I believe there is a severability clause in measure 11.

336 REP. TARNO: Gives example of robbery in the second degree.

341 WRIGHT: A robbery committed with two people actually present is a robbery in the second degree and that would fall under the measure 11 category.

345 REP. PROZANSKI: There is a catch to that as to they have to either be detaining or retaining the property.

353 MURIEL GOLDMAN, CHILDREN FIRST FOR OREGON: Testimony on SB 1.
[EXHIBIT E]

434 CHAIR PARKS: We will read your amendments.

TAPE 29, B

025 GERALD MCFADDEN, PRESIDENT, VOLUNTEERS of AMERICA of OREGON:
Testimony on SB 1. [EXHIBIT F]

067 REP. PROZANSKI: I have been working on this, someone raised the issue
when you look at he

075 MCFADDEN: I don't have the data to that issue.

082 LAWRENCE DARK, PRESIDENT AND CHIEF EXECUTIVE OFFICER, the URBAN LEAGUE
of PORTLAND: Testimony on SB 1. [EXHIBIT G]

122 CHAIR PARKS: I've watched the 6 hours of video tapes that Rep. Gordly
has asked me to watch, so I am well aware of your concerns and I intend to
have an amendment prepared to address your concerns.

132 BOB KUHNS, LEGISLATIVE LIAISON, CRIME VICTIMS UNITED: Testimony in
support of SB 1. [EXHIBIT H]

186 DEE DEE KUHNS, CRIME VICTIMS ADVOCATE: Testimony in support of SB 1.
Expresses concerns about minorities.

203 CHAIR PARKS: What in Judge Peterson's report leads you to the
conclusion that that is
desirable?

206 KUHNS: I don't think you can have it both ways. Expresses concerns
about black crime victims and the disproportionate numbers of black crime
victims and the black crime victims believe their perception is that they
don't receive a fair shake in the system. How can you have
it both ways?

213 CHAIR PARKS: I think that you can if you believe that crime is a
symptom in some instances of economic circumstance.

221 KUHNS: That may be true, but having the offenders receive a lighter
sentence because they are minorities is not an answer.

225 CHAIR PARKS: I don't think that Judge Peterson suggests that or the
people on that commission.

228 KUHNS: No, that is not the suggestion they made, but that is going to
be the outcome of that study. I have not heard anyone speaking for the
minority victims and that is why I am here.

235 REP. BROWN: What the task force says to me is not that we treat
criminals who are of different
color, give them an easier sentence, is that where there is discretion in
the system, the report says to me that minorities have gotten the short end
of the stick.

256 KUHNS: If the reaction to the study is in fact looked at from all
angles, I could support that whole heartedly, but that's not what I'm
hearing coming from people, I'm hearing only the concern of the offender.

269 REP. NAITO: Mr. Kuhns, I liked your suggestion about the Secretary of
State oversight.
Would you be amenable to moving that?

280 BOB KUHNS: Yes, as long as the task gets done. The reason we decided
to put that into the "goals" section is that it is our belief that when a
kid comes in to the system and we spend money on a kid, let's say alcohol
and drug treatment, the fundamental way we want to measure the success of
that program is do they recommit?

304 KUHNS: I think that the difference is that many people who work in the
system don't understand how crime victims view the offense and the sentence
that ultimately comes out.

316 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION (ACLU): We support the
amendments that have been suggested by the Juvenile Right's Project and
Children First for Oregon, we oppose the bill.

360 STEPHEN KAFOURY, COMMITTEE of OREGON CHILDREN: Testimony on SB 1.

385 CHAIR PARKS: With nothing further the meeting is adjourned at 10:05
A.M.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A - Proposed amendments to HB 2676 - Staff - 3 pages
- B - Testimony to SB 1 - Travis - 10 pages
- C - Addendum to SB 1 - Wright - 1 page
- D - Testimony to SB 1 - Wright & Stiegler - 3 pages
- E - Testimony to SB 1 - Goldman - 4 pages
- F - Testimony to SB 1 - McFadden - 4 pages
- G - Testimony to SB 1 - Dark - 13 pages
- H - Proposed amendments to SB 1 - Kuhns - 1 page