

HOUSE JUDICIARY
SUBCOMMITTEE ON
JUVENILE JUSTICE

Hearing Room
Tapes - 32

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 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 SB 1

006 CHAIR PARKS: We are going to do a different type of work session on this bill. Explains intentions. Is the issue that you don't want two case workers working with a family?

030 REP. BROWN: Expresses concerns to the committee.

048 CHAIR PARKS: I think we've made a conscious decision. The Oregon Youth Authority must take priority over the CSD approach.

060 REP. BROWN: Most of these kids are coming back, I'm concerned about our long term vision about where we want to go in terms of juvenile corrections.

074 CHAIR PARKS: I think we have a big enough job just to work this part

out.

076 REP. TARNO: I think we're talking about proactive and reactive issues.

084 CHAIR PARKS: Your saying that the Youth Authority is the "reactive" and that's what we're dealing with in this bill?

086 REP. TARNO: That's my impression.

088 REP. QUTUB: Measure 11 came about after the whole concept of SB 1. This SB 1 is not about measure 11, measure 11 got moved in to it because it was the appropriate place.

110 REP. TARNO: I wouldn't want to see the proactive program diminished at all.

114 REP. PROZANSKI: I think the proactive, reactive is a good measure of what those two agencies are going to be doing.

130 CHAIR PARKS: The bill provides for levels of custody, we don't have the money and I think it's indispensable that this is a real system that's going to work, that we do have the medium and the low levels of custody and

I think we should have them right away. Do you agree we leave those concepts in whether we have the money or not? The second issue is do we mix measure 11 and non measure 11 kids together?

148 REP. QUTUB: Yes.

149 CHAIR PARKS: OK, is everyone in agreement? One more issue, my philosophy is it's not an age thing. The basic idea is to develop a philosophy based upon the person, and their age is not the determining factor on where they are placed.

156 REP. BROWN: I think MacLaren does that now. I don't see that that piece needs to change.

160 CHAIR PARKS: It does because they do it at age 21, now.

162 REP. BROWN: In terms of the mechanism, that can stay fairly similar.

164 REP. TARNO: I thought I read in the bill that they would have that kind of flexibility.

166 CHAIR PARKS: I want to know if we agree with that sort of philosophy.

168 REP. QUTUB: I do. In trusting the Youth Authority to do that, we put great trust to that a kid may come in at age 21 and he's a terrible influence on some of the younger people too.

172 CHAIR PARKS: I think there are some at age 16 that should go to the penitentiary.

177 MARK MCDONNELL, MULTNOMAH COUNTY DEPUTY DISTRICT ATTORNEY: I have worked in the Governor's Task Force over the past year. I think all of us who have worked through this process want to emphasize the proactive piece

of this. We need to restore
credibility to the juvenile justice system.

221 CHAIR PARKS: When you say small percentage, what percentage are we talking about?

226 RICK HILL, ASSISTANT ADMINISTRATOR, JUVENILE CORRECTIONS: Every year there are 40,000 kids arrested in the State of Oregon, so the total population now under juvenile corrections at the state level is 2,800.

231 MICHAEL LIVINGSTON, DEPARTMENT OF JUSTICE: Look at SB 1 in the context of the entire juvenile code. SB 1 does not supplant the dependency provisions it only changes those delinquency provisions that are expressly stated or amended in the bill.

264 CHAIR PARKS: Under SB 1 the pure adult, the 19 year old, is it now structured that the sentencing judge would sentence him to the Department of Corrections or let's assume SB 1 is now in effect, he's 19 year's old, we send him to the Department of Corrections who refers him to the Youth Authority, or is he sent directly to the Youth Authority for the determination?

272 LIVINGSTON: This is not a person who is not a measure 11 person?

273 CHAIR PARKS: No, this is a 19 year old who commits some crime.

276 LIVINGSTON: Those people go right to corrections.

278 CHAIR PARKS: But then under the bill, can they go back to the Youth Authority?

280 ROBINSON: No, that's what your amendments do.

282 CHAIR PARKS: That is what I am proposing. Explains intentions.

297 REP. TARNO: I like the idea. (Inaudible)

307 ROBINSON: Submits and discusses conceptual amendments to SB 1. [EXHIBIT A].

393 CHAIR PARKS: The one thing I have learned from being on the judiciary committee is that when you spend money on one end you take it away from another. We have to prioritize who we are spending our money on.

418 REP. TARNO: (Inaudible)

422 REP. NAITO: Who will make that decision on the transfer and how will it be accomplished?

427 ROBINSON: We took the concept of the Intake Assessment Center and

turned it into a center as a building, into an intake assessment process.
Explains assessment process.

TAPE 32, A

020 REP. NAITO: How did you propose that in here?

023 ROBINSON: Some of the criteria are in there now. We did take out just
for drafting purposes,
"this assessment center as a building".

031 CHAIR PARKS: The idea is you end up with some kind of a program that
dictates where he
goes.

042 REP. QUTUB: There is a basic philosophy about how and why people
commit crimes. Personally I don't believe that economics and society and
all the influences around you have as
much to do with your committing crime as what's inside you has to do with
it.

055 CHAIR PARKS: We don't care why you act the way you act.

058 REP. QUTUB: I think that is why somebody can tell you a totally
different, opposite view of how we should go about it.

061 REP. NAITO: I think the premise is we want a plan so that everyone
knows what the goal is so
we can measure whether or not we're succeeding in making efforts and
accomplishing that plan.

069 CHAIR PARKS: We've got to take these people who have different
approaches to this and say
"let's forget the approach because we're never going to agree on that". SB

1 is not going to take
care of the problems with juveniles, it's going to meet the problems for
the next couple of years and then there will be a whole new set of
problems.

080 NANCY MILLER, STATE COURT ADMINISTRATOR'S OFFICE: I would submit there

is a middle ground. That is to look at the population of the kids who are
in out of home placement, who are not in secure custody.

114 REP. BROWN: Council, you said that that piece is in the bill in terms
of the counties being able to contract for delinquent beds.

116 ROBINSON: I believe it is. We've added some new language to make it
more clear.

117 LIVINGSTON: It's not limited to just facilities, it's all programs.
It's in section 2, subsection 5, a and b, and then in sections 91 and 92.

137 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT, INC: What some people call
the most appropriate disposition of a case, some other people who are
involved in the system have decided as a matter of policy is "game

playing".

148 REP. BROWN: I thought as a result of SB 1 we have three options in terms of the big picture.

157 ROBINSON: Did you save this chart that was in your packets before?
Refers to [EXHIBIT M]
from the April 18 hearing.

172 REP. BROWN: I'm really clear I don't want that to happen.

176 REP. QUTUB: What I heard Rep. Brown say is that she does not want to happen what the bill does now. I want the Youth Authority to have the ability to use all of those services.

182 REP. BROWN: If you start mixing up the kids who are going to foster homes under the Youth Authority with the kids who are going to maximum security beds, your going to have a nightmare.

185 CHAIR PARKS: That's the war that is going on now?

187 TRAVIS: No, the war that's going on now is when you have a sex offense charged, the district attorney demands a criminal adjudication. Other players in the system, often to avoid the consequences of that want a dependency adjudication.

191 MILLER: The small war that is going on here, I am talking about the kid who is 13 years old who steals a pack of cigarettes, who's been out of control for a long time, and you say "thank you god, he finally committed a delinquent act and I can now hold him accountable".

201 LARRY OGLSB Y, OREGON JUVENILE DIRECTOR'S ASSOCIATION: I think the missing piece in this discussion is the local piece of the system, which this bill does not address.

223 CHAIR PARKS: So you agree with Rep. Qutub?

224 OGLSB Y: Yes.

228 HILL: It would be a disaster not to include the out of home care piece with the Youth Authority.

237 REP. PROZANSKI: (Inaudible)

238 CHAIR PARKS: Isn't it a turf issue?

240 HILL: To some degree it is a turf issue. In SB 1, and in the long range ten year plan of juvenile corrections, which came before SB 1, we envisioned some of these substitute care programs eventually evolving into a county based operation.

246 OGLSB Y: It's a question of access for these particular kids.

258 HILL: We split this resource recently, administratively in the past year within Children's Services Division.

267 REP. PROZANSKI: In reality then both CSD and the Youth Authority still have access to foster homes and group homes. The concern I have is making sure we don't get dependent children and put them in with delinquent children to the point where we have a bad influence.

271 HILL: That's the best part of the separation because currently we find ourselves with perpetrators and victims, sometimes in the same home without even knowing it.

278 REP. BROWN: It's my understanding that delinquent and dependency kid's are on the same programs. I'm getting nods from the treatment provider's. We are not going to be able to make that distinction, correct?

280 OGLSB Y: We will be able to make that distinction by the type of court order on the person.

283 REP. BROWN: In terms of the treatment program or the foster home, we're not going to have foster homes now as a result of SB 1.

298 STEPHEN KAFOURY, TREATMENT PROVIDER: I agree with the State Court Administrator's Office. You must understand that this kids are not easily divisible, it's a job of a judge to say your a delinquent or dependency kid.

309 REP. PROZANSKI: Does the program include residential placement or are we talking of some type of program to include structural changes?

328 KAFOURY: My agencies are residential care facilities. Often times it's a placement issue.

352 OGLSB Y: The system needs to change to identify what the kids needs and provide services.

363 REP. QUTUB: So decision makers in the Youth Authority or intake center, will be able to determine for instance, a foster home that handles both dependent youth and may handle adjudicated youth, I'm assuming these people in the intake units will know what place is best for that child and what services are needed.

387 KAFOURY: That is a resource issue and it's not going to be resolved by what ever we do administratively in this bill. As long as we have a shortage of beds and a high number of kids, kids are going to continue to be placed wherever there is an empty bed no matter what kind of structure is set up.

393 REP. QUTUB: SB 1 will help with beds, we will have 400 more beds.

396 REP. PROZANSKI: (Inaudible)

401 REP. NAITO: I think we should design a system that makes the most

sense, but we have to give it the flexibility to deal with the resource problems that arise.

418 OGLSB Y: In terms of kids who are both dependent and delinquent, there is a decision made early on, on how that case is going to be handled.

433 KAFOURY: If your going to have a good sex offender treatment program, you don't want to put to many sex offender's in one program. You want to blend sex offender kids with non sex offender kids so they have roll models of people who are "normal".

443 REP. TARNO: Is that kind of saying "putting one bad apple in the barrel with good apples?"

446 KAFOURY: The result of that is that apple becomes a good apple.

TAPE 31, B

024 CHAIR PARKS: We are going to talk about expungment, closed registry concept.

030 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT, INC: We had expunction in SB 1, but it was taken out. We have talked about a "closed register" and I have not really thought out how that would interact with the registry that is now being created for juvenile sex offenders and the public nature of that registry.

043 CHAIR PARKS: The rational for expungement is we want to destroy the record so that the person in effect, has a clean slate and that conflicts with the need to know, especially dealing with pedophile. To go to work for the school district it sounds like you should always have access to that information, but that's not necessarily true. How do we handle that problem?

056 TRAVIS: I'm not sure we can. I think the school district would not hire a person who has an expunged sex offense record, even to drive the fork lift in the school book depository.

060 CHAIR PARKS: The nature of the closed registry, those folks are not going to be able to get a job in a school district anyway?

064 TRAVIS: I think realistically that is correct.

067 MCDONNELL: I do agree with that. What I want to do is to create a system where the people who are responsible for the care of children have that information and can make that decision.

068 CHAIR PARKS: Mr. Travis gave us an outline of his proposal, is there any part you disagree with? From the April 26 hearing. [EXHIBIT B]

070 MCDONNELL: I have not looked at that.

071 CHAIR PARKS: Will you go over that and give it back to Holly?

072 ROBINSON: My concern about this and what I would like Mr. Travis and Mr. McDonnell to do is to talk to the State Police and the individuals who do the registry who deal with LEADS checks, background checks for teachers.

078 TRAVIS: I've talked to Cliff Daimler from the State Police who does this and he states there is no problem to do this. This is more or less being done right now with the sex offender registry.

080 ROBINSON: The issue is the background checks that HB 2123, which this committee just passed, there is a list of offenses for which a person cannot be a teacher or employee. The second issue is the responsibility for those people to be on the sex offender registry.

107 CHAIR PARKS: I will assume you will agree with his proposal unless you make your opposition known.

111 REP. TARNO: We've been discussing notification of adult sex offender's (Inaudible)

113 TRAVIS: You can't be expunged until 5 years after you have been released from supervision.

117 REP. TARNO: That could be a person up to 25 years of age.

120 TRAVIS: I'm sorry I misunderstood what you said.

122 REP. TARNO: (Inaudible) We have not talked about "predatory" in this case, but would the same principal apply?

12 7 TRAVIS: Yes. This only applies to juvenile sex offenses.

130 ROBINSON: For those of you who are on the crime subcommittee you will recall we did the sex offender notification bill and the changing of the registry. At this point the provision's of this bill do not conform with that which is one of the things this committee is going to have to do.

138 CHAIR PARKS: I don't feel comfortable making guards "peace officer's". A "peace officer" has a special status.

155 HILL: The only reason we added the "peace officer" status to this bill is to give MacLaren and Hillcrest cottage and campus staff some legal protections.

168 CHAIR PARKS: You don't care if we put in the bill "they are peace officer's but they are not authorized to carry weapons"?

171 REP. TARNO: You may want to expand that to say "Deadly".

173 CHAIR PARKS:

176 REP. PROZANSKI: Getting away from that concept

190 CHAIR PARKS: Yes, we are talking about firearms. They can carry firearms if they are BPSST trained.

191 REP. PROZANSKI: Maybe another way to handle this is to get away from that concept and getting some type of exception or limitation to these individuals who are staff employees.

193 REP. NAITO: How do they handle that in the adult facilities?

194 REP. TARNO: They are BPSST trained in the adult system. (Inaudible)

203 REP. PROZANSKI: Why couldn't we set up a new classification of employees that would be dealing with youth offender's?

209 HILL: What we're looking for is the legal ability to pursue, detain and hold the kid and bring him back to the institution.

213 OGLSB Y: There is and has been in statute ORS 419A.016, for county juvenile officer's.

220 REP. NAITO: What's the cite?

222 OGLSB Y: ORS 419A.016

224 CHAIR PARKS: I'm going to put in the bill some requirement that as part of your training have cross cultural and diversity training.

226 HILL: We actually got that language in on the Senate side, but it didn't show up in the printing of the bill.

229 CHAIR PARKS: I think in the SB 1 there are three types of advisory council's. There's also an advisory council in SB 1145, which is a combination of Children and Families plus law enforcement folks as a combined council to advise community corrections.

249 OGLSB Y: Under SB 1145, a juvenile director would by statute be a member of the adult council. Juvenile departments are involved, although not always members of the local Commission on Children and Families.

266 REP. PROZANSKI: I have no problem with the concept, just the range of age, 14 through 18.

269 CHAIR PARKS: So then we can change it to 12 to 25.

273 OGLSB Y: We could certainly do that.

275 CHAIR PARKS: Is everybody in agreement with doing it that way?

282 REP. NAITO: Why do you have to start with 12?

289 OGLSB Y: I don't think you have to define age because we do deal with delinquent kids under the age of 12.

307 REP. NAITO: We would keep some of these provisions in under section
75?

309 OGLSB Y: That was not the proposal, the proposal was to simply replace
section 75.

311 REP. PROZANSKI: That is what Children and Families Commission is
supposed to be doing anyway.

313 REP. NAITO: They have a lot of other things they are doing besides the
Juvenile Justice piece.

320 CHAIR PARKS: With nothing further from the committee the meeting is
adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth
Committee Assistant

Debra Johnson
Committee Coordinator

EXHIBIT SUMMARY:

A - Conceptual amendments to SB 1A - Staff - 2 pages