

HOUSE JUDICIARY
SUBCOMMITTEE ON
JUVENILE JUSTICE

Hearing Room
Tapes - 34

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

003 CHAIR PARKS: Convenes meeting at 8:35 A.M.

OPENS the WORK SESSION on SB 1

004 CHAIR PARKS: I have asked the administrator to prepare the amendments and a list of amendment. [EXHIBIT A]

010 ROBINSON: Describes list of amendments.

023 MOTION: REP. TARNO: Moves to adopt the -A21 amendments.
[EXHIBIT B]

026 REP. QUTUB: I have a question about culturally appropriate programs. If we have an African American youth that commits a crime, do they go to a special facility?

030 CHAIR PARKS: Not a special facility, that's a program within the existing program that seeks to address their needs.

036 REP. QUTUB: My concern is how it will be interpreted.

045 REP. BROWN: I compare race discrimination to gender discrimination.

062 CHAIR PARKS: I think it does mean programs in the context that "on our way to getting to be Americans, we all came from a different place".

075 REP. PROZANSKI: One size shoe does not fit all so we need to make sure we have the flexibility to address the needs of others.

077 CHAIR PARKS: There are differences in this bill.

080 CHAIR PARKS: The motion CARRIES.

082 REP. BROWN: Regarding the foster care homes under the Oregon Youth Authority, is the feeling that these are separate and distinct from foster care homes that would be run by Children's Services Division (CSD)? I am getting nods from the audience.

087 ROBINSON: Discusses the -A22 amendments to SB 1. [EXHIBIT C]

092 REP. TARNO: Moves the -A22 amendments to SB 1.

094 CHAIR PARKS: The motion CARRIES.

094 ROBINSON: Discusses the -A23 amendments. [EXHIBIT D]

100 MOTION: REP. BROWN: Moves the -A23 amendments to SB 1.

102 CHAIR PARKS: The motion CARRIES.

104 ROBINSON: Discusses the -A24 amendments to SB 1. [EXHIBIT E]

114 REP. PROZANSKI: I think Mike Livingston has a question regarding the -A24 amendments.

116 MIKE LIVINGSTON, DEPARTMENT of JUSTICE: Regarding the -A24, they do
amend
not only SB 1 but also the provisions of 419C, to authorize remand for
these people 14 and under? [EXHIBIT O]

118 ROBINSON: Yes.

121 MOTION: REP. PROZANSKI: Moves the -A24 amendments to SB 1.

123 CHAIR PARKS: The motion CARRIES.

124 ROBINSON: Discusses the -A25 amendments to SB 1. [EXHIBIT F]

130 MOTION: REP. TARNO: Moves the -A25 amendments to SB 1.

132 LARRY OGLSB Y, OREGON JUVENILE DEPARTMENT DIRECTOR'S ASSOCIATION:
On the last page, lines 12 and 13, there is a limitation on the prevention
programs for youth
between the ages of 14 and 18. That is really not consistent with the
delinquent youth we deal
with.

138 MOTION: CHAIR PARKS: Conceptual amendment to the -A25 amendments.
The conceptual amendment is ADOPTED.

140 CHAIR PARKS: The -A25 amendments are adopted as conceptually amended.

144 ROBINSON: Discusses the -A26 amendments to SB 1. [EXHIBIT G]

160 CHAIR PARKS: The other part that I think is equally important is that
there are instances when people much less than the age of 18 should be sent
straight to the penitentiary and not be mixed in
with younger people.

163 MOTION: REP. TARNO: Moves the -A26 amendments to SB 1.

165 REP. QUTUB: On page 3, lines 2 and 3, it looks to me like they should
not be in a youth correction facility.

168 CHAIR PARKS: That is correct, it is supposed to be that way.

170 ROBINSON: That's the transfer one way and there is language in another
part of the amendments that deal with those kids.

174 REP. QUTUB: These are the more violent kids or the one's that should
not be with younger kids.

177 CHAIR PARKS: The motion CARRIES.

182 ROBINSON: Discusses the -A-27 amendments to SB 1. [EXHIBIT H]

192 MOTION: REP. BROWN: Moves the -A27 amendments to SB 1.

194 CHAIR PARKS: The motion CARRIES.

194 ROBINSON: Discusses the -A28 amendments to SB 1. [EXHIBIT I]

202 OGLSB Y: Basically there are four changes we're proposing. Discusses
each change.

224 LIVINGSTON: The only objection for substituting the "shall" for the "
may" language in section 92, "may" does not mean if the department feels
like it but means "is authorized to".

245 RICK HILL, JUVENILE CORRECTIONS: We intend to pursue these contracts.
We prefer
"may" to "shall". [EXHIBIT P]

252 MOTION: CHAIR PARKS: Moves conceptual amendment to the -A28 amendments
to remove the first two lines which will return it to a "may" rather than a
"shall".

254 CHAIR PARKS: The motion CARRIES.

258 MOTION: REP. TARNO: Moves the -A28 as conceptually amended to SB 1.

260 CHAIR PARKS: The motion CARRIES.

262 ROBINSON: Discusses the -A29 amendments to SB 1. [EXHIBIT J]

270 MOTION: REP. PROZANSKI: Moves the -A29 amendments to SB 1.

272 CHAIR PARKS: The motion CARRIES.

274 ROBINSON: Discusses the -A30 amendments to SB 1. [EXHIBIT K]

292 REP. QUTUB: Is there a separate register specifically for sex
offenders?

297 ROBINSON: There is a separate requirement that deals with sex offender
registration.

311 REP. QUTUB: Will they be in both the registry and the state police?

312 ROBINSON: Yes.

314 REP. TARNO: It's all collated through the Law Enforcement Data System (LEDS).

317 REP. QUTUB: So for instance if an employee specifically wants to check for sex offenses and not the other, will they find it?

320 ROBINSON: Yes.

319 REP. NAITO: A normal employer, if they expunge it they wouldn't be able to get that, but wouldn't it be any of the child care provider's, all the one's we've designated to do records check that work with children, would get that?

324 CHAIR PARKS: No, that's the difference between what you've said. An employer cannot get a record from the State Police.

333 REP. NAITO: The one area that is not covered are the individual parents who hire someone who watches three kids or less, there is no way you will be able to know.

348 REP. BROWN: I have a concern about some language. This requires a hearing every time there is a motion for expunction, and I think what folks had agreed upon was a hearing every time there was a contested expunction.

352 CHAIR PARKS: Doesn't the person have the option of making a prima facia case?

360 REP. PROZANSKI: They can ask for their record to be expunged. (Inaudible)

367 REP. BROWN: This requires a hearing.

370 ROBINSON: It say's the court "may" order, there's no hearing required.

372 CHAIR PARKS: I don't think it should be a "may", I think if someone objects there should be a hearing.

375 REP. BROWN: That's correct. That's not the issue, the issue is this requires the court to have a hearing before there is an expunction.

380 CRAIG CAMPBELL, PRESIDENT, VICTORY GROUP: When we were over at the Senate side when we were determining how to deal with the potential cost of requiring a hearing for every expunction in this instance, it was suggested that we only require a hearing where the district attorney say's "we have no objection to this".

394 CHAIR PARKS: Where in the amendment is this precise language that deals with the hearing?

401 NANCY MILLER, STATE COURT ADMINISTRATOR'S OFFICE: On page 1, line 23 and 24, and page 2, line 1.

410 CHAIR PARKS: This is serious business. I don't want to disagree with the court's. I think the judges can schedule a prima facia hearing and develop a way to do those.

428 REP. NAITO: It looks like there has to be an affirmative showing of certain findings.

440 TIMOTHY TRAVIS, JUVENILE RIGHT'S PROJECT INC.: There can be a finding upon affidavit. I think the current expunction is so rarely used that I believe it can be with no objection by the district attorney, an expunction can just happen.

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020 MILLER: We like the way Mr. Travis designed this system, so what we will need to do is go back and put together some type of figures to give us an idea what the fiscal impact of this will be.

024 CHAIR PARKS: When you get them together, you can take them to Ways and Means because we will no longer have this bill.

030 REP. BROWN: What you think Mr. Chair, is that every expunction proceedings should have a hearing?

031 CHAIR PARKS: I think there should be some kind of a showing by the person that wants it.

034 REP. BROWN: The language of the bill says "after a hearing". I don't

want us to have full
blown hearings every time an expunction is requested.

038 CHAIR PARKS: The amendment as it is written, provides for a hearing.

041 MOTION: REP. TARNO: Moves the -A30 amendments to SB 1.

043 REP. QUTUB: Isn't there a fee and doesn't it help to cover the
charges?

045 CHAIR PARKS: There is an \$80 expungement fee.

045 ROBINSON: That is a different piece, but there is a provision that
says "the court can set a fee to cover the costs of the court", page 2,
line 28.

048 CHAIR PARKS: The motion CARRIES.

050 ROBINSON: Discusses the -A31 amendments to SB 1. [EXHIBIT L]

055 REP. NAITO: This deals with when the offender is also receiving child
support, or when the offender is a parent and is supposed to pay child
support?

057 ROBINSON: It's the second. Where for example, if a child is in foster
care, the state can bill
the parent for some kind of support services.

060 REP. TARNO: Section 131c. talks about title IV-D, how does that
dovetail in for the ability for somebody to get funds?

063 ROBINSON: It is support enforcement money that comes from the federal
government.

067 MOTION: REP. TARNO: Moves -A31 amendments to SB 1.

069 CHAIR PARKS: The motion CARRIES.

070 REP. BROWN: Discusses the -A18 amendments to SB 1. [EXHIBIT M]

095 REP. BROWN: Discusses the -A19 amendments to SB 1. [EXHIBIT N]

110 REP. NAITO: Would this mean the Youth Authority would have to accept
these kid's even if
they were on a different crime matrix?

114 REP. BROWN: It was my understanding they would have to fit in to the
overall scheme of things.

115 HILL: The amendment does not specify that and I think that's a problem
with the amendment.
I think we need to be more specific about what crimes and what the
threshold is for accessing
the state training schools for those native American youth.

138 REP. TARNO: I want to make sure we're talking about subsection 4 of
131a.

139 CHAIR PARKS: That is correct.

140 REP. NAITO: Why would there be a jurisdictional question if it's a
matter of contract between the tribe and the state, who would object?

143 HILL: The way the chapter 420 has been set up and the beds at the
state training school have been distributed on this county basis, it's
somewhat of a conflict.

153 CHAIR PARKS: You don't need this amendment to do it if you chose to do
it?

155 HILL: We need a change in statute to make this happen, I am not sure
this one does it.

157 CHAIR PARKS: On line 19, if we changed it to " may" instead of "shall",
would that give you
the flexibility?

159 HILL: Not being an attorney, I can't say for sure.

161 REP. NAITO: I'm concerned about a youth they may not have a secure
facility for but they may not reach the level, that we would in other
circumstances, have secure bed space for.

169 HILL: Conceptual amendment to A-19 amendment that in order to access
the training school, the tribal youth would have to meet the same threshold
that's required by the county courts.

172 MOTION: REP. BROWN: Moves conceptual amendment in Lieu of the -19
amendments to SB 1. Paragraph (4).

174 CHAIR PARKS: The motion CARRIES.

187 REP. BROWN: Discusses the -18 amendments. [EXHIBIT M]

189 NANCY MILLER, STATE COURT ADMINISTRATOR'S OFFICE: These reviews can also be done internally by the agency under federal law.

202 MURIEL GOLDMAN, CHILDREN FIRST FOR OREGON, CITIZEN'S REVIEW BOARD: Testimony on SB 1. We would support the Citizen's Review Board having a role in reviewing it as is stated in the amendments.

217 TIMOTHY TRAVIS, JUVENILE RIGHT'S PROJECT, INC.: I find the Citizen's Review Board extremely helpful in furthering the rehabilitation and reformation process of my clients, so I would be in favor of this.

220 REP. BROWN: The district attorney Mark McDonnell expressed concern about delinquents that have been in the system tend to get lost through the cracks, not as much money is spent on them.

225 MILLER: I think as we change this system, what will do in the CRB program is to provide comprehensive training to our volunteers to help them understand how the system has changed.

247 REP. NAITO: I feel very strongly that the Citizen's Review Board piece is important.

260 TRAVIS: It's nice to have people that are "lay" people because many of us who are in the "system", we get to know each other, we have alliances, it's nice to have people who say, "wait a minute counsel, I'm a housewife explain this to me from A to Z.

267 RICK HILL: What I have handed out is a matrix of what is required for the IV-E money to come to the state in terms of reviews and hearings, and I agree we need a hearing and I agree we need "lay" people at those hearings.

[EXHIBIT F]

320 OGLSB Y: Responds to Mr. Hills testimony, expresses concerns and issues.

335 REP. BROWN: In Multnomah County, we have judges rotate so the judges are out there on a consistent basis, so you may have 12 different judges. If you have a kid going to court every month you may have 12 judges involved in that case, or the case could get lost through the cracks. Who's not involved in the system that's watching when you've got inside reviews?

345 OGLSB Y: I don't have an answer for that other than we try not to do rotation in our county.

348 REP TARNO: I have a concern for the -A18 amendments in that what we may be doing is "muddying the water" with SB 1 that's going to be an entirely whole new concept for us.

361 CHAIR PARKS: The -A18 amendments are not in SB 1. SB 1 is going to a conference committee and I am going to support adding the -A18 amendments because it can be taken out.

375 REP. PROZANSKI: One of the things we've talked about deleting from SB 1 is in section 75, (Inaudible)

381 CHAIR PARKS: I don't envision that it does that. Asks Mr. Livingston if he understands what was recommended for the -A18 amendments in reference to leaving them in as a way to facilitate a way for a longer discussion.

383 MOTION: REP. BROWN: Moves the - A18 amendments to SB 1.

385 LIVINGSTON: I admit I don't understand.

387 CHAIR PARKS: I want to thank Mr. Livingston for being such a great help to all the committee members, we really appreciate your help you have done a great service for the state.

397 REP. NAITO: This process looks cumbersome and maybe there is something in between that we can adopt to have some citizen input.

404 REP. BROWN: For those of you who are concerned about the -A20 amendments, in legal counsel's brief review we've already adopted them in different forms in the other amendments.

408 CHAIR PARKS: The motion CARRIES.

414 REP. QUTUB: I think it's fine to have a citizen on the Board, a CASA or

someone from the Citizen's Review Board, but if the Chair thinks it's best to move the -A18 amendments and talk about it later, that is fine.

423 CHAIR PARKS: It's the speaker's normal feeling that only three people be appointed to the conference committee, I wouldn't be adverse to discussion to appoint five people. Do you want me to do that?

436 REP. QUTUB: Yes.

436 CHAIR PARKS: I will do that. The -A18 amendments will be adopted. What happened to the multi-cultural training for the people?

441 ROBINSON: The intent and the language in the language that is in section 21 assumes there will be some training in order to do that.

TAPE 33, B

030 ROBINSON: You need to decide how you want to conform the Ballot Measure

11 provisions that are in HB 3439, which is on it's way to the Floor and the provisions of SB 1. Makes some suggestions.

038 MOTION: REP. BROWN: Moves SB 1 as amended to the Full Committee with a do pass recommendation.

043 LIVINGSTON: I have some amendments there. [EXHIBIT O]

048 ROBINSON: I think most of them have been taken care of. If they are conformance and internal reference's that have not been done then we will take care of those.

049 LIVINGSTON: I disagree. I will identify two that you should consider that are different. Explains additional amendments.

064 MOTION: CHAIR PARKS: Moves additional amendments as presented by Livingston.

066 CHAIR PARKS: The motion CARRIES.

071 MOTION: REP BROWN: Moves SB 1 as amended to the full committee with a do pass recommendation.

073 VOTE: In a roll call vote all members are present and vote AYE.

075 CHAIR PARKS: The motion CARRIES.

078 CHAIR PARKS: With nothing further the meeting is adjourned.

Submitted by, Reviewed by,

Janet Ellingsworth Debra Johnson
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

A - List proposed amendments to SB 1 - Staff - 2 pages
B - Proposed amendments to SB 1, A-21 - Staff - 5 pages
C - Proposed amendments to SB 1, A-22 - Staff - 2 pages
D - Proposed amendments to SB 1, A-23 - Staff - 15 pages
E - Proposed amendments to SB 1, A-24 - Staff - 2 pages
F - Proposed amendments to SB 1, A-25 - Staff - 2 pages
G - Proposed amendments o SB 1, A-26 - Staff - 3 pages
H - Proposed amendments to SB 1, A-27 - Staff - 7 pages
I - Proposed amendments to SB 1, A-28 - Staff - 1 page
J - Proposed amendments to SB 1, A-29 - Staff - 2 pages
K - Proposed amendments to SB 1, A-30 - Staff - 7 pages
L - Proposed amendments to SB 1, A-31 - Staff - 4 pages
M - Proposed amendments to SB 1, A-18 - Rep. Brown - 6 pages
N - Proposed amendments to SB 1, A-19 - Rep. Brown - 2 pages
O - Proposed amendments to SB 1- Livingston - 3 pages
P - Testimony to SB 1 - Hill - 3 pages