

SENATE COMMITTEE ON
JUDICIARY
SUBCOMMITTEE ON JUVENILE JUSTICE

Hearing Room
Tapes 5 - 27

MEMBERS PRESENT:

SEN. JEANNETTE HAMBY, Chair
SEN. DICK SPRINGER
SEN. SHIRLEY STULL

STAFF PRESENT:

BILL TAYLOR, Committee Counsel
DIANE DUSSLER, Committee Assistant

MEASURES HEARD:

SB 1 - WORK SESSION

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 5, A

003 CHAIR HAMBY: Calls the meeting to order at 3:00 p.m.

Opens WORK SESSION on SB 1

WITNESSES: Larry OgleSB y, Oregon Juvenile Department Director's Association
Rich Peppers, Oregon Public Employee's Union
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association
Robert Kouns, Legislative Liaison, Crime Victims United
Dee Dee Kouns, President, Crime Victims United
Mark McDonald, Deputy District Attorney, Multnomah County
Craig Campbell, Juvenile Justice Task Force Coordinator

008 CHAIR HAMBY: Discusses recommendations from Attorney General to remove collective bargaining from section on transfer of state employees.

014 LARRY OGLESB Y, Oregon Juvenile Department Director's Association: We support this issue being discussed in another committee.

034 SEN. SPRINGER: Public employees have concerns about who they will be working for.

040 RICH PEPPERS, Oregon Public Employee's Union: We are concerned if employees will be transferred.

065 CHAIR HAMBY: We will drop language dealing with transfers or bargaining issues.

090 - expresses concern for need of mental assessment at intake with funding

of this function

100 - we lack language in bill that speaks to Women's Equity Act passed in last session

154 CHAIR HAMBY: The proposed amendment SB 1-6 [EXHIBIT A] is a change in

language; it replaces currently usage of an informal disposition and renames it immediate accountability agreement.

170 CHAIR HAMBY: The proposed amendment SB 1-7 [EXHIBIT B] removes "second

look" and 14 year olds. House has added in 12-13 year olds.

203 CHAIR HAMBY: The proposed amendment SB 1-8 [EXHIBIT C] is an effort to recognize role of national guard. Page 2 is a recommendation from Director's Office of Deschutes County who have worked out language with Oregon National Guard.

245 SEN. SPRINGER: Is the National Guard prepared to deal with kids that are there involuntarily?

259 CHAIR HAMBY: That needs to be clarified.

275 MIKE LIVINGSTON, Assistant Attorney General, Department of Justice: CSD and the Youth Authority don't have legal custody over delinquents until they are adjudicated.

330 CHAIR HAMBY: My proposed amendments to SB 1 [EXHIBIT D] recognizes voice of victims should the governor use executive clemency.

340 SEN. BRYANT: I would suggest concentrating on subsection 2 of the proposed amendment.

378 SEN. SPRINGER: This has potential to be unmanageable if it becomes a common practice.

384 SEN. BRYANT: We might use this language if the governor is considering clemency.

439 INGRID SWENSON, Criminal Defense Lawyer's Association: Section 80, page 43, sets forth the purposes of the juvenile justice system.
- need to include an impartial adjudication of the allegations of wrong doings by juveniles
474 - has concerns on over representation of minority youth in system
- sees need for equal rights for all

TAPE 26, A

039 LIVINGSTON: Sees need to put issue of policy statement in context.
050 - task force believes juvenile code should reflect policy assumptions adopted by voters in Measure 11

083 NANCY MILLER, Citizen Review Board Administrator: Testifies and submits Policy Group Section 80 Discussion [EXHIBIT E]. Explains composition of group.
104 - issue is what the order should be
- statement needs to start with protecting public and include reduction of delinquency
- debate is over whether "defender accountability" needs to be in first or second sentence

137 LIVINGSTON: In Section 80, proposed amendment, [EXHIBIT F] adds sentence "system shall be open and accountable to the People of Oregon and their elected representatives" in last sentence of policy statement.

160 SEN. SPRINGER: It appears we may be asking for more restitution from youth offenders than we do with adults.

173 LIVINGSTON: Our intent is for youth to recognize that there are two injured parties. One is the direct injury to the victim and the other is to the larger community.

200 MARK McDONALD, Deputy District Attorney for Multnomah County: Primary purpose of juvenile justice system should be protection of public and reduction of juvenile delinquency.

214 BOB KOUNS, Legislative Liaison, Crime Victims United: We are aware there is a gulf between what people of state want and what has been happening.

243 - keep goal of juvenile justice system simple, clear and unambiguous

268 DEE DEE KOUNS, President, Crime Victims United: There is great

confusion as to what the goal of criminal justice system is among people who created the system and who work in it.

- most of time victims do not receive restitution from offenders

322 SEN. SPRINGER: I assume people want to prevent crime.

327 McDONALD: I propose a change be made in the adult policy statement similar to what we propose here.

335 SEN. SPRINGER: Basically you are suggesting that we put them in a kid's jail.

345 McDONALD: Believes public wants to be defended against offenders. Doesn't think the public will fund programs for rehabilitation until they feel they are protected.

357 DEE DEE KOUNS: We believe it should not be in the first sentence of the mission statement.

417 BOB KOUNS: The public does want to prevent crime. I don't know of a single victim who doesn't want "justice" in their case.

474 LIVINGSTON: In Section 80, the purpose of the fact finding process is not to find delinquency.

TAPE 25, B

049 - policy statement makes a distinction between juveniles and adults
059 - issue of a jury trial did not include this provision

070 CHAIR HAMBY: Next issue is indigent defense, Section 82, page 44.

100 LIVINGSTON: Explains proposed amendments to Section 82. [EXHIBIT G]

145 LARRY OGLESB Y, Oregon Juvenile Department Directors Association: We support these amendments.

165 SWENSON: This would appear to be a reasonable use of informal dispositions in a general sense.

205 LIVINGSTON: Explains use of informal dispositions for juveniles.

220 SEN. SPRINGER: How does this work, the allegations appear on police report as to what the crime is and there is a question as to whether it is a misdemeanor or a felony?

240 OGLESB Y: Probation officer operates from a police report, and has an intake interview with child and family.

288 NANCY MILLER, State Court Administrator's Office: Expresses concern with Subsection 3. Discusses how diversions are created and how informal dispositions are handled.

313 CHAIR HAMBY: Distributes engrossed SB 227 from 67th Legislative session. [EXHIBIT H] This is another option at the local youth authority level.

331 OGLESB Y: That is a viable option in terms of operation.

364 MILLER: If we resurrect the bill we will need to work on language.

383 CHAIR HAMBY: We will wait for action on Section 82.

400 McDONALD: I would suggest that cases requiring district attorney agreement be all person felonies rather than just sex offenses.

436 SEN. SPRINGER: Is it your sense that many assaults 1 or 2's are being handled informally?

420 McDONALD: No, it is not. I know that some counties did this for sex offenses.

466 CRAIG CAMPBELL, Juvenile Justice Task Force Coordinator: Explains Section 83, sub 2 addition of language. [EXHIBIT J & I]

TAPE 26, B

039 MOTION: SEN. STULL: Moves to ADOPT SB 1 AMENDMENTS adding
language to Section 83, sub 2 (a) the name and date of birth of the youth
(b) the act alleged (c) the portion of the agreement providing for the disposition of youth.

040 SEN. SPRINGER: How is this going to work, is it at someone's discretion
that the formal accountability agreement may or may not require certain
judicial admissions?

050 LIVINGSTON: Gives background on informal dispositions. It would be an
incentive to do this informally if you allowed the admission as a
requirement.
100 - discusses elimination of prohibition on admissions and has what
standards would be used

106 McDONALD: Expresses hope that this is a way to reduce some indigent
expenses.

129 SEN. SPRINGER: At what point is counsel going to be appointed?

122 McDONALD: Juveniles would have to be advised of their right to counsel
prior to taking any admission.

148 OGLESB Y: Rationale for admission of guilt is in how the process is
perceived by the parents and child involved.

176 VOTE: Hearing no objections, the amendments are ADOPTED. All
members present vote AYE.

185 LIVINGSTON: Section 85 is the discretionary remand amendment for
juveniles under age 14.
220 - Section 87, sub 2 requires that in determining deposition of
juvenile cases the court consider certain factors
- deletes requirement that there be written findings
- deletes subsection 2c as it is taken care of in 2e
280 - deletes remaining subsections on physical and mental health

308 SEN. SPRINGER: Where did we pick up this language on the discretionary
consideration?

313 LIVINGSTON: There are a number of sources. Some were from remands of
juvenile courts.

320 SEN. SPRINGER: I object to deleting this language.

344 MILLER: Our concern is language in subsection 2 " the court shall
consider the following". Believe use of "shall" may spark unnecessary
appeals.

380 SEN. BRYANT: Your suggestion is to change "shall" to "may". Expresses
concern with deleting g. Could defendant argue you need to do series or
tests or other appropriate things?

400 LIVINGSTON: Believes the "shall" language is necessary and appropriate.
We use "shall" to set up the required parts of the system and it doesn't
reduce the discretion of the court in making decisions.

431 SEN. BRYANT: Do you have a language suggestion?

446 LIVINGSTON: The goal of "shall" is to provide the process not to
dictate the result.

473 MURIEL GOLDMAN, Children First for Oregon: Testifies and submits
proposed amendments. [EXHIBITS K & L] We oppose eliminating the use of
mental, emotional and physical health on page 11, Section 87.

TAPE 27, A

050 GOLDMAN: Explains proposed amendments.

070 MILLER: I don't think anyone will oppose this philosophically, but it will cost money.

100 GOLDMAN: When you do an inappropriate placement, the offenders will return to the community without their problems being addressed. Youths with serious mental health problems are not being addressed.

111 OGLESBY: I support the general concept as court needs to be aware of issues and address them.

139 CHAIR HAMBY: I would like to get a budget note on this.

Closes WORK SESSION on SB 1

169 CHAIR HAMBY: Adjourns meeting at 5:10 p.m.

Submitted by,

Reviewed by,

DIANE DUSSLER
Committee Assistant

BILL TAYLOR
Committee Counsel

EXHIBIT SUMMARY

- A - Proposed Amendments to SB 1 - Staff - 3 pages
- B - Proposed Amendments to SB 1 - Staff - 1 page
- C - Proposed Amendments to SB 1 - Staff - 2 pages
- D - Proposed Amendments to SB 1 - Jeannette Hamby - 1 page
- E - Proposed Amendments to SB 1 - Nancy Miller - 1 page
- F - Proposed Amendments to SB 1 - Mike Livingston - 3 pages
- G - Proposed Amendments to SB 1 - Mike Livingston - 10 pages
- H - A-Engrossed SB 227 - Jeannette Hamby - 2 pages
- I - Proposed Amendments to SB 1 - Mike Livingston - 1 page
- J - Proposed Amendments to SB 1 - Mike Livingston - 1 page
- K - Proposed Amendments to SB 1 - Muriel Goldman - 5 pages
- L - Proposed Amendments to SB 1 - Muriel Goldman - 1 page