

SENATE COMMITTEE ON  
JUDICIARY  
SUBCOMMITTEE ON JUVENILE JUSTICE

Hearing Room  
Tapes - 37

MEMBERS PRESENT:

SEN. JEANNETTE HAMBY, Chair  
SEN. DICK SEN. 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 , A

003 CHAIR HAMBY: Calls the meeting to order at 3:10 p.m.

Opens WORK SESSION on SB 1

WITNESSES:  
Justice

Mike Livingston, Assistant Attorney General , Department of  
Larry OgleSB y, Oregon Juvenile Department Director's Association  
Bradd Swank, State Court Administrator's Office  
Ingrid Swenson, Oregon Criminal Lawyer's Defense Association  
Nancy Miller, State Court Administrator's Office  
Craig Campbell, Juvenile Justice Task Force Coordinator  
Rich Hill, Assistant Administrator, Office of Juvenile Corrections  
Rich Peppers, Political Director, Oregon Public Employee's Union  
Mary Brodtkin, AFSME  
Pam Patton, Morrison Center, Member of Alliance of Children's Programs  
Bob Kouns, Crime Victims United

005 MIKE LIVINGSTON, Assistant Attorney General, Department of Justice:  
Testifies and submits proposed amendments. [EXHIBIT B] Changes to Section  
80 are in italics. In second sentence, adds the phrases "and this act" and

"and restitution to the victims and to the community". Adds last sentence  
on page, which was omitted before.

040 SEN. SPRINGER: Indicates concern over opening sensitive records to  
public.

045 LIVINGSTON: Adjudication should be open and available. System is  
open, not the individuals records.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT, Section 80.

VOTE: Hearing no objections, the amendment is ADOPTED. All members  
present votre AYE. SEN. STULL is EXCUSED..

070 LIVINGSTON: Section 82, amends ORS 419C.230. Subsection 2, changes  
"an informal disposition" to "formal accountability", and deletes  
Subsection 3.

090 LARRY OGLESB Y, Oregon Juvenile Department Director's Association:: In  
subsection 2, Subsection c; my suggestion is it should be redrafted for  
language to read "a second referral for one or more felonies".

108 CHAIR HAMBY: Is that acceptable?

109 LIVINGSTON: I think that is consistent with discussion Sen. Springer  
and I had.

110 BRADD SWANK, State Court Administrator's Office: Subsection 3, is an  
issue that we have expressed interest in and didn't want to see it  
disappear. Would like issue to continue on in bill.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT, Section 82.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present  
vote AYE. SEN. STULL is EXCUSED.

138 LIVINGSTON: Explains Section 85.

163 TAYLOR: Changing 15 to 14 is a technical change. Are you narrowing

the scope ?

169 LIVINGSTON: It takes out three of the offenses.

176 LIVINGSTON: We have taken out the offenses that do not track Measure 11 juveniles, what would be an automatic remand, and let discriminatory remand track those crimes.

190 SEN. SPRINGER: What is current law as relates to 14 years olds?

195 LIVINGSTON: There is no remand for age 14 and under.

198 TAYLOR: Section 85 has waiveble offenses for juveniles under 14, and you are narrowing the ability to remand in the bill.

207 SEN. SPRINGER: I don't like the amendment allowing us to waive kids age 14. My caucus is waiting to discuss this with Mr. Campbell on Monday.

223 LIVINGSTON: You can be waived if alleged to have committed one of Section 56 crimes.

245 SEN. HAMBY: We will hold amendment over for discussion on Section 85 next week

251 LIVINGSTON: Section 87, changes "shall" to "may" in subsection 2.

290 SEN. SPRINGER: I'm not comfortable with deleting balance of language. Seems court ought to make some findings on record.

304 INGRID SWENSON, Oregon Criminal Lawyer's Defense Association: All of the factors listed can be and generally are relevant.

330 NANCY MILLER, State Court Administrator's Office: We are fine with rest of list if "may" is used.

362 SEN. SPRINGER: How does remand language track?

374 LIVINGSTON: Remand is discretionary. Court may remand if child at age of alleged offense is of sufficient sophistication and juvenile court determines it is in best interests of child. Court has to consider it and then make determination.

390 SWENSON: I think there is a requirement for written findings.

410 SEN. SPRINGER: I am more comfortable with "shall" in the complete list.

430 MILLER: We would like these findings only have to be determined if you are looking at out of home placement or commitment to closed custody.

470 LIVINGSTON: Consistency of process not results, across the state, is one of the concerns of work group. The task force preferred use of "shall".

TAPE 35, A

050 LIVINGSTON: Discusses risk of meritless appeals versus mandated consistent process. Suggests using the following phrase "after considering

the following factors the court shall enter the disposition the court determines to be appropriate" may avoid choice of "shall" or "may".

070 SEN. HAMBY: It may be an issue we can solve with Sen. Bryant in full committee.

079 TAYLOR: I sense there are two issues: (1) use of "shall" or "may" and ( 2) what ought to be in the list.

090 SEN. SPRINGER: I would prefer going with "shall" and keep the list up to Section 4.

115 SWENSON: If you include child's mental health as an issue it may be necessary for both sides to have extra witnesses in every disposition and that is why "relevant factors or circumstances" was added.

153 LIVINGSTON: Limiting language may cause problems.

169 SEN. HAMBY: My preference is to return with "shall" and to stop at F and except your deletions.

184 TAYLOR: We can change "may" to "shall" and adopt everything else.

200 LIVINGSTON: There is some concern that this may lead to meritless appeals.

259 LIVINGSTON: I think "shall" is appropriate. I only changed it to satisfy concern for meritless appeals.

279 SEN. HAMBY: Your counsel is to return to "shall" and accept the rest of the strike out language, or retain all of it.

290 LIVINGSTON: If there is doubt about whether subsection F language allows anything stricken, I would suggest adding those required factors.

310 FISHER: I would caution against adding that back in. If you are going to add it back it I believe it should go under Sub 3 if you use "may".

337 CHAIR HAMBY: I think I have to agree with Ms. Fisher.

353 SEN. HAMBY: Would we satisfy Sen. Bryant by returning to "shall" and deleting language from your correction in line F and accepting rest of crossed out language?

359 LIVINGSTON: I believe concern about appeals comes from the requirement consideration not from the discretionary ones. So I don't believe that would satisfy his concerns.

377 SWENSON: I suggest delete f, use language in sub 3, and add use of mental, emotion, physical, conditions, etc. among factors that may be considered where relevant.

405 MILLER: I agree his concern was with the "shall", so what we put under "may" takes care of his concern.

407 CHAIR HAMBY: My preference is "shall".

MOTION: CHAIR HAMBY: Moves to conceptually ADOPT SB 1 AMENDMENT, Section

87.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present  
vote AYE. SEN. STULL is EXCUSED.

470 CHAIR HAMBY: Next is Section 84, page 45, line 7.

TAPE 34, B

038 LIVINGSTON: There are no changes that I've submitted on that. Amends 419C250 to require before juvenile department counselor can file delinquency petition, counselor can be authorized by district attorney to do that. We intend to delete "agreement and" and say "with the authorization of "the District Attorney.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT to amend 419C250.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present  
vote AYE. SEN. STULL is EXCUSED.

062 LIVINGSTON: Section 85 is the remand provision. I believe the form of changes has been approved but the policy itself is not completed.

078 LIVINGSTON: Addresses issue in Section 91, page 48. Authority now goes to Youth Department, this change was omitted from SB 1.

113 CHAIR HAMBY: Next is Section 99, page 51.

114 TAYLOR: There are two issues here: one relates to employee transfer and the other relates to Mr. Campbell's concern on how to read 1a and 1 b together.

130 CHAIR HAMBY: I believe we had a conceptual agreement that we were going to delete the collective bargaining, and employee transfer issue. We will request our labor committee consider this issue. We will look at remaining language.

140 CRAIG CAMPBELL, Juvenile Justice Task Force Coordinator: [EXHIBIT D] Explains changes in language and deletes 2b.

175 - clarifies language so that county can access state contracted services

210 RICH HILL, Assistant Administrator, Office of Juvenile Correction, Children Services Division: CSD has ability to contract with county for services.

233 CHAIR HAMBY: Do I get a nod from the Larry OgleSB y. Let the record show a positive nod of agreement.

MOTION: SEN. STULL Moves to ADOPT SB 1 AMENDMENT, Section 99.

VOTE: Hearing no objection, the amendment is ADOPTED. All members are present.

248 TAYLOR: The other issue involved here is that of transfers on page 51, lines 1-45.

240 LIVINGSTON: Dennis Maloney is not aware of Mr. Campbell's amendments. He may want to present the other side to the subcommittee.

280 TAYLOR: In your packet of 2/24/95 you have proposed amendments to Sections, 2, 29, 31, and others, are you saying that you need to redraft these in light of Mr. Campbell's amendment, or are they fine as they appear?

280 LIVINGSTON: The language would not change. I don't know if Mr. Maloney would have same assessment in light of the change.

295 TAYLOR: Packet has amendment to 2, 29, 31, are there others changes? [EXHIBIT A]

310 LIVINGSTON: Sections 2, 29, 31, 96. Language is in Section 2,

subsection 4 a and 4 b.

315 CHAIR HAMBY: I am confident that your recommendations, and with any conforming language, would be acceptable to Mr. Maloney.

320 RICH PEPPERS, Political Director, Oregon Public Employee's Union: We are here on Section 99. Suggests deletion of subsection 3 on to end of section.

350 PEPPERS: We would prefer to delete subsection 2 b. We believe this concerns collective bargaining and transfer issues. In lieu of deletion we recommend the phrase "is subject to collective bargaining agreements" at end of sub 2b.

375 MARY BRODKIN, AFSME: Lines 24-25 concern a problem of implementation in the work area. The question is, who is responsible for supervision and discipline.

415 PEPPERS: We agree with Mr. Campbell's amendments.

419 OGLESBY: We are not in support of removing subsection 2a, and 2b. If responsibilities are transferred to county only way county can be accountable for responsibility is if you have ability to control work force including supervision of employee.

456 CHAIR HAMBY: We will set this aside, and speak with labor people to resolve it.

TAPE 35, B

035 LIVINGSTON: We need to go back to Section 99, Craig Campbell's amendment, to discuss language of providers.

040 HILL: I have a concern with issue of state passing contracting authority on to counties. We would like language in Section 1A to include private providers in negotiating process of contracting for out of home placement.

050 PAM PATTON, Morrison Center, member of Alliance of Children's Programs: Would like the language at end Section 1 A to read, " in development of the state wide diversion plan for out of home care, service providers will participate in the contract negotiation".

071 CHAIR HAMBY: That is a conceptual request.

092 LIVINGSTON: An expression of good faith and intent would be a consideration in entering a contract.

115 PATTON: I would be satisfied if the intent is in the language.

135 LIVINGSTON: Amendments to state county relationship. Section 2, adds subsection 4a, 4b. Section 29, subsection 4 adds new language. Section 31, subsection 4 adds new language. Section 96 amends language of 420.011, adds limitations on juveniles adjudicated for acts if committed by adults and would be Class A misdemeanor or greater.

180 LIVINGSTON: Sections 98, and 99 are for reference only.

200 CHAIR HAMBY: Asks if there is any opposition to new language.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENTS, Sections 2, 29, 31, 96.

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

225 HILL: Section 96, raises to Class C to a Class A misdemeanor.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENTS, Section 96.

VOTE: Hearing no objections, the amendment are ADOPTED. All members are present.

283 TAYLOR: Next is Section 109, Subsections 2, and 3, page 54, line 39 and Section 116 sub 2.

299 CAMPBELL: Discusses changes to Section 109 and Section 116 concerning policy statements on Hillcrest and McClaren [EXHIBIT D].

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT, Sections 109, and 116.

VOTE: Hearing no objections, the amendments are ADOPTED. All members present vote AYE. SEN. SPRINGER is EXCUSED.

345 TAYLOR: Sections 75, 39 would make certain offenses non records; only records can be expunged and since they are non records they can't be expunged.

402 - Records for these offenses listed as V - M can't be expunged.

MOTION: SEN. STULL: Moves to ADOPT SB 1 AMENDMENTS, dated 3-1-95

with changes to Sections 75, 76, 77.

465 CAMPBELL: Point of clarification: in original bill kidnapping 1 was not listed in non expungment of Section of 75 and it should be added.

MOTION: SEN. STULL: Amends MOTION to include kidnapping.

486 LIVINGSTON: Part of SB 1 that amend expungment provision to juvenile record is one half of piece, other is registration requirement for juveniles who are adjudicated for committing sex offenses.

TAPE 36, A

050 LIVINGSTON: Explains issue task force attempt to deal with sealing of records of sex offenses committed against children.  
090 - explains goals of expungment, adjudication, and registration notice.

130 CHAIR HAMBY: Can motion be held until Monday?

132 SEN. STULL: Yes.

135 HILL: Per your request, I'm submitting proposed amendment on what youth authority will do in Section 2 [EXHIBIT E].

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT, Section 2.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SEN. SPRINGER is EXCUSED.

192 BOB KOUNS, Crime Victims United: Discusses issues of disproportion of ethnic groups in juvenile justice system versus disproportion of victims in community.

219 TAYLOR: Explains language in Section 129e, and change of "guidelines" to "criteria".

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT, Section 129e.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SEN. SPRINGER is EXCUSED.

260 TAYLOR: Discusses issue of National Guard entering contract with youth authority, and a provision creating a department within national guard of handling youth.

315 - Discusses issue of work mediation.

318 OGLESB Y: We concluded issue of work mediation might be better put in a separate bill.

We will be submitting proposed amendment to SB 430.

387 TAYLOR: Discusses issue of renaming Department of Youth Authority to Oregon Youth Authority.

MOTION: CHAIR HAMBY: Moves to ADOPT SB 1 AMENDMENT to rename Department of Youth Authority to Oregon Youth Authority.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SEN. SPRINGER is EXCUSED.

430 OGLESB Y: Explains proposed amendment on recidivism, which might be placed in mission statement of youth authority. [EXHIBIT F]

MOTION: CHAIR SEN. HAMBY: Moves to ADOPT SB 1, Section 1 conceptual amendment.

VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE. SEN. SPRINGER is EXCUSED.

TAPE 37, A

050 TAYLOR: Discusses issues not yet covered.

080 LIVINGSTON: The major remaining issue is expungment.

085 CHAIR HAMBY: Adjourns meeting at 5:40 p.m.

Submitted by,

Reviewed by,

DIANE DUSSLER  
Committee Assistant

BILL TAYLOR  
Committee Counsel

EXHIBIT SUMMARY:

A - Proposed Amendments to SB 1 - Staff - 16 pages  
B - Proposed Amendments to SB 1 - Mike Livingston - 4 pages  
C - Proposed Amendments to SB 1 - Nancy Miller - 3 pages  
D - Proposed Amendments to SB 1 - Craig Campbell - 1 page  
E - Proposed Amendments to SB 1 - Rich Hill - 1 page  
F - Proposed Amendments to SB 1 - Larry OgleSB y - 1 page