

SENATE COMMITTEE ON  
JUDICIARY  
SUBCOMMITTEE ON JUVENILE JUSTICE

Hearing Room  
Tapes - 44

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 , A

Opens WORK SESSION on SB 1

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

WITNESSES:

Frank Yraguen, Circuit Court Judge Malheur County  
Timothy Travis, Juvenile Rights Project  
Larry OgleSB y, Oregon Juvenile Director's Association  
Barbara Seldin, Consultant, Oregon Juvenile Director's Association  
Mike Livingston, Assistant Attorney General, Department of Justice  
Craig Campbell, Coordinator, Juvenile Justice Task Force  
Bob Kouns, Legislative Liaison, Crime Victims United  
Ingrid Swenson, Criminal Defense Lawyer's Association  
Dee Dee Kouns, President, Crime Victims United  
Mark McDonald, Deputy District Attorney, Multnomah County  
Nancy Miller, State Court Administrator's Office  
Rick Hill, Assistant Administrator, Office of Juvenile Corrections

010 FRANK YRAGUEN, Circuit Court Judge Malheur County, Ninth District:

Testifies and submits written testimony on SB 1. [EXHIBIT A]

058 - juvenile court needs more parental authority particularly if parents  
fail to perform duties

080 SEN. STULL: Is this bill the appropriate one?

090 BILL TAYLOR: We have two other bills relating to juveniles and believe  
this relating cause would fit in either of the two bills.

098 TIM TRAVIS, Juvenile Rights Project: There are four others bills on  
house side, and one deals directly with parental responsibility.

115 LARRY OGLESB Y, Oregon Juvenile Director's Association: Describes random  
sample on placement of youths with executive summary of results.

135 BARBARA SELDIN, Consultant with Oregon Juvenile Director's Association:

Testifies and submits written testimony [EXHIBIT B]. Gives summary of  
random state wide survey.

177 - data doesn't take into account impact effects of Measure 11  
190 - survey limitation, it was only a one day short snap shot  
200 - 300 additional beds are needed, this was determined by another survey  
243 - describes major category of placement  
300 - gap between what respondents thought placement should be and what is  
actual placement  
350 - explains pie charts on out of home placements

388 OGLESB Y: Gives summary of director's needs survey.

398 - will need 530 beds; currently have 320 beds  
444 - submits amendment on Section 2 [EXHIBIT C]  
498 - counties need state assistance with detention centers

TAPE 42, A

042 SEN. SPRINGER: How much money are we talking about?

048 OGLESB Y: We are talking about millions of dollars for out of home  
placement in residential care.

075 - Marion County plans to go to the voters for funding of a detention  
center

094 CHAIR HAMBY: Are they building with idea of getting rental income?

098 OGLESB Y: Nobody is going to have money to build what they need.

120 SEN. STULL: Is there a long range plan to expand on number of beds in the facility?

130 OGLESB Y: Yes, there is. Explains what plans are for various counties.

188 SEN. STULL: How does a facility like Aumsville lends itself to a juvenile facility?

192 OGLESB Y: That is basically the design we have proposed for Marion County. It is a pod design with direct supervision by staff inside living unit.

208 CHAIR HAMBY: Refers to page 51, Section 99, line 2.

211 OGLESB Y: Proposed amendment language deals with parole services. Adds words "parole" and "probation".

230 TAYLOR: Sub 2 has parole and probation but line 19 just says parole services.

240 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 line 19 to add "parole" and "probation".

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

245 CHAIR HAMBY: Refers to Section 2, sub 1, sub 3 amendment.

259 MIKE LIVINGSTON, Assistant Attorney General, Department of Justice: Is language in lieu of, or contrary to any other provisions in bill, or in lieu of funding?

290 OGLESB Y: Yes, it is an addition to regional facilities if state proceeds. It is not to take place of anything; it would create an opportunity subject to available funding.

296 TAYLOR: I assume you feel word "state" is redundant and should be struck.

313 LIVINGSTON: I assume that is to specify the source of funding and may be a material element.

317 OGLESB Y: I recognize state does have federal funds. It would be assistance from state whether it comes from state or federal level.

325 CHAIR HAMBY: Do we need to clarify that with further language or is legislative intent OK?

329 OGLESB Y: I am comfortable with that.

340 CRAIG CAMPBELL, Coordinator, Juvenile Justice Task Force: Bill provides for Youth Authority to distribute federal funds.

346 BOB KOUNS, Legislative Liaison, Crime Victims United: When we talk about pod construction, I hope we will look at different modes of construction as taxpayers are concerned with what we are spending.

380 CHAIR HAMBY: Distributes article on Texas facility. [EXHIBIT D].

400 CHAIR HAMBY: Next is the issue of expungement, Section 75, sub 1 d j.

414 TAYLOR: Explains amendment [EXHIBIT I].  
- Section 75, down to j, strikes out act which would constitute child abuse  
466 - explains which crimes are added back in and are non-expungable  
480 - removes Section 77

TAPE 41, B

043 LIVINGSTON: In a number of juvenile court cases juvenile court judges have found that creation of non-expungable record was not best for juveniles in terms of treatment or nature of offense.  
070 - discusses alternatives to labeling of minors  
117 - speaks to adjudication affect on future records

132 INGRID SWENSON, Criminal Defense Lawyer's Association: Expresses her organizations disagreement with proposed amendment.

157 SEN. STULL: Could sanctions also be a disincentive to an offender.

166 SWENSON: Kids might not know their actions are criminal. In treatment area we need incentives for positive treatment.  
190 - deletion of Section 77 puts big burden on child to establish case

200 TRAVIS: Supports Ms. Swenson statement. Expungment mechanism is actually a non-expungement mechanism.  
- kids don't know results of actions, and doesn't believe it would have an effect if they did  
- opposes removing expungment

217 DEE DEE KOUNS, Legislative Liaison, Crimes Victims United: Developed questions for McClaren's youths and found they did know what was a crime and what the consequences were.

258 MARK McDonald, Deputy District Attorney, Multnomah County: Explains purpose of non-expungement offenses.

300 - recounts case of a previous offender and attempts to circumvent law  
327 - provides amendment that says court would not be allowed to amend a  
delinquency petition to a dependency petition without consent of district

attorney

357 NANCY MILLER, State Court Administrator's Office: Judicial Department  
has serious concern with an amendment that eliminates court discretion.  
Suggests obtaining judicial input on this issue.

360 TRAVIS: If you are considering taking away ability of court to amend  
petitions or to change delinquency to dependencies. Suggests limiting that  
to only sex offenses.

397 MOTION: SEN. STULL: Moves to AMEND SB 1 on Section 75,  
removing Section 76 (TAYLOR).

76,

VOTE: 2 - 1 AMENDMENT is ADOPTED  
AYE: Hamby, Stull  
NAY: Springer

423 CHAIR HAMBY: Next is a technical amendment to Section 87, page 46, line  
4.

428 LIVINGSTON: Submits and explains proposed amendment [EXHIBIT E] dated  
3-8-95.

470 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by accepting amendment to  
Section 87.

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

480 LIVINGSTON: Page 3, added subsection 6 to Section 2, line 6 adds new  
language on equal access 417270 shall apply to department on equal access  
regardless of gender.

485 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adding new language  
on equal access to Section 2

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

TAPE 42, B

040 LIVINGSTON: The only change in Section 85 is language is deletion of  
attempt language on murder and aggravated murder.

050 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 Section 85 by deletion  
of attempt on murder and aggravated murder.

052 VOTE: 2 - 1 AMENDMENT is ADOPTED  
AYE: Hamby, Stull  
NAY: Springer

056 LIVINGSTON: Page 4, Section 23 references to probation are deleted  
for former subsection 2, new subsection 2 requirement that department adopt

rules consistent with due process  
081 - subsection 3 may order protective custody when violate probation

087 MOTION: CHAIR HAMBY: Moves to AMEND SB 1, Section 23, sub 1, 2 and 3.

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

090 LIVINGSTON: Section 62, page 27, lines 24-21. Subsection 4e, A, B, C,  
D has new subsection E.

125 CHAIR HAMBY: Why is language of conditional release no longer in best  
interest of community?

125 LIVINGSTON: Subsection 5 is a required revocation.

132 SWENSON: Refers to proposed amendment 2-20-95 [EXHIBIT F]. This  
takes language from d and moves it up to sub 5. It would say court must  
revoke if it finds:  
- in best interest of community  
- or find any one of three specific grounds for revocation  
- court would not have to revoke if only one of three factors was present

162 LIVINGSTON: Required revocations have to be looked at in context of  
second look hearing itself where conditional release is established.  
- one requirement is offender will comply with conditions of release and  
not threaten victim or community  
190 - it is a policy question  
197 - intent of language is offender has to tow the line

198 SWENSON: We are talking about best interest of the community not the  
child.

208 MOTION: SEN. SPRINGER: Moves to AMEND SB 1 by adopting OCDLA amendment  
on Section 62.

210 VOTE: 2-1 MOTION FAILS  
AYE: Springer  
NAY: Hamby, Stull

212 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adopting AG amendment on  
Section 62, lines 24-41.  
VOTE: Hearing no objections, the amendment is ADOPTED. All members present  
vote AYE.

218 LIVINGSTON: There is an amendment to subsection 3 of Section 98.  
Refers to new language added; "Department shall develop and implement" a  
state wide diversion plan.

233 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adding in new language  
"department shall develop and implement" to subsection 3 of Section 98.  
VOTE: Hearing no objections, the amendment is ADOPTED. All members  
present vote AYE.

236 LIVINGSTON: Section 99, subsection ,1 has an amendment to clarify the  
language. Adds language "and probation services" and in subsection f adds  
"parole and probation services".

245 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adding "and probation  
services" in Section 99, subsection 1, and adding "parole and probation  
services" in subsection f.  
VOTE: Hearing no objections, the amendments are ADOPTED. All members  
present vote AYE.

249 LIVINGSTON: The amendments to sections on pages 7, 8, and 9 are  
technical amendments.

254 - Section 4 deletes language of subsection 8, deletes "guidelines zero  
tolerance for non-compliance for standards of conduct and conditions of  
placement"

264 - Section 25, subsection 1b new language "dispositions and sanctions for  
violations of rules regulating conduct of youth offenders shall be  
structured to reflect the severity and frequency of the violations and  
shall be consistently and promptly imposed"

277 - Section 28, subsection 1 deleting word "sentencing" and inserting word  
"juvenile"

283 - Section 29, subsection 3a deleting word "extensive"

288 - Section 30, changes sentencing to juvenile court

300 - Section 2, subsection 1 deleting word "sentencing" and inserting word  
"juvenile"

305 SEN. STULL: Section 30, modifications issues, we need clarification for  
this.

318 TAYLOR: The amendment adopted on 2-13- 95 insert after word program  
"or whether the program can be modified to accommodate a youth offenders  
physical or mental limitations".

324 SEN. STULL: My concern is with the scope of expectation to accommodate  
a youth to handle rigors of program.

326 TAYLOR: It is on page 34, line 9 in determination of placement  
of offender.

369 CHAIR HAMBY: Explains that rules may be relaxed if physical condition  
of offender is limited.

382 SWENSON: It is the director of the youth department who decides who  
goes there, and you don't need to be 100% able to do everything.

402 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adopting the changes  
presented by Attorney General on pages 7, 8, and 9.  
VOTE: Hearing no objections, the amendment is ADOPTED. All members presents  
vote AYE.

405 SEN. SPRINGER: Would you consider a conceptual amendment to delete  
everything from bill that doesn't speak to Measure 11?

421 TAYLOR: I believe that has already been done.

454 LIVINGSTON: On issue of deletion of crimes, if we don't take them out a  
few people will serve a long time, and many will not be sentenced at all.  
487 - expresses personal concern if issue goes to vote of people, and in  
interim we find it doesn't have intended affect it will need to be  
fixed

TAPE 43, A

050 CHAIR HAMBY: Majority of subcommittee feels it needs to be fixed.  
Political reality is it is an impossible task.  
- option is to add more violent crimes

068 - debate is do we move bill as it speaks to Measure 11

082 TAYLOR: SB 1-5 inserted Measure 11 crimes. We may be inserting 14  
year olds for certain Measure 11 crimes which raises issue that it may

require 2/3 vote to remove them.

096 CHAIR HAMBY: Doesn't believe we should add language in SB 1 on 14 year olds. We should go with Measure 11 bill.

110 SEN. STULL: Discusses view of task force and others who are trying to correct serious problems with those under age 15 who commit top 5 crimes.

122 CHAIR HAMBY: We can insert that language into another bill.

133 TAYLOR: One issue we didn't address was in Section 56, blank on page 21, lines 3 and 5 and is issue of 14 year olds, not in Measure 11, and doesn't require 2/3 vote.

144 LIVINGSTON: The 2/3 issue on 14 year olds comes in when you apply second look as it has affect of reducing a sentence.  
- removal of 14 years old would affect section 85  
- if Section 56 is deleted then Section 85 should be deleted

159 TAYLOR: Reads Section 56.  
178 - issue is taking bill closer to Measure 11 which applies to 15, 16, and

17 year olds  
- issue is removing all provisions from bill on juveniles age 12 -14, Sections 56, 85 and others sections

187 CAMPBELL: Has concerns with taking those provisions out.  
- bill in Congress provides that 14 year olds be treated in similar manner as SB 1 and would provide money to state for incarnation  
- believes 12 -14 would be added back in, but am not sure second look will

be put back in

210 CHAIR HAMBY: If we incorporate age group in ballot issue it would hold more promise if we add some crimes while deleting lesser crimes.

220 BOB KOUNS: It appears the answer is to take it to the people in May. We suggest taking out the secondary sex offenses, kidnap, and non-forcible robbery.

236 HAMBY: It would add the crimes we want, it would add the younger age group, and it would delete lesser crimes

250 LIVINGSTON: Discusses other areas of the bill affected by the deletion of the 14 year olds and Section 85 the remand statute:  
- those would be Sections 57 - 62 second look and conditional release section 64 criminal culpability would return to where it was  
- second look would be out

284 SEN. STULL: Are you bringing this up for closure from this committee?

286 LIVINGSTON: That is correct

301 McDONALD: Was this considered by both caucuses in the Senate?

307 SEN. SPRINGER: House Democratic caucus expressed concern with what was discussed.

358 McDONALD: Has concerns on referring issues on 14 year olds on referendum to the people.

395 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 to speak only to impact of Measure 11 offenders, with goal being to refer remaining concepts to people in May primary.

408 SEN. STULL: Can you narrow or amend your motion. I oppose changing work we have done to SB 1 to date, but I am not against forwarding things to the voters.

420 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 to speak only to the impact of Measure 11.

423 VOTE: 2 - 1 AMENDMENT is ADOPTED  
AYE: Hamby, Springer  
NAY: Stull

432 LIVINGSTON: The amendment puts the lists of crimes back to Measure 11 and excludes sections relating to 14 year olds, and Section 85.

444 CAMPBELL: Are things like Youth Authority still in bill?

448 CHAIR HAMBY: Yes.

TAPE 44, A

040 CHAIR HAMBY: Can we come up with more flexible language for Section 27, page 8, line 44?

046 RICH HILL, Assistant Administrator, Office of Juvenile Corrections: We used the number 100 as it was the standard for maximum size.  
- new information increases number of beds to 150  
065 - goal is to keep it small

070 CHAIR HAMBY: A specific bed limit ties our hands in Ways and Means. Is it possible to loosen language?

073 HILL: 150 beds is latitude we need for efficiency and to save costs, and is within national recommended standards.

077 SEN. STULL: Can we use language that doesn't tie it to a specific number?

083 HILL: We could leave it out and defer it to Ways and Means  
- we don't want one large 500 bed facility

087 LIVINGSTON: It is important to retain regional siting. One suggestion is to provide the number, say they are regional, and give a number for total number of beds.

117 CHAIR HAMBY: Have you spoken to California Youth Authority regarding construction and various degrees of offenders in one facility?

126 HILL: I have had discussions with consultants in other states.  
129 - discussed notion of multi purpose facility  
133 - we can add in intermediate sanction features for accountability camps and residential academies all at same site

140 CHAIR HAMBY: Can we delete 100 number in line 44?

153 HILL: As long as we retain the regional concept.

157 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by deleting numerical references until it reaches Ways and Means.

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

163 LIVINGSTON: Discusses Oregon Newspapers Publishers Association letter to Sen. Hamby.  
175 - proposal on expungment is to do with juveniles what is done with adult - seal records  
190 - speaks to public access to proceedings which is beyond scope of this bill  
212 - there is no arrest of juvenile, there is protective custody; it becomes a juvenile record  
204 - once person becomes an adult for prosecution they become an adult for criminal record

223 CAMPBELL: I did analysis of the questions and compared them to the provisions of the bill.

250 CHAIR HAMBY: We have not acted on Larry OgleSB y's language for Section 2, sub 1 c.

259 MOTION: CHAIR HAMBY: Moves to AMEND SB 1, Section 2.

257 SEN. SPRINGER: Votes no.  
261 - doesn't think we will have enough money to fund what the state is responsible for

265 VOTE: 2 - 1 AMENDMENT is ADOPTED  
AYE: Hamby, Stull  
NAY: Springer

271 OGLESB Y: It was not my intent to make this a mandated authorization. I intended to put in enabling language so it could be funded in future.

280 CHAIR HAMBY: I did not feel that this obligated us financially.

275 TAYLOR: Subsection 2, the provision could be changed to "may".

298 OGLESB Y: That would do it.

300 MOTION: CHAIR HAMBY: Moves to AMEND SB 1, Section 2 to read "department may administer program of state assistance to counties for construction and operation of local juvenile detention facilities".

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

303 CAMPBELL: Proposes amendment to Section 2, adding subsection 7 [EXHIBIT G].

329 CHAIR HAMBY: This is the section that speaks to data collection on the local level.

339 MOTION: CHAIR HAMBY: Moves to AMEND SB 1 by adding subsection 7 to Section 2.  
VOTE: Hearing no objections, the amendment is ADOPTED. All members present vote AYE.

360 CHAIR HAMBY: We have Avel Gordly proposed amendments.

371 SEN. STULL: I believe others have added that language to the bill.

375 SEN. SPRINGER: Discusses presenting this to full committee

422 MOTION: SEN. STULL: Moves SB 1 AS AMENDED TO FULL COMMITTEE

424 VOTE: Hearing no objections, the motion CARRIES. All members present vote AYE.

Closes WORK SESSION on SB 1

Submitted by,

Reviewed by,

DIANE DUSSLER  
Committee Assistant

BILL TAYLOR  
Committee Counsel

EXHIBIT SUMMARY:

A - Testimony on SB 1 - Frank Yraguen - page  
B - Testimony on SB 1 - Barbara Seldin - page  
C - Proposed Amendments on SB 1 - Larry OgleSB y - 1 page  
D - Testimony on SB 1 - Jeannette Hamby - 5 pages  
E - Proposed Amendments on SB 1 - Mike Livingston - 9 pages  
F - Proposed Amendments on SB 1 - Ingrid Swenson - 1 page  
G - Proposed Amendments on SB 1 - Craig Campbell - 1 page  
H - Testimony on SB 1 - Jeannette Hamby - 2 pages  
I - Proposed Amendments on SB 1 - Stull - 4 pages