

SENATE COMMITTEE ON
JUDICIARY
SUBCOMMITTEE ON JUVENILE JUSTICE

Hearing Room
Tapes - 46

MEMBERS PRESENT:
SEN. JEANNETTE HAMBY, Chair
SEN. NEIL BRYANT, Visiting Member
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.

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

Opens WORK SESSION on SB 1

WITNESSES: Mike Livingston, Assistant Attorney General, Department of
Justice

Nancy Miller, State Court Administrator's Office
Pam Patton, Children First for Oregon
Timothy Travis, Juvenile Rights Project
Larry OgleSB y, Oregon Juvenile Director's Association

006 CHAIR HAMBY: Asks counsel to explain SB 1-11 amendments.

010 BILL TAYLOR, Committee Counsel: SB 1-12 [EXHIBIT B] is the bill as it
passed out of subcommittee last Wednesday. SB 1-11 [EXHIBIT A] is the same

bill with the 12-14 year olds back in, the 12-13 year olds subject to
remand for certain offenses, and 14 year olds subject to waiver for certain
offenses.

013 CHAIR HAMBY: We need to address the language on collective bargaining.

017 TAYLOR: Discusses problem in the SB 1-11 amendments on page 86, line
17, with the term "any collective bargaining agreement".
- language "subject to any collective bargaining agreements" lacks
specificity and is fertile ground for litigation.

034 SEN. BRYANT: I would move that the word "any" be deleted. It would be
replaced with Subject 2a collective bargaining agreement and the rest of
the general sub paragraph which explains that it is talking about the
collective bargaining agreement between the employee and particular
organization that they are an employee of.

041 CHAIR HAMBY: That is lines 17-20.

MOTION: SEN. BRYANT: Moves to ADOPT the amendment deleting the word "any"
and replacing it with the word "a".

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

050 CHAIR HAMBY: The proposed amendments by Rep. Avel Gordly were not
included in SB 1-11 or SB 1-12. I would like Sen. Bryant to speak to that.

055 SEN. BRYANT: In April the full judiciary committee will hear six bills
on ethics and racial bias in our court procedures. Those bills have been
written by an implementation committee chaired by Court of Appeals Judge
Muriel, and they are his LC drafts. I will invite Rep. Gordly to be the
introductory witness together with Judge Dumunis.

070 SEN. SPRINGER: I will make a motion to include Rep. Gordly's
amendments. [EXHIBIT D] I think it is important enough to be put in the

language of this bill. The questions that she raised on the treatment of minorities are part of the juvenile corrections system.

MOTION: SEN. SPRINGER: Moves to ADOPT the incorporated SB 1-10 amendments.

098 VOTE: 3-1 MOTION FAILS
AYE: Springer
NAY: Bryant, Hamby, Stull

104 CHAIR HAMBY: Now to return the 12, 13, and 14 year olds to the bill.

MOTION: SEN. BRYANT: Moves to ADOPT Sections 50-56, and Section 78 of SB 1-11 amendments.

110 TAYLOR: I believe it is the intent to put back in the 12, 13, and 14 year olds that we took out at the last meeting.

114 CHAIR HAMBY: We deleted it last time. This would ensure that they were included and that the "second look" is also included for this age group.

VOTE: 3-1 AMENDMENT is ADOPTED.
AYE: Bryant, Hamby, Stull
NAY: Springer

130 CHAIR HAMBY: In the SB 1-11 amendments a 17 year old is not subject to aggravated murder but 12 and 14 year olds are so it raises constitutional questions. To move away from this issue we could remove the offense of aggravated murder for 12-14 year olds.

136 MOTION: SEN. BRYANT: Moves to ADOPT amendment deleting in Section 50, page 32, lines 2 and 3, and Section 78 on page 75, line 22, after murder deleting "or any aggravated form thereof under ORS 163.095".

VOTE: 3-1 AMENDMENT is ADOPTED.
AYE: Bryant, Hamby, Springer
NAY: Stull

153 CHAIR HAMBY: An effort is being made to move closer to the language being considered by the House on the emergency citing authority, Sections 27-37, pages 14-22 of SB 1-11 amendments.

163 TAYLOR: Explains HB 2136-1 amendments [EXHIBIT C]. This can be used to demonstrate their willingness to have facility located in their area. Discusses another proposal being considered in House [EXHIBIT E].

190 CHAIR HAMBY: I would like us to consider in SB 1-1 drafted by legislative counsel, dropping the word "department" as found in line 2 and substituting the words "youth authority".

210 MOTION: SEN. BRYANT: Moves to ADOPT the amendment to delete the word "department" and add the words "youth authority".

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

215 TAYLOR: On page 32, line 5, we have blank months. To have consistency in bill, we may want to put the number 300 in.

MOTION: CHAIR HAMBY: Moves to ADOPT the amendment to add "300" in the blank on page 32, line 5.

223 VOTE: 3-1 AMENDMENT is ADOPTED.
AYE: Bryant, Hamby, Stull
NAY: Springer

232 TAYLOR: In the SB 1-11 amendments we have discovered errors. There are things that the committee has adopted but haven't made it into the amendments.

247 SEN. SPRINGER: I assume that in the SB 1-11 amendments the sections are renumbered. One person who couldn't be here today alerted me to her concern regarding Section 87 in the printed bill.

258 TAYLOR: It is now Section 80. A transfer table is available for renumbering.

260 SEN. SPRINGER: Her concern was that we hadn't picked up the language. These are the criteria that the judge asked us to consider in the disposition phase. I believe the language in the new Section 80 does reflect the action of the committee.

266 TAYLOR: I believe this is one of the changes that we have picked up.

287 CHAIR HAMBY: Do you recall any other omissions?

293 TAYLOR: I do know there was one. While not being major there are approximately 20 errors.

288 SEN. SPRINGER: One issue was whether action was taken in trying to adopt language to address a deficiency in terms of quality of treatment of women and young women in latest set of LC amendments.

306 TAYLOR: I believe that is in Section 2 and I know that we specifically adopted that.

300 MIKE LIVINGSTON, Assistant Attorney General, Department of Justice: Equal access language is located on page 4, line 17.

310 CHAIR HAMBY: We made an effort to delete the phrase "no more than" in reference to designated number of beds until we get the figures into Ways and Means.

314 TAYLOR: This bill does not reflect the fact that the amendment was made by the subcommittee. The corrections we are sending back to Legislative Counsel's office will reflect that. It does that by removing the references to "no more than".

330 CHAIR HAMBY: I was told by the bill's authors that the issues, which we debated by adding crimes in an effort to delete some of the lesser crimes, will be addressed in a house bill. There is also an effort to include the opportunity for a "second look".

353 - expresses concern about the available mental health treatment
- biggest concern is that budget has less than 24 million for juveniles

369 SEN. SPRINGER: Muriel Goldman shared a memo on amendments proposed on 2-22-95 [EXHIBIT F] relating to the mental health screening or assessment.

She indicates she spoke to Ms. Miller and Mr. McDonald and thought it might be acceptable to them as an amendment to ORS 419C.400 sub 3.

405 CHAIR HAMBY: I will include it in a budget note in Ways and Means to hopefully meet with some addition dollars. My concern is with some of the language on assessments.

440 SEN. SPRINGER: I would like to make the motion that we include this language amending ORS 419C.400 sub 3.

MOTION: SEN. SPRINGER: Moves to ADOPT the language to amend ORS 419C.400 sub 3.

470 CHAIR HAMBY: We are now going to accept testimony. This would amend Section 72.

493 NANCY MILLER, State Court Administrator's Office: It is former Section 87.

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053 TAYLOR: That is Section 80, amending ORS 419C.411 not 419C.400. It would be an addition to the bill, and to a section not in the bill.

054 MILLER: I think Ms. Goldman had referenced Section 87 and wasn't sure where it needed to go but because it was a dispositional piece she talked about Section 87.

- amendment that used to require a mental health evaluations for all children at disposition is now it permissive and says "may"

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063 CHAIR HAMBY: Yes, it is a change from "shall" to "may".

073 TAYLOR: That section isn't in the bill.

076 LIVINGSTON: First statute referring to 419C.400 sub 3, is existing law. To determine proper disposition of the child, testimony or reports or

other material relating to child's mental, physical or social history may be considered. That is not changed and it is not part of the bill.

094 SEN. SPRINGER: I think Ms. Goldman's point is that there needs to be an assessment before you can evaluate if there is a problem. Her desire was that we speak to discretionary language so that the assessment be conducted in time to permit the decision maker to have all the necessary information.

118 MOTION: SEN. SPRINGER: Moves to accept language and allow Legislative Counsel to place it in appropriate section.

122 MILLER: Previous discussion on this amendment raised some concerns for

the judicial department when language was mandatory.

- it will be hard to do a fiscal impact statement, as it bifurcates the jurisdiction and dispositional hearings
- Ms. Goldman has limited it to out of home placement, and secure custody placement, so that has lowered objections to it

130 PAM PATTON, Children First for Oregon: The decision makers need to
evaluate the mental health and emotional needs of the child before they
decide on an out of home disposition.

149 LARRY OGLESB Y, Oregon Juvenile Department Director's Association: We
also had similar concerns as Ms. Miller when amendment was first
introduced.

- court has discretion now and may in fact do this
- concern is whether it can be realistically done in a one week period of

time

163 PATTON: The language of one week was due to the concern by the juvenile

rights projects folks that children would be locked in detention longer
than they needed to be in order for the systems to organize evaluations.
The week was not our issue as long as the assessment occurred.

170 CHAIR HAMBY: Do you have a recommendation to the one week time period?

171 OGLESB Y: Detention space is at such a premium that if there is any way
it could be done more quickly we would do that.

176 SEN. SPRINGER: If it would make it more palatable, to find language
that addresses Larry's concern, or concern that the one week is too
restrictive, I would accept that as an alternative amendment.

184 SEN. STULL: Is this something that should be taken up on the House
side?

188 CHAIR HAMBY: I agree, but I know that Pam and other advocates have
brought this issue to several sessions. I would like to think that the
youngster is not detained just to get the assessment. Are you are willing
to delete "if the child is held in detention during the evaluation, the
length of time required to complete the evaluation shall be completed
within one week".

198 SEN. SPRINGER: Maybe Mr. Travis has a more artful way of expressing it.

202 TIMOTHY TRAVIS, Juvenile Rights Project: It used to be 20 days. That
law was repealed. I would like to have some sort of time limit on it, so
it is not an indefinite hold.

204 CHAIR HAMBY: Recognizing the inadequate number of detention beds that
we have.

206 TRAVIS: I understand, but we are writing laws that could be on the
books for a long time. My preference is that there would be some sort of
time limit.

210 CHAIR HAMBY: Let's recess until 4:05.

216 PATTON: I would like to propose that since discussion on this amendment

came so late in this process that we postpone this amendment until it goes
to the House side for discussion there and it is dealt with in Ways and
Means.

221 SEN. SPRINGER: In light of that request I will withdraw my motion.

226 CHAIR HAMBY: Chair will entertain motion to move bill on to full
committee as amended. Conceptual amendments considered by our counsel are
not yet incorporated in the amendments we have been working from.

234 TAYLOR: These are amendment that have been adopted in written form but
for one reason or another were not incorporated in SB 1-11.

227 MOTION: SEN. STULL: Moves SB 1 AS AMENDED TO FULL COMMITTEE with
DO PASS recommendation.

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VOTE: 2-1 MOTION PASSES
AYE: Stull, Hamby
NAY: Springer
SEN. BRYANT is EXCUSED.

244 CHAIR HAMBY: Bill is on for full committee tomorrow.

Closes WORK SESSION on SB 1

247 CHAIR HAMBY: Adjourns meeting at 4:07.

Submitted by,

Reviewed by,

DIANE DUSSLER
Committee Assistant

BILL TAYLOR
Committee Counsel

EXHIBIT SUMMARY:

A - Proposed Amendments to SB 1-11 - Staff - 109 pages
B - Proposed Amendments to SB 1-12 - Staff - 95 pages
C - Proposed Amendments to HB 2136 - Staff - 1 page
D - Proposed Amendments to SB 1-10 - Staff - 5 pages
E - Proposed Amendments to SB 1 - Staff - 1 page
F - Proposed Amendments to SB 1 - Muriel Goldman - 1 page