

HOUSE COMMITTEE ON JUDICIARY SUBCOMMITTEE ON CRIME AND CORRECTIONS

June 1, 1993 Hearing Room 357 3:00 p.m. Tapes 118 - 119

MEMBERS PRESENT: Rep. Bob Tiernan, Chair Rep. Kate Brown Rep. Peter Courtney

MEMBER EXCUSED: Rep. Veral Tarno

STAFF PRESENT: Holly Robinson, Committee Counsel Julie Nolta, Committee Clerk

MEASURES CONSIDERED: SB 728 - Relating to vehicular trespass SB
735 - Relating to representation of children in
judicial system SB 1115 - Relating to mediation

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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. [--- Unable To Translate Graphic ---]

TAPE 118, SIDE A

006 CHAIR TIERNAN: Calls meeting to order at 3:05 p.m.

SB 1115 - PUBLIC HEARING

Witnesses: Fred Avera, Oregon District Attorneys Association Judge Michael Marcus, Multnomah Co. Ross Runkel, Oregon Dispute Resolution Commission Bill Linden, State Court Administrator

019 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1115 provides that mediation may be used in certain criminal, civil and juvenile proceedings in lieu of

trial and may be required as a condition of diversion, probation, parole or post-prison supervision. There are amendments submitted by Rep. Brown. (EXHIBIT A)

029 FRED AVERA, POLK CO. DISTRICT ATTORNEY; OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies in favor of SB 1115. Submits amendments. (EXHIBIT B) Responds to SB 1115A-5 amendments. Submits amendments #2. (EXHIBIT C)

132 CHAIR TIERNAN: How does this differ from what you can do now?

AVERA: Codifies what we think we can already do at the local level. The bill speaks to authority of Board of Parole and Post-Prison Supervision to make it as part of a release plan.

163 CHAIR TIERNAN: Any provision that would bother you if the bill was passed?

AVERA: Discusses effects of amendments. Concerned about the violation of defendant's self incrimination privilege and that the mediation agreement may not be used as evidence. Discusses district attorneys diversion agreements.

216 JUDGE MICHAEL MARCUS, MULTNOMAH CO.: Submits and reviews written testimony in favor of SB 1115. (EXHIBIT D)

451 REP. BROWN: Asked if the issue of domestic violence was addressed in

Senate hearings.

MARCUS: No.

463 ROSS RUNKEL, OREGON DISPUTE RESOLUTION COMMISSION: Testifies in favor of SB 1115.

TAPE 119, SIDE A

RUNKEL: Continues testimony.

048 CHAIR TIERNAN: Asks both witnesses if they feel mediation could be helpful in domestic violence situations.

MARCUS: Useful in limited number of cases. Would be dangerous to pass a bill which would generally authorize mediation in domestic violence cases.

059 CHAIR TIERNAN: The A-5 amendments would prohibit the use of mediation in certain situations.

MARCUS: Likes the bill and would hate to see anything ruin it's chances of passing.

RUNKEL: Judges already have the discretion to do what this A-5 amendment would take away from them.

077 BILL LINDEN, STATE COURT ADMINISTRATOR: Testifies in favor of SB 111 5 on behalf of Chief Justice Carson.

090 REP. BROWN: Asks Mr. Linden if he has a position on excluding domestic violence. LINDEN: No, it will apply in so few cases that there should be no invitation to attempt to apply it inappropriately.

100 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1115 does not address whether or not filing fees could be diverted or used by mediation programs.

RUNKEL: The Dispute Resolution Commission does fund Victim Offender Resolution Programs (VORP). They are qualified to receive funds. The

unfunded groups are also subject to dispute resolution program rules on qualifications of mediators.

126 HOLLY ROBINSON, COMMITTEE COUNSEL: That is the intent of the bill but it is not explicit. Concerned about conformance.

RUNKEL: ORS 36 makes it clear that the commission is authorized to fund VORP programs and is required to regulate the qualifications of all mediation programs that use state funds.

SB 728 - PUBLIC HEARING

(SB 728 deletes "riding" in a motor vehicle from the definition of Unauthorized Use of a Motor Vehicle and creates a new Class A misdemeanor offense of Vehicular Trespass.)

Witnesses: Timothy Travis, Juvenile Rights Project Fred Avera, Oregon District Attorneys Association

171 TIMOTHY TRAVIS, JUVENILE RIGHTS PROJECT: Submits and reviews written

testimony in favor of SB 728. (EXHIBIT E)

242 FRED AVERA, POLK CO. DISTRICT ATTORNEY; OREGON DISTRICT ATTORNEYS ASSOCIATION: Testifies to SB 728.

SB 735 - PUBLIC HEARING

(SB 735 requires the Oregon Community Children and Youth Services Commission to study and make recommendations regarding the most efficient and economical way of implementing the American Bar Association's resolution concerning the appointment of a guardian ad litem for every child who is the subject of a civil protection proceeding.)

Witnesses: John Rakowitz, Oregon Youth Services Commission

293 JOHN RAKOWITZ, OREGON YOUTH SERVICES COMMISSION: Testifies in favor of SB 735.

325 CHAIR TIERNAN: Asks Mr. Rakowitz where the money would come from to pay for legal representation.

RAKOWITZ: Doesn't know what the recommendations would be. Assumes the parties involved would have to come up with a realistic expectation.

CHAIR TIERNAN: Can we look at studies of other states?

RAKOWITZ: No time or resources but to bring the parties together to see what they are doing. Then we would talk to people from other states.

367 CHAIR TIERNAN: Why do we need legislation to do this?

RAKOWITZ: This situation has existed for many years and it has not been done yet.

380 REP. BROWN: Does Oregon Community Children and Youth Services Commission have authority to conduct this study without legislation?

RAKOWITZ: Would have authority with legislation. This would provide incentive.

395 CHAIR TIERNAN: Adjourns the meeting at 4:00 p.m.

Submitted by:

Reviewed by:

Julie Nolta
Committee Coordinator

Anne May Committee Clerk

EXHIBIT LOG:

A - Proposed amendments to SB 1115 - Rep. Kate Brown - 1 page
B - Proposed amendments to SB 1115 - Oregon District Attorneys Assoc. - 1 page
C - Proposed amendments to SB 1115 - Oregon District Attorneys Assoc. - 1 page
D - Testimony on SB 1115 - Judge Michael Marcus - 1 page
E - Testimony on SB 728 - Juvenile Rights Project - 2 page