

SENATE COMMITTEE ON
JUDICIARY

January 27, 1993 Hearing Room C
1:00 p.m. Tapes 8-9

MEMBERS PRESENT: Sen. Dick Springer, Chair
Sen. Neil Bryant
Sen. Jeannette Hamby
Sen. Bob Shoemaker
Sen. Catherine Webber

MEMBERS EXCUSED: Sen. Grattan Kerans

STAFF PRESENT: Bill Taylor, Committee Counsel
Karen Quigley, Committee Counsel
Kirk Bailey, Committee Clerk

ISSUES DISCUSSED: Public Hearing

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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.

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TAPE 8, SIDE A

003 CHAIR SPRINGER: Calls the hearing to order at 1:00pm. Convenes as subcommittee until quorum present at which time they will consider rules.

SB 243: Increases filing fee from \$10 to \$50 in Oregon Tax Court.

WITNESSES:

CARL N. BYERS, JUDGE, OREGON TAX COURT

010 BYERS: Submits and reviews written testimony (EXHIBIT A). Brings filing fees in line with other courts, and eliminates frivolous filings.

061 SEN. SHOEMAKER: Small Claims division qualifications for judge? Are lawyers permitted to participate in proceedings?

067 BYERS: Yes, small claims designed to allow people to participate with or without a lawyer.

071 SEN. SHOEMAKER: Who is the judge?

BYERS: I am.

073 SEN. SHOEMAKER: The difference between courts is the requirements for counsel which allows individuals to appear with an attorney or any other representative?

BYERS: Yes.

080 CHAIR SPRINGER: Any opposition?

BYERS: Not aware of any opposition.

085 CHAIR SPRINGER: Moves on to general committee business. Considers

rules. Suggestions by SEN. BRYANT included in final rules.

MOTION: Chair Springer moves adoption of committee rules.

>Hearing no objection, so ordered.

>SEN. KERANS excused.

106 BILL TAYLOR, COMMITTEE COUNSEL: LC 1094, for introduction by SEN. HAMBY, at the request of Marion County District Attorney's office, Family Support Division.

112 CHAIR SPRINGER: Inquires about any objection to SEN. HAMBY's motion to introduce LC 1094.
>Hearing no objection, so moved.
>SEN. KERANS excused.

SB 231: Clarifies that probation is sentence.

WITNESSES:

BILL LINDEN: STATE COURT ADMINISTRATOR

131 LINDEN: Submits and reviews written test. (EXHIBIT B)
>Seeks to address issues in State v. VaSB y.

166 SEN. BRYANT: Did state petition Supreme Court in State v. VaSB y?

LINDEN: Yes, the Court did not accept case. Comments on reasons.

SB 247: Clarifies distribution of filing fee paid in marijuana and DUUI diversion cases to emphasize that defendant pays evaluator directly.

WITNESSES:

BILL LINDEN, STATE COURT ADMINISTRATOR

185 LINDEN: Submits and reviews written testimony (EXHIBIT C).
>Doesn't affect substantive and fiscal decisions made in 1991 about

distribution of funds to programs.

SB 248: Provides that sentence which requires payment of money is enforceable

while inmate is imprisoned if inmate secures resources to pay judgement.

WITNESSES:

BILL LINDEN, STATE COURT ADMINISTRATOR

DENNIS DOWD, ASSISTANT DIRECTOR, DEPARTMENT OF CORRECTIONS.

239 LINDEN: Submits and reviews written testimony (EXHIBIT D).

>Will have information to set limit to amount of funds that may be seized in time for work session.

303 SEN. SHOEMAKER: What happens to inmate morale?

LINDEN: Could be detrimental to morale, we will propose a way to address basic needs at work session. If limiting language is needed, then we can put some in.

319 SEN. SHOEMAKER: Garnishment law protects certain amount of earnings.

Even with spending money exception, would this cut deeper than garnishment rules?

LINDEN: Don't believe so, on a percentage of income basis. Not planning on garnishment to appropriate these funds. Review garnishment limitations.

346 SEN. WEBBER: Please include in consideration the notion that this money

is used as stake money.

LINDEN: Agrees and will do so.

366 SEN. BRYANT: Suggests areas for Linden to examine in revisions.

376 CHAIR SPRINGER: What about adjudication processes in the case of inheritance?

386 LINDEN: Will not likely apply to that situation, applies only to judgements in favor of the state.

399 DENNIS DOWD, ASSISTANT DIRECTOR, DEPARTMENT OF CORRECTIONS: Submits and

reviews written testimony (EXHIBIT E).

>Concerned with morale issues.

>Department views collection of funds as garnishment.

>Difficult to administer by Corrections. 8 staff needed to implement

entailing a potential 0-\$489,000 per biennium cost.

479 SEN. SHOEMAKER: Inmates are still subject to state laws on garnishment and other creditor collection methods?

LINDEN: They may be, but the state wouldn't be garnishing but enforcing existing court order.

491 SEN. SHOEMAKER: Why should be inmates be treated differently? We have legislation currently that covers this problem.

TAPE 9, SIDE A

034 LINDEN: Probably not, but we will review garnishment statutes to determine.

037 SEN. SHOEMAKER: This could be an unnecessary bill?

LINDEN: Our analysis indicates that without specific authority we cannot go after funds.

050 SEN. WEBBER: Gate money, how much do inmates receive?

DOWD: Receive nothing unless they need it. Subsidies for living expenses and transportation are available but limited. Those inmates that work for system are required to save gate money.
>Continues discussion on details of inmate release and gate money.

072 LINDEN: Bill will need to reconciled with other bills in Legislature this session.

085 DOWD: Comments on another issue, all inmates are released with post prison supervision, with provision that said inmates pay court costs and fines as a condition of post prison supervision.

SB 249: Requires presiding judge to establish local criminal justice advisory councils in each county in judicial district.

WITNESSES:

BILL LINDEN, STATE COURT ADMINISTRATOR

ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION

098 LINDEN: Submits and reviews written testimony (EXHIBIT F).
>Councils have reduced police overtime 122% in Portland area. Saved thousands of dollars.

152 SEN. WEBBER: What areas are you talking about, court or community

corrections? How are you differentiating between two, do they interfere each other?

LINDEN: Don't interfere except to coordinate activities that affect the other. Councils include corrections staff, state and local. No turf issues to date.

170 SEN. WEBBER: What is the outer parameter for coordinating services? Delivery of probation services?

LINDEN: Not really, probation could be one of many issues. Councils are not intended to conflict with current jurisdictions.

182 CHAIR SPRINGER: Why can't Chief Justice just order establishment of councils?

LINDEN: Former Chief Justice did so but if one actor doesn't participate it is unsuccessful. System has limited authority to order.

197 CHAIR SPRINGER: What happens with independently elected official who doesn't wish to participate?

LINDEN: That is a possibility, but eventually people need to become involved or risk being out of the loop.

212 SEN. SHOEMAKER: Will we have a problem with implementation, picking a chair and others?

220 LINDEN: Possible but problems are not with judges in areas. Have positive feed-back so far.

231 SEN. SHOEMAKER: Doesn't need new teeth?

LINDEN: Don't think so. Didn't want to make measure too coercive.

238 SEN. WEBBER: Who does advisory council advise?

LINDEN: Essentially, advice to presiding judge and judiciary in district. Actually takes on substantive issues in the area and may advise different entities on different issues. Tend to be interdisciplinary bodies.

262 SEN. HAMBY: Any organizations from outside criminal justice system?

LINDEN: Possible to do so perhaps from the local business community.

Depends on council agenda.

285 ROSS SHEPARD, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: States
SB
249, SB 247 good ideas. Bill does not mandate judge participation.
Recommends amendment to require judge or representative participate.

297 LINDEN: No objection. All existing ones have participation.

SB 227: Requires establishment of juvenile justice advisory councils in
all
counties regardless of size.

WITNESSES:

BILL LINDEN, STATE COURT ADMINISTRATOR

PAUL SCHNEIDER, ASSOCIATION OF OREGON COUNTIES

LARRY OGLESB Y, OREGON JUVENILE DIRECTORS ASSOCIATION

309 LINDEN: Submits and reviews written testimony (EXHIBIT G). Companion
to
SB 248.

345 CHAIR SPRINGER: Do we still have county judges who exercise
juvenile
responsibility? How does that fit?

LINDEN: Soon there will be only one judge who exercises such
responsibility. Practice is rapidly diminishing.

372 PAUL SCHNEIDER, ASSOCIATION OF OREGON COUNTIES: Several counties
have
judges with juvenile responsibilities: Sherman, Gillam, Wheeler,
Harney.
>Seems to eliminate authority to create councils in those districts.

Creates a gap.

390 LINDEN: Gap is not intended. Language can be added as necessary.

406 LARRY OGLESB Y, OREGON JUVENILE DIRECTORS ASSOCIATION: Submits
and
reviews written testimony. (EXHIBIT H). Opposed to bill.
>Bill duplicates existing provisions. Numerous groups have opposed
similar statutes.
>Supports concept of information sharing.

457 SEN. SHOEMAKER: Requests response from Linden.

459 LINDEN: Doesn't believe existing commission is appropriate to
respond
to day-to-day, operational issues this council addresses. Council
addresses operational issues that need more immediate attention, not
longer range planning issues.

489 SEN. SHOEMAKER: Have you met with Juvenile Directors Association?

LINDEN: No. Will follow up with Juvenile Directors Association.

TAPE 8, SIDE B

036 SEN. BRYANT: Comments on Deschutes Youth Services Commission.

Impression is that commissions are different.

045 LINDEN: Groups have different issues and memberships, hence reason for

proposing a new group.

055 CHAIR SPRINGER: Adjourns meeting at 2:00pm.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Bill Taylor
Administrator

EXHIBIT LOG:

- A - Testimony on SB 243 - Carl Byers - 3 pages
- B - Testimony on SB 231 - Bill Linden - 3 pages
- C - Testimony on SB 247 - Bill Linden - 3 pages
- D - Testimony on SB 248 - Bill Linden - 2 pages
- E - Testimony on SB 248 - Dennis Dowd - 1 page
- F - Testimony on SB 249 - Bill Linden - 4 pages
- G - Testimony on SB 227 - Bill Linden - 2 pages
- H - Testimony on SB 227 - Larry OgleSB y - 1 page