

CSSSB

59

"An Act relating to the publication of the names of juveniles for certain offenses; and changing Rule 26, Supreme Court Rules of Children's Procedure."

COMMITTEE REPORT

3/13/75

HOUSE

JUDICIARY

Mr. Speaker:

Date

Mar 28, '75

The Committee on HESS has had CSSB 59

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

Susan Sullivan John P. ... _____
Helen ... _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Susan Sullivan Chairman



Alaska State Legislature

House

JUNEAU ALASKA

HESS COMMITTEE MEETING

3-28-75

Members Present:

Beirne Sullivan
Davis Swanson
Hackney
Ose
Ostrosky

Chairman Sullivan called the meeting to order at 3:00.

HB 202, HB 206

Rep. Naughton gave briefing of the bills. They deal with the Board of Regents and the term of office. General these two bills are the same, one being introduced by Rep. Gardiner. Reasoning behind the bill is to provide a wider district of representation on the Board. The U of A is experiencing a surge of interest in growth throughout the State. This is to insure that because of this growth, two more members will be added.

Hackney What would be the rationale behind holding a Regent to two terms?

Naughton There is such keen interest throughout the geographical sections and within these segments throughout the State.

Ostrosky I see this as a healthy change of turnover on the Board.

Naughton The present term is 8 years and then may be reappointed.

Ose How many do we have now?

Naughton We have 8 eight year term members and 1 2 year student member.

Charles Ferguson - U of A Regional

Ose I am concerned with the large representation being from Fairbanks, Anchorage and Juneau, no other geographical areas are represented.

Hackney What is the longest time that anyone has spent on the Board?

Ferguson Region Oneill was on 20 some years, I really couldn't give you that exact answer, I am not sure. We feel that it takes by the end of a four year term to know enough about the University. Under this bill a regent would just be getting familiar with all the problems and his term would be up.

Ferguson From our standpoint this is an extremely complex statewide institution.

Nels Anderson Read a letter he sent to Governor Hammond per Board of Regents. Asked Governor to reconsider the list of appointments and include more geographical areas. I think we should get new blood into the system. And one question is what do we do when a Regent has a poor attendance record? This board should be made up of members throughout the state and should reflect the composition of the entire state, racial lines and geographical lines.

Ferguson I agree with you Mr. Anderson. My point was that it takes whoever is appointed several years to understand the process and workings of the U of A. Would like to remind you that it is a single statewide system. Should be representing the U of A without political undertones. If we have added a student to the Board, then why not add a faculty member also? This provides all kinds of problems.

Gardiner I disagree with the 8 year term because of the complexity of the U of A system. I don't see how this could possibly be any more complex than the Finance Committee of the Legislature and there is no 8 year term here. They are simply for two years.

Regent

Abel I would ask that you bring this bill up again at a later date in order to give other Regents a chance to speak on this bill. I have only been on the Board a few months and am not yet qualified to speak for all.

Naughton I would like to see a four year term. This is the common practice in a number of other states. My bill asks for a five year term because I couldn't see them going for the four year term from the 8 year.

Beirne Things have changed so much in the last six years. I had the feeling then that this was a prestigious job. Personally feel 8 years is too long. It should be a good hard working Board knowing what they're getting into etc. I believe a five year term is sufficient.

Ose Do they have any orientation to let you know what you'll be doing?

Regent Abel Not as such. I knew quite a bit about it because I am a graduate of the U of A.

Ferguson There are four regular meetings a year with special meetings occurring throughout the year.

Beirne Asked Mr. Naughton if he would consider a 6 year term. He replied that he and Gardiner would have to agree to the 5 year term.

Ferguson I would like to ask that the Regents be brought down to testify to the Judiciary Committee.

Ostrosky I move HB 202 out of the Committee

Swanson I ask unanimous consent with a 'do pass' recommendation.

Chairman Sullivan Without objection, so ordered.

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HESS Meeting
3-28-75

CSSB 59

Chairman Sullivan The major difference between this bill and HB 97 is that the Judge may decide to release the name.

Beirne This is very different than the last bill and makes it almost innocuous. Ose's bill made the releasing of names mandatory and this leaves the protection up to the discretion of the Judge.

Chairman Sullivan Do I have a motion on this bill?

Ostrosky I move we pass this bill out with individual recommendations.

Chairman Sullivan So ordered.

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PMS REP BILL RAY

JUN 1559

THE UNDERSIGNED SUPERIOR COURT JUDGES ENDORSE AND ARE IN
FAVOR OF SENATE BILL 59 AND URGE PUBLICATION OF JUVENILE
OFFENDERS NAME ADDRESS AS PER THE BILL

JUDGE RALPH E MOODY JUDGE SEABORN J BUCKALEW JUDGE EDMOND
BURKE JUDGE P J KALAMARIDES

Alaska Youth Advocates, Inc.

1200 EAST 27TH AVENUE PHONE 274-6541
ANCHORAGE, ALASKA 99504

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Alaska Youth Advocates, Inc. recommends against the passage of Senate Bill 59, and submits the following arguments.

1. Senate Bill 59 is in direct conflict with the concept of the juvenile justice system.

The fundamental philosophy behind the juvenile justice system is the characterization of juvenile proceedings as non-criminal, with its dispositions being rehabilitative and in the best interests of the child, rather than punitive.¹ Weighed against the lack of full constitutional and statutory protections found in the adult court's adversary process is the assurance by the juvenile court that the confidentiality of a juvenile record is safeguarded. If we do not offer the child this protection from publicity, we must insure him full constitutional protection under the criminal justice system.

2. SB 59, the publishing of delinquent minors' names, will serve no rehabilitative function.

As to rehabilitative value, it is generally felt that public disclosure of a delinquent's name and case facts would

interfere with the effectiveness of the court's rehabilitative program.² The Standard Juvenile Court Act comments that the purpose of confidentiality is:

to prevent the humiliation and demoralizing effect of publicity or unnecessary disclosure of private affairs heavily charged with feelings of anxiety, guilt and recrimination. Disclosure would make it more difficult to utilize a child's feeling of self respect in effecting rehabilitation.³

A true uniqueness of the juvenile justice system's rehabilitative program is its ability to focus on the problem the child faces -- not on the delinquent's inability to re-enter the community as a respectable citizen. A basic flaw in our adult penal system is that "it fails to provide accessible or effective means of fully restoring the social status of the reformed offender."⁴ Through the protection of confidentiality in juvenile proceedings, a minor may be treated for his delinquent or anti-social behavior and then returned to his community without having to struggle with the stigma of being a criminal.

3. The passage of SB 59 will be of no deterrent value.

We address here two considerations: what effect would SB 59 have in deterring an individual from further delinquency, and, what effect would SB 59 have in discouraging others from pursuing the same behavior.

Empirical studies showing that publicity deters crime are non-existent.⁵ In fact, the President's Commission's Task Force Report, Juvenile Delinquency and Youth Crime, reports that,

it is unlikely that publicity serves any . . . deterrent function; among the most intractable cases (when presumably publicity would be used) the publicity only feeds the drives that move these youths and may influence others toward emulation.⁶

Further the Commission states:

In many cases publicity . . . serves only to provide a deeply troubled youngster with an opportunity to flaunt his unregeneracy.⁷

The majority of arguments to be found on the issue are convincingly clear that "publicity not only fails to deter, but often provides encouragement for further and original delinquency, publicity being the end sought by the delinquent."⁸ In the absence of any contradictory evidence, confidentiality should continue to be afforded to the minor.

4. The passage of SB 59 would create the extremely harmful stigma of delinquency.

The public labeling of a child as a delinquent is a self-defeating obstacle to effective rehabilitation and it is one that persists throughout the child's life. The labeling of a child as such often does nothing more than confirm the child in his own delinquency. The adverse consequences of the delinquent stigma are overbearing. In addition to often inaugurating the juvenile into further delinquent careers, the stigma becomes translated into effective handicaps by heightened police surveillance, neighborhood isolation, lowered receptivity and tolerance by school officials and rejections of youth by prospective employers.⁹ The armed forces make a juvenile record grounds for rejection. The juvenile accused of a delinquent act often

becomes unable to obtain licenses and bonds. This result of publicity is the labeling of the child as "a type destined for failure."¹⁰

Our State Supreme Court condemns the publication of the name of the juvenile delinquent on the ground that "it confirms the child in his delinquent identity and impedes his reintegration into law-abiding society."¹¹

5. Alaska Statute 47.10.060 is the appropriate avenue to deal with the unrehabilitative minor and at the same time ensure the protection of the community.

To those proponents of SB 59 who argue that confidentiality will turn loose on an unsuspecting public the dangerous and the psychopathic person, the answer is readily available. If the court finds that the public safety would be endangered by a serious delinquent, disposed of in a confidential setting, that the juvenile process will be of no rehabilitative value to the minor, and that it is proper that the juvenile be held accountable, in an adult manner, for his acts, than the court may under AS 47.10.060 (Waiver of Jurisdiction) refer the matter for adult prosecution. The hearing and record would thereby become public and at the same time the minor would have full protection of his constitutional guarantees.

In our opinion, it is most proper that the court be the body to make the determination as to the kind of person it is dealing with. The court may determine to handle the person in a special manner, affording him the protections a child has under the juvenile justice system. Or, if the court determines

that the person is accountable as an adult, then he should be accorded all of the rights of an adult.

If we offer the person only part of the protections due a child under the juvenile system, and only some of the rights due an adult under the adult criminal system, we "expose thousand upon thousands of essentially normal and innocent young people to the damaging consequences of a [public] juvenile court record."¹² If we afflict a young person with a public delinquent record, at the same time denying him equal protection, we may be destroying all chances that person has of becoming a productive law-abiding citizen.

The hazard is too great. Alaska Youth Advocates urges the House HESS Committee to vote against the passage of Senate Bill 59.

March, 1975

Footnotes

¹Cashman, "Confidentiality of Juvenile Court Proceedings: A Review," Juvenile Justice 24:30-40, August, 1973, at 30-31.

²President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Juvenile Delinquency and Youth Crime (1967), at 39.

³Standard Juvenile Court Act, Section 33, comment.

⁴Gough, "The Expungement of Adjudication Records of Juvenile and Adult Offenders: A Problem of Status," Washington Law Qtrly, 147, 148, 1966.

⁵Geis, "Publicity and Juvenile Court Proceedings," Rocky Mt. Law Review, Volume 30, 101 (1958), at 124.

⁶President's Task Force Report, at 38.

⁷Ibid., at 38.

⁸Geis, at 124-125.

⁹President's Task Force Report, at 91.

¹⁰Ibid., at 92-93.

¹¹R.L.R., a Minor, v. State of Alaska, Opinion No. 706, July 9, 1971, at 25.

¹²Cashman, at 40.

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SUPPORT YOUR SB59 RE DISCLOSURE NAMES MINORS FOR SECOND
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~~SB 59~~



ANSWER AT LENGTH
- COPY ZIEGLER
SUSAN SULLIVAN

OUR TREASURE IN OUR

VALLEY

REAL ESTATE

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Mailing Address:
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March 1, 1975

Senator Bill Ray
Pouch "B"
Juneau, Alaska 99801

Dear Senator Ray:

As a member of the Valley Republican Women's Club; a mother of four sons, five step-sons, two step-daughters, and seven foster daughters; grandmother to twenty six; and a concerned citizen of Alaska, I wish to add my feelings to the masses of correspondence you have probably already received in regard to your Bill in the Senate, which deals with publishing the names of juvenile offenders.

I agree with you completely! And I sincerely hope it passes!

In raising my own group of young people, (three of them had minor scrapes with the law) I found that the answer to the problem of delinquency was....if they did anything against the law, hit 'em with both barrels, and it didn't happen again. When I was unable to persuade a bleeding heart Judge in Washington state that my son needed to have the "book thrown at him", that son came back for a second time around, but that time the Judge was smarter, and mother would not go Bonny's bail, so it never was necessary again after he sat in jail for 16 days! And if you publish the offender's name, the parents will perhaps be a little more careful of what kind of publicity the child, and they, get!

Sincerely,

W. D. Strassburg
Mrs. W. D. Strassburg

COPY ZIEGLER -
SUSAN SULLIVAN

HONORABLE BILL RAY
STATE SENATOR
JUNEAU, ALASKA

CHARLES JOHNSON
1345 K ST.
ANCHORAGE, ALASKA

THE UNDER SIGN URGE PASSAGE OF BILL S.B. 59 AND ENDORSE THE PUBLICATION
OF NAMES AND ADDRESS.

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