

Enrolled
House Bill 2833

Sponsored by Representatives BURLEY, WHISNANT, Senator WESTLUND; Representatives DALTO, HANSEN, HUNT, MARCH, SHIELDS

CHAPTER

AN ACT

Relating to juveniles; amending ORS 419A.004 and 419A.015 and section 40, chapter 1053, Oregon Laws 1999; repealing section 41, chapter 1053, Oregon Laws 1999; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 40, chapter 1053, Oregon Laws 1999, is amended to read:

Sec. 40. (1) *[A county or group of counties]* **Deschutes County** may place greater emphasis on early intervention and work with younger children than required by the Juvenile Crime Prevention Advisory Committee if the county *[or counties have]* **has** been granted a waiver pursuant to this section.

[(2) The Juvenile Crime Prevention Advisory Committee shall extend to June 30, 2005, any early intervention waiver granted to any county through the review of the county's 1998 high-risk juvenile crime prevention plan.]

[(3)] **(2)** *[In consultation with any county that received a 1998 waiver or any county or group of counties requesting a waiver and no later than June 30, 2000,]* The Juvenile Crime Prevention Advisory Committee shall develop an objective process, review criteria and timetable for consideration of a waiver *[requests]* **request**. A waiver granted under this section *[shall apply]* **applies** to the requirements for basic services grants described in *[section 38 (8) of this 1999 Act]* **ORS 417.850 (8)** and high-risk juvenile crime prevention resources managed by the Oregon Criminal Justice Commission. The waiver shall be consistent with the goals of ORS 137.656, 417.705 to 417.797, **417.850, 417.855**, 430.250, 430.255, *[and]* 430.257, **430.258 and 430.259** *[and sections 31, 32, 38 and 39 of this 1999 Act]*.

[(4)] **(3)** Any documentation required for a waiver under this section shall be **obtained to the greatest extent possible** from material contained in *[a]* **the** county's juvenile crime prevention plan and from material as determined through biennial intergovernmental agreements. **The Juvenile Crime Prevention Advisory Committee may ask the county to submit additional information regarding how the county intends to use crime prevention funds under the waiver.**

[(5)] **(4)** The Juvenile Crime Prevention Advisory Committee shall grant a waiver or continue a waiver based on criteria that include:

- (a) **The** rate of Oregon Youth Authority discretionary bed usage compared to other counties;
- [(b) Comparative analysis of detention and secure shelter capacity per 1,000 juveniles;]*
- [(c) Investment of local resources in juvenile crime prevention;]*

(b) The county's rates of first-time juvenile offenders, chronic juvenile offenders and juvenile recidivism compared to other counties;

(c) The amount and allocation of expenditures from all funding sources for juvenile crime prevention, including prevention and early intervention strategies, and how the requested waiver addresses the needs and priorities for the target population described in ORS 417.855 and for the target population described in the waiver;

(d) Inclusion of prevention or early intervention strategies in the juvenile crime prevention plan;

(e) Investments *[that emphasize innovation and proven practices of effectiveness]* **in evidence-based crime prevention programs and practices;**

(f) Support of the local public safety coordinating council, local commission on children and families and board of county commissioners; *[and]*

(g) Local integration practices including citizens, victims, courts, law enforcement, business and schools;

(h) Identification of the risk factors for the target population described in the waiver; and

(i) Changes in the risk factors for the target population described in the waiver.

[(6)] (5) The committee shall review and act on any request for a waiver within 90 days after receipt of the request.

(6) The duration of a waiver granted under this section is four years. Before the expiration of a waiver granted under this section, the county may submit a request for another waiver.

SECTION 2. ORS 419A.004 is amended to read:

419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires otherwise:

(1) "CASA Volunteer Program" means a program approved or sanctioned by the juvenile court to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

(2) "Child care center" means a residential facility for wards or youth offenders that is licensed under the provisions of ORS 418.240.

(3) "Community service" has the meaning given that term in ORS 137.126.

(4) "Conflict of interest" means a person appointed to a local citizen review board who has a personal or pecuniary interest in a case being reviewed by that board.

(5) "Counselor" means a juvenile department counselor **or a county juvenile probation officer.**

(6) "Court" means the juvenile court.

(7) "Court appointed special advocate" or "CASA" means a person appointed by the court pursuant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

(8) "Court facility" has the meaning given that term in ORS 166.360.

(9) "Department" means the Department of Human Services.

(10) "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.

(11) "Director" means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

(12) "Guardian" means guardian of the person and not guardian of the estate.

(13) "Indian child" means any unmarried person less than 18 years of age who is:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(14) "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state.

(15) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

(16) "Parent" means the biological or adoptive mother and the legal or adoptive father of the child, ward, youth or youth offender. A legal father includes:

(a) A nonimpotent, nonsterile man who was cohabiting with his wife, who is the mother of the child, ward, youth or youth offender, at the time of conception;

(b) A man married to the mother of the child, ward, youth or youth offender at the time of birth, when there is no judgment of separation and the presumption of paternity has not been disputed;

(c) A biological father who marries the mother of the child, ward, youth or youth offender after the birth of the child, ward, youth or youth offender;

(d) A biological father who has established or declared paternity through filiation proceedings or under ORS 416.400 to 416.470; and

(e) A biological father who has, with the mother, established paternity through a voluntary acknowledgment of paternity under ORS 109.070.

(17) "Permanent foster care" means an out-of-home placement in which there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.

(18) "Planned permanent living arrangement" means an out-of-home placement other than by adoption, placement with a relative or placement with a legal guardian that is consistent with the case plan and in the best interests of the ward.

(19) "Public building" has the meaning given that term in ORS 166.360.

(20) "Reasonable time" means a period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments.

(21) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings or documents pertaining to a case.

(22) "Resides" or "residence," when used in reference to the residence of a child, ward, youth or youth offender, means the place where the child, ward, youth or youth offender is actually living or the jurisdiction in which wardship or jurisdiction has been established.

(23) "Restitution" has the meaning given that term in ORS 137.103.

(24) "Serious physical injury" means:

(a) A serious physical injury as defined in ORS 161.015; or

(b) A physical injury that:

(A) Has a permanent or protracted significant effect on a child's daily activities;

(B) Results in substantial and recurring pain; or

(C) In the case of a child under 10 years of age, is a broken bone.

(25) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.

(26) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for holding children, youths and youth offenders pending further placement.

(27) "Substitute care" means an out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home or other child caring institution or facility. "Substitute care" does not include care in:

(a) A detention facility, forestry camp or youth correction facility;

(b) A family home that the court has approved as a ward's permanent placement, when a private child caring agency has been appointed guardian of the ward and when the ward's care is entirely privately financed; or

(c) In-home placement subject to conditions or limitations.

(28) "Surrogate" means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safeguards with respect to the provision of free appropriate public education.

(29) "Tribal court" means a court with jurisdiction over child custody proceedings and that is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe or any other administrative body of a tribe that is vested with authority over child custody proceedings.

(30) "Ward" means a person within the jurisdiction of the juvenile court under ORS 419B.100.

(31) "Youth" means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.

(32) "Youth care center" has the meaning given that term in ORS 420.855.

(33) "Youth offender" means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

SECTION 3. ORS 419A.015 is amended to read:

419A.015. (1)(a) Once each month, a county juvenile department shall provide to each school district in the county a list of all youth offenders enrolled in a school in the school district who are on probation by order of the juvenile court in the county. The department shall include in the list the name and business telephone number of the juvenile counselor [*or probation officer*] assigned to each case.

(b) When a youth offender who is on probation transfers from one school district to a different school district, the juvenile counselor [*or probation officer*] assigned to the case shall notify the superintendent of the school district to which the youth offender has transferred of the youth offender's probation status. The juvenile counselor [*or probation officer*] shall make the notification no later than 72 hours after the juvenile counselor [*or probation officer*] knows of the transfer.

(2) Upon request by the school district, the juvenile department shall provide additional information, including the offense that brought the youth offender within the jurisdiction of the juvenile court and such other information that is subject to disclosure under ORS 419A.255 (5).

(3) In addition to the general notification required by subsection (1) of this section, the juvenile department:

(a) Shall notify the school district of the specific offense if the act bringing the youth offender within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled substance.

(b) May notify the school district of the specific offense if the act bringing the youth offender within the jurisdiction of the juvenile court involved a violation of ORS 163.355 to 163.445 or 163.465 or any other offense if the juvenile department believes the youth offender represents a risk to other students or school staff.

(4) When a school district receives notice under this section, the school district may disclose the information only to those school employees the district determines need the information in order to safeguard the safety and security of the school, students and staff. A person to whom personally identifiable information is disclosed under this subsection may not disclose the information to another person except to carry out the provisions of this subsection.

(5) Except as otherwise provided in ORS 192.490, a juvenile department, school district or anyone employed or acting on behalf of a juvenile department or school district who sends or receives records under this section is not liable civilly or criminally for failing to disclose the information under this section.

SECTION 4. Section 41, chapter 1053, Oregon Laws 1999, is repealed.

SECTION 5. This 2005 Act takes effect on December 31, 2005.

Passed by House June 2, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate July 1, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State