

Enrolled Senate Bill 233

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CHAPTER

AN ACT

Relating to juveniles; amending ORS 419A.057, 419A.112, 419C.478, 419C.486, 419C.620, 419C.623, 419C.626, 419C.629 and 419C.653; and repealing ORS 419C.650 and 419C.656.

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

SECTION 1. ORS 419C.486 is amended to read:

419C.486. To ensure effective planning for youth offenders committed to its custody, the Oregon Youth Authority shall take into consideration recommendations and information provided by the committing court before placement in any facility. The youth authority shall ensure that the case planning in any case:

[(1) For the reunification of the family bears a rational relationship to the jurisdictional findings that brought the youth offender within the court's jurisdiction under ORS 419C.005]

(1) Serves the purposes of and is consistent with the principles of ORS 419C.001;

(2) Incorporates the perspective of the youth offender and the family; and [and, whenever possible, allows the family to assist in designing its own service programs, based on an assessment of the family's needs and the family's solutions and resources for change; and]

(3) Is integrated with the efforts of other agencies [in cooperation with the caseworkers] responsible for providing services to the youth offender or the family.

SECTION 2. ORS 419A.057 is amended to read:

419A.057. (1) All expenses incurred in the maintenance of the facilities for detention and the personnel required *[therefor]* **for the facilities**, except as otherwise provided in subsection (2) of this section, shall be paid upon order of the board of county commissioners or county court from county funds duly levied and collected in any manner provided by law. When joint detention facilities are maintained as provided in ORS 419A.050 (2), each county shall pay its share of the costs and expenses of acquiring, equipping and maintaining the joint detention facilities, to be determined pursuant to an agreement between the counties. Counties may accept gifts or donations of property, including money, for the use of detention facilities to be expended and used as directed by the board of county commissioners.

(2) When a county operates a combined facility to provide both care and rehabilitation services, under ORS 420.855 to 420.885, and detention facilities, the county may also receive state support for the care and rehabilitation services as permitted by ORS 420.880.

(3) When a county operates a combined facility as described in subsection (2) of this section, only youth offenders may be admitted to the youth care center of the facility[,] **and only** following court review of the admission.

SECTION 3. ORS 419A.112 is amended to read:

419A.112. (1) The local citizen review board may disclose **records disclosed to the local board under ORS 419A.102** to:

- (a) Parents and their attorneys[,];
- (b) Foster parents[,];
- (c) Mature children; [and]
- (d) **Mature** wards; [and their]
- (e) **The attorneys for children and wards;** and

(f) Other persons authorized by the local board to participate in the case review[, *records disclosed to the local board under ORS 419A.102*].

(2) Before participating in a local citizen review board case review, each participant, other than parents, children and wards, shall swear or affirm to the board that the participant shall keep confidential the information disclosed by the board in the case review and to disclose it only as authorized by law.

SECTION 4. ORS 419C.478 is amended to read:

419C.478. (1) The court may, in addition to probation or any other dispositional order, place a youth offender who is at least 12 years of age in the legal custody of the Oregon Youth Authority for care, placement and supervision or, when authorized under subsection (3) of this section, place a youth offender in the legal custody of the Department of Human Services for care, placement and supervision. In any order issued under this section, the court shall include written findings describing why it is in the best interests of the youth offender to be placed with the youth authority or the department.

(2) If the court places a youth offender under subsection (1) of this section, the court may specify the type of care, supervision or services to be provided by the youth authority or the department to youth offenders placed in the youth authority's or department's custody and to the parents or guardians of the youth offenders, but the actual planning and provision of the care, supervision, security or services is the responsibility of the youth authority or the department. The youth authority or the department may place the youth offender in a youth care center or other facility authorized to accept the youth offender.

(3) The court may place a youth offender in the legal custody of the department under subsection (1) of this section if:

(a) The court has determined that a period of out-of-home placement and supervision should be part of the disposition in the case;

(b) The court finds that, because of the youth offender's age or mental or emotional condition, the youth offender:

(A) Is not amenable to reform and rehabilitation through participation in the programs provided and administered by the youth authority; and

(B) Is amenable to reform and rehabilitation through participation in the programs provided and administered by the department;

(c) The court finds that the department can provide adequate security to protect the community and the youth offender;

(d) The court provides for periodic review of the placement; and

(e) The court, in making the findings and determinations required by this subsection, has considered the relevant facts and circumstances of the case, as provided in ORS 419C.411.

(4) Uniform commitment blanks, in a form approved by the director of the youth authority, or by the Director of Human Services for placements under subsection (3) of this section, shall be used by all courts for placing youth offenders in the legal custody of the youth authority or the department.

(5) If the youth offender has been placed in the custody of the youth authority or the department, the court may not make a commitment directly to any residential facility, but shall cause the youth offender to be delivered into the custody of the youth authority or the department at the time

and place fixed by rules of the youth authority or the department. A youth offender committed under this subsection may not be placed in a Department of Corrections institution.

(6) When the court places a youth offender in the legal custody of the department under subsection (1) of this section, ORS 419B.440, 419B.443, 419B.446, 419B.449, 419B.452, 419B.470, 419B.473 and 419B.476 apply as if the youth offender were a ward.

SECTION 5. ORS 419C.620 is amended to read:

419C.620. *[Any public]* **When required by the court, the Oregon Youth Authority or a private agency having guardianship or legal custody of a youth offender pursuant to court order shall file reports on the youth offender with the juvenile court that entered the original order concerning the youth offender. *[or, when no such order exists, with the juvenile court of the county of the youth offender's residence in the following circumstances:]***

[(1) When the youth offender has been placed with the agency as a result of a court order and before or as soon as practicable after the agency places the youth offender in any placement including, but not limited to, the youth offender's home, shelter care, substitute care or a youth care center, unless the court has previously received a report or treatment plan indicating the actual physical placement of the youth offender; or]

[(2) When the youth offender has been placed with the agency as the result of a court order and remains under agency care for six consecutive months from the date of initial placement except for a youth offender who has been committed to a state youth correction facility.]

SECTION 6. ORS 419C.623 is amended to read:

419C.623. (1) The **Oregon Youth Authority or private agency** shall file the reports required by ORS 419C.620 *[(2) at the end of the initial six-month period and no less frequently than each six months thereafter]* **at times required by the court, required by the youth offender's reformation plan or case plan and as determined necessary by the youth authority or agency.** The youth authority or agency shall file reports more frequently if the court so orders. The reports shall include, but **need** not be limited to:

(a) A description of the offenses that necessitated the placement of the youth offender with the **youth authority or agency;**

(b) A description of the *[type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the youth offender, together with a list of all placements made since the youth offender has been in the guardianship or legal custody of an agency and the length of time the youth offender has spent in each placement]* **youth offender's risk to reoffend and an analysis of the need for services and assistance;** and

(c) A proposed reformation plan or **case plan,** or proposed continuation or modification of an existing reformation plan **or case plan,** including, where applicable, a description of services to be provided in furtherance of the youth offender's reformation and safe return to the community.

(2) Notwithstanding the requirements of subsection (1) of this section, reports following the *[initial]* **first report that is required by subsection (1) of this section** need not contain information contained in prior reports.

(3) Notwithstanding the requirements under ORS 419C.620 that reports be filed with the court, any report after the *[initial]* **first report** that is required by subsection (1) of this section on a youth offender whose case is being regularly reviewed by a local citizen review board shall be filed with that local citizen review board rather than with the court.

SECTION 7. ORS 419C.626 is amended to read:

419C.626. (1) Upon receiving *[any]* **a report** required by ORS 419C.620:*[,]*

(a) The court may hold a hearing to review the youth offender's condition and circumstances and to determine if the court should continue jurisdiction over the youth offender or order modifications in the *[care]* **custody,** placement and supervision of the youth offender.

(b) *[The court shall hold a hearing]* **And** if requested by the youth offender, the attorney for the youth offender, if any, the parents **of the youth offender if parental rights have not been terminated, a court appointed special advocate, a local citizen review board, the Oregon Youth Authority, a district attorney** or *[the public or]* **a private agency** having guardianship or legal

custody of the youth offender, **the court shall hold a hearing** within 30 days of receipt of the [notice provided in ORS 419C.629] request.

(2) **The court, on its own motion, may hold a review hearing at any time. Unless good cause otherwise is shown, the court shall hold a review hearing at any time upon the request of the youth offender, the attorney for the youth offender, if any, the parents of the youth offender if parental rights have not been terminated, a court appointed special advocate, a local citizen review board, the youth authority, a district attorney or a private agency having guardianship or legal custody of the youth offender.**

[2)] (3) [The hearing provided in] **A hearing under** subsection (1) or (2) of this section shall be conducted in the manner provided in ORS 419C.400 (1), 419C.405 and 419C.408, except that the court may receive testimony and reports as provided in ORS 419C.400 (3). At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the youth offender in [substitute care] **an out-of-home placement in the legal custody of the youth authority or a private agency.** [Such] **The** findings shall specifically state:

(a) Why continued [care] **out-of-home placement** is necessary as opposed to returning the youth offender to the youth offender's home or [prompt action to secure another permanent] **promptly securing another** placement; [or]

(b) The expected timetable for return [or other permanent placement] **home; and**

(c) **Whether the youth offender's reformation plan or case plan should be modified.**

(4) **The court may direct the local citizen review board to review the status of the youth offender prior to the court's next review under ORS 419A.106, 419A.108, 419A.110, 419A.112, 419A.116 and 419A.118.**

[3)] (5) Any final decision of the court made pursuant to [the hearing provided in] **a hearing under** subsection (1) or (2) of this section is appealable under ORS 419A.200.

SECTION 8. ORS 419C.629 is amended to read:

419C.629. Except [where] **when** a youth offender has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of [the] **a** report required by ORS 419C.620 to the parents of the youth offender and shall notify the parents either that a hearing will be held or that the parents may request a hearing at which time they may ask for modifications in the [care, treatment] **custody, placement** and supervision of the youth offender. If the court finds that informing the parents of the identity and location of the foster parents of the youth offender **or providing other information in the youth offender's reformation plan or case plan** is not in the best interest of the youth offender, the court may order [such] **the** information deleted from the report before sending the report to the parents.

SECTION 9. ORS 419C.653 is amended to read:

419C.653. (1) The court may order that the youth offender or any other person be present during [the] **a** hearing under ORS [419C.650] **419C.626.**

(2) The court shall notify the parties listed in ORS [419C.650] **419C.626** and any other interested parties of the hearing. The notice shall state the time and place of the hearing. Upon request of the court, the Oregon Youth Authority or other legal custodian of the youth offender shall provide the court with information concerning the whereabouts and identity of such parties.

SECTION 10. ORS 419C.650 and 419C.656 are repealed.

Passed by Senate March 22, 2005

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Secretary of Senate

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President of Senate

Passed by House May 20, 2005

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Speaker of House

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