Chapter 419C

2007 EDITION

Juvenile Code: Delinquency

GENERALLY

419C.001 Purposes of juvenile justice system in delinquency cases; audits. (1) The Legislative Assembly declares that in delinquency cases, the purposes of the Oregon juvenile justice system from apprehension forward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior. The system shall be open and accountable to the people of Oregon and their elected representatives.

(2)(a) Programs, policies and services shall be regularly and independently audited. Audits performed under this subsection must include program audits and performance audits, as defined in ORS 297.070. Programs, policies and services that were established before, on or after June 30, 1995, are subject to audit under this subsection.

(b) The programs, policies and services of county juvenile departments shall be subject to regular review pursuant to this subsection.

(c) The Secretary of State shall perform an audit that includes the performance of county juvenile departments.

(d) ORS 297.405 to 297.555 do not apply to an audit conducted pursuant to this subsection.

(e) Notwithstanding ORS 297.040, the costs and expenses of audits conducted under this subsection may not be charged to the county juvenile departments. The Secretary of State shall pay the costs and expenses of audits conducted under this subsection from funds available to the Secretary of State.

(3) To facilitate an audit under subsection (2) of this section:

(a) The Secretary of State may subpoena witnesses, require the production of books and papers and the rendering of reports in such manner and form as the Secretary of State requires and may do all things necessary to secure a full and thorough investigation.

(b) The custodian of information that the Secretary of State deems necessary to conduct the audit shall provide the Secretary of State or the auditor selected by the Secretary of State access to the information notwithstanding the fact that the information may be made confidential or access to the information restricted by ORS 419A.255 or another law. Information obtained by the Secretary of State or the auditor pursuant to this paragraph and made confidential by ORS 419A.255 or another law may be used by the Secretary of State, the officers and employees of the Secretary of State or the auditor solely for the purpose of performing the audit required by subsection (2) of this section and may not be used or disclosed for any other purpose. [1995 c.422 §1a; 2001 c.904 §16; 2007 c.688 §1]

Note: Section 2, chapter 688, Oregon Laws 2007, provides:

Sec. 2. (1) The Secretary of State shall perform an audit that includes no fewer than four counties each biennium during the 2007-2009 and 2009-2011 biennia.

(2) No later than September 1, 2010, the Secretary of State shall submit to the Legislative Assembly a report containing the results of the audits of county juvenile departments and including recommendations for the most efficient collection of future audit data. [2007 c.688 §2]

419C.005 Jurisdiction. (1) Except as otherwise provided in ORS 137.707, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and who has committed an act that is a violation, or that if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.

(2) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a youth.

(3) The court does not have jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(4) The court's jurisdiction over a person under this section or ORS 419C.067 continues until one of the following occurs:

(a) The court dismisses a petition filed under this chapter or waives the case under ORS 419C.340. If jurisdiction is based on a previous adjudication, then dismissal or waiver of a later case does not terminate jurisdiction under the previous case unless the court so orders.

(b) The court transfers jurisdiction of the case as provided in ORS 419C.053, 419C.056 and 419C.059.

(c) The court enters an order terminating jurisdiction.

(d) The person becomes 25 years of age.

(e) The court places the person under the jurisdiction of the Psychiatric Security Review Board as provided in ORS 419C.529. If the court also has jurisdiction over the person based on a previous adjudication under

this chapter or ORS chapter 419B, placing a person under the jurisdiction of the board in a later case does not terminate wardship under the previous case unless the court so orders. [1993 c.33 §149; 1995 c.422 §73; 2003 c.396 §98; 2005 c.843 §7]

419C.010 Extradition. (1) The provisions of this chapter shall not apply to a youth who, while under the age of 18 years, commits an act which is a violation, or which if done by an adult would constitute a violation, of a law or ordinance of this state or any of its political subdivisions, punishable by imprisonment, and thereafter flees from this state.

(2) The youth described in subsection (1) of this section may be proceeded against in the manner provided in ORS 133.743 to 133.857.

(3) Upon the return of the youth described in subsection (1) of this section to this state by extradition or otherwise, any proceedings against the youth shall be commenced in the same manner as provided in this chapter.

(4) If a youth described in subsection (1) of this section has fled to a state which has adopted the Rendition Amendment to the Interstate Compact on Juveniles, the return of the youth shall be sought in accordance with the provisions of that compact. [1993 c.33 §150]

419C.013 Venue. (1) A juvenile proceeding based on allegations of jurisdiction under ORS 419C.005 shall commence in either the county where the youth resides or the county in which the alleged act was committed.

(2) Notwithstanding the provisions of ORS 34.320, an application for a writ of habeas corpus brought by or on behalf of a person who has been committed or placed in a youth correction facility which attacks the validity of the order of commitment shall be brought in the county in which the court that entered the order of commitment is located. [1993 c.33 §151; 1995 c.422 §73a]

419C.020 Notice to parents or guardian of youth; when given; contents. (1) At the first appearance by the parents or guardian of a youth before the court, the court shall inform the parents or guardian verbally and provide a standard notice describing:

(a) The obligation of the parents or guardian to pay for compensation and reasonable expenses for counsel for the youth, support of the youth while the youth is in the custody of a state-financed or state-supported residence and any other obligations to pay money that may arise as a result of the youth being within the jurisdiction of the court;

(b) The assignment of support rights under ORS 419C.597;

(c) The right of the parents or guardian to appeal a decision on jurisdiction or disposition made by the court; and

(d) The time for filing an appeal of a decision by the court.

(2) The Oregon Youth Authority shall prepare and provide the standard notice required under subsection (1) of this section.

(3) The court shall place a notation in the record of the case of the date that the parents or guardian were provided information under this section. [1997 c.748 §4; 2003 c.396 §99]

419C.025 Appearance by telephone or closed-circuit television. (1) Except as provided in subsection (2) of this section, when a person is directed to appear before the court in a proceeding under this chapter, the person may appear by telephone or closed-circuit television as long as all parties having an interest in the proceeding have access to the telephone or television circuit used for the appearance and as long as the appearance is made publicly audible within the courtroom of the court under whose authority the hearing is held.

(2) A person may not appear before the court as provided in subsection (1) of this section if:

(a) The proceeding is a contested adjudication;

(b) The proceeding is a contested waiver hearing;

(c) The proceeding is a contested dispositional hearing;

(d) The person has been issued a summons under ORS 419C.306 (2); or

(e) The person who is the subject of the proceeding objects to appearance by telephone or closed-circuit television and the court finds that such appearance would be detrimental to the best interest of the person making the objection.

(3) A person who appears before the court under subsection (1) of this section shall be provided with the opportunity to consult privately with counsel during the proceeding. [2003 c.687 §11]

TRANSFER

419C.050 Transfer to juvenile court from another court. Except as otherwise provided in ORS 137.707, if during the pendency of a proceeding involving an allegation of a crime in any court other than a juvenile court it is ascertained that the age of the person who is the subject of the proceeding is such that the matter is within the

exclusive jurisdiction of the juvenile court, it is the duty of the court in which the proceeding is pending forthwith to transfer the proceeding, together with all the papers, documents and testimony connected therewith, to the juvenile court of the county in which the proceeding is pending. [1993 c.33 §152; 1995 c.422 §73b]

419C.053 Transfer to court of county of youth's residence. (1) If a proceeding is initiated in a court of a county other than the county in which the youth resides, that court, on its own motion or on the motion of a party made at any time prior to disposition, may transfer the proceeding to the court of the county of the youth's residence for such further proceeding as the receiving court finds proper. A like transfer may be made if the residence of the youth changes during the proceeding, or if the youth has been adjudicated within the jurisdiction of the court where the proceeding is initiated on grounds specified in ORS 419C.005 (1), and other proceedings involving the youth are pending in the county of the youth's residence. Certified copies of the court records pertaining to the immediate proceeding shall accompany the case on transfer.

(2) Notwithstanding subsection (1) of this section, if a youth has no ascertainable residence in any county in this state, the court of the county wherein a proceeding is initiated may adjudicate any petition under ORS 419C.005 (1). [1993 c.33 §153; 1995 c.422 §73c]

419C.056 Transfer of jurisdiction by court in county of youth's residence. Where a juvenile court proceeding is pending in a county other than the county in which the youth resides and the case is transferable, the juvenile court of the county in which the youth resides may authorize the court in which the case is pending to proceed with the case in either of the following ways where it will facilitate disposition of the case without adverse effect on the interests of the youth:

(1) To hear, determine and dispose of the case in its entirety; or

(2) Prior to transferring the case, to conduct a hearing into the facts alleged to bring the youth within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the juvenile court of the county in which the youth resides. [1993 c.33 §154]

419C.058 Transfer of jurisdiction to tribal court. (1) The presiding judge of the twenty-second judicial district, with the approval of the Chief Justice of the Supreme Court, may enter into a memorandum of understanding with the Confederated Tribes of Warm Springs regarding the adjudication and disposition of youths and youth offenders.

(2) A memorandum of understanding entered into under subsection (1) of this section may allow the juvenile court of the judicial district:

(a) To waive its jurisdiction over a youth and transfer the case, notwithstanding ORS 419C.005, to the jurisdiction of the tribal court of the Confederated Tribes of Warm Springs for adjudication; or

(b) After finding the youth to be within its jurisdiction under ORS 419C.005, to transfer the case to the tribal court of the Confederated Tribes of Warm Springs for disposition.

(3) A memorandum of understanding entered into under subsection (1) of this section applies only to youths or youth offenders who are enrolled members of a federally recognized tribe and who reside on the Warm Springs Reservation.

(4) A memorandum of understanding entered into under subsection (1) of this section may contain, but is not limited to, provisions relating to:

(a) The duration of the memorandum of understanding;

(b) The cases that are subject to transfer;

(c) Who may request a transfer;

(d) The custody of a youth or youth offender after transfer; and

(e) The sharing of information about a case after it has been transferred. [2003 c.415 §2]

419C.059 Facilitation of disposition; interests of youth; authority of court where proceeding pending to allow other county to conduct hearing or assume jurisdiction. Where a proceeding is pending in the juvenile court of any county, the juvenile court of that county may authorize the juvenile court of any other county to do one or both of the following, where it will facilitate the disposition of the case without adverse effect on the interests of the youth:

(1) To conduct a hearing into the facts alleged to bring the youth within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the court in which the case is pending.

(2) To assume jurisdiction over the case and administer probation or protection supervision of the youth, where the court in which the proceeding is pending:

(a) Finds that the youth has moved to the other county or orders as part of its disposition of the proceeding that legal custody of the youth be given to a person residing in the other county; and

(b) Is advised that the court of the other county will accept jurisdiction of the case. The cost of administering probation or protective supervision of the youth shall be paid by the county accepting jurisdiction, unless the transferring and receiving counties otherwise agree. The cost of transporting the youth shall be paid by the county transferring jurisdiction, unless the transferring and receiving counties otherwise agree. [1993 c.33 §155]

419C.062 Fact-finding when other county conducts hearing; record. Where the juvenile court of one county is authorized by the juvenile court of another county to conduct a hearing into facts as provided in ORS 419C.056 (2) or 419C.059 (1), the facts so found and certified may be taken as established by the court of the county authorizing the hearing and, if adopted by written order of the latter court, form a part of its record in the case. [1993 c.33 §156]

419C.065 Transportation of youth whose case is transferred. If the youth who is the subject of the proceeding is, at the time of the transfer or temporary transfer provided for in ORS 419C.053, 419C.056 or 419C.059, in detention or shelter care or for other reason needs transportation to the other county, the county in which the youth resides shall make such order or provision for the transportation and safekeeping of the youth as is appropriate in the circumstances, including an order directing any peace officer of the county in which the youth resides to transfer the youth in the manner directed. [1993 c.33 §157]

419C.067 Case transferred to juvenile court after verdict in criminal court. When a case is transferred to the juvenile court under ORS 137.707, the juvenile court shall enter an order finding the youth within the jurisdiction of the court under ORS 419C.005 based on the verdict in the criminal court. The juvenile court's order has the same effect as an adjudication under ORS 419C.400. [1995 c.422 §82]

CUSTODY

419C.080 Custody; when authorized. (1) A peace officer, or any other person authorized by the juvenile court of the county in which the youth is found, may take a youth into custody in the following circumstances:

(a) When, if the youth were an adult, the youth could be arrested without a warrant; or

(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419C.306 or otherwise, has ordered that the youth be taken into custody.

(2) In any order issued under subsection (1)(b) of this section that may result in a substitute care placement or detention, the court shall include a written finding describing why it is in the best interests of the youth to be taken into custody.

(3) A peace officer or person authorized by the juvenile court shall take a youth into custody if the peace officer or person authorized by the juvenile court has probable cause to believe that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382. [1993 c.33 §158; 1993 c.546 §59; 1997 c.727 §1; 1999 c.577 §3; 1999 c.1095 §13; 2001 c.686 §8]

419C.085 Citation in lieu of custody. In lieu of taking a youth into custody, a peace officer may issue a citation to a youth for the same offenses and under the same circumstances that a citation may be issued to an adult. Unless the citation is issued for violation of law or ordinance for which an order has been entered pursuant to ORS 419C.370, the citation is returnable to the juvenile court of the county in which the citation is issued. Law enforcement agencies in a county, in consultation with the juvenile court of the county, may develop a form for citations issued pursuant to this section. The peace officer shall send a copy of the citation to the district attorney. [1993 c.33 §159; 2001 c.870 §16]

419C.088 Custody by private person. A private person may take a youth into custody in circumstances where, if the youth were an adult, the person could arrest the youth. [1993 c.546 §160; 1993 c.33 §60; 1997 c.727 §2]

419C.091 Custody not arrest. (1) Custody under ORS 419C.080 and 419C.088 shall not be deemed an arrest so far as the youth is concerned. All peace officers shall keep a record of youths taken into custody and shall promptly notify the juvenile court or counselor of all youths taken into custody.

(2) A peace officer taking a youth into custody has all the privileges and immunities of a peace officer making an arrest. [1993 c.33 §161; 1993 c.546 §61; 1997 c.727 §3]

419C.094 Jurisdiction attaches at time youth taken into custody. Except as otherwise provided in ORS 419C.103 (3) and (4), the jurisdiction of the juvenile court of the county in which a youth is taken into custody under ORS 419C.080 and 419C.088 shall attach from the time the youth is taken into custody. [1993 c.33 §162; 1993 c.546 §62; 1997 c.727 §4; 1999 c.577 §9]

419C.097 Notice to parents, victim. (1) As soon as practicable after the youth is taken into custody under ORS 419C.080 and 419C.088, the person taking the youth into

custody shall notify the youth's parent, guardian or other person responsible for the youth. The notice shall inform the parent, guardian or other person of the action taken and the time and place of the hearing.

(2) If the victim requests, the district attorney or juvenile department shall notify the victim of the time and place of the hearing. [1993 c.33 §163; 1993 c.320 §2; 1993 c.546 §63; 1997 c.727 §5; 2007 c.609 §11]

419C.100 Release of youth taken into custody; exceptions. The person taking the youth into custody under ORS 419C.080 and 419C.088 shall release the youth to the custody of the youth's parent, guardian or other responsible person in this state, except in the following cases:

(1) When the court has issued a warrant of arrest against the youth.

(2) When the person taking the youth into custody has probable cause to believe that release of the youth may endanger the welfare of the youth, the victim or others.

(3) When the person taking the youth into custody has probable cause to believe that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382. [1993 c.33 §164; 1993 c.546 §64; 1997 c.727 §6; 1999 c.577 §4; 1999 c.615 §2; 1999 c.1095 §14; 2007 c.609 §12]

419C.103 Procedure when youth is not released; release decision when youth taken into custody resides in other county. (1) Except as otherwise provided in subsection (2) of this section, if a youth taken into custody is not released as provided in ORS 419C.100 and the juvenile court for the county has not established the alternative procedure authorized in subsection (5) of this section, the person taking the youth into custody shall, without unnecessary delay, do one of the following:

(a) Take the youth before the court or a person appointed by the court to effect disposition under ORS 419C.109 and 419C.136.

(b) Take the youth to a place of detention or shelter care or a public or private agency designated by the court and as soon as possible thereafter notify the court that the youth has been taken into custody.

(2) If the person taking the youth into custody has probable cause to believe that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, the person may not release the youth from custody and shall do one of the following without unnecessary delay:

(a) Take the youth before the court for a determination of initial disposition under ORS 419C.109 (3); or

(b) Notwithstanding ORS 419C.133, take the youth to a place of detention and, as soon as possible thereafter, notify the court and the juvenile department that the youth has been taken into custody and detained.

(3) Where a youth residing in some other county is taken into custody the youth may be:

(a) Released to the youth's parent, guardian or other responsible person in this state as provided in ORS 419C.100.

(b) Delivered to a peace officer or juvenile counselor in the county in which the youth resides, if such delivery can be made without unnecessary delay. In such event, the person to whom the youth is delivered shall assume custody of the youth and shall proceed as provided in this chapter.

(4) Where a youth is released or delivered as provided in subsection (3) of this section, the jurisdiction of the juvenile court of the county in which the youth resides shall attach from the time the youth is taken into custody.

(5) The juvenile court may establish, as an alternative to the provisions of subsection (1) of this section, that if a youth taken into custody is not released as provided in ORS 419C.100, procedures shall be followed that comply with the following:

(a) The person taking the youth into custody may communicate, by telecommunications or otherwise, with the person appointed by the court to effect disposition under ORS 419C.109.

(b) After interviewing the person taking the youth into custody and obtaining such other information as is considered necessary, the person appointed by the court under ORS 419C.109 to effect disposition may exercise the authority granted under that section and shall, in such case, direct that the person taking the youth into custody release the youth or deliver the youth in accordance with such direction.

(c) The person taking the youth into custody shall comply with the direction of the person appointed by the court to effect disposition. [1993 c.33 §165; 1993 c.546 §65; 1997 c.727 §7; 1999 c.577 §5; 1999 c.1095 §15]

419C.106 Report required when youth is taken into custody. (1) Except where the youth is taken into custody pursuant to an order of the court, the person taking the youth into custody under ORS 419C.080 and 419C.088 shall promptly file with the court or a counselor a brief written report stating all of the following:

(a) The youth's name, age and address.

(b) The name and address of the person having legal or physical custody of the youth.

(c) Efforts to notify the person having legal or physical custody of the youth and the results of those efforts.

(d) Reasons for and circumstances under which the youth was taken into custody and, if known, the name and contact information of any victim.

(e) If the youth is not taken to court, the placement of the youth.

(f) If the youth was not released, the reason why the youth was not released.

(g) If the youth is not taken to court, why the type of placement was chosen.

(2) The person taking the youth into custody under ORS 419C.080 and 419C.088 shall also send a copy of the report under subsection (1) of this section to the district attorney. [1993 c.33 §166; 1993 c.546 §66; 1997 c.727 §8; 2001 c.870 §17; 2007 c.609 §13]

419C.109 Initial disposition of youth taken into custody. (1) Except as otherwise provided in subsection (3) of this section, the court may designate a person to effect disposition of a youth taken into custody or brought before the court under ORS 419C.097, 419C.100, 419C.103 and 419C.106. If the requirements of ORS 419C.145 (3) are met, the person may do any of the following when the person has taken custody of a youth or has authority to effect disposition of a youth taken into custody:

(a) Release the youth to the custody of a parent, guardian or other responsible person.

(b) Release the youth on the youth's own recognizance when appropriate.

(c) Upon a finding that release of the youth on the youth's own recognizance is unwarranted, or upon order of the court or if probable cause exists to believe the youth may be detained under ORS 419C.145, 419C.150, 419C.153, 419C.156, 419C.159 or 419C.453, place the youth on conditional release.

(d) Subject to ORS 419A.059, 419A.061, 419C.130 and 419C.133, place the youth in shelter care or detention. The youth shall be placed in shelter care rather than detention, unless the person has probable cause to believe that the court will be able to detain the youth under ORS 419C.145, 419C.150, 419C.153, 419C.156, 419C.159 or 419C.453.

(e) Pursuant to order of the court made subsequent to the filing of a petition, hold, retain or place the youth in detention or shelter care subject to further order.

(f) Exercise authority to detain the youth as provided in ORS 419C.136.

(2) If the youth is released under subsection (1) of this section, the person releasing the youth may issue a summons to the youth requiring the youth to appear before the court. The summons must include the date, time and location for the youth to appear before the court. The person releasing the youth shall inform the juvenile court, which may review the release as provided in ORS 419C.153. If the youth fails to appear on the date and time required by the summons, the court may issue a warrant for the arrest of the youth.

(3)(a) When a youth is retained in custody under ORS 419C.100 (3) and 419C.103 (2) and a petition is filed under ORS 419C.005 alleging that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382, the court shall determine the youth's initial disposition at a hearing conducted pursuant to ORS 419C.145. The parties to the hearing are the youth, the juvenile department and the state, represented by the district attorney.

(b) The court shall inform the youth:

(A) Of the youth's rights, including the right to be represented by counsel and the right to remain silent; and

(B) Of the allegations against the youth.

(c) The court shall make a determination under ORS 419C.145 whether the youth should remain in detention pending adjudication on the merits. The court may order that the hearing be continued and that the youth remain in detention for a reasonable period of time not to exceed seven days if the court finds:

(A) That additional information concerning the youth is necessary to aid the court in making the determination under ORS 419C.145; and

(B) There is probable cause to believe that the youth, while in or on a public building or court facility within the last 120 days, possessed a firearm or destructive device in violation of ORS 166.250, 166.370 or 166.382.

(d) If the court orders that the hearing be continued and that the youth remain in detention under paragraph (c) of this subsection, in addition to and not in lieu of any other order the court may make, the court may order a mental health assessment or screening of the youth.

(e) If the court determines that the youth should not be detained pending adjudication on the merits, the court may order any other

preadjudication disposition authorized. [1993 c.33 §169; 1993 c.546 §67; 1995 c.422 §73d; 1999 c.577 §6; 1999 c.1095 §16]

DETENTION

419C.125 Detention in place where adults are detained of certain persons alleged to be within court's jurisdiction. (1) A juvenile court may order a person who is 18 years of age or older and alleged to be within the jurisdiction of the juvenile court under ORS 419C.005 to be detained in a jail or other place where adults are detained only in those circumstances in which the juvenile court could detain a youth before adjudication on the merits in a detention facility.

(2) In order to detain a person under subsection (1) of this section, the court shall make case-specific findings at a hearing under ORS 419C.145 that placement in a jail or other place where adults are detained meets the specific needs of the person alleged to be within the jurisdiction of the court.

(3) The court may not detain a person under subsection (1) of this section unless, except for the person's age, the court would detain the person under ORS 419C.145 (2).

(4) The provisions of ORS 419C.153 apply to a person detained under subsection (1) of this section except that a person detained under subsection (1) of this section has the right to appear in person at any hearing held under ORS 419C.153.

(5) The provisions of ORS 419C.150 apply to a person detained under subsection (1) of this section.

(6) As used in this section, "adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005. [2003 c.442 §2]

419C.130 Youth or youth offender may not be detained where adults are detained; exceptions. (1) A youth or youth offender may not be detained at any time in a police station, jail, prison or other place where adults are detained, except as follows:

(a) A youth or youth offender may be detained in a police station for up to five hours when necessary to obtain the youth or youth offender's name, age, residence and other identifying information.

(b) A youth waived under ORS 419C.349 or 419C.364 to the court handling criminal actions or to municipal court may be detained in a jail or other place where adults are detained, except that any such person under 16 years of age shall, prior to conviction or after conviction but prior to execution of sentence, be detained, if at all, in a facility used by the county for the detention of youths.

(c) When detention is authorized by ORS 419C.453, a youth offender may be detained in a jail or other place where adults are detained.

(2) A youth waived to the court handling criminal actions or to municipal court pursuant to a standing order of the juvenile court under ORS 419C.370, including a youth accused of nonpayment of fines, may not be detained in a jail or other place where adults are detained.

(3) As used in this section, "adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005. [1993 c.33 §167; 1993 c.546 §115; 2003 c.442 §4]

419C.133 Detention of youth under 12 years of age; judicial review required. No youth under 12 years of age shall be placed in detention except pursuant to judicial review and written findings describing why it is in the best interests of the youth to be placed in detention. Such review may be ex parte, and the youth does not need to be present. However, a juvenile court judge or referee must determine that the youth is eligible for detention under ORS 419C.145 or 419C.156 and that appropriate alternative methods of controlling the youth's behavior are unavailable. A youth detained under this section shall have the right to a hearing as provided in ORS 419C.153. [1993 c.33 §168; 2001 c.686 §9]

419C.136 Temporary hold to develop release plan; duration. If a parent, guardian or other person responsible for the youth cannot be found or will not take responsibility for the youth, no appropriate shelter care space is available and the youth cannot be released safely on recognizance or conditionally, a youth who is accused of an act which would be a crime if committed by an adult may be detained for a period of time not exceeding 36 hours from the time the youth first is taken into custody to allow the juvenile department counselor or other person designated by the juvenile court to develop a release plan to insure the youth's safety and appearance in court. Such detention shall conform to the limitations of ORS 419C.130. [1993 c.33 §170; 1995 c.422 §73e]

419C.139 Speedy hearing on detention cases. No youth shall be held in detention or shelter care more than 36 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing under ORS 419C.109 (3), 419C.145, 419C.150, 419C.153, 419C.156 and 419C.159. [1993 c.33 §171; 1995 c.422 §73f; 1999 c.577 §7]

419C.142 Notice of detention hearing. (1) Whenever a hearing concerning the detention of a youth under this chapter is held, notice of the hearing shall be given to:

(a) The youth;

(b) If any can be found, to a parent or guardian of the youth or to any other person responsible for the youth; and

(c) If the victim requests notice, the victim.

(2) The notice shall state the time, place and purpose of the hearing. If a parent, guardian or other person cannot be found and personally notified prior to the hearing, a written notice of the hearing shall be left at the residence, if known, of a parent, guardian or other person. [1993 c.33 §172; 2007 c.609 §14]

419C.145 Preadjudication detention; grounds. (1) A youth may be held or placed in detention before adjudication on the merits if one or more of the following circumstances exists:

(a) The youth is a fugitive from another jurisdiction;

(b) The youth is alleged to be within the jurisdiction of the court under ORS 419C.005, by having committed or attempted to commit an offense which, if committed by an adult, would be chargeable as:

(A) A crime involving infliction of physical injury to another person;

(B) A misdemeanor under ORS 166.023; or

(C) Any felony crime;

(c) The youth has willfully failed to appear at one or more juvenile court proceedings by having disobeyed a proper summons, citation or subpoena;

(d) The youth is currently on probation imposed as a consequence of the youth previously having been found to be within the jurisdiction of the court under ORS 419C.005, and there is probable cause to believe the youth has violated one or more of the conditions of that probation;

(e) The youth is subject to conditions of release pending or following adjudication of a petition alleging that the youth is within the jurisdiction of the court pursuant to ORS 419C.005 and there is probable cause to believe the youth has violated a condition of release;

(f) The youth is alleged to be in possession of a firearm in violation of ORS 166.250; or

(g) The youth is required to be held or placed in detention for the reasonable protection of the victim.

(2) A youth detained under subsection (1) of this section must be released to the custody of a parent or other responsible person, released upon the youth's own recognizance or placed in shelter care unless the court or its authorized representative makes written findings that there is probable cause to believe that the youth may be detained under subsection (1) of this section, that describe why it is in the best interests of the youth to be placed in detention and that one or more of the following circumstances are present:

(a) No means less restrictive of the youth's liberty gives reasonable assurance that the youth will attend the adjudicative hearing; or

(b) The youth's behavior endangers the physical welfare of the youth, the victim or another person, or endangers the community.

(3) When a youth is ordered held or placed in detention, the court or its authorized representative shall state in writing the basis for its detention decision and a finding describing why it is in the best interests of the youth to be placed in detention. The youth shall have the opportunity to rebut evidence received by the court and to present evidence at the hearing.

(4) In determining whether release is appropriate under subsection (2) of this section, the court or its authorized representative shall consider the following:

(a) The nature and extent of the youth's family relationships and the youth's relationships with other responsible adults in the community;

(b) The youth's previous record of referrals to juvenile court and recent demonstrable conduct;

(c) The youth's past and present residence;

(d) The youth's education status and school attendance record;

(e) The youth's past and present employment;

(f) The youth's previous record regarding appearance in court;

(g) The nature of the charges against the youth and any mitigating or aggravating factors;

(h) The youth's mental health;

(i) The reasonable protection of the victim; and

(j) Any other facts relevant to the likelihood of the youth's appearance in court or likelihood that the youth will comply with the law and other conditions of release.

(5) Notwithstanding subsection (2) of this section, the court may not release a youth when:

(a) There is probable cause to believe the youth committed an offense that, if committed by an adult, would constitute a violent felony; and

(b) There is clear and convincing evidence that the youth poses a danger of serious physical injury to or sexual victimization of the victim or members of the public while the youth is on release. [1993 c.33 §173; 1993 c.546 §130; 1995 c.422 §73g; 1999 c.577 §10; 2001 c.686 §10; 2005 c.631 §5; 2007 c.609 §15]

419C.150 Time limitations on detention. (1) A youth may be held in detention under this section and ORS 419C.145, 419C.153 and 419C.156 for a maximum of 28 days except for good cause shown prior to the expiration of the 28-day period. If good cause for continued detention is shown, the period of detention may be extended for no more than an additional 28 days unless the adjudication is continued with the express consent of the youth.

(2) Subsection (1) of this section does not apply to a youth alleged to be within the jurisdiction of the juvenile court for having committed an act that would be murder, attempted murder, conspiracy to commit murder or treason if committed by an adult and if proof of the act is evident or the presumption strong that the youth committed the act. The juvenile court may conduct such hearing as the court considers necessary to determine whether the proof is evident or the presumption strong. [1993 c.33 §174]

419C.153 Detention review or release hearing. Any youth ordered detained under ORS 419C.145, 419C.150 and 419C.156 shall have a review hearing at least every 10 days, excluding Saturdays, Sundays and judicial holidays. At the review hearing the court shall determine whether sufficient cause exists to require continued detention of the youth. In addition, the court may review and may confirm, revoke or modify any order for the detention or release of the youth under this section or ORS 419C.109, 419C.136, 419C.139, 419C.145, 419C.150 or 419C.156 and, in the event that the youth is alleged to have committed an offense which if committed by an adult would be a misdemeanor or Class C felony, may do so ex parte. Release of a youth may not be revoked, however, except upon a finding that the youth may be detained under this section or ORS 419C.145, 419C.150 and 419C.156, and after a hearing is held in accordance with ORS 419C.109, 419C.136 and 419C.139. If the victim requests, the district attorney or juvenile department shall notify the victim of the review hearing. [1993 c.33 §175; 2003 c.687 §12; 2007 c.609 §16]

419C.156 Detention of runaway from another state. Notwithstanding ORS 419C.145 (1) and (2), the court may order the detention of a youth who resides in another state if the court makes written findings that there is probable cause to believe that the youth has run away from home or from a placement and that describe why it is in the best interests of the youth to be placed in detention. If a youth is ordered detained under this section, the court shall make such orders as are necessary to cause the youth to be immediately returned to the youth's state of residence. [1993 c.33 §176; 2001 c.686 §11]

419C.159 Escape; punishment. Any youth 12 years of age or older, alleged to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult, who escapes from a juvenile detention facility as defined in ORS 419A.004 after having been placed in the facility pursuant to the filing of a petition alleging that the youth has committed an act which would be a crime if committed by an adult commits a violation punishable by placement in a detention facility for youths for a specific period of time not to exceed eight days, in addition to time already spent in the facility, when such punishment is ordered by the juvenile court pursuant to ORS 419C.453. [1993 c.33 §177]

SHELTER HEARINGS

419C.170 Time limitations on shelter care. No youth shall be held in shelter care more than 36 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing under ORS 419C.145, 419C.150, 419C.153 and 419C.156. [1993 c.33 §178; 1995 c.422 §73h]

419C.173 Evidentiary hearing. (1) When the youth is taken, or is about to be taken, into temporary custody pursuant to ORS 419C.080 and 419C.088 and placed in shelter care, a parent or youth shall be given the opportunity to present evidence to the court at the hearing specified in ORS 419C.170, and at any subsequent review hearing, that the youth can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication.

(2) If the victim requests, the district attorney or juvenile department shall notify the victim of a hearing under this section.

(3) At the hearing:

(a) The court shall make a written finding as to whether reasonable efforts have been made, considering the circumstances of the youth's conduct, to prevent or eliminate

the need for removal of the youth from the home;

(b) In determining whether a youth shall be removed or continued out of the home, the court shall consider whether the provision of reasonable and available services can prevent or eliminate the need to remove the youth from the home; and

(c) The court shall make a written finding in every order of removal that it is in the best interest of the youth and the community that the youth be removed from the home or continued in care. [1993 c.33 §179; 1993 c.295 §6; 1993 c.546 §131; 1999 c.92 §1; 2007 c.609 §17]

419C.176 Conditional release by court. If the court finds that release of the youth on the youth's own recognizance is unwarranted and if probable cause exists to believe that the youth may be detained under ORS 419A.063, 419C.145 or 419C.453, the court may make a conditional release of the youth subject to such conditions as will protect the safety of the youth, the victim, other persons and the community and insure the youth's appearance in court. [1993 c.33 §180; 2007 c.609 §18]

419C.179 Release security provisions not applicable. Provisions regarding security for release in criminal cases shall not be applicable to youths held or taken into custody as provided in this chapter. [1993 c.33 §181; 1999 c.1051 §271]

COURT-APPOINTED COUNSEL

419C.200 Court-appointed counsel for youth. (1) If the youth, the parent or guardian requests counsel for the youth but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the youth at state expense if the youth is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. Whenever requested to do so, the court shall appoint counsel to represent the youth in every case filed pursuant to ORS 419C.005 in which the youth would be entitled to appointed counsel if the youth were an adult charged with the same offense. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2) Upon presentation of the order of appointment under this section by the attorney for the youth, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the youth or youths involved in the case, without the consent of the youth or youths or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging. [1993 c.33 §182; 1993 c.234 §2; 1993 c.546 §68; 2001 c.962 §49; 2003 c.449 §§12,48]

419C.203 Payment for compensation of counsel. (1) When the court appoints counsel to represent a youth, it may order the youth, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account in the General Fund, through the clerk of the court, in full or in part the administrative costs of determining the ability of the youth, parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(2) The test of the youth's, parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(3) If counsel is provided at state expense, the court shall determine the amount the youth, parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(4) In determining whether to order the youth to pay costs under subsection (1) of this section, the court shall also consider the reformative effect of having the youth pay. The court may order that a portion of any moneys earned by the youth in juvenile work projects be used to pay costs ordered under subsection (1) of this section.

(5) The court's order of payment is enforceable in the same manner as an order of support under ORS 419C.600. [1993 c.33 §183; 1997 c.761 §§7,7a; 2001 c.962 §50; 2003 c.449 §13]

419C.206 Compensation for counsel when youth, parent or guardian cannot pay. When the court appoints counsel for the youth and the youth is determined to be entitled to, and financially eligible for, appointment of counsel at state expense and the parent or guardian is without sufficient financial means to employ counsel, the compensation for counsel and reasonable fees and expenses of investigation, preparation and presentation paid or incurred shall be

determined and paid as provided in ORS 135.055. [1993 c.33 §184; 2001 c.962 §51; 2003 c.449 §31]

419C.209 Applicability of other laws. Appointment of counsel for the youth or parent is subject to ORS 135.055, 151.216 and 151.219. [1993 c.33 §186; 2001 c.962 §52]

EDUCATIONAL SURROGATE

419C.220 Appointment of surrogate. (1) Upon the request of any party, the court shall appoint a surrogate for a youth or youth offender who is temporarily or permanently in the custody of, or committed to, a public or private agency through the action of the juvenile court if:

(a) The court finds that the youth or youth offender may be eligible for special education programs because of a disabling condition as provided in ORS chapter 343;

(b) The youth or youth offender does not already have a surrogate appointed by a school district or other educational agency; and

(c) The requesting party nominates a person who is willing to serve as the surrogate and who meets the requirements described in subsection (2) of this section.

(2) A surrogate appointed under this section:

(a) May not be an employee of the state educational agency, a school district or any other agency that is involved in the education or care of the youth or youth offender;

(b) May not have a conflict of interest that would interfere with the surrogate representing the special education interests of the youth or youth offender; and

(c) Shall have knowledge and skills that ensure that the surrogate can adequately represent the youth or youth offender in special education decisions. [1993 c.33 §187; 2003 c.396 §100; 2005 c.662 §15]

419C.223 Duties and tenure. A person that is appointed surrogate for a youth offender has the duty and authority to protect the due process rights of the youth offender with respect to the provision of free appropriate public education. A surrogate appointed by the court shall immediately apply to the attending school district for an evaluation of the youth offender's eligibility for special education and shall participate in the development of the youth offender's educational plan as provided in ORS chapter 343. The duties and responsibilities of the surrogate shall continue until whichever of the following occurs first:

(1) The youth offender is 21 years of age;

(2) The youth offender is determined to be no longer eligible for special education; or

(3) The juvenile court terminates jurisdiction of the youth offender and determines that the youth offender's parent or guardian is both known and available to protect the special educational rights of the youth offender. [1993 c.33 §188; 2003 c.396 §101]

AUTHORIZED DIVERSION PROGRAMS

419C.225 Authorized diversion programs. (1) Following a review of a police report and other relevant information, a county juvenile department may refer a youth to an authorized diversion program if the youth is eligible to enter into a formal accountability agreement under ORS 419C.230.

(2) An authorized diversion program may include a youth court, mediation program, crime prevention or chemical substance abuse education program or other program established for the purpose of providing consequences and reformation and preventing future delinquent acts. [2001 c.485 §5]

419C.226 Youth courts. (1) An organization may establish and operate a youth court only with the agreement and cooperation of a county juvenile department. To establish a youth court, the organization and the county juvenile department must enter into a written agreement that:

(a) Describes the types of cases that may be referred to the youth court;

(b) Establishes protocols for handling the cases, including time limits to be observed; and

(c) Establishes data collection and outcome reporting requirements.

(2) A youth court in existence on January 1, 2002, may continue to operate in the form in which it exists on January 1, 2002.

(3) A youth court may be described by other terms including, but not limited to, a peer court, teen court or peer jury. [2001 c.485 §6]

Note: Section 2, chapter 250, Oregon Laws 2001, provides:

Sec. 2. (1) Following a review of a police report and other relevant information, a county juvenile department may refer a youth to a youth court if the youth is eligible to enter into a formal accountability agreement under ORS 419C.230.

(2)(a) An organization may establish and operate a youth court only with the agreement and cooperation of a county juvenile department. To establish a youth court, the organization and the county juvenile department must enter into a written agreement that:

(A) Describes the types of cases to be referred to the youth court;

(B) Establishes protocols for handling the cases, including time limits to be observed; and

(C) Establishes data collection and outcome reporting requirements.

(b) A youth court in existence on the effective date of this 2001 Act [January 1, 2002] may continue to operate in the form in which it exists on the effective date of this 2001 Act.

(c) A youth court may be described by other terms including, but not limited to, a peer court, teen court or peer jury. [2001 c.250 §2]

FORMAL ACCOUNTABILITY AGREEMENTS

419C.230 Formal accountability agreements; when appropriate; consultation with victim. (1) A formal accountability agreement may be entered into when a youth has been referred to a county juvenile department, and a juvenile department counselor has probable cause to believe that the youth may be found to be within the jurisdiction of the juvenile court for one or more acts specified in ORS 419C.005.

(2) Notwithstanding subsection (1) of this section, unless authorized by the district attorney, a formal accountability agreement may not be entered into when the youth:

(a) Is alleged to have committed an act that if committed by an adult would constitute:

(A) A felony sex offense under ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427; or

(B) An offense involving the use or possession of a firearm, as defined in ORS 166.210, or destructive device, as described in ORS 166.382; or

(b) Is being referred to the county juvenile department for a second or subsequent time for commission of an act that if committed by an adult would constitute a felony.

(3) The juvenile department must consult the victim before entering into a formal accountability agreement if:

(a) The victim has requested consultation in plea negotiations; and

(b) The formal accountability agreement involves an alleged act that if committed by an adult would constitute a violent felony. [1993 c.33 §189; 1995 c.422 §74; 1999 c.577 §8; 2007 c.609 §19]

419C.233 Nature of agreement. A formal accountability agreement is a voluntary contract between a youth described in ORS 419C.230 and a juvenile department whereby the youth agrees to fulfill certain conditions in exchange for not having a petition filed against the youth. [1993 c.33 §190; 1995 c.422 §123]

419C.236 Agreement may require counseling, community service, education, treatment or training; restitution. (1) A formal accountability agreement may require participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the counselor would be beneficial to the youth.

(2) A formal accountability agreement may require that the youth make restitution to any person who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. Before setting the amount of restitution, the juvenile department shall consult with the victim concerning the amount of damage. Restitution does not limit or impair the right of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the victim be admissible in such civil action to prove consent or agreement by the victim. However, the court shall credit any restitution paid by the youth to a victim against any judgment in favor of the victim in such civil action. [1993 c.33 §191; 1995 c.422 §124]

419C.237 Agreement may require mental health evaluation. If a youth enters into a formal accountability agreement under ORS 419C.230, and a juvenile department counselor has probable cause to believe that the youth may be found to be within the jurisdiction of the juvenile court for an act that would be a violation of ORS 167.315, 167.320, 167.322 or 167.333 if done by an adult, the agreement may provide for the youth to undergo psychiatric, psychological or mental health evaluation and, if warranted by the mental condition of the youth, undergo appropriate care or treatment. [2001 c.926 §5]

419C.239 Requirements of agreement; disclosure. (1) A formal accountability agreement shall:

(a) Be completed within a period of time not to exceed one year;

(b) Be voluntarily entered into by all parties;

(c) Be revocable by the youth at any time by a written revocation;

(d) Be revocable by the juvenile department in the event the department has reasonable cause to believe the youth has failed to carry out the terms of the formal accountability agreement or has committed a subsequent offense;

(e) Not be used as evidence against the youth at any adjudicatory hearing;

(f) Be executed in writing and expressed in language understandable to the persons involved;

(g) Be signed by the juvenile department, the youth, the youth's parent or parents or legal guardian, and the youth's counsel, if any;

(h) Become part of the youth's juvenile department record; and

(i) When the youth has been charged with having committed the youth's first violation of a provision under ORS 475.860 (3)(b) or 475.864 (3) and unless the juvenile department determines that it would be inappropriate in the particular case:

(A) Require the youth to participate in a diagnostic assessment and an information or treatment program as recommended by the assessment. The agencies or organizations providing assessment or programs of information or treatment must be the same as those designated by the court under ORS 419C.443 (1) and must meet the standards set by the Director of Human Services. The parent of the youth shall pay the cost of the youth's participation in the program based upon the ability of the parent to pay.

(B) Monitor the youth's progress in the program which shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the juvenile department stating the youth's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. The form of the report shall be determined by agreement between the juvenile department and the diagnostic assessment agency or organization. The juvenile department shall make the report a part of the record of the case.

(2) Notwithstanding any other provision of law, the following information contained in a formal accountability agreement under ORS 419C.230 is not confidential and is not exempt from disclosure:

(a) The name and date of birth of the youth;

(b) The act alleged; and

(c) The portion of the agreement providing for the disposition of the youth. [1993 c.33 §192; 1995 c.422 §76; 1995 c.440 §4; 1997 c.615 §1; 2005 c.708 §53]

419C.242 Revocation and modification of agreement. (1) If a formal accountability agreement is revoked pursuant to ORS 419C.239, the juvenile department shall either extend the agreement pursuant to subsection (2) of this section or file a petition with the juvenile court, and an adjudicatory hearing may be held.

(2) If the juvenile department has reasonable cause to believe that the youth has failed to carry out the terms of the formal accountability agreement or has committed a subsequent offense, in lieu of revoking the agreement, the department may modify the terms of the agreement and extend the period of the agreement for an additional six months from the date on which the modification was made with the consent of the youth and the youth's counsel, if any. The period of a formal accountability agreement may be extended only once under this subsection. [1993 c.33 §193; 1995 c.422 §125]

419C.245 Right to counsel. The juvenile department counselor shall inform a youth and the youth's parents or guardian of the youth's right to counsel and to appointed counsel at state expense, if the youth is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. The right to counsel shall attach prior to the youth's entering into a formal accountability agreement. [1993 c.33 §194; 1995 c.422 §126; 2001 c.962 §84; 2003 c.449 §14]

PETITION

419C.250 Who may file petition; form. (1) The state, acting through the district attorney, Attorney General or, when authorized by the district attorney, the juvenile department counselor, may file a petition alleging that a youth is within the jurisdiction of the court as provided in ORS 419C.005.

(2) At any time after a petition is filed, the court may make an order providing for the temporary custody of the youth.

(3) The petition and all subsequent court documents in the proceeding shall be entitled, "In the Matter of _____, a youth." The petition shall be in writing and verified upon the information and belief of the petitioner. [1993 c.546 §70 (enacted in lieu of 1993 c.33 §195); 1995 c.422 §77; 1999 c.59 §120]

419C.255 Facts to be pleaded. (1) The petition shall set forth in ordinary and concise language such of the following facts as are known and indicate any which are not known:

(a) The name, age and residence of the youth.

(b) The facts which bring the youth within the jurisdiction of the court as provided in ORS 419C.005.

(c) The name and residence of the youth's parents or, if the youth has no parents or the names and residences of both parents are unknown, then the name and address of the youth's guardian, if the youth has a guardian.

(d) The name and residence of the person having physical custody of the youth.

(2) A petition alleging jurisdiction under ORS 419C.005 shall set forth in addition the name of any person who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. [1993 c.33 §198; 2007 c.609 §20]

419C.258 Service. A true copy of the petition shall be served, together with the summons, upon all persons upon whom summonses are served under ORS 419C.300, 419C.303 and 419C.306. The petitioner, or an attorney for the petitioner, must certify on the copy that the copy is an exact and complete copy of the original summons and complaint. [1993 c.33 §199; 1995 c.273 §23]

419C.261 Amendment and dismissal of petition; consultation with victim. (1) The court, on motion of an interested party or on its own motion, may at any time direct that the petition be amended. If the amendment results in a substantial departure from the facts originally alleged, the court shall grant such continuance as the interests of justice may require. When the court directs the amendment of a petition alleging that a youth has committed an act that would constitute a sex crime, as defined in ORS 181.594, if committed by an adult, the court shall make written findings stating the reason for directing the amendment.

(2)(a) The court may set aside or dismiss a petition filed under ORS 419C.005 in furtherance of justice after considering the circumstances of the youth and the interests of the state in the adjudication of the petition.

(b) If the victim requests notice, the district attorney or juvenile department shall notify the victim of a hearing to amend the petition in advance of the hearing.

(c) When the court sets aside or dismisses a petition alleging that a youth has committed an act that would constitute a sex crime, as defined in ORS 181.594, if committed by an adult, the court shall make written findings stating the reason for setting aside or dismissing the petition.

(3) The district attorney or juvenile department must consult the victim regarding plea negotiations if:

(a) The victim has requested to be consulted regarding plea negotiations;

(b) The petition alleges the youth committed an act that would constitute a violent felony, as defined in ORS 419A.004, if committed by an adult; and

(c) The negotiations could lead to an amendment of the petition for purposes of obtaining an admission from the youth. [1993 c.33 §200; 1995 c.422 §77a; 2001 c.803 §7; 2007 c.609 §23]

CRIMINAL PROCEDURE LAWS

419C.270 Application of criminal procedure laws. In all proceedings brought under ORS 419C.005, the following rules of criminal procedure apply:

(1) ORS 133.673, 133.693 and 133.703;

(2) ORS 135.455, 135.465 and 135.470;

(3) ORS 135.610, 135.630 (3) to (6), 135.640 and 135.670;

(4) ORS 135.711, 135.713, 135.715, 135.717, 135.720, 135.725, 135.727, 135.730, 135.733, 135.735, 135.737, 135.740 and 135.743;

(5) ORS 135.805 and 135.815 (1)(a) to (e) and (2);

(6) ORS 135.825, 135.835, 135.845 and 135.855 to 135.873; and

(7) ORS 136.432. [1993 c.546 §72; 1997 c.313 §31; 1999 c.304 §§7,8; 2007 c.581 §4; 2007 c.609 §21]

419C.273 Right of victim to be present at proceedings; advice of rights; notice; effect on validity of proceedings. (1)(a) The victim of any act alleged in a petition filed under this chapter may be present at and, upon request, must be informed in advance of critical stages of the proceedings held in open court when the youth or youth offender will be present.

(b) The victim must be informed of any constitutional rights of the victim. Except as provided in ORS 147.417, the district attorney or juvenile department must ensure that victims are informed of their constitutional rights. If a victim requests, the district attorney or juvenile department must support the victim in exercising the victim's constitutional rights.

(2)(a) The victim has the right, upon request, to be notified in advance of or to be heard at:

(A) A detention or shelter hearing;

(B) A hearing to review the placement of the youth or youth offender; or

(C) A dispositional hearing.

(b) For a release hearing, the victim has the right:

(A) Upon request, to be notified in advance of the hearing;

(B) To appear personally at the hearing; and

(C) If present, to reasonably express any views relevant to the issues before the court.

(c) Failure to notify the victim of a hearing under this subsection or failure of the victim to appear at the hearing does not affect the validity of the proceeding.

(3) If the victim is not present at a critical stage of the proceeding, the court shall ask the district attorney or juvenile depart-

ment whether the victim requested to be notified of critical stages of the proceedings. If the victim requested to be notified, the court shall ask the district attorney or juvenile department whether the victim was notified of the date, time and place of the hearing. The validity of the proceeding is not affected by the failure to notify the victim of a hearing or failure of the victim to appear at a hearing that is a critical stage of the proceeding, including but not limited to hearings under ORS 135.953, 181.823, 419A.262, 419C.097, 419C.142, 419C.173, 419C.261, 419C.450 or 419C.653.

(4) As used in this section:

(a) "Critical stage of the proceeding" means a hearing that:

(A) Affects the legal interests of the youth or youth offender;

(B) Is held in open court; and

(C) Is conducted in the presence of the youth or youth offender.

(b) "Critical stage of the proceeding" includes, but is not limited to:

(A) Detention and shelter hearings;

(B) Hearings to review placements;

(C) Hearings to set or change conditions of release;

(D) Hearings to transfer proceedings or to transfer parts of proceedings;

(E) Waiver hearings;

(F) Adjudication and plea hearings;

(G) Dispositional hearings, including but not limited to restitution hearings;

(H) Review or dispositional review hearings;

(I) Hearings on motions to amend, dismiss or set aside petitions, orders or judgments;

(J) Probation violation hearings, including probation revocation hearings, when the basis for the alleged violation directly implicates a victim's rights or well-being;

(K) Hearings for relief from the duty to report under ORS 181.823; and

(L) Expunction hearings.

(5) Nothing in this section creates a cause of action for compensation or damages. This section may not be used to invalidate an accusatory instrument, ruling of the court or otherwise suspend or terminate any proceeding at any point after the case is commenced or on appeal. [2007 c.609 §2]

419C.276 When address and phone number of victim or witness not to be disclosed to youth or youth offender; deposition of victim; when contact with victim prohibited; effect of threats by youth or youth offender. (1) If a victim or witness requests, the court shall order that the address and telephone number of the victim or witness not be given to the youth or youth offender unless good cause is shown to the court.

(2) If contacted by the attorney of the youth or youth offender, an agent of the youth or youth offender, or an agent of the attorney of the youth or youth offender, a victim must be clearly informed by the attorney or agent, either in person or in writing:

(a) Of the identity and capacity of the person contacting the victim;

(b) That the victim does not have to talk to the attorney or agent, or provide other discovery unless the victim wishes; and

(c) That the victim may have a representative of the state present during any interview.

(3) Unless the victim consents after receiving a full advice of rights as provided in subsection (2) of this section, a victim may not be required to be interviewed or deposed by or give discovery to the youth or youth offender or the attorney for the youth or youth offender, or an agent of the attorney or youth or youth offender. This subsection does not prohibit the youth or youth offender from:

(a) Subpoenaing or examining the victim in a proceeding when the purpose is other than for discovery; or

(b) Subpoenaing books, papers or documents as provided in ORS 136.580.

(4) Any preadjudication release order must prohibit any contact with the victim, either directly or indirectly, unless specifically authorized by the court. This subsection does not limit contact by the attorney for the youth or youth offender, or an agent of the attorney, other than the youth or youth offender, in the manner set forth in subsection (2) of this section.

(5)(a) If a victim notifies the district attorney or juvenile department that the youth or youth offender, by direct or indirect contact, threatened or intimidated the victim, the district attorney or juvenile department shall notify the court and the attorney for the youth or youth offender. If the youth or youth offender is not in custody and the court finds there is probable cause to believe the victim has been threatened or intimidated by the youth or youth offender, by direct or indirect contact, the court shall

immediately issue an order to show cause why the release status should not be revoked.

(b) After conducting a hearing as the court deems appropriate, if the court finds that the victim has been threatened or intimidated by the youth or youth offender, by direct or indirect contact, the release status shall be revoked and the youth or youth offender shall be held in detention until conditions of release sufficient to ensure the safety of the victim and the community can be implemented.

(c) In any hearing convened under this subsection, the victim has the right to be notified in advance of the hearing, to appear personally at the hearing and, if present, to express any views relevant to the issues before the court.

(6) For purposes of subsections (4) and (5) of this section, "contact" has the meaning given that term in ORS 163.730. [2007 c.609 §3]

CONSOLIDATION

419C.280 Consolidation. Juvenile court hearings shall be held at a special session of the court for that purpose and each case shall be heard separately, except that two or more cases may be heard together in the following instances:

(1) Cases involving violations of motor vehicle laws or ordinances where none of the cases involves death or serious injury to persons.

(2) Cases arising in whole or in part out of a single transaction or series of related transactions. [1993 c.33 §201]

PARTIES

419C.285 Parties to delinquency proceeding; rights of limited participation; interpreters. (1) At the adjudication stage of a delinquency proceeding, the parties to the proceeding are the youth and the state, represented by the district attorney or the juvenile department. At the dispositional stage of a delinquency proceeding, the following are also parties:

(a) The parents or guardian of the youth;

(b) A court appointed special advocate, if appointed;

(c) The Oregon Youth Authority or other child care agency, if the youth is temporarily committed to the agency; and

(d) An intervenor who petitions or files a motion on the basis of a child-parent relationship under ORS 109.119.

(2) The rights of the parties include, but are not limited to:

(a) The right to notice of the proceeding and copies of the pleadings;

(b) The right to appear with counsel and to have counsel appointed if otherwise provided by law;

(c) The right to call witnesses, cross-examine witnesses and participate in hearings;

(d) The right to appeal;

(e) The right to request a hearing; and

(f) The right to notice of any proceeding before the Psychiatric Security Review Board.

(3)(a) Persons who are not parties under subsection (1) of this section may petition the court for rights of limited participation. The petition must be filed and served on all parties no later than two weeks before a proceeding in the case in which participation is sought. The petition must state:

(A) The reason the participation is sought;

(B) How the person's involvement is in the best interest of the youth or the administration of justice;

(C) Why the parties cannot adequately present the case; and

(D) What specific relief is being sought.

(b) If the court finds that the petition is well founded, the court may grant rights of limited participation as specified by the court.

(c) Persons petitioning for rights of limited participation are not entitled to appointed counsel.

(4) In all delinquency proceedings, interpreters shall be appointed in the manner specified by ORS 45.275 and 45.285 for the parties to the proceeding, any person granted rights of limited participation, and any parent or guardian of the youth without regard to whether the parent or guardian is a party to the proceeding. [1993 c.546 §73; 1997 c.873 §22; 2001 c.214 §2; 2001 c.962 §85; 2003 c.396 §§102,103; 2005 c.843 §8]

SUMMONS

419C.300 Time limits on issuance of summons. Promptly after the petition is filed, there shall be an investigation of the circumstances concerning the youth. No later than 60 days after the petition is filed, summons may be issued. [1993 c.33 §202]

419C.303 Form of summons; content. The summons shall be signed by a counselor or some other person acting under the direction of the court and shall contain the name of the court, the title of the proceeding and, except for a published summons, a brief statement of the substance of the facts re-

quired by ORS 419C.255 (1)(b). The summons shall also include a notice that the parent or other person legally obligated to support the youth may be required to pay, at some future date, for all or a portion of the support of the youth, including the cost of out-of-home placement, depending upon the ability of the parent to pay support. [1993 c.33 §203; 1993 c.546 §94]

419C.306 Effect of summons; to whom issued. (1) The summons shall require the person or persons who have physical custody of the youth to appear and bring the youth before the court at the time and place stated in the summons. The time for the hearing on the petition shall be fixed at a reasonable time, not less than 24 hours, after the issuance of the summons. If it appears to the court that the welfare of the youth or of the public requires that the youth immediately be taken into custody, the court may indorse an order on the summons as provided in ORS 419C.080 (2) directing the officer serving it to take the youth into custody.

(2)(a) Summons shall be issued to the legal parents of the youth, without regard to who has legal or physical custody of the youth, and to the legal guardians, if any, of the youth.

(b) Parents or guardians summoned pursuant to paragraph (a) of this subsection shall appear personally pursuant to the summons. Following the initial appearance, parents or guardians shall appear as directed by the court.

(c) An employer may not discharge, threaten to discharge, intimidate or coerce any employee by reason of the employee's attendance at a juvenile court hearing as required under paragraph (a) of this subsection.

(d) This subsection may not be construed to alter or affect an employer's policies or agreements with employees concerning employees' wages during times when an employee attends a juvenile court hearing under paragraph (a) of this subsection.

(3) If the youth is 12 years of age or older, a certified copy of the summons shall be served upon the youth. If the petition alleges that the youth is within the jurisdiction of the court for having violated ORS 471.430, the summons must contain a statement that, if the youth fails to appear as required in the summons, the driving privileges of the youth are subject to suspension under ORS 419C.472.

(4) Summons may be issued requiring the appearance of any person whose presence the court deems necessary. When a summons is issued to a youth pursuant to a petition alleging jurisdiction under ORS 419C.005, a copy of the summons shall be mailed to all victims whose names appear on the petition pursuant to ORS 419C.255 (2). The copy of the summons shall be accompanied by a notice that the victim may be present for the youth's appearance before the court and is entitled to request and receive notification of future hearings before the court in regard to the particular case. The copy of the summons shall also be accompanied by a notice informing the victim of the provisions of ORS 30.765. [1993 c.33 §204; 1993 c.546 §74; 1999 c.965 §1; 2001 c.686 §12; 2001 c.817 §7; 2003 c.687 §13]

419C.309 Service of summons or other process. Summonses or other process issuing from the juvenile court may be served without further indorsement in any county of the state by an officer of the county in which the proceeding is pending, by an officer of the county in which the person to be served is found or by any person authorized by the court to serve the process. Except as otherwise provided in this chapter, the provisions of law or the Oregon Rules of Civil Procedure applicable to summonses in civil cases apply to summonses issued from juvenile court. [1993 c.33 §205]

419C.312 Alternate service. (1) If any parent or guardian required to be summoned as provided in ORS 419C.306 cannot be found within the state, a summons may be served on the parent or guardian in any of the following ways:

(a) If the address of the parent or guardian is known, by sending the parent or guardian a copy of the summons by registered or certified mail with a return receipt to be signed by the addressee only.

(b) By personal service outside the state.

(2) Service as provided in this section and ORS 419C.309 shall vest the court with jurisdiction over the parents or guardian in the same manner and to the same extent as if the person served were served personally within this state. [1993 c.33 §206; 1993 c.546 §75]

419C.315 Travel expenses of party summoned. The court may authorize payment of travel expenses of any party summoned. Except as provided in this section, responsibility for the payment of the cost of service of summons or other process on any party, and for payment of travel expenses so authorized, shall be borne by the party issuing the summons or requesting the court to issue the summons. When the Oregon Youth Authority issues the summons or requests the court to issue the summons, responsibility for such payment shall be borne by the county. [1993 c.33 §207]

419C.317 Compliance with summons. No person required to appear as provided in ORS 419C.306 shall without reasonable cause fail to appear or, where directed in the sum-

mons, to bring the youth before the court. [1993 c.33 §208]

419C.320 When arrest warrant for summoned person authorized. If the summons cannot be served, if the person to whom the summons is directed fails to obey it or if it appears to the court that the summons will be ineffectual, the court may direct issuance of a warrant of arrest against the person summoned or against the youth. [1993 c.33 §209]

419C.323 Proceeding when summoned party not before court. If the youth is before the court, the court has jurisdiction to proceed with the case notwithstanding the failure to serve summons upon any person required to be served by ORS 419C.300, 419C.303 and 419C.306, except that:

(1) No order for support as provided in ORS 419C.590, 419C.592, 419C.595 and 419C.597 may be entered against a person unless that person is served as provided in ORS 419C.309.

(2) If it appears to the court that a parent or guardian required to be served by ORS 419C.300, 419C.303 and 419C.306 was not served as provided in ORS 419C.309, 419C.312 and 419C.315, or was served on such short notice that the parent or guardian did not have a reasonable opportunity to appear at the time fixed, the court shall, upon petition by the parent or guardian, reopen the case for full consideration. [1993 c.33 §210]

WAIVER

419C.340 Authority to waive youth to adult court. In the circumstances set forth in ORS 419C.349, 419C.352, 419C.364, 419C.367 and 419C.370, the court may waive the youth to the appropriate court handling criminal actions, or to municipal court. [1993 c.33 §211; 1993 c.546 §76]

419C.343 Depositions. (1) After the commencement of any proceeding in which a motion to waive has been filed, a party may move the court for an order allowing the taking of a deposition to perpetuate the testimony of a witness who is:

(a) Outside of the jurisdiction of, or otherwise not subject to the process of, the court; or

(b) Unable to attend because of age, sickness, infirmity, imprisonment or undue hardship.

(2) The affidavit in support of the motion to take a deposition to perpetuate testimony, in addition to setting forth the reasons described in subsection (1)(a) and (b) of this section, shall also set forth:

(a) The reasons why the testimony of the witness sought to be deposed cannot be taken by telephone at the time of the hearing;

(b) Where the deposition is to be taken;

(c) The manner of recording the deposition; and

(d) A brief statement of the substance of the testimony that the witness is expected to give.

(3) If the court finds that taking a deposition will best promote the just, speedy and inexpensive resolution of one or more issues in the proceeding or that taking a deposition is necessary to meet the requirements of due process, the court shall grant the motion.

(4) If the motion is granted, the court may, in its discretion, set conditions regarding the time, place and method of taking the deposition.

(5) All objections to any testimony or evidence taken at the deposition shall be made at the time and noted upon the record. The court before which the testimony is offered shall rule on any objections before the testimony is offered. Any objection not made at the deposition is waived. [1993 c.546 §81]

419C.346 Juvenile court's retention of authority over parent. If the juvenile court waives a youth to another court under ORS 419C.349, 419C.355 and 419C.370 for disposition as an adult, the juvenile court nevertheless may retain jurisdiction over the youth's parents or guardians under ORS 419C.570. However, if the court enters an order of waiver under ORS 419C.364, jurisdiction over the parents or guardians under ORS 419C.570 shall terminate. [1993 c.33 §212; 1993 c.546 §77]

419C.349 Grounds for waiving youth to adult court. The juvenile court, after a hearing except as otherwise provided in ORS 419C.364 or 419C.370, may waive a youth to a circuit, justice or municipal court of competent jurisdiction for prosecution as an adult if:

(1) The youth is 15 years of age or older at the time of the commission of the alleged offense;

(2) The youth, except as otherwise provided in ORS 419C.364 and 419C.370, is alleged to have committed a criminal offense constituting:

(a) Murder under ORS 163.115 or any aggravated form thereof;

(b) A Class A or Class B felony;

(c) Any of the following Class C felonies:

(A) Escape in the second degree under ORS 162.155;

(B) Assault in the third degree under ORS 163.165;

(C) Coercion under ORS 163.275 (1)(a);

(D) Arson in the second degree under ORS 164.315; or

(E) Robbery in the third degree under ORS 164.395;

(d) Any Class C felony in which the youth used or threatened to use a firearm; or

(e) Any other felony or any misdemeanor if the youth and the state stipulate to the waiver;

(3) The youth at the time of the alleged offense was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct involved; and

(4) The juvenile court, after considering the following criteria, determines by a preponderance of the evidence that retaining jurisdiction will not serve the best interests of the youth and of society and therefore is not justified:

(a) The amenability of the youth to treatment and rehabilitation given the techniques, facilities and personnel for rehabilitation available to the juvenile court and to the criminal court which would have jurisdiction after transfer;

(b) The protection required by the community, given the seriousness of the offense alleged;

(c) The aggressive, violent, premeditated or willful manner in which the offense was alleged to have been committed;

(d) The previous history of the youth, including:

(A) Prior treatment efforts and out-of-home placements; and

(B) The physical, emotional and mental health of the youth;

(e) The youth's prior record of acts which would be crimes if committed by an adult;

(f) The gravity of the loss, damage or injury caused or attempted during the offense;

(g) The prosecutive merit of the case against the youth; and

(h) The desirability of disposing of all cases in one trial if there were adult cooffenders. [1993 c.33 §213; 1993 c.546 §78; 1999 c.951 §1; 2003 c.404 §1]

419C.352 Grounds for waiving youth under 15 years of age. The juvenile court, after a hearing, except as provided in ORS 419C.364 or 419C.370, may waive a youth under 15 years of age at the time the act was committed to circuit court for prosecution as an adult if:

(1) The youth is represented by counsel during the waiver proceedings;

(2) The juvenile court makes the findings required under ORS 419C.349 (3) and (4); and

(3) The youth is alleged to have committed an act or acts that if committed by an adult would constitute one or more of the following crimes:

(a) Murder or any aggravated form thereof under ORS 163.095 or 163.115;

(b) Rape in the first degree under ORS 163.375 (1)(a);

(c) Sodomy in the first degree under ORS 163.405 (1)(a); or

(d) Unlawful sexual penetration in the first degree under ORS 163.411 (1)(a). [1993 c.33 §214; 1993 c.546 §79; 1995 c.422 §78]

419C.355 Written findings required. The juvenile court shall make a specific, detailed, written finding of fact to support any determination under ORS 419C.349 (3) and (4). [1993 c.33 §215]

419C.358 Consolidation of nonwaivable and waivable charges. When a person is waived for prosecution as an adult, the person shall be waived only on the actual charges justifying the waiver under ORS 419C.349 (2) or 419C.352, as the case may be. Any nonwaivable charges arising out of the same act or transaction as the waivable charge shall be consolidated with the waivable charge for purposes of conducting the adjudicatory hearing on the nonwaivable charges. [1993 c.33 §216; 1993 c.546 §82]

419C.361 Disposition of nonwaivable consolidated charges and lesser included offenses. (1) Notwithstanding that the juvenile court has waived the case under ORS 419C.349, 419C.352, 419C.355, 419C.358, 419C.364, 419C.367 and 419C.370, the court of waiver shall return the case to the juvenile court unless an accusatory instrument is filed in the court of waiver alleging, in the case of a person under 16 years of age, a crime listed in ORS 419C.352 or, in the case of any other person, a crime listed in ORS 419C.349 (2). Also in the case of a waived person, when a trial has been held in the court of waiver upon an accusatory instrument alleging a crime listed in ORS 419C.349 (2) or 419C.352, as the case may be, and the person is found guilty of any lesser included offense that is not itself a waivable offense, the trial court shall not sentence the defendant therein, but the trial court shall order a presentence report to be made in the case, shall set forth in a memorandum such observations as the court may make regarding the case and shall then return the case to the juvenile court in order that the juvenile court make disposition in the case based upon the guilty finding in the court of waiver. Disposition shall be as if the juvenile court itself had found the youth to be in its

jurisdiction pursuant to ORS 419C.005. The records and consequences of the case shall, in all respects, be as if the juvenile court itself had found the youth to be in its jurisdiction pursuant to ORS 419C.005. When the person is found guilty of a nonwaivable charge that was consolidated with a waivable charge under ORS 419C.358, the case shall be returned to the juvenile court for disposition as provided in this subsection for lesser included offenses.

(2) Nothing in this section or ORS 419C.358 applies to a waiver under ORS 419C.364 or 419C.370. [1993 c.33 §217; 1993 c.546 §83]

419C.364 Waiver of future cases. After the juvenile court has entered an order waiving a youth to an adult court under ORS 419C.349, the court may, if the youth is 16 years of age or older, enter a subsequent order providing that in all future cases involving the same youth, the youth shall be waived to the appropriate court without further proceedings under ORS 419C.349 and 419C.370. [1993 c.33 §218; 1993 c.546 §84]

419C.367 Vacating order waiving future cases. The juvenile court may at any time direct that the subsequent order entered under ORS 419C.364 be vacated or that a pending case be waived to the juvenile court for further proceedings. The court may make such a direction on any case but shall do so and require a pending case to be waived to the juvenile court if it cannot support the finding required under ORS 419C.355. The juvenile court shall direct that the subsequent order entered under ORS 419C.364 shall be vacated when the youth is not convicted in the waived case that preceded the order under ORS 419C.364. [1993 c.33 §219; 1993 c.546 §85; 1995 c.79 §216]

419C.370 Waiver of motor vehicle, boating, game, violation and property cases. (1) The juvenile court may enter an order directing that all cases involving:

(a) Violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be waived to criminal or municipal court;

(b) An offense classified as a violation under the laws of this state or a political subdivision of this state be waived to municipal court if the municipal court has agreed to accept jurisdiction; and

(c) A misdemeanor that entails theft, destruction, tampering with or vandalism of property be waived to municipal court if the municipal court has agreed to accept jurisdiction.

(2) Cases waived under subsection (1) of this section are subject to the following:

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be waived to the juvenile court for further proceedings.

(3)(a) When a person who has been waived under subsection (1)(c) of this section is convicted of a property offense, the municipal court may impose any sanction authorized for the offense except for incarceration. The municipal court shall notify the juvenile court of the disposition of the case.

(b) When a person has been waived under subsection (1) of this section and fails to appear as summoned or is placed on probation and is alleged to have violated a condition of the probation, the juvenile court may recall the case to the juvenile court for further proceedings. When a person has been returned to juvenile court under this paragraph, the juvenile court may proceed as though the person had failed to appear as summoned to the juvenile court or had violated a juvenile court probation order under ORS 419C.446.

(4) Records of cases waived under subsection (1)(c) of this section are juvenile records for purposes of expunction under ORS 419A.260. [1993 c.33 §220; 1993 c.546 §86; 1995 c.481 §1; 1999 c.158 §1; 1999 c.615 §1; 2003 c.396 §104]

419C.372 Handling of motor vehicle, boating or game cases not requiring waiver. If the youth's conduct consists, or is alleged to consist, of a violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws and it appears to the court that the nature of the offense and the youth's background are such that a proceeding as provided in this chapter is not warranted, the court may handle:

(1) Cases involving boating laws or game laws as provided in ORS 419C.374.

(2) Cases involving the use or operation of a motor vehicle as provided under ORS 809.412. [1993 c.33 §221; 1993 c.546 §95]

419C.374 Alternative conduct of proceedings involving traffic, boating and game cases. (1) A petition relating to boating or game offenses shall be filed as provided in ORS 419C.250, 419C.255 and 419C.258. Motor vehicle offenses are subject to ORS 809.412.

(2) Summons as provided in ORS 419C.300 shall be issued to the parent or other person having physical custody of the youth, requiring the parent or other person

to appear with the youth before the court at the time and place stated in the summons.

(3) The summons may be served as provided in ORS 419C.309, 419C.312 and 419C.315 or by mailing a copy thereof to the parent or other person having physical custody of the youth. If the summons is served personally, a warrant may be issued as provided in ORS 419C.320.

(4) A hearing shall be held as provided in ORS 419C.142, 419C.280 and 419C.400. At the termination of the hearing, if the court finds the matters alleged in the petition to be true, it may enter an order finding the youth to be a:

(a) Youth motor vehicle offender and dispose of the case as provided in ORS 809.412; or

(b) Youth boating law offender or a game law offender and may dispose of the case as provided in subsection (5) of this section.

(5) In a proceeding under this chapter, the juvenile court may suspend a hunting or fishing license or permit where a game violation is involved and may make such other recommendations where a boating violation is involved. [1993 c.33 §222; 1995 c.422 §79]

ADJUDICATION

419C.400 Conduct of hearings. (1) The hearing shall be held by the court without a jury and may be continued from time to time.

(2) The facts alleged in the petition showing the youth to be within the jurisdiction of the court as provided in ORS 419C.005, unless admitted, must be established beyond a reasonable doubt.

(3) If the youth files written notice of intent to rely on the defense set forth in ORS 419C.522, the youth has the burden of proving the defense by a preponderance of the evidence.

(4) For the purpose of determining proper disposition of the youth, testimony, reports or other material relating to the youth's mental, physical and social history and prognosis may be received by the court without regard to their competency or relevancy under the rules of evidence.

(5) An adjudication by a juvenile court that a youth is within its jurisdiction is not a conviction of a crime or offense. [1993 c.33 §223; 1993 c.546 §87; 2005 c.843 §9]

419C.405 Witnesses; subpoena. (1) Witnesses or other persons necessary for the conduct of the hearing may be subpoenaed. The youth, parents, guardian or any person appearing in the youth's behalf may have compulsory attendance of witnesses in the youth's or their behalf in the same manner as provided in ORS 136.567 to 136.603. The form of the subpoena shall be substantially as provided in ORS 136.575 (4) or (6), but shall describe the action as a "juvenile court proceeding" and the appearance as on behalf of "the court," "the youth," and so on, as the case may be.

(2) In addition to the subpoena available under subsection (1) of this section, when the petition alleges that the youth is within the jurisdiction of the court by reason of a ground set forth in ORS 419C.005, the youth or any person appearing in behalf of the youth or the state may secure the attendance of out-of-state witnesses in the same manner as provided in ORS 136.623 to 136.637. [1993 c.33 §224]

419C.408 Witness fees. Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases. Except as provided by this section, responsibility for the per diem and mileage fees of any witness, and travel expenses if so ordered by the court, shall be borne by the party who subpoenas the witness or requests the court to subpoena the witness. If the witness was subpoenaed to appear on behalf of the Oregon Youth Authority, responsibility for per diem, mileage fees and travel expenses shall be borne by the county. If the witness was subpoenaed by more than one party, the witness shall be paid by the party who first subpoenas the witness. The court may then, thereafter, order that the costs be distributed equally among all parties who subpoenaed the witness and that the original payor of the costs be reimbursed accordingly. When the witness has been subpoenaed on behalf of a party who is represented by appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. [1993 c.33 §225; 2001 c.962 §53]

419C.411 Disposition order; factors to be considered; finding of responsible except for insanity. (1) At the termination of the hearing or hearings in the proceeding or after entry of an order under ORS 419C.067, the court shall enter an appropriate order directing the disposition to be made of the case.

(2) The court shall find a youth responsible except for insanity if:

(a) The youth asserted mental disease or defect as a defense as provided in ORS 419C.524; and

(b) The court determined by a preponderance of the evidence that, as a result of mental disease or defect at the time the youth committed the act alleged in the petition, the youth lacked substantial capacity either to appreciate the nature and quality of the act or to conform the youth's conduct to the requirements of law.

(3) Except as otherwise provided in subsections (6) and (7) of this section, in determining the disposition of the case, the court shall consider each of the following:

(a) The gravity of the loss, damage or injury caused or attempted during, or as part of, the conduct that is the basis for jurisdiction under ORS 419C.005;

(b) Whether the manner in which the youth offender engaged in the conduct was aggressive, violent, premeditated or willful;

(c) Whether the youth offender was held in detention under ORS 419C.145 and, if so, the reasons for the detention;

(d) The immediate and future protection required by the victim, the victim's family and the community; and

(e) The youth offender's juvenile court record and response to the requirements and conditions imposed by previous juvenile court orders.

(4) In addition to the factors listed in subsection (3) of this section, the court may consider the following:

(a) Whether the youth offender has made any efforts toward reform or rehabilitation or making restitution;

(b) The youth offender's educational status and school attendance record;

(c) The youth offender's past and present employment;

(d) The disposition proposed by the youth offender;

(e) The recommendations of the district attorney and the juvenile court counselor and the statements of the victim and the victim's family;

(f) The youth offender's mental, emotional and physical health and the results of the mental health or substance abuse treatment; and

(g) Any other relevant factors or circumstances raised by the parties.

(5) The court's consideration of matters under this section may be addressed on appeal only if raised by a party at a dispositional hearing or by a motion to modify or set aside under ORS 419C.610.

(6) When a youth is found responsible except for insanity, the court shall order a disposition under ORS 419C.529 if the court finds by a preponderance of the evidence that, at the time of disposition, the youth:

(a) Has a serious mental condition; or

(b) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others.

(7) When a youth is found responsible except for insanity and the court does not make a finding described in subsection (6) of this section, the court may:

(a) Enter an order finding the youth to be within the court's jurisdiction under ORS 419B.100 and make any disposition authorized by ORS chapter 419B;

(b) Initiate civil commitment proceedings; or

(c) Enter an order of discharge. [1993 c.33 §226; 1995 c.422 §80; 2003 c.396 §105; 2005 c.843 §10]

419C.420 Adjudication without hearing. If a youth is cited or summoned for a violation under ORS 471.430, 475.860 (3) or 475.864 (3) and fails to appear, the court may adjudicate the citation or petition and enter a disposition without a hearing. [2001 c.904 §14; 2005 c.708 §54]

DISPOSITION

419C.440 When court has duties and authority of guardian. Unless guardianship is granted as provided in ORS 419C.555, the court as an incident of its jurisdiction over the youth offender has the duties and authority of the guardian as provided in ORS 419C.558. [1993 c.33 §227; 2003 c.396 §106]

419C.441 Mental health evaluation, care and treatment. A court having jurisdiction pursuant to ORS 419C.005 over a youth offender who commits an act that would be a violation of ORS 167.315, 167.320, 167.322 or 167.333 if done by an adult may, in addition to any other exercise of jurisdiction over the youth offender, order that the youth offender undergo psychiatric, psychological or mental health evaluation. If warranted by the mental condition of the youth offender, the court may order that the youth offender undergo appropriate care or treatment. [2001 c.926 §4; 2003 c.396 §107]

419C.443 Diversion; marijuana offenses; requirements. (1) Except when otherwise provided in subsection (3) of this section, when a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 for a first violation of the provisions under ORS 475.860 (3)(b) or 475.864 (3), the court shall order an evaluation and designate agencies or organizations to perform diagnostic assessment and provide programs of information and treatment. The designated agencies or organizations must meet the standards set by the Director of Human Services. Whenever possible, the court shall designate agencies or organizations to perform the diagnostic assessment that are separate from those that may be designated to carry out a program of information or treatment. The parent of the youth offender shall pay the cost of the youth offender's participation in the program based upon the ability of the parent to pay.

The petition shall be dismissed by the court upon written certification of the youth offender's successful completion of the program from the designated agency or organization providing the information and treatment.

(2) Monitoring the youth offender's progress in the program shall be the responsibility of the diagnostic assessment agency or organization. The agency or organization shall make a report to the court stating the youth offender's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. The form of the report shall be determined by agreement between the court and the diagnostic assessment agency or organization. The court shall make the report a part of the record of the case.

(3) The court is not required to make the disposition required by subsection (1) of this section if the court determines that the disposition is inappropriate in the case or if the court finds that the youth offender has previously entered into a formal accountability agreement under ORS 419C.239 (1)(i). [1993 c.33 §228; 1995 c.422 §135; 1995 c.440 §5; 2003 c.396 §108; 2005 c.22 §295; 2005 c.708 §55]

419C.446 Probation; requirements. (1) When a court determines it would be in the best interest and welfare of a youth offender, the court may place the youth offender on probation. The court may direct that the youth offender remain in the legal custody of the youth offender's parents or other person with whom the youth offender is living, or the court may direct that the youth offender be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the youth offender.

(2) The court may specify particular requirements to be observed during the probation consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the youth offender's parents, restrictions on the youth offender's associates, occupation and activities, restrictions on and requirements to be observed by the person having the youth offender's legal custody, requirements that the youth offender pay any assessment under ORS 137.290, requirements for visitation by and consultation with a juvenile counselor or other suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period of detention under ORS 419C.453, requirements to pay a fine under ORS 419C.459, requirements to pay a supervision fee under ORS 419C.449, requirements to perform community service under ORS 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to blood or buccal testing under ORS 419C.473.

(3) If the youth offender is a sex offender, as defined in ORS 181.594, the juvenile department shall notify the chief of police, if the youth offender is going to reside within a city, and the county sheriff of the county in which the youth offender is going to reside of the youth offender's release on probation and the requirements imposed on the youth offender's probation under subsection (2) of this section. [1993 c.33 §229; 1993 c.546 §88; 1997 c.725 §1; 1999 c.97 §5; 2001 c.884 §8; 2003 c.396 §109]

419C.449 Supervision fee. (1) In determining whether to impose a supervision fee under ORS 419C.446 (2), the court shall consider whether the youth offender or the parent or legal guardian of the youth offender will be able to pay the fee. When a supervision fee is required, the fee shall be determined and fixed by the county juvenile department.

(2) The county shall collect or provide by contract for the collection of the supervision fee from the youth offender or the parent or legal guardian of the youth offender and shall retain the fee to be used by the county for funding of its juvenile department program. [1997 c.725 §3; 2001 c.485 §2; 2003 c.396 §110]

419C.450 Restitution. (1)(a) It is the policy of the State of Oregon to encourage and promote the payment of restitution and other obligations by youth offenders as well as by adult offenders. In any case within the jurisdiction of the juvenile court pursuant to ORS 419C.005 in which the youth offender caused another person any physical, emotional or psychological injury or any loss of or damage to property, the victim has the right to receive prompt restitution. The district attorney shall investigate and present to the court, prior to or at the time of adjudication, evidence of the nature and amount of the injury, loss or damage. If the court finds from the evidence presented that a victim suffered injury, loss or damage, in addition to any other sanction it may impose, the court shall:

(A) Include in the judgment a requirement that the youth offender pay the victim restitution in a specific amount that equals the full amount of the victim's injury, loss or damage as determined by the court; or

(B) Include in the judgment a requirement that the youth offender pay the victim restitution, and that the specific amount of restitution will be established by a supplemental judgment based upon a determination made by the court within 90 days of entry of the judgment. In the supplemental judgment, the court shall establish a specific amount of restitution that equals the full amount of the victim's injury, loss or damage as deter-

mined by the court. The court may extend the time within which the determination and supplemental judgment may be completed for good cause. The lien, priority of the lien and ability to enforce a specific amount of restitution established under this subparagraph by a supplemental judgment relates back to the date of the original judgment that is supplemented.

(b) After the district attorney makes a presentation described in paragraph (a) of this subsection, if the court is unable to find from the evidence presented that a victim suffered injury, loss or damage, the court shall make a finding on the record to that effect.

(c) No finding made by the court or failure of the court to make a finding under this subsection limits or impairs the rights of a person injured to sue and recover damages in a civil action under subsection (2) of this section.

(d) The court may order restitution, including but not limited to counseling and treatment expenses, for emotional or psychological injury under this section only:

(A) When the act that brought the youth offender within the jurisdiction of the court would constitute aggravated murder, murder or a sex crime if committed by an adult; and

(B) For an injury suffered by the victim or a member of the victim's family who observed the act.

(e) If the youth offender will be present at a hearing under this subsection and the victim requests notice, the district attorney or juvenile department shall notify the victim of the hearing.

(2) Restitution for injury inflicted upon a person by the youth offender, for property taken, damaged or destroyed by the youth offender and for a reward offered by the victim or an organization authorized by the victim and paid for information leading to the apprehension of the youth offender, shall be required as a condition of probation. Restitution does not limit or impair the right of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the victim be admissible in such civil action to prove consent or agreement by the victim. However, the court shall credit any restitution paid by the youth offender to a victim against any judgment in favor of the victim in such civil action. Before setting the amount of such restitution, the court shall notify the person upon whom the injury was inflicted or the owner of the property taken, damaged or destroyed and give such person an opportunity to be heard on the issue of restitution.

(3)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only if the youth offender alleges and establishes to the satisfaction of the court the youth offender's inability to pay the judgment in full at the time the judgment is entered. If the court finds that the youth offender is unable to pay, the court may establish or allow an appropriate supervising authority to establish a payment schedule. The supervising authority shall be authorized to modify any payment schedule established under this section. In establishing a payment schedule, the court or the supervising authority shall take into consideration:

(A) The availability to the youth offender of paid employment during such time as the youth offender may be committed to a youth correction facility;

(B) The financial resources of the youth offender and the burden that payment of restitution will impose, with due regard to the other obligations of the youth offender;

(C) The present and future ability of the youth offender to pay restitution on an installment basis or on other conditions to be fixed by the court; and

(D) The rehabilitative effect on the youth offender of the payment of restitution and the method of payment.

(b) As used in this subsection, "supervising authority" means any state or local agency that is authorized to supervise the youth offender.

(4) Notwithstanding ORS 419C.501 and 419C.504, when the court has ordered a youth offender to pay restitution, as provided in this section, the judgment shall be entered in the register or docket of the court in the manner provided by ORS chapter 18 and enforced in the manner provided by ORS 18.252 to 18.993. The judgment is in favor of the state and may be enforced only by the state. Notwithstanding ORS 419A.255, a judgment for restitution entered under this subsection is a public record. Judgments entered under this subsection are subject to ORS 18.048.

(5) A person required to pay restitution under subsection (1) of this section may file a motion supported by an affidavit for satisfaction of the judgment or supplemental judgment requiring payment of restitution in the circuit court of the county in which the original judgment was entered if:

(a) At least 50 percent of the monetary obligation is satisfied or at least 10 years have passed since the original judgment was entered;

(b) The person has substantially complied with all established payment plans;

(c) The person has not been found to be within the jurisdiction of the juvenile court under ORS 419C.005 or convicted of an offense since the date the original judgment of restitution was entered; and

(d) The person has satisfactorily completed any required period of probation or parole for the act for which the judgment of restitution was entered.

(6) When a person files a motion described in subsection (5) of this section, the district attorney for the county in which the motion was filed shall promptly notify the victim for whose benefit the judgment of restitution was entered that the person has filed the motion and that the victim may object in writing to the motion through the district attorney.

(7) If the victim does not object to the motion as provided in subsection (6) of this section, the court shall hold a hearing on the motion and may enter an order granting a full or partial satisfaction if the allegations in the affidavit supporting the motion are true and failure to grant the motion would result in an injustice. In determining whether an injustice would result, the court shall take into account:

(a) The financial resources of the defendant and the burden that continued payment of restitution will impose, with due regard to the other obligations of the defendant;

(b) The ability of the defendant to continue paying restitution on an installment basis or under other conditions to be fixed by the court; and

(c) The rehabilitative effect on the defendant of the continued payment of restitution and the method of payment.

(8) A person may file a motion under subsection (5) of this section no more than one time per year for each judgment of restitution entered against the person. [1993 c.33 §230; 1993 c.405 §1; 1995 c.422 §83; 1997 c.313 §32; 1997 c.727 §11; 2001 c.202 §1; 2003 c.576 §214; 2003 c.670 §4; 2007 c.425 §2; 2007 c.609 §22]

419C.453 Detention; when authorized. (1) Pursuant to a hearing, the juvenile court may order a youth offender placed in a detention facility for a specific period of time not to exceed eight days, in addition to time already spent in the facility, unless a program plan that is in conformance with standards established by the State Commission on Children and Families has been filed with and approved by the commission, in which case the youth offender may be held in detention for a maximum of 30 days in addition to time already spent in the facility, when:

(a) The youth offender has been found to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult; or

(b) The youth offender has been placed on formal probation for an act which would be a crime if committed by an adult, and has been found to have violated a condition of that probation.

(2) Pursuant to a hearing, the juvenile court may order a youth offender who is at least 18 years of age placed in a jail or other place where adults are detained. The placement must be for a specific period of time and may not exceed eight days in addition to time already spent in a juvenile detention facility or jail. The court may order placement under this subsection when:

(a) The youth offender has been found to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult; or

(b) The youth offender has been placed on formal probation for an act which would be a crime if committed by an adult, and has been found to have violated a condition of that probation.

(3) In order to detain a youth offender under subsection (2) of this section, the court shall make case-specific findings that placement in a jail or other place where adults are detained meets the specific needs of the youth offender.

(4) As used in this section, "adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005. [1993 c.33 §231; 2001 c.904 §5; 2001 c.905 §6; 2003 c.396 §111; 2003 c.442 §3; 2005 c.503 §17]

419C.456 Detention after escape. Pursuant to a hearing, the juvenile court may order a youth offender 12 years of age or older placed in a detention facility for a specific period of time not to exceed eight days, in addition to time already spent in the facility, when the youth offender has been found to be within the jurisdiction of the juvenile court by reason of having escaped from a detention facility, after having been placed in the facility pursuant to the filing of a petition alleging that the youth has committed an act which would be a crime if committed by an adult or the offense described in ORS 419C.159. [1993 c.33 §232; 2003 c.396 §112]

419C.459 Fines. In circumstances under which, if the youth offender were an adult, a fine not exceeding a certain amount could be imposed under the Oregon Criminal Code,

the court may impose such a fine upon the youth offender. In determining whether to impose a fine and, if so, then in what amount, the court shall consider whether the youth offender will be able to pay a fine and whether payment of a fine is likely to have a rehabilitative effect on the youth offender. Fines ordered paid under this section shall be collected by the clerk of the court. [1993 c.33 §233; 2003 c.396 §113]

419C.461 Disposition for graffiti related offenses. (1) When a youth offender has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a violation of ORS 164.383 or 164.386 or criminal mischief and the act consisted of defacing property by creating graffiti, the court, in addition to any other disposition, may order the youth offender to perform:

(a) Personal service, as provided in ORS 419C.465, consisting of removing graffiti; or

(b) If the victim does not agree to the personal service, community service consisting of removing graffiti at some location other than that defaced by the youth offender.

(2) In no case shall the youth offender, pursuant to this section, perform more hours of personal or community service than would be indicated by dividing the monetary damage caused by the youth offender by the legal minimum wage.

(3)(a) When a youth offender has been found to be within the jurisdiction of the juvenile court for having committed an act that if committed by an adult would constitute a violation of ORS 164.383, the court may find the parent, legal guardian or other person lawfully charged with the care or custody of the youth offender liable for actual damages to person or property caused by the youth offender. However, a parent who is not entitled to legal custody of the youth offender at the time of the act is not liable for the damages.

(b) The legal obligation of the parent, legal guardian or other person under this subsection may not exceed the liability provided in ORS 30.765.

(c) The court may, with the consent of the parent, legal guardian or other person, order the parent, legal guardian or other person to complete a parent effectiveness program approved by the court. Upon the parent's, legal guardian's or other person's completion of the program to the satisfaction of the court, the court may dismiss any other penalties imposed upon the parent, legal guardian or other person. [1995 c.615 §6; 2003 c.396 §114]

419C.462 Community service. The court may order a youth offender to perform appropriate community service for a number of hours not to exceed that which could be required under ORS 137.129 if the youth offender were an adult. [1993 c.33 §234; 2003 c.396 §115]

419C.465 Service to victim. Upon agreement of the youth offender, the youth offender's parent or guardian and the victim of the youth offender's conduct, the court may order a youth offender to perform personal service for the victim as a condition of probation. Contact with a victim to determine whether the victim is willing to agree to such personal service shall be by a person to be designated by the court and may not be by the youth offender. The victim shall be advised by such person of any prior findings of juvenile court jurisdiction of the youth offender under ORS 419C.005. The court shall specify the nature and length of the service as the court finds appropriate. Personal service performed pursuant to the order shall constitute full or partial satisfaction of any restitution ordered by the court, as provided by agreement prior to the making of the order. However, in no case shall the youth offender, pursuant to this section, perform more hours of personal service than would be indicated by dividing the victim's monetary loss by the legal minimum wage. [1993 c.33 §235; 2003 c.396 §116]

419C.470 Opportunities to fulfill obligations imposed by court. The Oregon Youth Authority and county juvenile departments, respectively, and to the extent practicable, shall create opportunities for youth offenders placed in the legal custody of the youth authority or under the supervision of a county juvenile department to pay restitution as ordered by the court and the assessment under ORS 137.290, and to perform any community service ordered by the court, as well as to fulfill any other obligation imposed by the court. [1993 c.33 §236; 1995 c.422 §84]

419C.472 Suspension of driving privileges. (1) The court may order that the driving privileges of a youth be suspended if:

(a) The petition alleges that the youth is within the jurisdiction of the court for violating ORS 471.430;

(b) The youth has been issued a summons under ORS 419C.306; and

(c) The youth fails to appear as required by the summons.

(2) When a court issues an order under subsection (1) of this section:

(a) The court shall send a notice to the Department of Transportation certifying that the youth failed to appear and that the court

has ordered the suspension of the driving privileges of the youth; and

(b) Neither the state nor a juvenile department counselor may file a petition under ORS 419C.250 alleging that the youth is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 153.992. [2001 c.817 §5]

419C.473 Authority to order blood or buccal samples. (1) Whenever a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 for having committed an act that if done by an adult would constitute a felony listed in subsection (2) of this section, the court shall order the youth offender to submit to the obtaining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall further order that as soon as practicable after the entry of the dispositional order, the law enforcement agency attending upon the court shall cause a blood or buccal sample to be obtained and transmitted in accordance with ORS 137.076. The court may also order the youth offender to reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.

(2) The felonies to which subsection (1) of this section applies are:

(a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to 163.427, 163.465 (1)(c), 163.525 and 163.670;

(b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to commit any offense listed in paragraph (a) of this subsection;

(c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;

(d) Burglary in the first degree, as defined in ORS 164.225;

(e) Assault in the first degree, as defined in ORS 163.185;

(f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to (e) of this subsection; or

(g) Murder or aggravated murder.

(3) No order for the obtaining and transmitting of a blood or buccal sample is required to be entered if:

(a) The Department of State Police notifies the court or the law enforcement agency attending upon the court that it has previously received an adequate blood or buccal sample taken from the youth offender in accordance with this section, ORS 137.076 or 161.325 (4); or

(b) The court determines that obtaining a sample would create a substantial and unreasonable risk to the health of the youth offender.

(4) Notwithstanding any other provision of law, blood and buccal samples and other physical evidence and criminal identification information obtained under authority of this section or as a result of analysis conducted pursuant to ORS 181.085 may be maintained, stored, destroyed and released to authorized persons or agencies under the conditions established in ORS 181.085 and rules adopted by the Department of State Police under the authority of that section. [1993 c.33 §237; 1999 c.97 §6; 2001 c.852 §4; 2003 c.396 §117]

419C.475 Authority to order HIV testing. (1) Whenever a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 (1) for having committed an act from which it appears that the transmission of body fluids from one person to another as described in ORS 135.139 may have been involved or a sexual act may have occurred, the court shall order the youth offender to submit to HIV testing as provided in ORS 135.139 if the victim, or parent or guardian of the victim, requests the court to make such an order.

(2) The court may also order the youth offender or the parent or guardian of the youth offender to reimburse the appropriate agency for the cost of the test. [1993 c.331 §3; 2003 c.396 §118]

419C.478 Commitment to Oregon Youth Authority or Department of Human Services. (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. [1993 c.33 §238; 1993 c.546 §89; 1995 c.422 §130; 2001 c.686 §13; 2003 c.396 §119; 2005 c.159 §4]

419C.481 Guardianship and legal custody of youth offender committed to Oregon Youth Authority. (1) The juvenile court retains jurisdiction and the Oregon Youth Authority retains legal custody of a youth offender committed to it regardless of the physical placement of the youth offender by the youth authority.

(2) When the court grants legal custody to the youth authority, it may also grant guardianship of the youth offender to the youth authority, to remain in effect solely while the youth offender remains in the legal custody of the youth authority.

(3) The director of the youth authority may authorize the superintendent of the youth correction facility, as defined in ORS 420.005, in which the youth offender is placed, if any, to exercise the duties and authority of a guardian of the youth offender under ORS 419C.558 and to determine parole and final release under ORS 420.045. [1993 c.33 §239; 1993 c.367 §4; 2003 c.396 §120]

419C.483 [1993 c.33 §241; repealed by 1999 c.92 §7]

419C.486 Consideration of recommendations of committing court; case planning. 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) 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

(3) Is integrated with the efforts of other agencies responsible for providing services to the youth offender or the family. [1993 c.33 §240; 1995 c.770 §2; 2003 c.396 §121; 2005 c.159 §1]

419C.489 Condition requiring medical care or special treatment; preparation of plan; progress reports. Whenever a youth offender who is in need of medical care or other special treatment by reason of physical or mental condition is placed in the custody of the Oregon Youth Authority by the juvenile court, the youth authority shall prepare a plan for care or treatment within 14 days after assuming custody of the youth offender. The court may indicate in general terms the type of care which it regards as initially appropriate. A copy of the plan, including a time schedule for its implementation, shall be sent to the juvenile court that committed the youth offender to the youth authority. The court may at any time request regular progress reports on implementation of the plan. The youth authority shall notify the court when the plan is implemented, and shall report to the court concerning the progress of the youth offender annually thereafter. If the plan is subsequently revised, the youth authority shall notify the

court of the revisions and the reasons therefor. [1993 c.33 §242; 2003 c.396 §122]

419C.492 Court's authority to review placement. Commitment of a youth offender to the Oregon Youth Authority or the Department of Human Services does not terminate the court's continuing jurisdiction to protect the rights of the youth offender or the youth offender's parents or guardians. Notwithstanding ORS 419C.478 (5), if upon review of a placement of a youth offender made by the youth authority or the department, the court determines that the placement is so inappropriate as to violate the rights of the youth offender or the youth offender's parents or guardians, the court may direct the youth authority or the department to place the youth offender in a specific type of residential placement, but the actual planning and placement of the youth offender shall be the responsibility of the youth authority or the department. Nothing in this section affects any contractual right of a private agency to refuse or terminate a placement. [1993 c.33 §243; 1995 c.422 §131]

419C.495 When commitment to youth correction facility authorized. (1) A youth offender placed in the legal custody of the Oregon Youth Authority may be placed in a youth correction facility or in a private institution operated as a facility for youth offenders requiring secure custody only when the juvenile court having jurisdiction so recommends.

(2) A youth offender who is admitted to a youth correction facility may be retained in the facility for the duration of the commitment period. In no case may a youth offender be retained in a youth correction facility after the youth offender has attained 25 years of age.

(3) No youth offender shall be transferred or returned after discharge to a facility described in subsection (1) of this section, except upon court order under this chapter.

(4) Nothing in subsection (3) of this section shall be deemed to prohibit return of a youth offender to a facility described in subsection (1) of this section, in the discretion of the youth authority, if the youth offender has been released from the facility on temporary or indefinite parole, or to prohibit transfer of a youth offender from one such facility to another. [1993 c.33 §244; 1999 c.109 §2]

419C.498 Disposition under compact, agreement or arrangement with another state. If there is an interstate compact or agreement or an informal arrangement with another state permitting the youth offender to reside in another state while on probation or under protective supervision, or to be placed in an institution or with an agency in another state, the court may place the youth offender on probation or under protective supervision in such other state, or, subject to ORS 419C.495, place the youth offender in an institution in such other state in accordance with the compact, agreement or arrangement. [1993 c.33 §245; 2003 c.396 §123]

419C.501 Duration of disposition. (1) The court shall fix the duration of any disposition made pursuant to this chapter and the duration may be for an indefinite period. Any placement in the legal custody of the Department of Human Services or the Oregon Youth Authority under ORS 419C.478 or placement under the jurisdiction of the Psychiatric Security Review Board under ORS 419C.529 shall be for an indefinite period. However, the period of institutionalization or commitment may not exceed:

(a) The period of time specified in the statute defining the crime for an act that would constitute an unclassified misdemeanor if committed by an adult;

(b) Thirty days for an act that would constitute a Class C misdemeanor if committed by an adult;

(c) Six months for an act that would constitute a Class B misdemeanor if committed by an adult;

(d) One year for an act that would constitute a Class A misdemeanor if committed by an adult;

(e) Five years for an act that would constitute a Class C felony if committed by an adult;

(f) Ten years for an act that would constitute a Class B felony if committed by an adult;

(g) Twenty years for an act that would constitute a Class A felony if committed by an adult; and

(h) Life for a young person who was found to have committed an act that, if committed by an adult would constitute murder or any aggravated form of murder under ORS 163.095 or 163.115.

(2) Except as provided in subsection (1)(h) of this section, the period of any disposition may not extend beyond the date on which the young person or youth offender becomes 25 years of age. [1993 c.33 §246; 1995 c.422 §85; 1999 c.964 §1; 2005 c.843 §11]

419C.504 Duration of probation. In any case under ORS 419C.005 the court, notwithstanding ORS 419C.501, may place the youth offender on probation to the court for a period not to exceed five years. However, the period of probation shall not extend beyond the date on which the youth offender becomes 23 years of age. [1993 c.33 §247; 1995 c.422 §86]

419C.507 Additional options; consultation. The court may, in lieu of or in addition to any disposition under this chapter, direct that a youth offender be examined or treated by a physician, psychiatrist or psychologist, or receive other special care or treatment in a hospital or other suitable facility. If the court determines that mental health examination and treatment should be provided by services delivered through the Department of Human Services, the department shall determine the appropriate placement or services in consultation with the court, the Oregon Youth Authority and other affected agencies. If the youth authority or another affected agency objects to the type of placement or services, the court shall determine the appropriate type of placement or service. During the examination or treatment of the youth offender, the department may, if appropriate, be appointed guardian of the youth offender. [1993 c.33 §248; 2001 c.900 §124; 2003 c.396 §124]

419C.510 Advisory committee to study dispositions; recommendations. The Chief Justice of the Supreme Court shall create an advisory committee consisting of three judges appointed by the Chief Justice. The advisory committee shall study dispositions imposed in juvenile court cases under ORS 419C.005 and make recommendations for disposition criteria that consider:

(1) The protection of the community;

(2) The accountability of the offender; and

(3) The competency of the offender. [1995 c.422 §127]

Note: 419C.510 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419C or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

MENTAL DISEASE OR DEFECT

419C.520 Definitions. As used in ORS 419C.411, 419C.522 to 419C.527 and 419C.529 to 419C.544:

(1) "Conditional release" includes but is not limited to the monitoring of mental and physical health treatment.

(2) "Mental disease or defect" does not include an abnormality:

(a) Manifested only by repeated criminal or otherwise antisocial conduct;

(b) Constituting solely a personality disorder; or

(c) Constituting solely a conduct disorder.

(3) "Serious mental condition" means a condition that requires supervision and treatment services for the safety of others and is:

(a) A mental illness of major depression;

(b) A mental illness of bipolar disorder; or

(c) A mental illness of psychotic disorder. [2005 c.843 §3; 2007 c.889 §3]

419C.522 Mental disease or defect as affirmative defense. Mental disease or defect constituting insanity under ORS 419C.411 (2) is an affirmative defense. [2005 c.843 §4]

419C.524 Notice prerequisite to defense; timing. (1) A youth may not introduce evidence on the issue of the defense set forth in ORS 419C.522 unless the youth gives notice of intent to do so in the manner provided in subsection (2) of this section.

(2) A youth who is required under subsection (1) of this section to give notice must do so by filing a written notice of intent. A youth who is not in detention must file the notice of intent no later than 60 days after the petition is filed unless the court finds good cause to extend the time. If the youth fails to file notice timely, the youth may not introduce evidence for the establishment of the defense set forth in ORS 419C.522 unless the court permits the evidence to be introduced when just cause for failure to file the notice is shown.

(3) Just cause for failure to file notice timely exists if the youth was not represented by counsel until after the filing period.

(4) The filing of a notice of intent under this section by a youth in detention constitutes express consent of the youth for continued detention under ORS 419C.150. [2005 c.843 §5]

419C.527 Procedure for state to obtain mental examination of youth; limitations. Upon the filing of a written notice of intent or the introduction of evidence by the youth as provided in ORS 419C.524, the state may have at least one psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psychiatry or licensed psychologist with expertise in child psychology of its selection examine the youth. Unless the court finds good cause to extend the time, the state must obtain an examination under this section no later than 60 days after the notice of intent was filed or the evidence was introduced. The state shall file notice with the court of its intention to have the youth examined. Upon filing of the notice, the court shall order the youth to participate in an examination. If the youth objects to the examiner chosen by the state, the court for good cause shown may direct the state to select a different examiner. The examiner shall provide a copy of the report generated from the examination to the state. A report

generated from an examination under this section is a report relating to the youth's history and prognosis under ORS 419A.255 (2). [2005 c.843 §6]

419C.529 Finding of mental disease or defect; jurisdiction of Psychiatric Security Review Board; conditional release or commitment. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds by a preponderance of the evidence that the young person, at the time of disposition, has a serious mental condition or has a mental disease or defect other than a serious mental condition and presents a substantial danger to others, requiring conditional release or commitment to a hospital or facility designated on an individual case basis by the Department of Human Services as provided in subsection (6) of this section, the court shall order the young person placed under the jurisdiction of the Psychiatric Security Review Board.

(2) The court shall determine whether the young person should be committed to a hospital or facility designated on an individual case basis by the department, as provided in subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel of the Psychiatric Security Review Board as follows:

(a) If the court finds that the young person is not a proper subject for conditional release, the court shall order the young person committed to a secure hospital or a secure intensive community inpatient facility designated on an individual case basis by the department, as provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542 and shall order the young person placed under the jurisdiction of the board.

(b) If the court finds that the young person can be adequately controlled with supervision and treatment services if conditionally released and that necessary supervision and treatment services are available, the court may order the young person conditionally released, subject to those supervisory orders of the court that are in the best interests of justice and the young person. The court shall designate a qualified mental health or developmental disabilities treatment provider or state, county or local agency to supervise the young person on release, subject to those conditions as the court directs in the order for conditional release. Prior to the designation, the court shall notify the qualified mental health or developmental disabilities treatment provider or agency to whom conditional release is contemplated and provide the qualified mental health or developmental disabilities treatment provider or agency an opportunity to be heard before the court. After receiving an order entered under this paragraph, the qualified mental health or developmental disabilities treatment provider or agency designated shall assume supervision of the young person subject to the direction of the juvenile panel. The qualified mental health or developmental disabilities treatment provider or agency designated as supervisor shall report in writing no less than once per month to the juvenile panel concerning the supervised young person's compliance with the conditions of release.

(c) For purposes of determining whether to order commitment to a hospital or facility or conditional release, the primary concern of the court is the protection of society.

(3) In determining whether a young person should be conditionally released, the court may order examinations or evaluations deemed necessary.

(4) Upon placing a young person on conditional release and ordering the young person placed under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's conditional release order, the supervisor designated and all other conditions of release pending a hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542.

(5) When making an order under this section, the court shall:

(a) Determine whether the parent or guardian of the young person is able and willing to assist the young person in obtaining necessary mental health or developmental disabilities services and is willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or guardian:

(A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrevocable consent form in which the parent agrees to any placement decision made by the juvenile panel.

(B) Is unable or unwilling to do so, the court shall order that the young person be placed in the legal custody of the Department of Human Services for the purpose of obtaining necessary mental health or developmental disabilities services.

(b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to be notified of any board hearings concerning the young person and of any conditional release, discharge or escape of the young person.

(c) Include in the order a list of the persons who wish to be notified of any board hearing concerning the young person.

(d) Determine on the record the act committed by the young person for which the young person was found responsible except for insanity.

(e) State on the record the mental disease or defect on which the young person relied for the responsible except for insanity defense.

(6) When the department designates a hospital or facility for commitment of a young person under this section, the department shall take into account the care and treatment needs of the young person, the resources of the department and the safety of the public. [2005 c.843 §13; 2007 c.889 §4]

419C.530 Continuing jurisdiction of Psychiatric Security Review Board after placement. The juvenile panel of the Psychiatric Security Review Board exercises continuing jurisdiction over a young person committed to, or retained in, a hospital or facility designated by the Department of Human Services under ORS 419C.529. If the board determines after review that the placement of a young person in the particular hospital or facility is so inappropriate as to create a substantial danger to others, the board may direct the department to place the young person in a specific type of facility or direct specific care or supervision, but the actual placement of the young person is the responsibility of the department. [2007 c.889 §2]

419C.532 Hearings of juvenile panel of Psychiatric Security Review Board; requirements; standards; dispositions. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings on an application for discharge, conditional release, commitment or modification filed under or required by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the juvenile panel.

(2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the young person:

(a) Has a serious mental condition; or

(b) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others.

(3) The juvenile panel shall order a young person discharged from commitment or conditional release if the juvenile panel finds that the young person:

(a) No longer has a mental disease or defect; or

(b) Has a mental disease or defect other than a serious mental condition but no longer presents a substantial danger to others.

(4) The juvenile panel shall order a young person conditionally released subject to ORS 419C.538 if the juvenile panel finds that:

(a) The young person:

(A) Has a serious mental condition; or

(B) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others;

(b) The young person can be adequately controlled with treatment services as a condition of release; and

(c) Necessary supervision and treatment services are available.

(5) The juvenile panel shall order a young person committed to, or retained in, a hospital or facility designated by the Department of Human Services for custody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the young person:

(a)(A) Has a serious mental condition; or

(B) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others; and

(b) Cannot be adequately controlled if conditionally released.

(6) In determining whether a young person should be committed to or retained in a hospital or facility, conditionally released or discharged, the primary concern of the juvenile panel is the protection of society.

(7) In a hearing before the juvenile panel, a young person who has a mental disease or defect in a state of remission is considered to have a mental disease or defect if the mental disease or defect may, with reasonable medical probability, occasionally become active.

(8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in child psychology to examine the young person and submit a written report to the juvenile panel. Reports filed with the juvenile panel pursuant to the examination must include, but need not be limited to, an opinion as to whether the young person:

(a)(A) Has a serious mental condition; or

(B) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others; and

(b) Could be adequately controlled with treatment services as a condition of release.

(9) The juvenile panel may make a determination regarding discharge or conditional release based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3). If a member of the juvenile

panel desires further information from the examining psychiatrist or licensed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or psychologist to give testimony.

(10) The juvenile panel shall consider all available evidence that is material, relevant and reliable regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the record of the juvenile court adjudication, information supplied by the attorney representing the state or by any other interested person, including the young person, information concerning the young person's mental condition and the entire psychiatric and juvenile court history of the young person. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of the witness from whom received. The officer presiding at the hearing shall administer oaths and affirmations to witnesses.

(11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance of the evidence.

(12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section within a reasonable time prior to the hearing to:

(A) The young person about whom the hearing is being conducted;

(B) The attorney representing the young person;

(C) The young person's parents or guardians, if known;

(D) The person having legal custody of the young person;

(E) The Attorney General or other attorney representing the state, if any; and

(F) The district attorney and the court or juvenile department of the county in which the young person was adjudicated.

(b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:

(A) The time, place and location of the hearing;

(B) The nature of the hearing, the specific action for which the hearing has been requested, the issues to be considered at the hearing and a reference to the particular sections of the statutes and rules involved;

(C) A statement of the authority and jurisdiction under which the hearing is to be held; and

(D) A statement of all rights under subsection (13) of this section.

(13) A young person about whom a hearing is being held has the right:

(a) To appear at all proceedings held under this section, except juvenile panel deliberations.

(b) To cross-examine all witnesses appearing to testify at the hearing.

(c) To subpoena witnesses and documents as provided in ORS 161.395.

(d) To be represented by suitable legal counsel possessing skills and experience commensurate with the nature and complexity of the case, to consult with counsel prior to the hearing and, if financially eligible, to have suitable counsel appointed at state expense.

(e) To examine all information, documents and reports that the juvenile panel considers and, if the information, documents and reports are available to the juvenile panel before the hearing, to examine them prior to the hearing.

(14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all hearings before the juvenile panel.

(15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion, the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain additional information or testimony or for other good cause shown.

(16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written notice of the juvenile panel's decision to the young person, the attorney representing the young person, the young person's parents or guardians, if known, the person having legal custody of the young person, the district attorney of the county in which the young person was adjudicated and the Attorney General or other attorney representing the state, if any.

(17) The juvenile panel shall maintain and keep current the medical, social and delinquency history of all young persons. The juvenile panel shall determine the confidentiality of records maintained by the juvenile panel pursuant to ORS 192.501 to 192.505. [2005 c.843 §14]

419C.533 Rules. (1) The juvenile panel of the Psychiatric Security Review Board, by rule pursuant to ORS 183.325 to 183.410 and not inconsistent with law, may implement its policies and set out its procedure and practice requirements and may promulgate such interpretive rules as the panel deems necessary or appropriate to carry out its statutory responsibilities.

(2) The juvenile panel of the Psychiatric Security Review Board shall adopt rules de-

fining the type of dangerous behavior that requires the temporary placement of a young person with mental retardation in a secure hospital or facility.

(3) The juvenile panel of the Psychiatric Security Review Board shall consult with the Department of Human Services before issuing proposed rules for public comment and before adopting rules under this section. [2007 c.889 §6]

419C.535 Appointed counsel; representation of state in contested hearings before panel. (1) If the juvenile panel of the Psychiatric Security Review Board determines that a young person about whom a hearing under ORS 419C.532 is being held is financially eligible, the juvenile panel shall appoint suitable counsel to represent the young person. Counsel appointed must be an attorney who satisfies the professional qualification standards established by the Public Defense Services Commission under ORS 151.216. The public defense services executive director shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the young person in respect to the hearing. Compensation payable to appointed counsel may not be less than the applicable compensation level established under ORS 151.216. The public defense services executive director shall pay compensation and expenses allowed from funds available for that purpose.

(2) When the juvenile panel appoints counsel to represent the young person, the juvenile panel may order the young person, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account in the General Fund, through the clerk of the court, in full or in part, the administrative costs of determining the ability of the young person, parent or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel. The juvenile panel's order of payment may be entered in the County Clerk Lien Record and enforced as provided in ORS 205.126.

(3) The test of the young person's, parent's or estate's ability to pay costs under subsection (2) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the rules adopted under ORS 151.216. If counsel is provided at state expense, the juvenile panel shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(4) If counsel is provided at state expense, the juvenile panel shall determine the amount the young person, parent or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(5) The Attorney General may represent the state at contested hearings before the juvenile panel unless the district attorney of the county in which the young person was adjudicated elects to represent the state. The district attorney of the county in which the young person was adjudicated shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing before the juvenile panel. If the district attorney elects to represent the state, the district attorney shall give timely written notice to the Attorney General, the juvenile panel and the attorney representing the young person. [2005 c.843 §15]

419C.538 Conditional release. (1) When the juvenile panel of the Psychiatric Security Review Board orders a young person conditionally released under ORS 419C.532 (4), the juvenile panel may designate a qualified mental health or developmental disabilities treatment provider or state, county or local agency to supervise the young person on release subject to those conditions as the juvenile panel directs in the order for conditional release. Prior to the designation, the juvenile panel shall notify the qualified mental health or developmental disabilities treatment provider or agency to whom conditional release is contemplated and provide the qualified mental health or developmental disabilities treatment provider or agency an opportunity to be heard before the juvenile panel. After receiving an order entered under ORS 419C.532 (4), the qualified mental health or developmental disabilities treatment provider or agency designated shall assume supervision of the young person pursuant to the direction of the juvenile panel.

(2) Conditions of release contained in orders entered under ORS 419C.532 (4) may be modified from time to time and conditional release may be terminated by order of the juvenile panel as provided in ORS 419C.532 and 419C.542.

(3)(a) As a condition of release, the juvenile panel may require the young person to report to any state, county or local mental health or developmental disabilities facility for evaluation. Whenever medical, psychiatric or psychological treatment is recommended, the juvenile panel may order the young person, as a condition of release, to cooperate with and accept the treatment of the facility.

(b) The facility to which the young person has been referred for evaluation shall perform the evaluation and submit a written report of its findings to the juvenile panel.

If the facility finds that treatment of the young person is appropriate, the facility shall include its recommendations for treatment in the report to the juvenile panel.

(c) Whenever treatment is provided by the facility, the facility shall furnish reports to the juvenile panel on a regular basis concerning the progress of the young person.

(d) The facility shall comply with any other conditions of release prescribed by order of the juvenile panel.

(4) If at any time it appears to the juvenile panel or the chairperson of the juvenile panel that a young person has violated the terms of conditional release or that the mental health of the young person has changed, the juvenile panel or the chairperson of the juvenile panel may order the young person returned to a hospital or facility designated by the Department of Human Services for evaluation and treatment. A written order of the juvenile panel, or the chairperson of the juvenile panel on behalf of the juvenile panel, is sufficient warrant for any peace officer to take the young person into custody and transport the young person accordingly. A peace officer shall execute the order, and the young person shall be returned as soon as practicable to a facility designated by the department. Within 20 days following the return of the young person to the facility designated by the department, the juvenile panel shall conduct a hearing. At a hearing required by this subsection, the state has the burden of proving the young person's lack of fitness for conditional release.

(5) The community mental health and developmental disabilities program director, the director of the facility providing treatment for the young person on conditional release, a peace officer or a person responsible for the supervision of a young person on conditional release may take a young person into custody or request that the young person be taken into custody if there is reasonable cause to believe the young person presents a substantial danger to others and that the young person is in need of immediate custody, supervision and treatment. A young person taken into custody under this subsection must immediately be transported to a hospital or facility designated by the department. Within 20 days following the return of the young person to the facility designated by the department, the juvenile panel shall conduct a hearing. At a hearing required by this subsection, the state has the burden of proving the young person's lack of fitness for conditional release.

(6)(a) A young person conditionally released under ORS 419C.532 (4) may apply to the juvenile panel for discharge from or modification of an order of conditional release on the ground that the young person no longer has a mental disease or defect or, if affected by a mental disease or defect other than a serious mental condition, no longer presents a substantial danger to others and no longer requires supervision or treatment services. Within 60 days after receiving an application under this paragraph, the juvenile panel shall conduct a hearing. At a hearing required by this paragraph, the young person has the burden of proving the young person's fitness for discharge or modification of the order of conditional release. A young person may not apply for discharge or modification of conditional release more often than once every six months.

(b) Upon application by any qualified mental health or developmental disabilities treatment provider or state, county or local agency responsible for supervision or treatment services pursuant to an order of conditional release, the juvenile panel shall conduct a hearing to determine if the conditions of release should be continued, modified or terminated. The application must be accompanied by a report setting forth the facts supporting the application. At a hearing required by this paragraph, the state has the burden of proving the young person's lack of fitness for discharge or modification of the order of conditional release. [2005 c.843 §16; 2007 c.889 §5]

419C.540 Discharge or conditional release after commitment. (1) The director of a hospital or facility to which a young person was committed under ORS 419C.532 (5) shall apply to the juvenile panel of the Psychiatric Security Review Board for an order of discharge or conditional release of the young person if, at any time after the commitment, the director is of the opinion that the young person:

(a) No longer has a mental disease or defect;

(b) Has a mental disease or defect other than a serious mental condition but no longer presents a substantial danger to others; or

(c) Can be controlled with proper supervision and treatment services if conditionally released.

(2) The director shall include in an application under subsection (1) of this section a report setting forth the facts that support the opinion of the director. If the application is for conditional release, the director shall also include a verified conditional release plan. The juvenile panel shall hold a hearing on an application under subsection (1) of this section within 30 days of its receipt. Not less than 10 days prior to the hearing before the juvenile panel, copies of the report must be

sent to the Attorney General or other attorney representing the state, if any, the district attorney of the county in which the young person was adjudicated, the young person, the young person's attorney, the young person's parents or guardians, if known, and the person having legal custody of the young person.

(3) The attorney representing the state may choose a psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in child psychology to examine the young person prior to any decision of the juvenile panel on discharge or conditional release. The results of the examination must be in writing and filed with the juvenile panel and must include, but need not be limited to, an opinion as to whether the young person:

(a)(A) Has a serious mental condition; or

(B) Has a mental disease or defect other than a serious mental condition and presents a substantial danger to others; and

(b) Could be adequately controlled with treatment services as a condition of release.

(4) A young person who has been committed to a hospital or facility under ORS 419C.532 (5) or the young person's parents or guardians acting on the young person's behalf may apply to the juvenile panel for an order of discharge or conditional release upon the grounds that the young person:

(a) No longer has a mental disease or defect;

(b) Has a mental disease or defect other than a serious mental condition but no longer presents a substantial danger to others; or

(c) Can be controlled with proper supervision and treatment services if conditionally released.

(5) When an application is made under subsection (4) of this section, the juvenile panel shall require a report from the director of the hospital or facility. The director shall prepare and transmit the report as provided in subsection (2) of this section.

(6) At a hearing on an application under subsection (4) of this section:

(a) The applicant has the burden of proving the young person's fitness for discharge or conditional release; or

(b) If more than two years have passed since the state had the burden of proving the young person's lack of fitness for discharge or conditional release, the state has the burden of proving the young person's lack of fitness for discharge or conditional release.

(7) A person may not file an application for discharge or conditional release under subsection (4) of this section:

(a) Sooner than 90 days after the initial juvenile panel hearing concerning the young person.

(b) If another application for discharge or conditional release of the young person was filed during the immediately preceding 90 days.

(8) The juvenile panel shall hold a hearing on an application under subsection (4) of this section within 30 days after the application is filed. [2005 c.843 §17]

419C.542 Hearings before juvenile panel of Psychiatric Security Review Board. (1) A young person committed by the court under ORS 419C.529 to a hospital or facility designated by the Department of Human Services may not be held in the hospital or facility for more than 90 days from the date of the court's commitment order without an initial hearing before the juvenile panel of the Psychiatric Security Review Board to determine whether the young person should be discharged or conditionally released.

(2) A young person may not be held pursuant to an order under ORS 419C.532 (5) for a period of time exceeding one year without a hearing before the juvenile panel to determine whether the young person should be discharged or conditionally released.

(3) When a young person has spent three years on conditional release, the juvenile panel shall bring the young person before the juvenile panel no later than 30 days after the expiration of the three-year period. The juvenile panel shall review the young person's status and determine whether the young person should be discharged from the jurisdiction of the board.

(4) Notwithstanding the fact that a young person who is brought before the juvenile panel under subsection (3) of this section continues to have a serious mental condition, the juvenile panel may discharge the young person if the young person did not exhibit behaviors that presented a substantial danger to others during the period of conditional release and no longer requires supervision by the juvenile panel. [2005 c.843 §18]

419C.544 Transfer of cases from juvenile panel to adult panel of Psychiatric Security Review Board. (1) When a young person attains 18 years of age, the juvenile panel of the Psychiatric Security Review Board shall transfer the young person's case to the adult panel of the board if the act that brought the young person within the board's jurisdiction would constitute murder or any

aggravated form of murder if committed by an adult.

(2) At any time after a young person not described in subsection (1) of this section attains 18 years of age, the juvenile panel of the board may hold a hearing to determine whether it is in the young person's best interest to transfer the young person's case to the adult panel of the board. The juvenile panel of the board shall transfer the young person's case to the adult panel of the board unless good cause is shown for retaining the young person's case with the juvenile panel. [2005 c.843 §19]

LEGAL CUSTODIAN OF YOUTH OR YOUTH OFFENDER

419C.550 Duties and authority. A person, agency or institution having legal custody of a youth or youth offender has the following duties and authority:

(1) To have physical custody and control of the youth or youth offender.

(2) To supply the youth or youth offender with food, clothing, shelter and incidental necessaries.

(3) To provide the youth or youth offender with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the youth or youth offender, and, in an emergency when the youth or youth offender's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(5) To make such reports and to supply such information to the court as the court may from time to time require.

(6) To apply for any Social Security benefits or public assistance to which the youth or youth offender is otherwise entitled and to use the benefits or assistance to pay for the care of the youth or youth offender. [1993 c.33 §250; 1993 c.367 §2; 2003 c.396 §125]

GUARDIAN

419C.555 Authority to appoint guardian. Except when the court grants legal custody to the Oregon Youth Authority, the court may grant guardianship of the youth offender to a private institution or agency to which the youth offender is committed or to some suitable person or entity if it appears necessary to do so in the interests of the youth offender. [1993 c.33 §249; 2003 c.396 §126]

419C.558 Duties and authority of guardian. A person, agency or institution having guardianship of a youth offender by reason of appointment by the court has the duties and authority of a guardian of the youth offender, including but not limited to the following:

(1) To authorize surgery for the youth offender, but this authority does not prevent the person having legal custody of the youth offender from acting under ORS 419C.550 (4).

(2) To authorize the youth offender to enlist in the Armed Forces of the United States.

(3) To consent to the youth offender's marriage.

(4) To make other decisions concerning the youth offender of substantial legal significance.

(5) To make such reports and to supply such information to the court as the court may from time to time require. [1993 c.33 §251; 2003 c.396 §127]

419C.561 Limitation of guardianship granted by juvenile court. A person appointed guardian of a youth offender by the court is guardian only and not a conservator of the estate of the youth offender, unless that person is appointed conservator of the youth offender's estate in a protective proceeding as provided in ORS chapter 125. [1993 c.33 §252; 1995 c.664 §95; 2003 c.396 §128]

AUTHORITY OF COURT OVER PARENT OR GUARDIAN

419C.570 Parent or guardian summoned subject to jurisdiction of court; probation contract. (1)(a) A parent or legal guardian of a youth offender, if the parent or guardian was served with summons under ORS 419C.300, 419C.303 and 419C.306 prior to the adjudication or at least 10 days prior to disposition, is subject to the jurisdiction of the court for purposes of this section. The court may:

(A) Order the parent or guardian to assist the court in any reasonable manner in providing appropriate education or counseling for the youth offender;

(B) If the youth offender is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 166.250, 166.370 or 166.382, require the parent or guardian to pay or cause to be paid all or part of the reasonable costs of any mental health assessment or screening ordered by the court under ORS 419C.109 (3);

(C) If the court orders probation, require the parent or guardian to enter into a contract with the juvenile department in regard to the supervision and implementation of the youth offender's probation; or

(D) If the court orders probation, require the parent or guardian to pay all or a portion

of the supervision fee if a supervision fee is imposed under ORS 419C.446 (2).

(b) In all cases in which a youth offender is placed on probation, the juvenile department and the parent or guardian shall develop a plan for supervision of the youth offender. The plan must be reasonably calculated to provide the supervision necessary to prevent further acts of delinquency given the individual circumstances of the youth offender. The court shall review and ratify the plan and make the plan a part of the probation order.

(2) The court may require the parent or guardian to pay a specific sum not to exceed $1,000 for a violation by the parent or guardian of the court's order or the contract under subsection (1)(a) of this section.

(3) The court may not revoke a youth offender's probation solely because of a failure of the youth offender's parent or guardian to comply with an order or a contract under subsection (1)(a) of this section. [1993 c.33 §253; 1995 c.592 §1; 1999 c.577 §12; 2001 c.485 §1; 2003 c.396 §129]

419C.573 Court may order education or counseling. (1)(a) The court may order the parent or guardian to participate in any educational or counseling programs as are reasonably directed toward improvement of parenting skills and the ability of the parent to supervise the youth offender if the court finds:

(A) That a deficiency in parenting skills has significantly contributed to the circumstances bringing the youth offender within the jurisdiction of the court; and

(B) That participation would be consistent with the best interests of the youth offender.

(b) The programs may include, but need not be limited to, parenting classes.

(c) The court may order such participation with the youth offender or separately.

(2) As an alternative to a contempt proceeding, the court may require a parent or guardian to pay a specific sum not to exceed $1,000 for a violation by the parent or guardian of an order under subsection (1) of this section.

(3) The court may not revoke a youth offender's probation solely because of a failure of the youth offender's parent or guardian to comply with an order under subsection (1) of this section. [1993 c.33 §254; 1995 c.592 §2; 2003 c.396 §130]

419C.575 Court may order drug or alcohol treatment; hearing required; appointment of counsel for parent or guardian. If the court finds that the parent's or guardian's addiction to or habitual use of alcohol or controlled substances has significantly contributed to the circumstances bringing the youth offender within the jurisdiction of the court, the court may conduct a special hearing to determine if the court should order the parent or guardian to participate in treatment and pay the costs thereof. Notice of this hearing shall be by special petition and summons to be filed by the court and served upon the parent or guardian. The court shall appoint counsel to represent the parent or guardian if the parent or guardian is eligible under ORS 135.050. If, at this hearing, the court finds it is in the best interest of the youth offender for the parent or guardian to be directly involved in treatment, the judge may order the parent or guardian to participate in treatment. The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The judge shall state with particularity, both orally and in the written order of the disposition, the precise terms of the disposition. [1993 c.33 §255; 1993 c.546 §90; 1995 c.422 §87; 2003 c.396 §131]

SUPPORT

419C.590 Authority of court to order support; hearing; determination of amount. (1) The court may, after a hearing on the matter, require the parents or other person legally obligated to support a youth offender to pay toward the youth offender's support such amounts at such intervals as the court may direct, while the youth offender is within the jurisdiction of the court even though the youth offender is over 18 years of age as long as the youth offender is a child attending school, as defined in ORS 107.108.

(2) At least 21 days before the hearing, the court shall notify the Administrator of the Division of Child Support of the Department of Justice, or the branch office providing support services to the county where the hearing will be held, of the hearing. Before the hearing the administrator shall inform the court, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the youth offender, including a proceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.400 to 416.465 or 419B.400 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the youth offender.

(3) The Judicial Department and the Department of Justice may enter into an agreement regarding how the courts give the

notice required under subsection (2) of this section to the Department of Justice and how the Department of Justice gives the information described in subsection (2)(a) and (b) to the courts.

(4) The court, in determining the amount to be paid, shall use the scale and formula provided for in ORS 25.275 and 25.280. Unless otherwise ordered, the amounts so required to be paid shall be paid to the Department of Justice or the county clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the youth offender. [1993 c.33 §256; 1997 c.704 §§47,61; 2003 c.116 §17; 2003 c.396 §132a]

419C.592 Support order is judgment and final. Any order for support entered pursuant to ORS 419C.590 is a judgment and is final as to any installment or payment of money which has accrued up to the time either party makes a motion to set aside, alter or modify the order, and the court does not have the power to set aside, alter or modify such order, or any portion thereof, which provides for any payment of money, either for minor children or the support of a party, which has accrued prior to the filing of such motion. [1993 c.33 §257; 2003 c.576 §253]

419C.595 Support for youth offender in state financed or supported residence. Any order for support entered pursuant to ORS 419C.590 for a youth offender in the care and custody of the Oregon Youth Authority may be made contingent upon the youth offender residing in a state financed or supported residence, shelter or other facility or institution. A certificate signed by the director of the youth authority, the Administrator of the Division of Child Support or the administrator's authorized representative is sufficient to establish such periods of residence and to satisfy the order for periods of nonresidence. [1993 c.33 §259; 2003 c.396 §133]

419C.597 Assignment of support obligation to state. When a youth offender or other offender is in the legal or physical custody of the Oregon Youth Authority and the offender is the beneficiary of an order of support in a judgment of dissolution or other order and the youth authority is required to provide financial assistance for the care and support of the offender, the youth authority shall be assignee of and subrogated to the offender's proportionate share of any such support obligation including sums that have accrued whether or not the support order or judgment provides for separate monthly amounts for the support of each of two or more children or a single monthly gross payment for the benefit of two or more children, up to the amount of assistance provided by the youth authority. The assignment shall be as provided in ORS 412.024. [1993 c.33 §258; 1999 c.80 §77; 2001 c.455 §23; 2003 c.572 §19; 2003 c.576 §453]

419C.600 Enforcement. (1) An order of support entered pursuant to ORS 419C.590, 419C.592, 419C.595 and 419C.597 may be enforced by execution or in the manner provided by law for the enforcement of a judgment granting an equitable remedy or by an order to withhold pursuant to ORS 25.372 to 25.427.

(2) No property of the youth offender's parents, or either of them, or other person legally obligated to support the youth offender is exempt from levy and sale or other process to enforce collection of the amounts ordered by the court to be paid toward the support of the youth offender. [1993 c.33 §260; 1993 c.798 §31a; 2003 c.396 §134]

MODIFICATION OF ORDERS

419C.610 Authority to modify or set aside orders. (1) Except as provided in ORS 419C.613, 419C.615 and 419C.616, the court may modify or set aside any order made by it upon such notice and with such hearing as the court may direct.

(2) When the court modifies or sets aside an order of jurisdiction based on a petition alleging that a youth offender has committed an act that would constitute a sex crime, as defined in ORS 181.594, if committed by an adult, the court shall make written findings stating the reason for modifying or setting aside the order. [1993 c.33 §261; 2001 c.803 §1]

419C.613 Notice of modification. (1) Except as provided in subsection (2) of this section, notice and a hearing as provided in this chapter shall be granted in any case where the effect of modifying or setting aside the order will or may be to deprive a parent of the legal custody of the youth offender, to place the youth offender in an institution or agency or to transfer the youth offender from one institution or agency to another. However, the provisions of this subsection do not apply to a parent whose rights have been terminated by the court or whose child has been permanently committed by order of the court unless an appeal from such order is pending.

(2) Notice and a hearing as provided in subsection (1) of this section are not required where the effect of modifying or setting aside the order will be to transfer the youth offender from one foster home to another. [1993 c.33 §262; 2003 c.396 §135]

419C.615 Grounds for setting aside order; procedure; appeal. (1) In addition to any other grounds upon which a person may petition a court under ORS 419C.610, a person may petition the court on the following grounds to set aside an order finding the

person to be within the jurisdiction of the court under ORS 419C.005:

(a) A substantial denial in the proceedings resulting in the person's adjudication, or in the appellate review of the adjudication, of the person's rights under the United States Constitution or the Oregon Constitution, or both, and the denial rendered the adjudication void; or

(b) Unconstitutionality of the statute making criminal, if the person were an adult, the acts for which the person was adjudicated.

(2) When a person petitions the court on one of the grounds listed in subsection (1) of this section:

(a) A copy of the petition shall be served on the district attorney, who shall represent the state in the matter.

(b) The court shall decide the issues raised. The court may receive proof by affidavits, depositions and other competent evidence. Oral testimony may be taken by telephone or other means approved by the court. The petitioner has the burden of proving by a preponderance of the evidence the facts alleged in the petition.

(c) The court shall set aside the order finding the petitioner to be within the jurisdiction of the court if the petitioner establishes one of the grounds set forth in subsection (1) of this section.

(3) Either the petitioner or the state may appeal from the court's order granting or denying a petition for relief under this section. The manner of taking the appeal and the scope of review are the same as provided under ORS 419A.200.

(4) Nothing in this section may be construed to limit the original jurisdiction of the Supreme Court in habeas corpus as provided by the Oregon Constitution. [2001 c.803 §3]

419C.616 Effect of prior proceeding on petition under ORS 419C.615. (1) The effect of a prior proceeding concerning the adjudication of the person that is challenged in a petition under ORS 419C.615 is as follows:

(a) The failure of the petitioner to have sought appellate review of the adjudication, or to have raised matters alleged in the petition at the prior proceeding, does not affect the availability of relief under ORS 419C.615. No proceeding under ORS 419C.615 may be pursued while direct appellate review of the adjudication remains available.

(b) When the petitioner sought and obtained direct appellate review of the adjudication, no ground for relief may be asserted in a petition for relief under ORS 419C.615 unless the ground was not asserted and could not reasonably have been asserted in the direct appellate review proceeding. If the petitioner was not represented by counsel in the direct appellate review proceeding, due to lack of funds to retain such counsel and the failure of the court to appoint counsel for that proceeding, any ground for relief under ORS 419C.615 that was not specifically decided by the appellate court may be asserted in the petition described in ORS 419C.615.

(2) The court may grant leave, at any time prior to entry of an order granting or denying relief, to withdraw the petition. The court may make appropriate orders as to the amendment of the petition or any other pleading, as to the filing of further pleadings, or as to extending the time of filing of any pleading other than the original petition.

(3) All grounds for relief claimed in a petition described in ORS 419C.615 must be asserted in the original or amended petition, and any grounds not asserted are deemed waived, unless the court on hearing a subsequent petition finds grounds for relief asserted therein that could not reasonably have been raised in the original or amended petition. However, any prior petition or amended petition that was withdrawn prior to the entry of an order granting or denying relief by leave of the court, as provided in subsection (2) of this section, has no effect on the right of the petitioner to bring a subsequent petition. [2001 c.803 §4]

419C.617 Time limitation for certain adults seeking relief under ORS 419C.615. If a person seeking relief under ORS 419C.615 is over 18 years of age and is no longer within the jurisdiction of the juvenile court, the petition must be filed within two years of the following, unless the court on hearing a subsequent petition finds grounds for relief asserted therein that could not reasonably have been raised in the original petition or an amended petition:

(1) If no appeal is taken, the date the juvenile court adjudication was entered in the register.

(2) If an appeal is taken, the date the appeal is final in the Oregon appellate courts. [2001 c.803 §5]

REPORTS BY AGENCY HAVING GUARDIANSHIP OR LEGAL CUSTODY

419C.620 Circumstances requiring report. 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. [1993 c.33 §263; 1999 c.92 §2; 2005 c.159 §5]

419C.623 Frequency and content of report. (1) The Oregon Youth Authority or private agency shall file the reports required by ORS 419C.620 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 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 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 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. [1993 c.33 §264; 1999 c.92 §3; 2005 c.159 §6]

419C.626 Review hearing by court; findings; appeal. (1) Upon receiving 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 custody, placement and supervision of the youth offender.

(b) 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 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 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.

(3) 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 (4). At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the youth offender in an out-of-home placement in the legal custody of the youth authority or a private agency. The findings shall specifically state:

(a) Why continued out-of-home placement is necessary as opposed to returning the youth offender to the youth offender's home or promptly securing another placement;

(b) The expected timetable for return 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.

(5) Any final decision of the court made pursuant to a hearing under subsection (1) or (2) of this section is appealable under ORS 419A.200. [1993 c.33 §265; 1999 c.92 §4; 2001 c.480 §10; 2001 c.910 §6; 2005 c.159 §7; 2005 c.843 §26]

419C.629 Distribution of report by court. Except when a youth offender has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of 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 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 the information deleted from the report before sending the report to the parents. [1993 c.33 §266; 1999 c.92 §6; 2005 c.159 §8]

419C.640 [1993 c.33 §267; repealed by 1999 c.92 §7]

DISPOSITIONAL REVIEW HEARINGS

419C.650 [1993 c.33 §268; 2003 c.396 §136; repealed by 2005 c.159 §10]

419C.653 Notice; appearance. (1) The court may order that the youth offender or any other person be present during a hearing under ORS 419C.626.

(2) The court shall notify the parties listed in ORS 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. If the victim requests notice, the district attorney or juvenile department shall notify the victim of the time and place of the hearing. [1993 c.33 §269; 2003 c.396 §137; 2005 c.159 §9; 2007 c.609 §24]

419C.656 [1993 c.33 §270; 2001 c.480 §11; 2001 c.910 §7; 2003 c.396 §138; repealed by 2005 c.159 §10]

CURFEW

419C.680 Curfew; parental responsibility; authority of political subdivisions; custody authorized. (1) No minor shall be in or upon any street, highway, park, alley or other public place between the hours of 12 midnight and 4 a.m. of the following morning, unless:

(a) Such minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;

(b) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or

(c) The minor is emancipated pursuant to ORS 419B.550 to 419B.558.

(2) No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in subsection (1) of this section, except as otherwise provided in that subsection.

(3) Subsections (1) and (2) of this section do not affect the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law, provided, that the local ordinance or law restricts curfew hours at least to the extent required by subsections (1) and (2) of this section.

(4) The county court or board of county commissioners of any county may provide by ordinance for a curfew restriction on minors applicable to areas not within a city, which has the same terms provided in subsection (1) of this section except that the period of curfew may include hours in addition to those specified in subsection (1) of this section. The ordinance may provide different periods of curfew for different age groups.

(5) Any minor who violates subsection (1) of this section or an ordinance established under subsection (4) of this section may be taken into custody as provided in ORS 419C.080, 419C.085 and 419C.088 and may be subjected to further proceedings as provided in this chapter. [1993 c.33 §271; 1993 c.546 §140; 1995 c.593 §2; 1997 c.727 §9]