

## Chapter 419C

1999 EDITION

### Juvenile Code: Delinquency

#### GENERALLY

419C.001 Purpose of juvenile justice system in delinquency cases

419C.005 Jurisdiction

419C.010 Extradition

419C.013 Venue

419C.020 Notice to parents or guardian of child; when given; contents

#### TRANSFER

419C.050 Transfer to juvenile court from another court

419C.053 Transfer to court of county of youth's residence

419C.056 Transfer of jurisdiction by court in county of youth's residence

419C.059 Facilitation of disposition; interests of youth; authority of court where proceeding pending to allow other county to conduct hearing or assume jurisdiction

419C.062 Fact-finding when other county conducts hearing; record

419C.065 Transportation of youth whose case is transferred

419C.067 Case transferred to juvenile court after verdict in criminal court

#### CUSTODY

419C.080 Custody; when authorized

419C.085 Citation in lieu of custody

419C.088 Custody by private person

419C.091 Custody not arrest

419C.094 Jurisdiction attaches at time youth taken into custody

419C.097 Notice to parents

419C.100 Release of youth taken into custody

419C.103 Procedure when youth is not released

419C.106 Report required when youth is taken into custody

419C.109 Initial disposition of youth taken into custody

## DETENTION

419C.130 Youth may not be detained where adults are detained; exceptions

419C.133 Detention of youth under 12 years of age; judicial review required

419C.136 Temporary hold to develop release plan; duration

419C.139 Speedy hearing on detention cases

419C.142 Notice of detention hearing

419C.145 Preadjudication detention; grounds

419C.150 Time limitations on detention

419C.153 Detention review or release hearing

419C.156 Detention of runaway from another state

419C.159 Escape; punishment

## SHELTER HEARINGS

419C.170 Speedy hearing in shelter care cases

419C.173 Evidentiary hearing

419C.176 Conditional release by court

419C.179 Release security provisions not applicable

## COURT-APPOINTED COUNSEL

419C.200 Court-appointed counsel for youth

419C.203 Court may require payment for compensation of counsel

419C.206 Compensation for counsel when youth, parent or guardian cannot pay

419C.209 Applicability of other laws

## EDUCATIONAL SURROGATE

419C.220 Evaluation of needs; appointment of surrogate

419C.223 Duties and tenure

## FORMAL ACCOUNTABILITY AGREEMENTS

419C.230 Formal accountability agreements; when appropriate

419C.233 Nature of agreement

419C.236 Agreement may require counseling, community service, education, treatment or training; restitution

419C.239 Requirements of agreement

419C.242 Revocation and modification of agreement

419C.245 Right to counsel

## PETITION

419C.250 Who may file petition

419C.255 Facts to be pleaded

419C.258 Service

419C.261 Amendment and dismissal of petition

## CRIMINAL PROCEDURE LAWS

419C.270 Application of criminal procedure laws

## CONSOLIDATION

419C.280 Consolidation

## PARTIES

419C.285 Parties to delinquency proceeding; rights of limited participation

## SUMMONS

419C.300 Time limits on issuance of summons

419C.303 Form of summons; content

419C.306 Effect of summons; to whom issued

419C.309 Service of summons or other process

419C.312 Alternate service

419C.315 Travel expenses of party summoned

419C.317 Compliance with summons

419C.320 When arrest warrant for summoned person authorized

419C.323 Proceeding when summoned party not before court

## WAIVER

419C.340 Authority to waive youth to adult court

419C.343 Depositions

419C.346 Juvenile court's retention of authority over parent

419C.349 Grounds for waiving youth to adult court

419C.352 Grounds for waiving youth under 15 years of age

419C.355 Written findings required

419C.358 Consolidation of nonwaivable and waivable charges

419C.361 Disposition of nonwaivable consolidated charges and lesser included offenses

419C.364 Waiver of future cases

419C.367 Vacating order waiving future cases

419C.370 Waiver of motor vehicle, boating, game, violation and property cases

419C.372 Handling of motor vehicle, boating or game cases not requiring waiver

419C.374 Alternative conduct of proceedings involving traffic, boating and game cases

## ADJUDICATION

419C.400 Conduct of hearings

419C.405 Witnesses; subpoena

419C.408 Witness fees

419C.411 Authority to make disposition order; factors to be considered

## DISPOSITION

419C.440 Ward of the court

419C.443 Diversion; marijuana offenses; requirements

419C.446 Probation; requirements

419C.449 Supervision fee

419C.450 Restitution; policy; as condition of probation; factors to be considered

419C.453 Detention; when authorized

419C.456 Detention after escape

419C.459 Fines

419C.461 Disposition for graffiti related offenses

419C.462 Community service

419C.465 Service to victim

419C.470 Opportunities to fulfill obligations imposed by court

419C.473 Authority to order blood or buccal samples

419C.475 Authority to order HIV testing

419C.478 Commitment to Oregon Youth Authority or State Office for Services to Children and Families

419C.481 Wardship, guardianship and legal custody of youth committed to Oregon Youth Authority

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

419C.489 Condition requiring medical care or special treatment; preparation of plan; progress reports

419C.492 Court's authority to review placement

419C.495 When commitment to youth correction facility authorized

419C.498 Disposition under compact, agreement or arrangement with another state

419C.501 Duration of disposition

419C.504 Duration of probation

419C.507 Additional options; consultation

419C.510 Advisory committee to study dispositions; recommendations

## LEGAL CUSTODIAN OF YOUTH

419C.550 Duties and authority

## GUARDIAN

419C.555 Authority to appoint guardian

419C.558 Duties and authority of guardian

419C.561 Guardian is not conservator

## AUTHORITY OF COURT OVER PARENT OR GUARDIAN

419C.570 Parent or guardian summoned subject to jurisdiction of court; probation contract

419C.573 Court may order education or counseling

419C.575 Court may order drug or alcohol treatment; hearing required

## SUPPORT

419C.590 Authority of court to order support

419C.592 Support order is final judgment

419C.595 Support for youth in state financed or supported residence

419C.597 Assignment of support obligation to state

419C.600 Enforcement

## MODIFICATION OF ORDERS

419C.610 Authority to modify or set aside orders

419C.613 Notice of modification

## REPORTS BY AGENCY HAVING GUARDIANSHIP OR LEGAL CUSTODY

419C.620 Circumstances requiring report

419C.623 Frequency and content of report

419C.626 Review hearing by court; findings

419C.629 Distribution of report by court

## DISPOSITIONAL REVIEW HEARINGS

419C.650 Scheduling dispositional review hearing

419C.653 Notice; appearance

419C.656 Dispositional review hearing; conduct; order

## CURFEW

419C.680 Curfew; parental responsibility; authority of political subdivisions; criminal penalty

## CROSS-REFERENCES

Admissibility of computer printout reflecting payment of public assistance, 25.220

Adult prosecution of 15-, 16- and 17-year-old offenders, 137.705, 137.707

Child support formula for determining account, 25.270 to 25.285

Child support orders, health insurance, 25.255

Denial of driving privileges of juvenile convicted of offense involving intoxicants, 809.260

District attorney and deputy, assisting juvenile court, 8.685

Family law facilitation programs, use in juvenile proceedings, 3.428

Interstate Compact on Juveniles, 417.030

Judgment satisfaction procedure for support orders, 18.400

Jurisdiction of courts with respect to juvenile issues, 3.250 to 3.280, 5.020

Matters assigned to family court departments in circuit courts, 3.408

Metropolitan service district planning juvenile justice programs, 268.310

Support enforcement, Division of Child Support to represent obligee, 25.080

Support payment to Department of Justice, 25.020, 25.164

419C.005

Incapacity due to immaturity, criminal liability of youth under 12 years of age, 161.290

Jurisdiction and venue, criminal proceedings, Ch. 131

Sexual delinquency of minor, 163.435

419C.130

Detention practices under Juvenile Corrections Compact, 417.030 (Art. IX)

419C.320

Warrant of arrest, 133.110 to 133.140

419C.349

Detention of juvenile prior to conviction or execution of sentence, 169.800

Limitation on sentence imposed on person waived, 161.620

419C.446

Appointment of probation officers by judge of court of criminal jurisdiction, 137.590

419C.453

Detention practices under Juvenile Corrections Compact, 417.030 (Art. IX)

419C.478

Commitment of youths to:

Oregon Youth Authority or State Office for Services to Children and Families, 418.285

Private child-caring agencies, 418.275

419C.495

Commitment of youths under 12 years of age to youth correction facilities prohibited, 420.011

Commitment to youth correction facility or youth care center does not affect court's powers of wardship, 420.031, 420.865

419C.498

Commitment to institution in other state under Western Interstate Corrections Compact, 421.294

Interstate Compact on Juveniles, 417.030

419C.507

Reciprocal agreements for interstate exchange of mentally ill or mentally deficient patients, 428.240

419C.550

Obligation to support children:

Guardian, 125.315

Parent, 109.010

419C.573

Failing to supervise child, disposition, 163.577

419C.590

Criminal nonsupport, child under 18 years of age, 163.555

419C.600

Assistance in enforcement of liability to support, 418.135

Child Support, Division of, powers to enforce support, 180.320 to 180.360

## GENERALLY

**419C.001 Purpose of juvenile justice system in delinquency cases.** (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) Programs, policies and services shall be regularly and independently audited as to their effectiveness in providing public safety and preventing a youth's return to criminal behavior. The Secretary of State shall select and oversee the auditors. [1995 c.422 s.1a]



**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 which is a violation, or which 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 shall have no further 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 wardship over a person found to be within the court's jurisdiction under this section or ORS 419C.067 continues, and the person is subject to the court's jurisdiction, 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 wardship is based on a previous adjudication, then dismissal or waiver of a later case does not terminate wardship 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 wardship.

(d) The person becomes 25 years of age. [1993 c.33 s.149; 1995 c.422 s.73]

**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 s.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 s.151; 1995 c.422 s.73a]

**419C.020 Notice to parents or guardian of child; when given; contents.** (1) At the first appearance by the parents or guardian of a child 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 child, support of the child while the child 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 child 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 s.4]

## 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 s.152; 1995 c.422 s.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 s.153; 1995 c.422 s.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 s.154]

**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 s.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 s.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 s.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 s.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) 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 s.158; 1993 c.546 s.59; 1997 c.727 s.1; 1999 c.577 s.3; 1999 c.1095 s.13]

**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. [1993 c.33 s.159]

**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 s.160; 1993 c.33 s.60; 1997 c.727 s.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 s.161; 1993 c.546 s.61; 1997 c.727 s.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 s.162; 1993 c.546 s.62; 1997 c.727 s.4; 1999 c.577 s.9]

**419C.097 Notice to parents.** 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. [1993 c.33 s.163; 1993 c.320 s.2; 1993 c.546 s.63; 1997 c.727 s.5]

**419C.100 Release of youth taken into custody.** 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 the welfare of the youth or others may be endangered by the release of the youth.
- (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 s.164; 1993 c.546 s.64; 1997 c.727 s.6; 1999 c.577 s.4; 1999 c.615 s.2; 1999 c.1095 s.14]

**419C.103 Procedure when youth is not released.** (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 s.165; 1993 c.546 s.65; 1997 c.727 s.7; 1999 c.577 s.5; 1999 c.1095 s.15]

**419C.106 Report required when youth is taken into custody.** 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:

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

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

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

(4) Reasons for and circumstances under which the youth was taken into custody.

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

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

(7) If the youth is not taken to court, why the type of placement was chosen. [1993 c.33 s.166; 1993 c.546 s.66; 1997 c.727 s.8]

**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 s.169; 1993 c.546 s.67; 1995 c.422 s.73d; 1999 c.577 s.6; 1999 c.1095 s.16]

## DETENTION

**419C.130 Youth may not be detained where adults are detained; exceptions.** (1) No youth shall be detained at any time in a police station, jail, prison or other place where adults are detained, except as follows:

(a) A youth may be detained in a police station for up to five hours when necessary to obtain the youth'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.

(2) No 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, shall be detained in a jail or other place where adults are detained. [1993 c.33 s.167; 1993 c.546 s.115]

**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. 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 s.168]

**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 s.170; 1995 c.422 s.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 s.171; 1995 c.422 s.73f; 1999 c.577 s.7]

**419C.142 Notice of detention hearing.** Whenever a hearing concerning the detention of a youth under this chapter is held, notice of the hearing shall be given to the youth and, if any can be found, to a parent or guardian of the youth or to any other person responsible for the youth. 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 s.172]

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

(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 finds that there is probable cause to believe that the youth may be detained under subsection (1) of this section, 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 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 that it is contrary to the welfare of the youth and community for the youth to be released to the custody of the youth's parent or some other responsible adult. 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; and
- (i) 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. [1993 c.33 s.173; 1993 c.546 s.130; 1995 c.422 s.73g; 1999 c.577 s.10]

**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 s.174]

**419C.153 Detention review or release hearing.** (1) 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 and subsection (2) of this section.

(2) A hearing to consider whether to revoke the release of a youth or whether a youth should be continued in detention may be held 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 hearing and as long as the hearing is made publicly audible within the courtroom of the court under whose authority it is held. [1993 c.33 s.175]

**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 finds probable cause to believe that the youth has run away from home or from a placement. 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 s.176]

**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 s.177]

## SHELTER HEARINGS

**419C.170 Speedy hearing in shelter care cases.** 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 s.178; 1995 c.422 s.73h]

**419C.173 Evidentiary hearing.** 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. At the hearing:

(1) 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;

(2) 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

(3) 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 s.179; 1993 c.295 s.6; 1993 c.546 s.131; 1999 c.92 s.1]

**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, other persons and the community and insure the youth's appearance in court. [1993 c.33 s.180]

**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 s.181; 1999 c.1051 s.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. 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 court-appointed counsel if the youth were an adult charged with the same offense.

(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 s.182; 1993 c.234 s.2; 1993 c.546 s.68]

**419C.203 Court may require payment for compensation of counsel.** (1) Where the court appoints counsel to represent the youth, it may require the youth, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the State Court Indigent Defense Account in the General Fund 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 shall be the same test as applied to appointment of counsel for defendants under ORS 135.050. If counsel is provided at state expense, the court shall apply this test in accordance with the rules of the State Court Administrator adopted under ORS 151.487.

(3) If counsel is provided at state expense, the court shall determine the amount the youth, parents or estate shall be 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 shall be enforceable in the same manner as an order of support under ORS 419C.600. [1993 c.33 s.183; 1997 c.761 ss.7,7a]

**419C.206 Compensation for counsel when youth, parent or guardian cannot pay.** Where the court appoints counsel for the youth and the youth, parent or guardian is without sufficient financial means to employ counsel, the compensation for counsel and reasonable expenses of investigation, preparation and presentation paid or incurred shall be allowed and paid as provided in ORS 135.055. [1993 c.33 s.184]

**419C.209 Applicability of other laws.** Appointment of counsel for the youth or parent is subject to ORS 135.055, 151.430 to 151.480 and applicable contracts entered into by the State Court Administrator under ORS 151.460. [1993 c.33 s.186]

## EDUCATIONAL SURROGATE

**419C.220 Evaluation of needs; appointment of surrogate.** (1) As a part of the investigation, before making a youth a ward of the court, a preliminary evaluation shall also be conducted to determine if the youth may be eligible for special education as provided in ORS chapter 343. This preliminary evaluation of disabling conditions shall not constitute a final determination of the youth's eligibility for special education but shall be used as the basis for appointing a surrogate to protect the youth's due process rights pursuant to ORS chapter 343.

(2) The court shall appoint a surrogate for a youth when that youth is made a ward of the court if the court finds that the youth may be eligible for special education programs because of a disabling condition as provided in ORS chapter 343. This finding of probable eligibility shall be based on the preliminary evaluation conducted pursuant to subsection (1) of this section. [1993 c.33 s.187]

**419C.223 Duties and tenure.** A person that is appointed surrogate for a dependent youth has the duty and authority to protect the due process rights of the youth 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's eligibility for special education and shall participate in the development of the youth'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 is 21 years of age;
- (2) The youth is determined to be no longer eligible for special education; or
- (3) The juvenile court terminates wardship of the youth and determines that the youth's parent or guardian is both known and available to protect the special educational rights of the youth. [1993 c.33 s.188]

## FORMAL ACCOUNTABILITY AGREEMENTS

**419C.230 Formal accountability agreements; when appropriate.** (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. [1993 c.33 s.189; 1995 c.422 s.74; 1999 c.577 s.8]

**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 s.190; 1995 c.422 s.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 s.191; 1995 c.422 s.124]

**419C.239 Requirements of agreement.** (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 475.992 prohibiting delivery for no consideration of less than five grams of marijuana or prohibiting possession of less than one ounce of marijuana 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 Assistant Director for Alcohol and Drug Abuse Programs. 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 s.192; 1995 c.422 s.76; 1995 c.440 s.4; 1997 c.615 s.1]

**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

s.193; 1995 c.422 s.125]

**419C.245 Right to counsel.** The juvenile department counselor shall inform the youth and the youth's parents or guardian of the youth's right to counsel and to court-appointed counsel, if the youth is indigent. The right to counsel shall attach prior to the youth's entering into a formal accountability agreement. [1993 c.33 s.194; 1995 c.422 s.126]

## PETITION

**419C.250 Who may file petition.** (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 s.70 (enacted in lieu of 1993 c.33 s.195); 1995 c.422 s.77; 1999 c.59 s.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 and city of residence if known 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 s.198]

**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 s.199; 1995 c.273 s.23]

**419C.261 Amendment and dismissal of petition.** (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.

(2) 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. [1993 c.33 s.200; 1995 c.422 s.77a]

## 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);

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

(7) ORS 135.970; and

(8) ORS 136.432, 147.417, 147.419 and 147.421. [1993 c.546 s.72; 1997 c.313 s.31; 1999 c.304 ss.7,8]

## 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 s.201]

## PARTIES

**419C.285 Parties to delinquency proceeding; rights of limited participation.** (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; and
- (e) The right to request a hearing.

(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 court-appointed counsel. [1993 c.546 s.73; 1997 c.873 s.22]

## 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 s.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 required 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 s.203; 1993 c.546 s.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 personally 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 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 shall 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.

(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 s.204; 1993 c.546 s.74; 1999 c.965 s.1]

**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 s.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 s.206; 1993 c.546 s.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 s.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 summons, to bring the youth before the court. [1993 c.33 s.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 s.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 s.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 s.211; 1993 c.546 s.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 s.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 s.212; 1993 c.546 s.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; or

- (d) Any Class C felony in which the youth used or threatened to use a firearm;
- (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 s.213; 1993 c.546 s.78; 1999 c.951 s.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 s.214; 1993 c.546 s.79; 1995 c.422 s.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 s.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 s.216; 1993 c.546 s.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 s.217; 1993 c.546 s.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 ORS 419C.370. [1993 c.33 s.218; 1993 c.546 s.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 s.219; 1993 c.546 s.85; 1995 c.79 s.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 child 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 s.220; 1993 c.546 s.86; 1995 c.481 s.1; 1999 c.158 s.1; 1999 c.615 s.1]

**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 809.370. [1993 c.33 s.221; 1993 c.546 s.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 809.370.

(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 809.370; 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 s.222; 1995 c.422 s.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) 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.

(4) 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 s.223; 1993 c.546 s.87]

**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 s.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 an indigent party who is represented by court-appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. [1993 c.33 s.225]

**419C.411 Authority to make disposition order; factors to be considered.** (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) 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 engaged in the conduct was aggressive, violent, premeditated or willful;

(c) Whether the youth 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's juvenile court record and response to the requirements and conditions imposed by previous juvenile court orders.

(3) In addition to the factors listed in subsection (2) of this section, the court may consider the following:

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

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

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

(d) The disposition proposed by the youth;

(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'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.

(4) 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. [1993 c.33 s.226; 1995 c.422 s.80]

## DISPOSITION

**419C.440 Ward of the court.** (1) A youth found to be within the jurisdiction of the court as provided in ORS 419C.005, may be made a ward of the court.

(2) Unless guardianship is granted as provided in ORS 419C.555, the court as an incident of its wardship over the youth shall have the duties and authority of the guardian as provided in ORS 419C.558. [1993 c.33 s.227]

**419C.443 Diversion; marijuana offenses; requirements.** (1) Except when otherwise provided in subsection (3) of this section, when a youth is found to be within the jurisdiction of the court under ORS 419C.005 for a first violation of the provisions under ORS 475.992 prohibiting delivery for no consideration of less than five grams of marijuana or prohibiting possession of less than one ounce of marijuana, 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 Assistant Director for Alcohol and Drug Abuse Programs. 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 shall pay the cost of the youth'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's successful completion of the program from the designated agency or organization providing the information and treatment.

(2) Monitoring the youth's progress in the program shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the court 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 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 has previously entered into a formal accountability agreement under ORS 419C.239 (1)(i). [1993 c.33 s.228; 1995 c.422 s.135; 1995 c.440 s.5]

**419C.446 Probation; requirements.** (1) When a youth has been found to be within its jurisdiction, and when the court determines it would be in the best interest and welfare of the youth, the court may place the youth on probation. The court may direct that the youth remain in the legal custody of the youth's parents or other person with whom the youth is living, or the court may direct that the youth 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.

(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's parents, restrictions on the youth's associates, occupation and activities, restrictions on and requirements to be observed by the person having the youth's legal custody, requirements that the youth 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. [1993 c.33 s.229; 1993 c.546 s.88; 1997 c.725 s.1; 1999 c.97 s.5]

**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 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 and shall retain the fee to be used by the county for funding of its juvenile department program. [1997 c.725 s.3]

**419C.450 Restitution; policy; as condition of probation; factors to be considered.** (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 court shall consider restitution to the victim to be of high priority. There shall be a rebuttable presumption that the obligation to make such restitution is in the best interest of the youth offender as well as of the victim and society. For acts committed on or after December 5, 1996, the court shall order the prompt payment of restitution whenever possible.

(b) 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.

(2) Restitution for injury inflicted upon a person by the youth offender and for property taken, damaged or destroyed by the youth offender may 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) If the youth offender has been placed in custody of the Oregon Youth Authority on probation or for placement at a youth correction facility, the court may order that the youth offender pay restitution, as provided in this section, and any assessment under ORS 137.290. In determining whether or not to order restitution or payment of an assessment under ORS 137.290 and, if so, the conditions of payment, the court shall take into consideration the availability to the youth offender of paid employment during such time as the youth offender may be committed to a youth correction facility.

(4) In determining whether or not to order restitution or an assessment under ORS 137.290, the court shall take into account:

(a) 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;

(b) 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

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

(5) 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 may be docketed and, if so, shall have the same effect as a judgment in a civil action, as provided in ORS 18.320, 18.350, 18.360 and 18.400. The judgment is in favor of the state and may be enforced only by the state. Notwithstanding ORS 419A.255, a judgment for restitution docketed under this subsection is a public record. The requirements of ORS 137.071 (9) apply to a judgment under this subsection. [1993 c.33 s.230; 1993 c.405 s.1; 1995 c.422 s.83; 1997 c.313 s.32; 1997 c.727 s.11]

**419C.453 Detention; when authorized.** Pursuant to hearing, the juvenile court may order a youth 12 years of age

or older placed 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, 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 may be held in detention for a maximum of 30 days in addition to time already spent in the facility, when:

(1) The youth 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

(2) The youth 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. [1993 c.33 s.231]

**419C.456 Detention after escape.** Pursuant to a hearing, the juvenile court may order a youth 12 years of age or older placed 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 the youth has been found to be within the jurisdiction of the juvenile court by reason of having escaped 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 or the offense described in ORS 419C.159. [1993 c.33 s.232]

**419C.459 Fines.** In circumstances under which, if the youth 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. In determining whether to impose a fine and, if so, then in what amount, the court shall consider whether the youth will be able to pay a fine and whether payment of a fine is likely to have a rehabilitative effect on the youth. Fines ordered paid under this section shall be collected by the clerk of the court. [1993 c.33 s.233]

**419C.461 Disposition for graffiti related offenses.** (1) When a youth is 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 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.

(2) In no case shall the youth, 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 by the legal minimum wage.

(3)(a) When a youth is 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 liable for actual damages to person or property caused by the youth. However, a parent who is not entitled to legal custody of the youth 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 s.6]

**Note:** 419C.461 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.

**419C.462 Community service.** The court may order a youth 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 were an adult. [1993 c.33 s.234]

**419C.465 Service to victim.** Upon agreement of the youth, the youth's parent or guardian and the victim of the youth's conduct, the court may order a youth within the court's jurisdiction under ORS 419C.005 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 shall not be by the youth. The victim shall be advised by such person of any prior findings of juvenile court jurisdiction of the youth 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, 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 s.235]

**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 s.236; 1995 c.422 s.84]

**419C.473 Authority to order blood or buccal samples.** (1) Whenever a youth is found to be within the jurisdiction of the court under ORS 419C.005 for having committed an act which, if done by an adult would constitute a felony offense listed in ORS 137.076 (1), the court shall order the youth 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 to reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.

(2) 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 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.

(3) 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 s.237; 1999 c.97 s.6]

**419C.475 Authority to order HIV testing.** (1) Whenever a youth is 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 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 or the parent or guardian of the youth to reimburse the appropriate agency for the cost of the test. [1993 c.331 s.3]

**419C.478 Commitment to Oregon Youth Authority or State Office for Services to Children and Families.** (1) When a youth has been found to be within the court's jurisdiction under ORS 419C.005, the court may, in addition to probation or any other dispositional order, place the youth offender in the legal custody of the Oregon Youth Authority for care, placement and supervision or, when authorized under subsection (3) of this section, place the youth offender in the legal custody of the State Office for Services to Children and Families for care, placement and supervision.

(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 State Office for Services to Children and Families to youth offenders placed in the youth authority's or office's custody and to the parents or guardians of the youth offenders, but the actual planning and provision of such care, supervision, security or services shall be the responsibility of the youth authority or the State Office for Services to Children and Families. The youth authority or the office 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 State Office for Services to Children and Families 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 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 State Office for Services to Children and Families;

(c) The court finds that the State Office for Services to Children and Families 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 Assistant Director for Services to Children and Families 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 State Office for Services to Children and Families.

(5) If the youth offender has been placed in the custody of the youth authority or the State Office for Services to Children and Families, the court shall make no commitment directly to any residential facility, but shall cause the youth offender to be delivered into the custody of the youth authority or the State Office for Services to Children and Families at the time and place fixed by rules of the youth authority or the office. No youth offender so committed shall be placed in a Department of Corrections institution. [1993 c.33 s.238; 1993 c.546 s.89; 1995 c.422 s.130]

**419C.481 Wardship, guardianship and legal custody of youth committed to Oregon Youth Authority.** (1) The juvenile court shall retain wardship and the Oregon Youth Authority shall retain legal custody of the youth committed to it regardless of the physical placement of the youth by the youth authority.

(2) When the court grants legal custody to the youth authority, it may also grant guardianship of the youth to the youth authority, to remain in effect solely while the youth 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 is placed, if any, to exercise the duties and authority of a guardian of the youth under ORS 419C.558 and to determine parole and final release under ORS 420.045. [1993 c.33 s.239; 1993 c.367 s.4]

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

**419C.486 Consideration of recommendations of committing court; case planning.** To ensure effective planning for youths, the Oregon Youth Authority shall take into consideration recommendations and information provided by the committing court before placement in any facility. The youth authority shall ensure that the case planning in any case:

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

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

(3) Is integrated with other agencies in cooperation with the case workers. [1993 c.33 s.240; 1995 c.770 s.2]

**419C.489 Condition requiring medical care or special treatment; preparation of plan; progress reports.**

Whenever a youth 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. 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 which committed the youth 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 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 s.242]

**419C.492 Court's authority to review placement.** Commitment of a youth offender to the Oregon Youth Authority or the State Office for Services to Children and Families 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 State Office for Services to Children and Families, 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 State Office for Services to Children and Families 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 State Office for Services to Children and Families. Nothing in this section affects any contractual right of a private agency to refuse or terminate a placement. [1993 c.33 s.243; 1995 c.422 s.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 s.244; 1999 c.109 s.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 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 on probation or under protective supervision in such other state, or, subject to ORS 419C.495, place the youth in an institution in such other state in accordance with the compact, agreement or arrangement. [1993 c.33 s.245]

**419C.501 Duration of disposition.** (1) The duration of any disposition made pursuant to this chapter shall be fixed by the court and may be for an indefinite period. Any placement in the legal custody of the State Office for Services to Children and Families or the Oregon Youth Authority under ORS 419C.478 shall be for an indefinite period. However, in cases under ORS 419C.005, 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; and

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

(2) The period of any disposition may not extend beyond the date on which the youth offender becomes 25 years of age. [1993 c.33 s.246; 1995 c.422 s.85; 1999 c.964 s.1]

**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 s.247; 1995 c.422 s.86]

**419C.507 Additional options; consultation.** The court may, in lieu of or in addition to any disposition under this

chapter, direct that the youth 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 Mental Health and Developmental Disability Services Division, the Mental Health and Developmental Disability Services Division 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, the Mental Health and Developmental Disability Services Division shall not be appointed guardian of the youth. [1993 c.33 s.248]

**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 s.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.

## LEGAL CUSTODIAN OF YOUTH

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

- (1) To have physical custody and control of the youth.
- (2) To supply the youth with food, clothing, shelter and incidental necessities.
- (3) To provide the youth with care, education and discipline.
- (4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the youth, and, in an emergency where the youth'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 is otherwise entitled and to use the benefits or assistance to pay for the care of the youth. [1993 c.33 s.250; 1993 c.367 s.2]

## 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 to a private institution or agency to which the youth is committed or to some suitable person or entity if it appears necessary to do so in the interests of the youth. [1993 c.33 s.249]

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

- (1) To authorize surgery for the youth, but this authority does not prevent the person having legal custody of the youth from acting under ORS 419C.550 (4).
- (2) To authorize the youth to enlist in the Armed Forces of the United States.
- (3) To consent to the youth's marriage.
- (4) To make other decisions concerning the youth 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 s.251]

**419C.561 Guardian is not conservator.** A person appointed guardian of the youth by the court is guardian only



and not a conservator of the estate of the youth, unless that person is appointed conservator of the youth's estate in a protective proceeding as provided in ORS chapter 125. [1993 c.33 s.252; 1995 c.664 s.95]

## 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 any youth found to be within the jurisdiction of the court as provided in ORS 419C.005, if such 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, shall be 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;

(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); or

(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's probation.

(b) In all cases in which a youth is placed on probation, the juvenile department and the parent or guardian shall develop a plan for supervision of the youth. The plan must be reasonably calculated to provide the supervision necessary to prevent further acts of delinquency given the individual circumstances of the youth. 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's probation solely because of a failure of the youth's parent or guardian to comply with an order or a contract under subsection (1)(a) of this section. [1993 c.33 s.253; 1995 c.592 s.1; 1999 c.577 s.12]

**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 if the court finds:

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

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

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

(c) The court may order such participation with the youth 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's probation solely because of a failure of the youth's parent or guardian to comply with an order under subsection (1) of this section. [1993 c.33 s.254; 1995 c.592 s.2]

**419C.575 Court may order drug or alcohol treatment; hearing required.** 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 within the jurisdiction of the court in a proceeding under ORS 419C.005, 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 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 s.255; 1993 c.546 s.90; 1995 c.422 s.87]

## SUPPORT

**419C.590 Authority of court to order support.** The court may, after a hearing on the matter, require the parents or other person legally obligated to support a youth found to be within the jurisdiction of the court to pay toward the youth's support such amounts at such intervals as the court may direct, while the youth is within the jurisdiction of the court even though the youth is over 18 years of age as long as the youth is a child attending school, as defined in ORS 107.108. 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. [1993 c.33 s.256; 1997 c.704 ss.47,61]

**419C.592 Support order is final judgment.** Any order for support entered pursuant to ORS 419C.590 is a final judgment 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 s.257]

**419C.595 Support for youth in state financed or supported residence.** Any order for support entered pursuant to ORS 419C.590 for a youth in the care and custody of the Oregon Youth Authority may be made contingent upon the youth 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 shall be sufficient to establish such periods of residence and to satisfy the order for periods of nonresidence. [1993 c.33 s.259]

**419C.597 Assignment of support obligation to state.** When a youth is in the legal custody of the Oregon Youth Authority and such youth is the beneficiary of an existing order of support in a decree of dissolution or other order and the youth authority is required to provide financial assistance for the care and support of such youth, the youth authority shall be assignee of and subrogated to such youth's proportionate share of any such support obligation including sums that have accrued whether or not the support order or decree 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 418.042. [1993 c.33 s.258; 1999 c.80 s.77]

**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's parents, or either of them, or other person legally obligated to support the youth 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. [1993 c.33 s.260; 1993 c.798 s.31a]

## MODIFICATION OF ORDERS

**419C.610 Authority to modify or set aside orders.** Except as provided in ORS 419C.613, the court may modify or set aside any order made by it upon such notice and with such hearing as the court may direct. [1993 c.33 s.261]

**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, to place the youth in an institution or agency or to transfer the youth from one institution or agency to another. However, the provisions of this subsection shall 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 from one foster home to another. [1993 c.33 s.262]

## REPORTS BY AGENCY HAVING GUARDIANSHIP OR LEGAL CUSTODY

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

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

(2) When the youth offender has been placed with the agency as the result of a court order and remains under agency care for six consecutive months from the date of initial placement except for a youth offender who has been committed to a state youth correction facility. [1993 c.33 s.263; 1999 c.92 s.2]

**419C.623 Frequency and content of report.** (1) The agency shall file the reports required by ORS 419C.620 (2) at the end of the initial six-month period and no less frequently than each six months thereafter. The agency shall file reports more frequently if the court so orders. The reports shall include, but not be limited to:

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

(b) A description of the type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the youth offender, together with a list of all placements made since the youth offender has been in the guardianship or legal custody of an agency and the length of time the youth offender has spent in each placement; and

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

(2) Notwithstanding the requirements of subsection (1) of this section, reports following the initial report need not contain information contained in prior reports.

(3) Notwithstanding the requirements under ORS 419C.620 that reports be filed with the court, any report after the initial 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 s.264; 1999 c.92 s.3]

**419C.626 Review hearing by court; findings.** (1) Upon receiving any report required by ORS 419C.620, the court may hold a hearing to review the youth offender's condition and circumstances and to determine if the court should continue jurisdiction over the youth offender or order modifications in the care, placement and supervision of the youth offender. The court shall hold a hearing if requested by the youth offender, the attorney for the youth offender, if any, the parents or the public or private agency having guardianship or legal custody of the youth offender within 30 days of receipt of the notice provided in ORS 419C.629.

(2) The hearing provided in subsection (1) of this section shall be conducted in the manner provided in ORS 419C.400 (1), 419C.405 and 419C.408, except that the court may receive testimony and reports as provided in ORS 419C.400 (3). At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the youth offender in substitute care. Such findings shall specifically state:

(a) Why continued care is necessary as opposed to returning the youth offender to the youth offender's home or prompt action to secure another permanent placement; or

(b) The expected timetable for return or other permanent placement.

(3) Any decision of the court made pursuant to the hearing provided in subsections (1) and (2) of this section shall be a final order for the purposes of ORS 419A.200. [1993 c.33 s.265; 1999 c.92 s.4]

**419C.629 Distribution of report by court.** Except where a youth offender has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of the report required by ORS 419C.620 to the parents of the youth offender and shall notify the parents either that a hearing will be held or that the parents may request a hearing at which time they may ask for modifications in the care, treatment 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 is not in the best interest of the youth offender, the court may order such information deleted from the report before sending the report to the parents. [1993 c.33 s.266; 1999 c.92 s.6]

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

## DISPOSITIONAL REVIEW HEARINGS

**419C.650 Scheduling dispositional review hearing.** The court shall conduct a dispositional review hearing no later than 18 months after the original placement and periodically thereafter during the continuation of substitute care. Unless good cause otherwise is shown, the court shall also conduct a dispositional review hearing at any time upon the request of the Oregon Youth Authority, an agency directly responsible for care or placement of the youth, parents whose parental rights have not been terminated, an attorney for the youth, a court appointed special advocate, a citizen review board or upon its own motion. The court shall schedule the hearing as soon as possible after receiving a request. [1993 c.33 s.268]

**419C.653 Notice; appearance.** (1) The court may order that the youth or any other person be present during the hearing under ORS 419C.650.

(2) The court shall notify the parties listed in ORS 419C.650 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 shall provide the court with information concerning the whereabouts and identity of such parties. [1993 c.33 s.269]

**419C.656 Dispositional review hearing; conduct; order.** (1) The court shall enter an order within 20 days after the review hearing. Where the youth is in substitute care, the order shall include a determination of:

- (a) Whether or not the youth should be returned to the parent;
- (b) Whether or not the youth should be placed for adoption;
- (c) Whether the youth should continue in substitute care for a specified period; or
- (d) Whether, because of special needs or circumstances, the youth should be placed in the permanent custody or guardianship of a responsible relative or other individual or should continue in substitute care on a permanent or long-term basis.

(2) If the court determines that the youth shall be placed or continued in substitute care or placed in the custody or guardianship of a relative or other responsible individual, the court shall enter written findings specifying why neither placement with parents nor adoption is appropriate. If the current placement is not expected to be permanent, the court shall specify a projected timetable for return home or another permanent placement. If the timetable set forth by the court is not met, the Oregon Youth Authority shall promptly notify the court and parties.

(3) In the course of the dispositional review hearing, the court may determine the adequacy of and compliance with the case plan and case progress report. In addition to other orders, the court may:

- (a) Order the youth authority to develop or expand a case plan or case progress report which must be submitted within 10 days after the hearing;
- (b) Set a court hearing at a specific later time;
- (c) Direct the local citizen review board to review the status of the youth prior to its next review under ORS 419A.106, 419A.108, 419A.110, 419A.112, 419A.116 and 419A.118;
- (d) Order the youth authority or other agency directly responsible for the youth to modify the care, placement and supervision of the youth; and
- (e) Determine whether the youth authority or other agency directly responsible for the youth has made reasonable efforts to reunify the family.

(4) The dispositional review hearing shall be conducted in the manner provided in ORS 419C.400 (1), 419C.405 and 419C.408, except that the court may receive testimony and reports as provided in ORS 419C.400 (3).

(5) Any decision of the court made pursuant to the dispositional review hearing shall be a final order for the purposes of ORS 419A.200. [1993 c.33 s.270]

## CURFEW

**419C.680 Curfew; parental responsibility; authority of political subdivisions; criminal penalty.** (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 s.271; 1993 c.546 s.140; 1995 c.593 s.2; 1997 c.727 s.9]

---