Chapter 419A

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GENERAL PROVISIONS

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

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

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

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

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

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

(6) "Court" means the juvenile court.

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

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

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

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

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

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

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

(a) A member of an Indian tribe; or

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

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

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

(16) "Parent" means the biological or adoptive mother and the legal father of the child, ward, youth or youth offender. As used in this subsection, "legal father" means:

(a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

(b) In cases in which the Indian Child Welfare Act applies, a man who is a father under applicable tribal law.

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

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

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

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

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

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

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

(24) "Serious physical injury" means:

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

(b) A physical injury that:

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

(B) Results in substantial and recurring pain; or

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

(25) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who

is taken into temporary custody pending investigation and disposition.

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

(27) "Sibling" means one of two or more children or wards related:

(a) By blood or adoption through a common legal parent; or

(b) Through the marriage of the children's or wards' legal or biological parents.

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

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

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

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

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

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

(31) "Victim" means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor, "victim" includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be determined, the people of Oregon, as represented by the district attorney, are considered the victims.

(32) "Violent felony" means any offense that, if committed by an adult, would constitute a felony and:

(a) Involves actual or threatened serious physical injury to a victim; or

(b) Is a sexual offense. As used in this paragraph, "sexual offense" has the meaning given the term "sex crime" in ORS 181.594.

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

(34) "Young person" means a person who has been found responsible except for insanity under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

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

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

(37) "Youth offender" means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age. [1993 c.33 §2; 1993 c.546 §2; 1995 c.422 §65; 1997 c.130 §11; 1997 c.696 §2; 1997 c.873 §4; 1999 c.59 §116; 1999 c.109 §3; 1999 c.577 §11; 1999 c.859 §6; 1999 c.1095 §17; 2001 c.485 §3; 2001 c.900 §122; 2001 c.904 §12; 2001 c.910 §2; 2003 c.396 §1; 2003 c.576 §446; 2005 c.160 §1; 2005 c.517 §2; 2005 c.843 §1; 2007 c.609 §§7,8; 2007 c.806 §§1,2; 2009 c.178 §31]

COUNTY JUVENILE DEPARTMENT

419A.010 Appointment of counselors and director; juvenile director oversight committee. (1)(a) Subject to paragraph (b) of this subsection, the governing body of any county, after consultation with the judges of the juvenile court in that county, shall appoint or designate one or more persons of good moral character as counselors of the juvenile department of the county, to serve at the pleasure of and at a salary designated by the governing body of the county.

(b) The governing bodies of two or more contiguous counties may, pursuant to an agreement between the counties concerned, and after consultation with the judges of the juvenile courts in those counties, jointly appoint one or more persons of good moral character as counselors of the juvenile departments of the counties, to serve at the pleasure of and at a salary designated by the governing bodies of the counties concerned.

(c) When more than one person is appointed under this subsection, the appointing authority may designate one as director of the juvenile department or departments and the others to serve as juvenile counselors or staff members.

(d) Additional qualifications for a person appointed director of a juvenile department of a county under this subsection may be es-

tablished by the governing body of a county, subject to the approval of such qualifications by the judge of the juvenile court in that county.

(e) When the chairperson of the governing body of the county is also the judge of the juvenile court under ORS 5.020, only the judge shall make the decisions described in this subsection.

(2) The director shall be the administrator of the juvenile department or departments for the county or counties, including any juvenile detention facilities maintained by the county or by the counties jointly, and the supervisor of the staff of the juvenile department or departments and detention facilities, subject to the direction of the appointing authority.

(3) Notwithstanding subsection (2) of this section, if the county has entered into a written agreement under ORS 190.010 with any other unit or units of local government to coordinate juvenile detention facilities established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order, a juvenile director oversight committee may assume the duties and powers described in subsection (2) of this section and ORS 419A.012, 419A.014, 419A.015 and 419A.016 if the following requirements have been met:

(a) The agreement to coordinate juvenile detention facilities provides for the formation and operation of a juvenile director oversight committee;

(b) A juvenile director oversight committee consisting of the juvenile director of each county that has entered into the agreement has been formed; and

(c) Each juvenile director has an equal vote on the juvenile director oversight committee. [1993 c.33 §4; 1993 c.546 §3; 2009 c.580 §1]

419A.012 Duties of director or counselor. The director of a juvenile department or one of the counselors shall:

(1) Make or cause to be made an investigation of every child, ward, youth or youth offender brought before the court and report fully thereon to the court.

(2) Be present in court to represent the interests of the child, ward, youth or youth offender when the case is heard.

(3) Furnish such information and assistance as the court requires.

(4) Take charge of any child, ward, youth or youth offender before and after the hearing as may be directed by the court. [1993 c.33 §5; 2003 c.396 §2]

419A.014 Reports by juvenile department. The juvenile department of a county shall report annually to the Oregon Criminal Justice Commission the frequency with which runaway children held under ORS 419C.156, youths and youth offenders are held in preadjudicative detention and the duration of the detention. [1993 c.33 §6; 2001 c.904 §2; 2001 c.905 §3; 2003 c.396 §3]

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

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

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

(3) In addition to the general notification required by subsection (1) of this section, the juvenile department shall notify the school administrator of the specific offense if the act bringing the youth offender within the jurisdiction of the juvenile court involved a firearm or delivery of a controlled substance.

(4) When a school administrator receives any notice under this section, the school administrator may disclose the information only to school personnel, as defined in ORS 339.326, who the school administrator determines need the information in order to safeguard the safety and security of the school, students and staff. A person to whom personally identifiable information is disclosed under this subsection may not disclose the information to another person except to carry out the provisions of this subsection.

(5) Except as otherwise provided in ORS 192.490, a juvenile department, school district or school administrator, or anyone employed or acting on behalf of a juvenile department, school district or school admin-

istrator, who sends or receives records under this section is not civilly or criminally liable for failing to disclose the information under this section.

(6) As used in this section, "school administrator" has the meaning given that term in ORS 419A.305. [1997 c.765 §2; 1999 c.620 §9; 1999 c.963 §1a; 2005 c.517 §3; 2008 c.50 §8; 2009 c.447 §7]

Note: 419A.015 was added to and made a part of ORS chapter 419A by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419A.016 Powers of director or counselor. Any director or counselor has the power of a peace officer as to any child, ward, youth or youth offender committed to the care of the director or counselor. Any director or counselor may, in the discretion of the director or counselor and at any time, bring a child, ward, youth or youth offender committed to the custody and care by the juvenile court before the court for any further action the court considers advisable. [1993 c.33 §7; 2003 c.396 §4]

419A.018 Juvenile department is county agency. Except as provided in ORS 419A.010, the juvenile department of a county is and shall be considered a county agency for all purposes. [1993 c.33 §15]

419A.020 County responsibility for expenses of juvenile department. (1) The cost of maintaining a juvenile department and all expenditures incidental thereto, including traveling expenses, and necessarily incurred in supplying the immediate necessities of children, wards, youths or youth offenders while committed to the charge of a director or counselor, and all salaries for the personnel of a juvenile department and of any detention facilities maintained in the county, are payable upon the order of the board of county commissioners or county court of the county from county funds budgeted and levied for that purpose in any manner provided by law.

(2) When two or more counties have counselors appointed to serve the counties jointly, each county shall provide funds to pay its share of the costs and expenses of the employment of counselors and maintaining juvenile departments. The method of determining the portion of such costs and expenses each county is to bear must be provided in the agreement made between the counties under ORS 419A.010 (1)(b). [1993 c.33 §16; 2003 c.396 §5]

419A.022 Responsibility of counties over 400,000 population. The board of county commissioners or county court of counties having more than 400,000 inhabitants, according to the latest federal decennial census, shall provide proper accommodations for detention rooms and hospital wards, as may be necessary for the care, custody and discipline of children, wards, youths or youth offenders. The expense of the same shall be audited and paid in the same manner as other bills in such county are audited and paid. [1993 c.33 §17; 2003 c.396 §6]

419A.044 [Formerly 423.310; repealed by 2001 c.904 §9 and 2001 c.905 §11]

COURT SERVICES

419A.045 Policy and purpose. It is declared to be the legislative policy of the State of Oregon to recognize county juvenile courts and departments as a basic foundation for the provision of services to children, wards, youths, youth offenders and their families and, with the limited amount of funds available, to assist counties in financing certain juvenile court-related services on a continuing basis. The purpose of ORS 419A.045 to 419A.048 is to provide basic grants to juvenile departments to assist them in the administration of court services as defined in ORS 3.250. [Formerly 423.315; 2003 c.396 §7]

419A.046 Definition for ORS 419A.046 to 419A.048. As used in ORS 419A.046 to 419A.048, "state contribution" means the amount of money to which each county is entitled from the funds appropriated for the purposes of carrying out the provisions of ORS 419A.046 to 419A.048. [Formerly 423.330]

419A.047 Financial aid to counties for court services. (1) The state shall provide financial assistance to the counties for the implementation of local coordinated comprehensive plans from funds appropriated for that purpose for court services, as defined in ORS 3.250.

(2) The Oregon Youth Authority shall determine each county's estimated percentage share of the amount to be appropriated for the purposes of this section. Such determination must be based upon each county's respective share of residents under the age of 18.

(3) The numbers of residents under the age of 18 for each county must be certified to the Oregon Youth Authority by January 1 of each odd-numbered year by the Portland State University Population Research Center. [Formerly 423.340; 2001 c.904 §3; 2001 c.905 §4; 2003 c.396 §8; 2007 c.71 §110]

419A.048 Court to comply with fiscal reporting procedures. Any court with juvenile court jurisdiction that receives financial assistance under ORS 419A.045 to 419A.048 shall comply with fiscal reporting procedures developed and approved by the Oregon Youth Authority. [Formerly 423.350; 2001 c.904 §4; 2001 c.905 §5]

DETENTION AND SHELTER FACILITIES

419A.050 Authority to acquire, equip and maintain detention and shelter facilities. (1) Any county may acquire in any lawful manner, equip and maintain within the county suitable facilities for the shelter or detention of children, wards, youths and youth offenders confined pursuant to a judicial commitment or order pending final adjudication of the case by the juvenile court.

(2) When two or more counties have entered into an agreement under ORS 419A.010, the counties jointly may acquire in any lawful manner, equip and maintain, at a suitable site or sites in the counties, facilities suitable for the shelter or detention of children, wards, youths and youth offenders confined pursuant to judicial commitment or order pending final adjudication of the case by the juvenile court.

(3) Any county may designate, equip and maintain a short-term detention facility for children, youths and youth offenders in transit. The facility may house up to a total of five children, youths and youth offenders in transit for a period not to exceed four continuous days pending further placement. Short-term detention facilities:

(a) May not be located with detention facilities established under subsection (1) or (2) of this section; and

(b) Are subject to the standards and specifications found in ORS 169.740 and 419A.052. Upon written request of the county, the Department of Corrections may approve waivers and variances from the standards and specifications as long as the waivers or variances are consistent with the safety and welfare of detained children, youths and youth offenders. [1993 c.33 §8; 1993 c.546 §4; 1997 c.696 §1; 2003 c.396 §9]

419A.052 Specifications of facilities. (1) Suitable detention facilities must be of Class I construction and comply with the State of Oregon Structural Specialty Code and Fire and Life Safety Code. In addition, the facilities must provide:

(a) Sanitary drinking water in living units and dayrooms;

(b) Toilets and washbasins accessible to detainees in all housing and activity areas;

(c) At least one shower for every 10 detainees;

(d) A heating system and all equipment required to ensure healthful and comfortable living and working conditions, and that maintains a temperature no lower than 64 degrees;

(e) Lighting at 20 footcandles density; and

(f) Verbal or mechanical communications from sleeping rooms to staff.

(2) New or major renovated facilities must conform to the requirements of subsection (1) of this section and must also provide:

(a) That any single sleeping rooms located therein are at least 70 square feet and that any dormitories located therein are at least 50 square feet per detainee and house no more than five detainees each;

(b) At least one toilet and washbasin for every five detainees;

(c) Corridors of at least six feet in width;

(d) Thirty square feet of dayroom space per detainee;

(e) Heating units capable of maintaining 68 to 85 degrees temperature;

(f) Tamper-proof lighting with capability of 20 footcandles;

(g) Air circulation of 10 cubic feet of fresh air per minute, per detainee;

(h) Sleeping rooms' water valves accessible for staff control;

(i) Rooms provided for classes, library, arts and crafts; and

(j) Indoor and outdoor recreation and exercise areas. [1993 c.33 §9; 1999 c.59 §117; 2003 c.396 §10]

419A.055 Examination of facilities; capacity limits; standards for release; notice. (1) As used in this section:

(a) "Contracting county" means a county that contracts with another county or a regional juvenile detention correctional facility to place youths and youth offenders in a detention facility in another county or in a regional juvenile detention correctional facility.

(b) "County court" has the meaning given that term in ORS 174.100.

(2) The county court of a county may:

(a) Institute an examination of the county's detention facility and establish its capacity in accordance with constitutional standards; and

(b) Issue an order establishing the capacity of the county's detention facility.

(3)(a) A county court of a county may adopt standards for releasing youths and youth offenders when the capacity of the detention facility is exceeded.

(b) A county court of a contracting county may adopt standards for releasing youths and youth offenders when the number of youths or youth offenders requiring placement in a detention facility in another county or in a regional juvenile detention correctional facility exceeds the number of

youths and youth offenders for whose placement the contracting county has contracted.

(4) If a county court issues an order establishing the capacity of the detention facility and that capacity is exceeded, the county court, through the juvenile department director of that county, may release a sufficient number of youths or youth offenders to reduce the population of the detention facility to the established capacity.

(5) If the number of youths and youth offenders requiring placement in a detention facility in another county or in a regional juvenile detention correctional facility exceeds the number for whose placement the contracting county has contracted, the county court of the contracting county, through the juvenile department director of the contracting county, may release a sufficient number of youths or youth offenders who have been placed in a detention facility in another county or in a regional juvenile detention correctional facility to reduce the number of youths and youth offenders to the number for whose placement the contracting county has contracted.

(6)(a) The county court of a county, through the juvenile department director of the county, shall immediately notify the judge of the juvenile court of the county of the release of the youths or youth offenders.

(b) The county court of a contracting county, through the juvenile department director of the contracting county, shall immediately notify the judge of the juvenile court of the contracting county of the release of the youths or youth offenders.

(7) This section does not create a cause of action and may not be asserted as the basis for a per se negligence claim. [1993 c.33 §10; 2003 c.396 §11; 2009 c.293 §1]

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

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

(3) When a county operates a combined facility as described in subsection (2) of this section, only youth offenders may be admitted to the youth care center of the facility and only following court review of the admission. [1993 c.33 §11; 1993 c.546 §5; 2003 c.396 §12; 2005 c.159 §2]

419A.059 Designation of detention and shelter facilities. The juvenile court of each county shall designate the place or places in which children, wards, youths or youth offenders are to be placed in detention or shelter care when taken into temporary custody. If the county is adjacent to another state, the court may designate a place or places in the adjoining state where children, wards, youths or youth offenders, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention or shelter care when taken into custody. A county juvenile department may not enter into an agreement with an out-of-state place for placement in detention as provided in this section, unless the place or places conform to standards of this state for such a place and unless the agreement includes a provision that the place be subject to inspection by officers of this state under ORS 419A.061. [1993 c.33 §12; 2003 c.396 §13]

419A.061 Inspection of detention facilities. Inspection of juvenile detention facilities, including jails or lockups, and enforcement of the juvenile detention standards contained in ORS 419A.059 or otherwise established by statute, must be conducted in the same manner as provided in ORS 169.070 and 169.080. [1993 c.33 §13; 2003 c.396 §14]

419A.063 Requirements for detention facilities. (1) The juvenile court may not place a youth offender in a detention facility under ORS 419C.453 unless the facility:

(a) Houses youth offenders in a room or ward screened from the sight and sound of adults who may be detained in the facility; and

(b) Is staffed by juvenile department employees.

(2) In no case may the court order, pursuant to ORS 419C.453, that a youth offender under 14 years of age be placed in any detention facility in which adults are detained or imprisoned.

(3) As used in this section, "adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005. [1993 c.33 §14; 2003 c.396 §15; 2003 c.442 §6]

LOCAL CITIZEN REVIEW BOARDS

419A.090 Local citizen review boards. Subject to the availability of funds, the Judicial Department shall establish local citizen review boards. There shall be at least one local citizen review board in each county with a population of 5,000 or more, except that for two or more contiguous counties, each with a population of fewer than 100,000, there may be joint local citizen review boards. [1993 c.33 §18]

419A.092 Membership; training. (1) Each local citizen review board shall be composed of at least three and not more than seven members appointed by the Chief Justice of the Supreme Court of the State of Oregon. If more than five members are appointed to a local citizen review board, the additional members serve as alternate members. Each member appointed shall be sworn in by a judge of the court to which the member is to be appointed to serve. The Chief Justice shall appoint local citizen review boards according to the following guidelines:

(a) Members of each local citizen review board shall be recruited from groups with special knowledge or interest in foster care, child welfare and juvenile corrections, which may include but are not limited to adoptive parents and members of the professions of law, medicine, psychology, social work, law enforcement, corrections and education;

(b) As far as practicable, members of each local citizen review board shall represent the various socioeconomic and ethnic groups of the area served;

(c) A person providing child protective services employed by the Department of Human Services, by any private agency regulated, certified, directed or licensed by or contracting with the department or by any juvenile court may not serve on any local citizen review board reviewing cases under ORS 419A.106;

(d) A person employed by the Oregon Youth Authority, by any private agency regulated, certified, directed or licensed by or contracting with the Oregon Youth Authority or by any juvenile court may not serve on any local citizen review board reviewing cases under ORS 419A.107;

(e) The appointment of any individual member of a local citizen review board may be made only from a list approved by the presiding judge of the court to which the individual member is to be appointed to serve; and

(f) Members of local citizen review boards must be domiciled or employed within the counties of the court that they are appointed to serve.

(2) Prior to reviewing cases, all persons appointed to serve as local citizen review board members must participate in a 16-hour orientation training program established and approved by the Supreme Court of the State of Oregon. In addition, each local citizen review board member must receive eight hours of training annually. [1993 c.33 §19; 1993 c.412 §1; 2001 c.241 §1; 2003 c.442 §8]

419A.094 Additional boards; creation. Local citizen review boards shall be added when the number of cases requiring review by existing boards exceeds a number per month established by rule under ORS 419A.096, as the maximum number that may be reviewed by a single board. [1993 c.33 §20]

419A.096 Duties of Judicial Department in administering boards. (1) Subject to the availability of funds, the Judicial Department, in accordance with the direction of the Supreme Court of the State of Oregon, shall:

(a) Establish and approve policies and procedures for the operation of local citizen review boards;

(b) Approve and cause to have conducted training programs for local citizen review board members;

(c) Provide consultation services on request to local citizen review boards;

(d) Establish reporting procedures to be followed by the local citizen review boards to provide data for the evaluation of ORS 419A.090 to 419A.128, 419B.470, 419B.473, 419B.476, 419B.500 and 419B.502; and

(e) Employ staff and provide for support services for the local citizen review boards.

(2) The Supreme Court shall establish requirements and procedures necessary for compliance with subsection (1) of this section and shall direct the State Court Administrator to carry out duties prescribed by the Supreme Court relating to the administration of the local citizen review board program established under this section and ORS 419A.090, 419A.092, 419A.094 and 419A.098. [1993 c.33 §21]

419A.098 Rules. The Chief Justice, in consultation with the Supreme Court, shall adopt rules under ORS 1.002 that may include any procedures for the administration of the local citizen review board program regarding:

(1) Removal of members of local citizen review boards;

(2) The time, content and manner in which case plans and case progress reports shall be provided by the Department of Human Services or other agency or individual directly responsible for the care of the child or ward to the local citizen review board. These rules may require that such information be provided in shorter time periods than those contained in ORS 419B.443, and that information in addition to that specified by ORS 419B.443 be provided;

(3) Procedures for providing written notice of the review to the department, any other agency directly responsible for the care or placement of the child or ward, the parents or their attorneys, foster parents, surrogate parents, mature children and wards or their attorneys, the appointed attorney or court appointed special advocate of any child or ward, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative;

(4) Procedures for securing or excusing the presence at the review of caseworkers and other employees of the department or other agencies directly responsible for the care of the child or ward;

(5) Procedures by which boards can remove cases from review when such review is not required under federal law;

(6) Grounds for removal of members;

(7) Terms of board members; and

(8) Organization of individual boards. [1993 c.33 §23; 1993 c.546 §6; 2001 c.962 §95; 2003 c.396 §§16,17]

419A.100 Confidentiality of information; penalty. (1) Before beginning to serve on a local citizen review board, each member shall swear or affirm to the court that the member shall keep confidential the information reviewed by the board and its actions and recommendations in individual cases.

(2) The members and staff of a local citizen review board are not subject to subpoena to appear in court to testify regarding information reviewed by the board or actions taken or recommendations made by the board in individual cases.

(3) A member of a local citizen review board who violates the duty imposed by subsection (1) of this section commits a Class A violation. [1993 c.33 §27; 1993 c.412 §3; 1999 c.1051 §179]

419A.102 Access to confidential information by boards; procedure. (1) Notwithstanding the provisions of ORS 40.225 to 40.275, 412.074, 419B.035, 419B.045, 419B.440, 419B.443, 419B.446, 419B.449, 419B.452 and 419B.460, each local citizen review board shall have access to:

(a) Any records of the court which are pertinent to the case; and

(b) Any records of the Department of Human Services that would be admissible in a permanency hearing conducted under ORS 419B.470, 419B.473 and 419B.476, including school records and reports of private service providers contained in the records of the department or other agency.

(2) All requested records not already before the local citizen review board shall be submitted by the department within five working days after receipt of the request. The following provisions apply:

(a) Copies may be sent in lieu of originals.

(b) Except as otherwise provided in this paragraph, the local citizen review boards and the staff provided for the boards must return all records and copies received from the department to the department within seven working days after completion of the review. The staff of a local citizen review board may retain a reference copy of case materials used by the local citizen review board to make its recommendation if the following apply:

(A) The material is necessary for the ongoing work of the board with regard to the particular case or to work of the board; and

(B) The confidentiality of the material is continued and protected in the same manner as other materials received from the department. Materials thus retained by the local boards are exempt from disclosure under the public records law.

(3) If a local citizen review board is denied access to requested records, it may request a court hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section. [1993 c.33 §28; 1993 c.546 §91; 1999 c.859 §17]

419A.104 Report on children and wards in substitute care. Within seven working days after the first of each month, the Department of Human Services shall send to the citizen review board state administrative office the federally required report listing all children and wards in substitute care. The report must include the dates of placement and the dates by which a review must be conducted. [1993 c.412 §5 (enacted in lieu of 1993 c.33 §29); 2003 c.396 §18]

419A.106 Review of cases generally. (1) Except for cases removed from review under procedures established under ORS 419A.098, the local citizen review board shall review the case of each child and ward in substitute care which is assigned by the court. The following provisions apply:

(a) The review shall take place at times set by the board, the first review to be no more than six months after the child or ward is placed in substitute care and subsequent reviews to take place no less frequently than once every six months thereafter until the child or ward is no longer within the jurisdiction of the court, no longer in substitute care or until an adoption proceeding becomes final.

(b) The court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review. A complete judicial review is a hearing that results in a written order that contains the findings required under ORS 419B.476 or includes substantially the same findings as are required under ORS 419A.116.

(c) The court shall notify the local citizen review board of a denial of a petition to terminate parental rights within 10 days of the denial. As soon as practical but no later than 45 days after the denial, the board shall review any case where a petition to terminate parental rights has been denied.

(2) The local citizen review board may hold joint or separate reviews for groups of siblings.

(3) At any review conducted under this section or at a court hearing conducted in lieu of that review, the court or local citizen review board shall inquire of those present as to the parent's current address and telephone numbers and, if the parent has a contact person, the name, current address and telephone number of the contact person. When appropriate, the court may enter a protective order limiting disclosure of information obtained under this subsection. [1993 c.33 §30; 1993 c.412 §6; 2001 c.686 §§19,19a; 2003 c.396 §19]

419A.107 Review of cases of youth offenders. (1) Subject to the availability of funds, a local citizen review board shall review cases of youth offenders in the custody of the Oregon Youth Authority and placed in substitute care. The local citizen review board shall focus on public safety, youth offender accountability and reformation in conducting the reviews.

(2) The Judicial Department and the Oregon Youth Authority shall enter into an intergovernmental agreement regarding the reviews conducted under subsection (1) of this section. The intergovernmental agreement must outline the:

(a) Timing of the reviews;

(b) Participants to be invited to the reviews; and

(c) Process to be followed in conducting the reviews.

(3) The local citizen review board shall forward findings and recommendations generated at a review under subsection (1) of this section to the court and any other parties designated in the agreement under subsection (2) of this section. The court shall cause the findings and recommendations to become part of the juvenile court file for consideration by the juvenile court judge. [1999 c.187 §1; 2001 c.241 §2]

Note: 419A.107 was added to and made a part of ORS chapter 419A by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419A.108 Procedure for conflicts of interest. Whenever a member of a local citizen review board has a potential conflict of interest in a case being reviewed, the member shall declare to the local citizen review board the nature of the potential conflict prior to participating in the case review. The following apply as described:

(1) The declaration of the member shall be recorded in the official records of the board.

(2) If, in the judgment of the majority of the local board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the local board may remove the member from participation in the review. [1993 c.33 §32]

419A.109 Review of cases of wards for whom guardian has been appointed; rules. (1) Subject to the availability of funds and upon request of a court under ORS 419B.367, a local citizen review board shall review the case of a ward for whom a guardian has been appointed under ORS 419B.365 or 419B.366. In the request for review, the court shall notify the local citizen review board of the names and addresses of the parties.

(2) The review shall take place within 45 days, or as soon as is practicable given the schedule of the local citizen review board, after the local citizen review board receives the request for review by the court.

(3) The local citizen review board shall send notice of the review to all parties.

(4) The Chief Justice of the Supreme Court, in consultation with the Supreme Court, shall adopt rules under ORS 1.002 that may include any procedures for the ad-

ministration of the local citizen review board program regarding:

(a) The time, content and manner in which the guardian must provide reports to the local citizen review board; and

(b) The process to be followed in conducting the reviews.

(5) The local citizen review board shall forward findings and recommendations generated at a review under subsection (1) of this section to the court and all parties. The court shall cause the findings and recommendations to become part of the juvenile court file for consideration by the juvenile court judge. The court shall give the local citizen review board written notice if the court modifies, alters or takes action on a case as a result of the recommendations of the local citizen review board. [2003 c.229 §8; 2005 c.84 §2; 2007 c.333 §6]

Note: 419A.109 was added to and made a part of ORS chapter 419A by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419A.110 Immunity of participants in case review. Anyone participating in a case review by a local citizen review board shall have:

(1) Immunity from any liability, civil or criminal, for defamation for statements made in good faith by the participant, orally or in writing, in the course of such case review.

(2) The same immunity with respect to participating in any judicial proceeding resulting from the review or recommendation of a local board to the juvenile court. [1993 c.33 §35]

419A.112 Disclosure of information to participants in case review; confidentiality. (1) The local citizen review board may disclose records disclosed to the local board under ORS 419A.102 to:

(a) Parents and their attorneys;

(b) Foster parents;

(c) Mature children;

(d) Mature wards;

(e) The attorneys for children and wards; and

(f) Other persons authorized by the local board to participate in the case review.

(2) Before participating in a local citizen review board case review, each participant, other than parents, children and wards, shall swear or affirm to the board that the participant shall keep confidential the information disclosed by the board in the case review and to disclose it only as authorized by law. [1993 c.33 §34; 1997 c.328 §2; 1999 c.92 §5; 2003 c.396 §20; 2005 c.159 §3]

419A.114 When presence of agency personnel at board hearings required. (1) Unless excused from doing so by the local citizen review board, the Department of Human Services and any other agency directly responsible for the care and placement of the child or ward shall require the presence of any employees having knowledge of the case at local board meetings.

(2) The local citizen review board may require the presence of specific employees of the department or agency at local board meetings. If an employee fails to be present at such a meeting, the local review board may request a court hearing. The court may require the employee to be present and show cause why the employee should not be compelled to appear before the local citizen review board.

(3) As used in this section, "presence" includes telephone participation except that the caseworker on the case at the time of the meeting must be physically present if required. [1993 c.33 §37; 2003 c.396 §21]

419A.116 Findings and recommendations; judicial review. (1) After reviewing each case, the local citizen review board shall make written findings and recommendations with respect to:

(a) Whether reasonable efforts were made prior to the placement, to prevent or eliminate the need for removal of the child or ward from the home;

(b) If the case plan at the time of the review is to reunify the family, whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely return home and whether the parent has made sufficient progress to make it possible for the child or ward to safely return home;

(c) If the case plan at the time of the review is something other than to reunify the family, whether the department has made reasonable efforts to place the child or ward in a timely manner in accordance with the case plan, including, if appropriate, placement of the child or ward through an interstate placement, and to complete the steps necessary to finalize the permanent placement of the child or ward;

(d) The continuing need for and appropriateness of the placement;

(e) Compliance with the case plan;

(f) The progress which has been made toward alleviating the need for placement;

(g) A likely date by which the child or ward may be returned home or placed for adoption;

(h) Other problems, solutions or alternatives the board determines should be explored; and

(i) Whether the court should appoint an attorney or other person as special advocate to represent or appear on behalf of the child or ward under ORS 419B.195.

(2) The local citizen review board may, if the case plan has changed during the period since the last review by a local citizen review board or court hearing, make written findings and recommendations with respect to:

(a) Whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely return home and whether the parent has made sufficient progress to make it possible for the child or ward to safely return home, if a plan to reunify the family was in effect for any part of the period since the last review or hearing; or

(b) Whether the department has made reasonable efforts to place the child or ward in a timely manner in accordance with the case plan, including, if appropriate, placement of the child or ward through an interstate placement, and to complete the steps necessary to finalize the permanent placement of the child or ward, if a case plan other than to reunify the family was in effect for any part of the period since the last review or hearing.

(3) In determining whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely return home, the local citizen review board shall consider the child or ward's health and safety the paramount concerns.

(4) No later than 10 days after receiving the findings and recommendations of the local citizen review board, a party adversely affected by the findings and recommendations may request judicial review. [1993 c.33 §31; 2001 c.686 §20; 2003 c.396 §22; 2007 c.611 §3]

419A.118 Records; disclosure of findings and recommendations. The local citizen review board shall keep accurate records and retain these records on file. The local citizen review board shall send copies of its written findings and recommendations to the following:

(1) The court;

(2) The Department of Human Services; and

(3) Other participants in the review. [1993 c.33 §33]

419A.120 Court use of findings and recommendations. Upon receipt of findings and recommendations from the local citizen review board, the court shall:

(1) Review the findings and recommendations of the local citizen review board within 10 days after the findings and recommendations are received by the court. If the court finds it appropriate, the court may on its own motion schedule a review hearing.

(2) Cause the findings and recommendations of the local citizen review board to become part of the juvenile court file.

(3) Give the local citizen review board written notice if the court modifies, alters or takes action on a case as a result of the board's recommendations. [1993 c.33 §38]

419A.122 Use of findings and recommendations by Department of Human Services. Upon receipt of findings and recommendations from the local citizen review board, the Department of Human Services shall:

(1) Review the findings and recommendations of the local citizen review board within 10 days after the findings and recommendations are received by the department. The recommendations shall be implemented and the case plan modified as the department deems appropriate and resources permit.

(2) Give the local citizen review board written notice of such intent within 17 days of receipt of the report if the department does not intend to implement the recommendations.

(3) Cause the findings and recommendations of the local citizen review board to become part of the case file of the department. [1993 c.33 §39; 1993 c.412 §7]

419A.124 Policy and procedure recommendations. In addition to reviewing individual cases of children and wards in substitute care, local citizen review boards may make recommendations to the court and the Department of Human Services concerning substitute care services, policies, procedures and laws. [1993 c.33 §36; 2003 c.396 §23]

419A.128 State Citizen Review Board Operating Account. (1) There is created a State Citizen Review Board Operating Account in the General Fund which is continuously appropriated to the State Court Administrator to pay the expenses incurred under ORS 419A.090 to 419A.128, 419B.470, 419B.473 and 419B.476. Such expenses shall be paid only from funds specifically appropriated for the purposes of ORS 419A.090 to 419A.128, 419B.470, 419B.473 and 419B.476 and no other moneys appropriated to the State Court Administrator shall be used for these purposes.

(2) The State Court Administrator may accept funds and assistance from public and private sources for carrying out the purposes of ORS 419A.090 to 419A.128, 419B.470, 419B.473 and 419B.476 and may agree to conditions on the funds and assistance that are not inconsistent with ORS 419A.090 to 419A.128, 419B.470, 419B.473 and 419B.476. Such funds shall be credited to the State Citizen Review Board Operating Account. [1993 c.33 §42; 2003 c.442 §9]

JUVENILE COURT REFEREES

419A.150 Appointment; qualifications; hearings; orders; rehearings. (1) The judge of the juvenile court may appoint one or more persons as referee of the juvenile court. A referee shall be appointed in every county in which there is no resident juvenile court judge. A person appointed referee must be qualified by training and experience in the handling of juvenile matters, must have such further qualifications as may be prescribed by law and holds office as referee at the pleasure of the judge. The state shall pay the compensation of a referee appointed by the judge of a circuit court from funds available for the purpose. The county shall pay the compensation of a referee appointed by the judge of a county court.

(2) The judge may direct that any case, or all cases of a class designated by the judge, be processed or heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon conclusion of the hearing in each case, the referee shall transmit to the judge the findings, recommendations or order in writing of the referee.

(3) When the referee conducts a hearing, the persons entitled to request rehearing as provided in subsection (7) of this section must be notified of the referee's findings, recommendations or order, together with a notice to the effect that a rehearing may be had before a judge if requested within 10 days. A rehearing before a judge of the juvenile court may be determined on the same evidence introduced before the referee if a stenographic transcript of the proceedings was kept, but, in any case, additional evidence may be presented.

(4) All orders of a referee become immediately effective, subject to the right of review provided in this section, and continue in full force and effect, unless stayed by order of the referee or by a juvenile court judge, until vacated or modified upon rehearing by order of a judge of the juvenile court. Any order entered by a referee becomes a final order of the juvenile court upon expiration of 10 days following its entry, unless a rehearing is ordered or requested.

(5) The judge of the juvenile court or, in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees must be expressly approved by a judge of the juvenile court before becoming effective.

(6) A judge of the juvenile court may, on the judge's own motion, order a rehearing of any matter heard before a referee.

(7) At any time prior to the expiration of 10 days after the entry of the order and findings of a referee into the court register, a child, ward, youth, youth offender, the parent, guardian, district attorney, Department of Human Services, juvenile department or other party affected by the order may request rehearing. The request for rehearing must be served upon all parties by the party requesting the rehearing.

(8) All rehearings of matters heard before a referee shall be heard expeditiously by a judge of the juvenile court within 30 days after the filing of the request, unless the court orders a continuance. In no event may the rehearing occur later than 45 days after the date of the filing of the request. The rehearing is conducted de novo.

(9) Notwithstanding subsection (7) of this section, when a referee finds that a youth is not within the jurisdiction of the court in a proceeding brought under ORS 419C.005, the district attorney may not request a rehearing. [1993 c.33 §43; 1993 c.546 §7; 2003 c.396 §24]

COURT APPOINTED SPECIAL ADVOCATES

419A.170 Appointment; duties; immunity; access to information; CASA Fund; rules. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings, and in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds available to the Court Appointed Special Advocate Volunteer Program. No funds from the Public Defense Services Account or Judicial Department operating funds may be used for this purpose.

(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:

(a) Investigate all relevant information about the case;

(b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;

(c) Facilitate and negotiate to ensure that the court, Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and

(d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of the court's order.

(3) If a juvenile court does not have available to it a CASA Volunteer Program, or a sufficient number of qualified CASA volunteers, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.195.

(4) Any person appointed as a court appointed special advocate in any judicial proceeding on behalf of the child or ward is immune from any liability for defamation or statements made in good faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program director, CASA Volunteer Program employee or member of the board of directors or trustees of any CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment made in good faith in the course or scope of that person's duties or employment as part of a CASA Volunteer Program.

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, it may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of CASA services including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under ORS 419A.255.

(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under Public Law No. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

(10) There is created a Court Appointed Special Advocate (CASA) Fund in the General Fund. The fund consists of all moneys credited to it. Moneys in the Court Appointed Special Advocate Fund are continuously appropriated to the State Commission on Children and Families and may be used only to carry out the purposes of this section. The commission may apply for and receive funds from federal and private sources for carrying out the provisions of this section.

(11) The state commission may expend moneys from the Court Appointed Special Advocate Fund directly or indirectly through contracts or grants for the creation, supervision and operation of CASA Volunteer Programs statewide. The commission may also expend moneys from the Court Appointed Special Advocate Fund to pay the reasonable costs of its administration of the Court Appointed Special Advocate Fund. The commission shall adopt rules for carrying out its responsibilities under this section. [1993 c.33 §44; 1993 c.546 §92; 1993 c.676 §41; 1997 c.130 §12; 2001 c.962 §91; 2003 c.396 §§25,26; 2005 c.755 §35; 2011 c.190 §1]

Note: Sections 1 and 2, chapter 725, Oregon Laws 2011, provide:

Sec. 1. Court Appointed Special Advocate Task Force. (1) There is established the Court Appointed Special Advocate Task Force consisting of nine members appointed as follows:

(a) The President of the Senate shall appoint one member from among members of the Senate.

(b) The Speaker of the House of Representatives shall appoint one member from among members of the House of Representatives.

(c) The Chief Justice of the Supreme Court shall appoint four members as follows:

(A) Two members representing CASA Volunteer Programs; and

(B) Two members from the Judicial Department with expertise in juvenile dependency cases.

(d) The Governor shall appoint three members as follows:

(A) Two members from the Oregon State Bar with expertise in juvenile justice cases involving court appointed special advocates; and

(B) One member from among members of the Oregon Volunteers Commission for Voluntary Action and Service established under ORS 458.555.

(2) The task force shall study and make recommendations on the appropriate structure and operation for funding and administration of the CASA Volunteer Programs in this state.

(3) A majority of the members of the task force constitutes a quorum for the transaction of business.

(4) Official action by the task force requires the approval of a majority of the members of the task force.

(5) The task force shall elect one of its members to serve as chairperson.

(6) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(7) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(8) The task force may adopt rules necessary for the operation of the task force.

(9) The task force shall make a report, and may include recommendations for legislation, to interim committees of the Legislative Assembly related to the provision of court appointed special advocate services no later than January 15, 2012.

(10) The Legislative Administrator selected under ORS 173.710 shall staff the task force.

(11) The task force may accept donations of staff support, office space and equipment from advocacy or service provider organizations to assist the task force in the performance of its functions.

(12)(a) Notwithstanding ORS 171.072, members of the task force who are members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve as volunteers on the task force.

(b) Members of the task force who are not members of the Legislative Assembly are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the task force shall be paid out of funds appropriated to the State Commission on Children and Families for the operation of the CASA Volunteer Programs. [2011 c.725 §1]

Sec. 2. Section 1 of this 2011 Act is repealed on June 30, 2012. [2011 c.725 §2]

CONTEMPT

419A.180 Power of court to enforce orders by contempt order. In case of failure to comply with any order of the juvenile court, the court may proceed for contempt of court against the person failing to comply. [1993 c.33 §45]

FORMER JEOPARDY

419A.190 Effect of adjudicatory hearing or admission. Except as provided in ORS 153.108 (1), proceedings in adult criminal court and other juvenile court adjudicatory proceedings based on an act alleged in a petition or citation to have been committed by a child, ward, youth or youth offender or allegations arising out of the same conduct are barred when the juvenile court judge or referee has begun taking evidence in an adjudicatory hearing or has accepted a child, ward, youth or youth offender's admission or answer of no contest to the allegations of the petition or citation. This section does not prevent appeal of any preadjudicatory order of the court that could be appealed in a criminal case, including, but not limited to, an order suppressing evidence. [1993 c.33 §46; 1999 c.1051 §134; 2003 c.396 §27]

APPEALS

419A.200 Who may appeal; time limitations; procedure; effect of filing appeal; record on appeal; disclosure. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's judgment, shall grant a rehearing and shall direct that a record of the proceedings be kept. However, the court may not grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth or youth offender affected by such case. If a rehearing is held, the time for taking an appeal runs from the date of entry of the court's judgment after the rehearing.

(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS 19.250, to be served:

(A) On all parties who have appeared in the proceeding;

(B) On the trial court administrator or other person serving as clerk of the juvenile court; and

(C) On the juvenile court transcript coordinator, if a transcript is designated in connection with the appeal.

(b) The original of the notice with proof of service must be filed with:

(A) The Court of Appeals if the appeal is from a circuit court; or

(B) The circuit court if the appeal is from a county court.

(c) The notice must be filed not later than 30 days after the entry of the court's judgment. On appeal from the county court, the circuit court shall hear the matter de novo and its judgment is appealable to the Court of Appeals in the same manner as if

the proceeding had been commenced in the circuit court.

(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the office of public defense services for appeals of juvenile court judgments.

(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of this section, the appellate court shall grant the person leave to file a notice of appeal after the time limits described in subsection (3) of this section if:

(A) The person shows a colorable claim of error in the proceeding from which the appeal is taken; and

(B) The person shows that the failure to file a timely notice of appeal is not personally attributable to the person.

(b) A person other than the state is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and must be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the person's request for relief.

(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal under ORS chapter 19 except that the court shall advance the appeal on the court's docket in the same manner as appeals in criminal cases.

(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor discharge the ward or youth offender from the custody of the person, institution or agency in whose custody the ward or youth offender may have been placed nor preclude the juvenile court after notice and hearing from entering such further orders relating to the ward or youth offender's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the adjudication of a petition seeking termination of the parental rights of a parent of the ward who is subject to the judgment from which the appeal is taken.

(c) The appeal of any judgment entered in a termination of parental rights proceeding under paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must be conducted and advanced on the court's docket in the same manner as termination of parental rights cases.

(8) On appeal of a judgment or final order, the appellate court may review any interlocutory order that:

(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

(b) Was made after entry of the last appealable judgment or final order preceding entry of the judgment or final order being appealed.

(9) The district attorney or Attorney General shall represent the state in the appeal.

(10)(a) The court from which an appeal is taken shall prepare and transmit a record on appeal in the manner provided in ORS 19.365, except that, when the appeal is to the circuit court from a county court, the record on appeal shall be prepared and transmitted by the county court to the circuit court.

(b) The court to which an appeal is taken under this section shall keep a record of the case on appeal that includes but is not limited to notices of appeal, briefs, motions, orders of the court and other papers filed with the court on appeal.

(c) The record on appeal prepared and transmitted under paragraph (a) of this subsection, when it is in the custody of the court to which the appeal is taken, and the record of the case on appeal kept under paragraph (b) of this subsection are subject to the same limitations on inspection, copying and disclosure of records, reports and mate-

rials as those set forth under ORS 419A.255 and 419A.257.

(d) The court on appeal may consent to disclosure of:

(A) Records described in paragraph (a) of this subsection, while in the custody of the court to which the appeal is taken, in the same manner and under the same circumstances as the juvenile court consents to disclosure under ORS 419A.255 and 419A.257; or

(B) Records described in paragraph (b) of this subsection.

(e) Notwithstanding any other provision of law, any decision, as that term is defined in ORS 19.450, issued by the Court of Appeals or the Supreme Court, on appeal or review of a juvenile court decision, is not confidential and is not exempt from disclosure. [1993 c.33 §47; 1995 c.79 §214; 1995 c.422 §66; 1997 c.389 §10; 1997 c.761 §5; 1999 c.263 §1; 1999 c.859 §15a; 2001 c.480 §§3,3a; 2001 c.910 §3; 2003 c.396 §28; 2007 c.58 §1; 2009 c.231 §6; 2009 c.484 §12]

419A.205 Judgments described; jurisdiction of juvenile court during pendency of appeal; disposition. (1) For the purpose of being appealed, the following are judgments:

(a) A judgment finding a child or youth to be within the jurisdiction of the court;

(b) A judgment disposing of a petition including, but not limited to, a disposition under ORS 419B.325 or 419C.411;

(c) Any final disposition of a petition; and

(d) A final order adversely affecting the rights or duties of a party and made in a proceeding after judgment including, but not limited to, a final order under ORS 419B.449 or 419B.476.

(2) An appeal from a judgment finding a child or youth to be within the jurisdiction of the court does not deprive the juvenile court of jurisdiction to proceed with a disposition of the matter.

(3) If an appeal is taken from a judgment finding a child or youth to be within the jurisdiction of the court before the juvenile court enters a judgment disposing of the matter under ORS 419B.325 or 419C.411, any necessary modification of the appeal must be made according to the rules of the appellate court.

(4) When an appeal is taken from a judgment finding a child or youth to be within the jurisdiction of the court, if the appellate court:

(a) Reverses the judgment, the judgment disposing of the matter is reversed; or

(b) Modifies the judgment, a party may move for relief as otherwise provided by law. [2001 c.480 §2; 2003 c.348 §1; 2003 c.396 §29]

419A.208 Orders subject to appeal by state; effect of appeal of preadjudicatory order. (1) In addition to the state's right to appeal under ORS 419A.200, the state may appeal from any of the following orders of a judge or referee:

(a) An order made prior to an adjudicatory hearing dismissing or setting aside a delinquency petition;

(b) An order that sets aside a petition for delinquency if the order is made after an adjudicatory hearing in which the youth is found to be within the jurisdiction of the court;

(c) An order made prior to an adjudicatory hearing suppressing or limiting evidence or refusing to suppress or limit evidence; or

(d) An order made prior to an adjudicatory hearing for the return or restoration of things seized.

(2) If the state pursuant to subsection (1) of this section appeals a preadjudicatory order, and the youth is in detention in the same proceeding pursuant to ORS 419C.109, 419C.136, 419C.139, 419C.170 and 419C.173, the juvenile court shall consider release of the youth from detention during the pendency of the appeal in accordance with the following provisions:

(a) When the youth is charged with an act that would be murder if committed by an adult, release shall be denied when the proof is evident or the presumption strong that the youth committed the act.

(b) The youth shall be released upon the youth's personal recognizance unless release criteria show to the satisfaction of the juvenile court that the youth would not be likely to appear before the court as ordered upon later appearance dates and that such a release is therefore unwarranted. Release criteria include the following:

(A) The youth's education and employment status and history and financial condition;

(B) The nature and extent of the youth's family relationships;

(C) The youth's past and present residences;

(D) The names of persons who agree to assist the youth in attending court at the proper time;

(E) The nature of the current petition;

(F) The youth's juvenile record, if any, and, if the youth has previously been released pending trial, whether the youth appeared as required;

(G) Any facts indicating the possibility of violations of law if the youth is released without restrictions;

(H) Any facts tending to indicate that the youth has strong ties to the community; and

(I) Any other facts tending to indicate the likelihood that the youth will appear before the court as ordered upon later appearance dates.

(c) If the court finds that release of the youth on the youth's personal recognizance is unwarranted, it shall order conditional release. The court may impose upon the released youth one or more of the following conditions, but shall impose the least onerous condition reasonably likely to ensure the youth's later appearance:

(A) Release of the youth into the care of a parent or other responsible person or organization for supervising the youth and assisting the youth in appearing in court. The supervisor shall immediately notify the court in the event that the youth breaches the terms of the conditional release.

(B) Reasonable restrictions on the activities, movements, associations and residences of the youth.

(C) Any other reasonable restriction designed to ensure the youth's appearance. [2001 c.480 §5; 2003 c.396 §30]

419A.211 Appointment of counsel. (1) If the child, ward, youth, youth offender, parent or guardian is determined to be entitled to, and financially eligible for, appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the public defense services executive director as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2)(a) When the court appoints counsel to represent the child, ward, youth or youth offender, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account in the General Fund, through the clerk of the court, in full or in part the administrative costs of determining the ability of the 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.

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

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

(d) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408 and 419C.600.

(3) When the court appoints counsel and the child, ward, youth, youth offender, parent or guardian has been determined to be entitled to, and financially eligible for, appointed counsel at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. [2001 c.480 §6; 2001 c.962 §56; 2003 c.396 §§31,32; 2003 c.449 §50]

FINGERPRINTING AND PHOTOGRAPHING

419A.250 Authority; segregation of records; access; when records may be kept with those of adults; destruction of records; missing children. (1) A child, ward, youth or youth offender may be photographed or fingerprinted by a law enforcement agency:

(a) Pursuant to a search warrant;

(b) According to laws concerning adults if the youth has been transferred to criminal court for prosecution;

(c) Upon consent of both the child or youth and the child or youth's parent after advice that they are not required to give such consent;

(d) Upon request or consent of the child's parent alone if the child is less than 10 years of age, and if the law enforcement agency delivers the original photographs or fingerprints to the parent and does not make or retain any copies thereof; or

(e) By order of the juvenile court.

(2) When a youth is taken into custody under ORS 419C.080, the law enforcement agency taking the youth into custody shall photograph and fingerprint the youth. When a youth is found within the jurisdiction of

the juvenile court for the commission of an act that would constitute a crime if committed by an adult, the court shall ensure that the youth offender's fingerprints have been taken. The law enforcement agency attending upon the court is the agency responsible for obtaining the fingerprints. The law enforcement agency attending upon the court may, by agreement, arrange for another law enforcement agency to obtain the fingerprints on the attending agency's behalf.

(3) Fingerprint and photograph files or records of children, wards, youths and youth offenders must be kept separate from those of adults, and fingerprints and photographs known to be those of a child may be maintained on a local basis only and may not be sent to a central state or federal depository.

(4) Fingerprint and photograph files or records of a child, ward, youth or youth offender are open to inspection only by, or the contents disclosed only to, the following:

(a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child, ward, youth or youth offender that if committed by an adult would be an offense, provided that a law enforcement agency may provide information to another agency only when the information is pertinent to a specific investigation by that agency;

(b) The juvenile department and the juvenile court having the child, ward, youth or youth offender before it in any proceeding;

(c) Caseworkers and counselors taking action or otherwise responsible for planning and care of the child, ward, youth or youth offender;

(d) The parties to the proceeding and their counsel; and

(e) The victim or a witness of an act or behavior described under ORS 419C.005 (1) or the victim's parent, guardian, personal representative or subrogee, when necessary to identify the youth or youth offender committing the act or behavior and identifying the apparent extent of the youth or youth offender's involvement in the act or behavior.

(5)(a) Fingerprint and photograph files or records of youths and youth offenders must be sent to a central state depository in the same manner as fingerprint and photograph files or records of adults. The fingerprint and photograph files or records of a youth or youth offender sent to a central depository under this subsection are open to inspection in the same manner and under the same circumstances as fingerprint and photograph files or records of adults.

(b) A party filing a petition alleging that a youth is within the jurisdiction of the court under ORS 419C.005 shall notify the central state depository of the following:

(A) The filing of a petition alleging that a youth committed an act that if committed by an adult would constitute a crime; or

(B) The dismissal of a petition alleging that a youth committed an act that if committed by an adult would constitute a crime.

(c) The juvenile court shall notify the central state depository of the disposition of a case in which jurisdiction is based on ORS 419C.005.

(d) The Department of State Police shall delete the fingerprint and photograph files or records of a youth or youth offender from the depository and destroy the files or records relating to the conduct that caused the files or records to be sent to the depository:

(A) One year after receiving the files, if the central state depository has not received notice under paragraph (b) of this subsection;

(B) No later than one year following receipt of a notice of dismissal of a petition under paragraph (b)(B) of this subsection; or

(C) In all other circumstances, no later than five years and 30 days after fingerprint and photograph files or records are sent to the central state depository.

(6) Fingerprint and photograph files and records of a child, ward, youth or youth offender must be expunged when the juvenile court orders expunction of a child, ward, youth or youth offender's record pursuant to ORS 419A.260 and 419A.262.

(7) The parent or guardian of a missing child may submit a fingerprint card and photograph of the child to a law enforcement agency at the time a missing person report is made. The law enforcement agency may submit the fingerprint file to the Department of State Police. The information must be entered into the Law Enforcement Data System and the Western Identification Network Automated Fingerprint Identification System.

(8) When fingerprint files or records are submitted under subsection (7) of this section, the Department of State Police shall enter in a special index in the computerized criminal history files the name of the child and the name of the county or agency that submitted the fingerprint file or record.

(9) Fingerprints and other information entered in any data system pursuant to subsection (7) of this section must be deleted when the child is located. [1993 c.33 §48; 1993 c.602 §1; 1995 c.422 §67; 1999 c.111 §3; 2003 c.396 §33; 2007 c.71 §111; 2011 c.547 §44]

RECORDS

419A.253 When information in report or material considered by court must be identified in record. (1) When, for the purpose of a hearing or proceeding that will result in the entry of an order or judgment, the juvenile court considers information in a report or other material described in ORS 419A.255 (2) and no party has offered the report or material as an exhibit or asked the court to take judicial notice of the information, the court shall identify on the record the report or material, or the part of the report or material, that the court has considered. Subject to the court's ruling on objections by the parties, the court shall either take judicial notice of the information pursuant to ORS 40.060 to 40.085 or cause the report or material, or the part of the report or material, to be marked and received as an exhibit. The court shall cause a list to be made that reasonably identifies, by reference to its source, information judicially noticed under this subsection. The list may be included in the order or judgment or may be set out in a separate document attached to the order or judgment. If an appeal is taken from the order or judgment following the hearing or proceeding and the designation of record on appeal includes exhibits, the court or the trial court administrator shall cause the exhibits and any report or other materials containing judicially noticed information to be transmitted to the appellate court as part of the record on appeal.

(2) The list described in subsection (1) of this section is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1).

(3) Nothing in ORS 419A.255 limits access to any juvenile court records by an appellate court reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for appellate court access to juvenile court records. [2005 c.451 §2]

419A.255 Maintenance; disclosure; providing transcript; exceptions to confidentiality. (1) The clerk of the court shall keep a record of each case, including therein the summons and other process, the petition and all other papers in the nature of pleadings, motions, orders of the court and other papers filed with the court, but excluding reports and other material relating to the child, ward, youth or youth offender's history and prognosis. The record of the case shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth offender, parent, guardian, court appointed special advocate, surrogate or a person allowed to intervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys. The attorneys are entitled to copies of the record of the case.

(2) Reports and other material relating to the child, ward, youth or youth offender's history and prognosis are privileged and, except at the request of the child, ward, youth or youth offender, may not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under the judge's direction, service providers in the case and the attorneys of record for the child, ward, youth or youth offender or the child, ward, youth or youth offender's parent, guardian, court appointed special advocate, surrogate or person allowed to intervene in a proceeding involving the child, ward, youth or youth offender. Reports and other material relating to a youth offender's history and prognosis in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides or the superintendent's designee. The service providers in the case, school superintendents, superintendents' designees and attorneys are entitled to examine and obtain copies of any reports or other material relating to the child, ward, youth or youth offender's history and prognosis. Any service provider in the case, school superintendent, superintendent's designee or attorney who examines or obtains copies of such reports or materials is responsible for preserving their confidentiality. A service provider, school superintendent or superintendent's designee who obtains copies of such reports or materials shall return the copies to the court upon the conclusion of the service provider's, superintendent's or superintendent's designee's involvement in the case.

(3) Except as otherwise provided in subsection (7) of this section, no information appearing in the record of the case or in reports or other material relating to the child, ward, youth or youth offender's history or prognosis may be disclosed to any person not described in subsection (2) of this section without the consent of the court, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether such proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

(a) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.

(b) In connection with a proceeding in another juvenile court concerning the child,

ward, youth or youth offender or an appeal from the juvenile court.

(4) If the court finds that the child, ward, youth, youth offender or parent is without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court shall order upon motion the transcript or part thereof to be furnished. The transcript or part thereof furnished under this subsection shall be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(5) Notwithstanding any other provision of law, the following are not confidential and not exempt from disclosure:

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

(b) The basis for the juvenile court's jurisdiction over the youth or youth offender;

(c) The date, time and place of any juvenile court proceeding in which the youth or youth offender is involved;

(d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or youth offender when jurisdiction is based on ORS 419C.005;

(f) The names and addresses of the youth or youth offender's parents or guardians; and

(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(6) Notwithstanding any other provision of law, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

(a) The youth's name and age and whether the youth is employed or in school;

(b) The youth offense for which the youth was taken into custody;

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

(d) The identity of the investigating and arresting agency; and

(e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(7)(a) Information contained in reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information for the reports or other materials has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person or entity who is in danger from the child, ward, youth or youth offender.

(b) An agency or a person who discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under this section does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

(8) A county juvenile department is the agency responsible for disclosing youth and youth offender records if the records are subject to disclosure.

(9) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within the jurisdiction of the court, or a motion requesting an implementation plan other than return of a ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country as provided under ORS 419B.851 (3).

(10) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a guardian.

(11) The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward. [1993 c.33 §49; 1993 c.234 §3; 1993 c.546 §8; 1995 c.422 §68; 1997 c.724 §§3,4; 1999 c.59 §118; 1999 c.620 §8; 2001 c.904 §11; 2001 c.910 §1; 2003 c.143 §4; 2003 c.229 §9; 2003 c.396 §34a; 2007 c.611 §4; 2008 c.50 §9]

419A.256 When transcript of proceeding is part of record of case; disclosure. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 (1) and (3) governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, audiotape or videotape has been prepared in any proceeding under ORS chapter 419C, the victim may obtain a copy by paying the actual cost of preparation.

(2) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the child, ward, youth, youth offender, parent, guardian, court appointed special advocate, surrogate or a person allowed to intervene in a proceeding involving the child, ward, youth or youth offender, and their attorneys. [2005 c.451 §3; 2007 c.609 §9]

419A.257 Disclosure to district attorney and other state and county entities. (1) The district attorney or assistant attorney general representing the state in a juvenile court proceeding, the juvenile department, the Department of Human Services and the Oregon Youth Authority may inspect and obtain from the court copies of the records, reports and other materials described in ORS 419A.255 (1) and (2) to the same extent that attorneys for the other parties and the other parties are authorized to inspect and obtain copies of the records, reports and other materials. An agency or person that inspects or obtains records, reports or materials under this subsection is subject to ORS 419A.255 (3).

(2) Nothing in ORS 419A.255 prohibits the district attorney or assistant attorney general representing the state in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or the other parties in the proceeding or their attorneys from disclosing to each other records, reports and other materials described in ORS 419A.255 (1) and (2) if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or youth offender with the juvenile court or juvenile department. An agency or person to whom records, reports or materials are disclosed under this subsection is subject to ORS 419A.255 (3).

(3) An agency or person that inspects or obtains records, reports or materials under subsection (1) of this section or to whom records, reports or materials are disclosed under subsection (2) of this section may not use or disclose the records, reports or materials except:

(a) As provided in subsections (1) and (2) of this section;

(b) In the juvenile court proceeding for which the records, reports or materials were sought or disclosed;

(c) With the consent of the court as provided in ORS 419A.255 (2) or (3); or

(d) As provided in ORS 419A.253. [2005 c.451 §4]

419A.260 Expunction; definitions. (1) As used in this section and ORS 419A.262:

(a) "Contact" means any instance in which a person's act or behavior, or alleged act or behavior, which could result in a juvenile court's assumption of jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or 419C.005 comes to the attention of an agency specified in paragraph (d) of this subsection.

(b) "Expunction" means:

(A) The removal and destruction or sealing of a judgment or order related to a contact and all records and references; and

(B) Where a record is kept by the Department of Human Services or the Oregon Youth Authority, either the sealing of such record by the department or the Oregon Youth Authority or, in a multiperson file, the affixing to the front of the file, by the department or the youth authority, a stamp or statement identifying the name of the individual, the date of expunction and instruction that no further reference shall be made to the material that is subject to the expunction order except upon an order of a court of competent jurisdiction.

(c) "Person" includes a person under 18 years of age.

(d) "Record" includes a fingerprint or photograph file, report, exhibit or other material which contains information relating to a person's contact with any law enforcement agency or juvenile court or juvenile department and is kept manually, through the use of electronic data processing equipment, or by any other means by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon. "Record" does not include:

(A) A transcript of a student's Youth Corrections Education Program academic record;

(B) Material on file with a public agency which is necessary for obtaining federal financial participation regarding financial assistance or services on behalf of a person who has had a contact;

(C) Records kept or disseminated by the Department of Transportation, State Marine Board and State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

(D) Police and court records related to an order of waiver where the matter is still pending in the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

(E) Records related to a support obligation;

(F) Medical records;

(G) Records of a proposed or adjudicated termination of parental rights and adoptions;

(H) Any law enforcement record of a person who currently does not qualify for expunction or of current investigations or cases waived to the adult court;

(I) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals;

(J) Any records in cases under ORS 419C.005 in which a juvenile court found a person to be within the jurisdiction of the court based upon the person's commission of an act which if done by an adult would constitute one of the following offenses:

(i) Aggravated murder under ORS 163.095;

(ii) Murder under ORS 163.115;

(iii) Attempt, solicitation or conspiracy to commit murder or aggravated murder;

(iv) Manslaughter in the first degree under ORS 163.118;

(v) Manslaughter in the second degree under ORS 163.125;

(vi) Criminally negligent homicide under ORS 163.145;

(vii) Assault in the first degree under ORS 163.185;

(viii) Criminal mistreatment in the first degree under ORS 163.205;

(ix) Kidnapping in the first degree under ORS 163.235;

(x) Rape in the third degree under ORS 163.355;

(xi) Rape in the second degree under ORS 163.365;

(xii) Rape in the first degree under ORS 163.375;

(xiii) Sodomy in the third degree under ORS 163.385;

(xiv) Sodomy in the second degree under ORS 163.395;

(xv) Sodomy in the first degree under ORS 163.405;

(xvi) Unlawful sexual penetration in the second degree under ORS 163.408;

(xvii) Unlawful sexual penetration in the first degree under ORS 163.411;

(xviii) Sexual abuse in the third degree under ORS 163.415;

(xix) Sexual abuse in the second degree under ORS 163.425;

(xx) Sexual abuse in the first degree under ORS 163.427;

(xxi) Promoting prostitution under ORS 167.012;

(xxii) Compelling prostitution under ORS 167.017;

(xxiii) Aggravated driving while suspended or revoked under ORS 163.196;

(xxiv) Aggravated vehicular homicide under ORS 163.149; or

(xxv) An attempt to commit a crime listed in this subparagraph other than manslaughter in the second degree and criminally negligent homicide;

(K) Blood samples, buccal samples and other physical evidence and identification information obtained, stored or maintained by the Department of State Police under authority of ORS 137.076, 181.085 or 419C.473; or

(L) Records maintained in the Law Enforcement Data System under ORS 181.592.

(e) "Termination" means:

(A) For a person who is the subject of a record kept by a juvenile court or juvenile department, the final disposition of a case by informal means, by a decision not to place the person on probation or make the person a ward of the court after the person has been found to be within the court's jurisdiction, or by a discontinuance of probation or of the court's wardship.

(B) For a person who is the subject of a record kept by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final disposition of the person's most recent contact with a law enforcement agency.

(2) The juvenile court or juvenile department shall make reasonable effort to provide written notice to a child who is within the court's jurisdiction under ORS 419B.100 (1)(a) to (c) and (f) or to a youth who is within the court's jurisdiction under ORS 419C.005, and to the child's or youth's parent, of the procedures for expunction of a record, the right to counsel under this chapter, the legal effect of an expunction order and the procedures for seeking relief from the duty to report as a sex offender provided under ORS 181.823, at the following times:

(a) At any dispositional hearing or at the time of entering into a formal accountability agreement;

(b) At the time of termination;

(c) Upon notice to the subject of an expunction pending pursuant to application of a juvenile department or motion on a juvenile court; and

(d) At the time of notice of execution of an expunction order. [1993 c.33 §50; 1993 c.546 §93; 1993 c.602 §2; 1995 c.422 §69; 1999 c.97 §4; 1999 c.111 §1; 1999 c.626 §17; amendments by 1999 c.626 §40 repealed

by 2001 c.884 §1; 2001 c.884 §§3b,3d; 2007 c.867 §8; 2009 c.783 §7]

419A.262 Expunction proceeding; notice to victim; effect of expunction; confidentiality; penalties. (1) An expunction proceeding shall be commenced in the county where the subject person resided at the time of the most recent termination.

(2) Upon application of either a person who is the subject of a record or a juvenile department, or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter is contested, it finds that:

(a) At least five years have elapsed since the date of the person's most recent termination;

(b) Since the date of the most recent termination, the person has not been convicted of a felony or a Class A misdemeanor;

(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person;

(d) The person is not within the jurisdiction of any juvenile court on the basis of a petition alleging an act or behavior as defined in ORS 419B.100 (1)(a) to (c) and (f) or 419C.005; and

(e) The juvenile department is not aware of any pending investigation of the conduct of the person by any law enforcement agency.

(3) In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with subsection (10) of this section unless the person has reached 21 years of age.

(4) When a person who is the subject of a record kept by a juvenile court or juvenile department reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order expunction if:

(a) The person never has been found to be within the jurisdiction of the court; or

(b) The conditions of subsection (2) of this section have been met.

(5) Expunction shall not be ordered under this section if actual notice of expunction has not been given to the person in accordance with subsection (10) of this section unless the person has reached 21 years of age.

(6) Subsections (4) and (5) of this section apply only to cases resulting in termination after September 13, 1975.

(7) Notwithstanding subsections (2) and (4) to (6) of this section, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested, may order expunction of all or any part of the person's record if it finds that to do so would be in the best interests of the person and the public. In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with subsection (10) of this section unless the person has reached 21 years of age.

(8) When an expunction proceeding is commenced by application of the person whose records are to be expunged, the person shall set forth as part of the application the names of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that the person has reason to believe possess an expungible record of the person. The juvenile department shall provide the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable search of department files indicates have expungible records.

(9) When an expunction proceeding is commenced by application of the juvenile department or upon the court's own motion, the application or motion shall set forth the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies that a reasonable search of department files indicates have expungible records and those provided by the subject person.

(10)(a) Notice and a copy of an application for expunction under subsections (2) to (7) of this section shall be given to:

(A) The district attorney of the county in which the expunction proceeding is commenced and the district attorney of each county in which the record sought to be expunged is kept; and

(B) The person who is the subject of the record if the person has not initiated the expunction proceeding.

(b) A district attorney who receives notice under this subsection shall notify the victim of the acts that resulted in the disposition that is the subject of the application for expunction and shall mail a copy of the application for expunction to the victim's last known address.

(11) Within 30 days of receiving the notice of application for expunction under subsection (10) of this section, a district attorney shall give written notice of any objection and the grounds therefor to the per-

son whose records are to be expunged and to the juvenile court. If no objection is filed the court may decide the issue of expunction either without a hearing or after full hearing pursuant to subsections (12) to (15) of this section.

(12) When an expunction is pending pursuant to subsections (2) to (7) of this section, the court may proceed with or without a hearing, except that:

(a) The court may not enter an expunction judgment without a hearing if a timely objection to expunction has been filed pursuant to subsection (11) of this section; and

(b) The court may not deny an expunction without a hearing if the proceeding is based on an application of the subject.

(13)(a) Notice of a hearing on a pending expunction shall be served on the subject and any district attorney filing a timely objection pursuant to subsection (11) of this section.

(b) When a district attorney receives notice of a hearing for expunction of a record concerning a youth or youth offender proceeding under ORS chapter 419C, if the victim of the acts that resulted in the disposition that is the subject of the application for expunction requests, the district attorney shall mail notice of the hearing to the victim's last-known address.

(14) The court shall conduct a hearing on a pending expunction in accord with the provisions of ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.812 to 419B.839 and 419B.908. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as defined in ORS 419B.310 (3) and 419C.400 (2). The burden of proof shall be with the party contesting expunction.

(15) At the conclusion of a hearing on a pending expunction, the court shall issue judgment granting or denying expunction.

(16) The juvenile court or juvenile department shall send a copy of an expunction judgment to each agency subject to the judgment. Upon receipt of a copy of the judgment, the agency shall comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile department with an indorsement indicating compliance.

(17) When all agencies subject to an expunction judgment have indicated their compliance or in any event no later than six weeks following the date the judgment was delivered as required by subsection (16) of this section, the juvenile court shall provide the person who is the subject of the record with a copy of the expunction judgment, a list of complying and noncomplying agencies, and a written notice of rights and effects of expunction. The juvenile court and juvenile department then shall expunge forthwith all records which they possess and which are subject to the judgment, except the original expunction judgment and the list of complying and noncomplying agencies which must be preserved under seal.

(18) In addition to those agencies identified in ORS 419A.260 (1)(d), the juvenile, circuit, municipal and justice courts, and the district and city attorneys of this state, are bound by an expunction judgment of any juvenile court of appropriate jurisdiction in this state issuing an expunction judgment.

(19) Upon entry of an expunction judgment, the contact that is the subject of the expunged record shall not be disclosed by any agency. An agency that is subject to an expunction judgment shall respond to any inquiry about the contact by indicating that no record or reference concerning the contact exists.

(20) A person who is the subject of a record that has been expunged under this section may assert that the record never existed and that the contact, which was the subject of the record, never occurred without incurring a penalty for perjury or false swearing under the laws of this state.

(21) Juvenile courts, by court rule or by order related to a particular matter, may direct that records concerning a subject person be destroyed. No such records shall be destroyed until at least three years have elapsed after the date of the subject's most recent termination. In the event the record has been expunged, the expunction judgment and list of complying and noncomplying agencies may not be destroyed, but shall be preserved under seal. The destruction of records under this subsection does not constitute expunction.

(22) An expunction judgment and list of complying and noncomplying agencies shall be released from confidentiality only on order of the court originating the expunction judgment, based on a finding that review of a particular case furthers compliance with the expunction provisions of this chapter.

(23) A subject has a right of action against any person who intentionally violates the confidentiality provisions of this section. In any such proceeding, punitive damages up to an amount of $1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

(24) Intentional violation of the confidentiality provisions of this section by a public employee is cause for dismissal.

(25) A person who intentionally releases all or part of an expunged record commits a Class C misdemeanor. [1993 c.33 §51; 1993 c.546 §9; 1997 c.249 §132; 1999 c.111 §2; 2001 c.480 §7; 2001 c.622 §45; 2007 c.609 §10]

419A.290 [1993 c.33 §52; 1993 c.546 §114; repealed by 1995 c.422 §138]

419A.295 [Formerly 419.494; repealed by 1995 c.79 §215]

MISCELLANEOUS

419A.300 Reports to school districts concerning young persons on conditional release. (1)(a) Once each month, the Department of Human Services shall provide to each school district a list of all young persons enrolled in a school in the school district who are on conditional release. The department shall include in the list the name and business telephone number of the caseworker assigned to each case.

(b) When a young person who is on conditional release transfers from one school district to a different school district, the caseworker assigned to the case shall notify the superintendent of the school district to which the young person has transferred of the young person's status. The caseworker shall make the notification no later than 72 hours after the caseworker knows of the transfer.

(2) Upon request by the superintendent of the school district in which a young person is enrolled or the superintendent's designee, the department shall provide additional information, including the offense that brought the young person within the jurisdiction of the juvenile court and such other information that is subject to disclosure under ORS 419A.255 (5).

(3) In addition to the general notification required by subsection (1) of this section, the department shall notify the superintendent or the superintendent's designee of the specific offense and whether the act involved a firearm or delivery of a controlled substance.

(4) ORS 419A.015 (4) and (5) apply to persons sending or receiving records under this section. [2005 c.843 §29; 2008 c.50 §10]

419A.305 Notice to school administrators concerning students subject to juvenile court petitions. (1) As used in this section:

(a) "Principal" means a person having general administrative control and supervision of a school.

(b) "School administrator" means:

(A) The superintendent of the school district in which a youth attends school, or the designee of the superintendent, if the youth attends a public school that is not a public charter school;

(B) The principal of a public charter school, if the youth attends a public charter school;

(C) The principal of a private school that provides education to one or more instructional levels from kindergarten through grade 12 or equivalent instructional levels, if the youth attends a private school;

(D) The superintendent of the school district in which the youth resides, or the designee of the superintendent, if the school that the youth attends is not known by the person giving notice;

(E) The director of the Oregon School for the Deaf; or

(F) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.

(c) "School district" has the meaning given that term in ORS 332.002.

(2) Notice shall be given to a school administrator when:

(a) A youth makes a first appearance before the juvenile court on a petition described in subsection (7) of this section alleging that the youth is within the jurisdiction of the juvenile court under ORS 419C.005.

(b) A youth admits to being within the jurisdiction of the juvenile court as provided in ORS 419C.005 on a petition described in subsection (7) of this section or is adjudicated by a juvenile court to be within its jurisdiction on a petition described in subsection (7) of this section.

(c) A youth is found responsible except for insanity under ORS 419C.411.

(d) Notice had been given as provided by paragraph (a) or (b) of this subsection and the juvenile court:

(A) Sets aside or dismisses the petition as provided in ORS 419C.261; or

(B) Determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition.

(3) A notice required by subsection (2) of this section shall be given by:

(a) The district attorney;

(b) In the case of a petition filed under ORS 419C.250, the person who filed the petition;

(c) In the case of a person prosecuting a case who is not the district attorney, the person who is prosecuting the case; or

(d) In the case of a juvenile department that has agreed to be responsible for providing the notices required under this section, the juvenile department.

(4) A notice required under subsection (2) of this section may be communicated by mail or other means of delivery, including but not limited to electronic transmission. A notice must include:

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

(b) The names and addresses of the youth's parents or guardians;

(c) The alleged basis for the juvenile court's jurisdiction over the youth;

(d) The act alleged in the petition that, if committed by an adult, would constitute a crime;

(e) The name and contact information of the attorney for the youth, if known;

(f) The name and contact information of the individual to contact for further information about the notice;

(g) If applicable, the portion of the juvenile court order providing for the legal disposition of the youth;

(h) Any conditions of release or terms of probation; and

(i) Any other conditions required by the court.

(5) In addition to the information required by subsection (4) of this section:

(a) A notice required by subsection (2)(a) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school may come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. The student has not yet been determined to be within the jurisdiction of the juvenile court nor to have committed any violations of law. The allegation pending before the juvenile court must not be discussed with the student."

(b) A notice required by subsection (2)(b) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school has come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. There may be pending juvenile court hearings or proceedings, and a disposition order may not yet have been entered by the court. The allegation pending before the juvenile court must not be discussed with the student."

(c) A notice required by subsection (2)(c) of this section shall contain substantially the following statement: "This notice is to inform you that a disposition order has been entered in a case involving a student who attends your school about whom a previous notice was sent. The disposition order finds the student to be responsible except for insanity under ORS 419C.411 for the act alleged in the petition filed with the juvenile court. The case should not be discussed with the student."

(d) A notice required by subsection (2)(d) of this section shall contain substantially the following statement: "This notice is to inform you that a petition involving a student who attends your school about whom a previous notice was sent has been set aside or dismissed or the juvenile court has determined the student is not within its jurisdiction. The notice and any documents or information related to the notice in the student's education records should be removed and destroyed upon receipt of this notice. The case should not be discussed with the student."

(6) A notice required under subsection (2) of this section must be given within 15 days after:

(a) The youth makes a first appearance before the juvenile court on a petition;

(b) The youth admits to being within the jurisdiction of the juvenile court;

(c) The youth is adjudicated by a juvenile court to be within the jurisdiction of the court;

(d) The petition is dismissed or set aside;

(e) The juvenile court determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition; or

(f) The juvenile court enters a disposition order finding the youth responsible except for insanity under ORS 419C.411.

(7) This section applies to petitions filed alleging that the youth engaged in:

(a) Conduct that, if committed by an adult, would constitute a crime that:

(A) Involves serious physical injury or threatened serious physical injury to another person, including criminal homicide, felony assault or any attempt to cause serious physical injury to another person;

(B) Involves the sexual assault of an animal or animal abuse in any degree;

(C) Is a felony sex offense listed in ORS 181.594, except for rape in the third degree under ORS 163.355 or incest under ORS 163.525;

(D) Involves a weapon, as defined in ORS 166.360, or the threatened use of a weapon;

(E) Involves the possession or manufacture of a destructive device, as defined in ORS 166.382, or possession of a hoax destructive device, as defined in ORS 166.385; or

(F) Involves an offense in which an element of the crime is:

(i) Manufacture of a controlled substance;

(ii) Delivery of a controlled substance in conjunction with conduct described in subparagraph (A) of this paragraph; or

(iii) Delivery of a controlled substance to a person under 18 years of age; or

(b) Conduct that is of such a nature that the court determines notice is necessary to safeguard the safety and security of the school, students and staff. The person or entity responsible for giving notice under subsection (3) of this section shall request that the court make the determination under this paragraph when the person or entity believes notice is necessary to safeguard the safety and security of the school, students and staff and the conduct involves an offense under ORS 163.160.

(8) Except as otherwise provided in ORS 192.490, a person who sends or receives notice under this section is not civilly or criminally liable for failing to disclose the information under this section. [2008 c.50 §2; 2009 c.447 §1; 2009 c.713 §18; 2011 c.9 §58]