Chapter 420A

2011 EDITION

Oregon Youth Authority; Youth Correction Facilities

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GENERAL PROVISIONS

420A.005 Definitions. As used in ORS 420A.005 to 420A.155, unless the context requires otherwise:

(1) "Cognitive restructuring" means any rehabilitation process that redirects the thinking of an offender into more socially acceptable directions and that is generally accepted by rehabilitation professionals.

(2) "Director" means the Director of the Oregon Youth Authority.

(3) "Reformation plan" means a written plan prepared by the Oregon Youth Authority that is tailored to the youth offender's unique requirements as identified by the initial assessment. "Reformation plan" includes, but is not limited to, a plan for medical, educational, vocational, social and psychological services and training as well as other rehabilitative services designed to reduce future criminal and antisocial conduct and to provide the youth offender with clear expectations about what programs must be successfully completed by the youth offender.

(4) "Youth authority" means the Oregon Youth Authority.

(5) "Youth correction facility" has the meaning given that term in ORS 420.005.

(6) "Youth offender" has the meaning given that term in ORS 419A.004. [1995 c.422 §1b; 1997 c.433 §6]

OREGON YOUTH AUTHORITY

420A.010 Creation and duties. (1) The Oregon Youth Authority is established. The youth authority shall:

(a) Supervise the management and administration of youth correction facilities, state parole and probation services, community out-of-home placement for youth offenders committed to its legal custody and other functions related to state programs for youth corrections;

(b) Provide capital improvements and capital construction necessary for the implementation of all youth correction facilities;

(c) Carry out dispositions of youth offenders committed to its legal custody;

(d) Exercise custody and supervision over those youth offenders committed to the youth authority by order of the juvenile court and persons placed in the physical custody of the youth authority under ORS 137.124 or other statute until the time that a lawful release authority authorizes release or terminates the commitment or placement;

(e) Provide adequate food, clothing, health and medical care, sanitation and security for confined youth offenders and others in youth authority custody;

(f) Provide youth offenders and others in youth authority custody with opportunities for self-improvement and work; and

(g) Conduct investigations and prepare reports for release authorities.

(2) To meet the individual circumstances of each person committed to its custody, the youth authority shall:

(a) Develop a flexible fee-for-service provider system that can respond quickly to each person's identified and changing circumstances; and

(b) Develop a process for joint state and county review of contracts entered into under subsection (6)(b) of this section and paragraph (a) of this subsection based on:

(A) Measurable outcomes, which must include in dominant part the reduction of future criminal or antisocial conduct and which also must include:

(i) Academic progress;

(ii) Social adjustments;

(iii) Behavioral improvements;

(iv) Rearrests; and

(v) Other measurements as determined by the youth authority;

(B) Performance measurements including:

(i) Fiscal accountability;

(ii) Compliance with state and federal regulations;

(iii) Record keeping, including data collection and management; and

(iv) Reporting; and

(C) Provision of services identified under the reformation plan.

(3) In order to measure performance as required in subsection (2) of this section, the youth authority shall require parties to the contracts to compile, manage and exchange data to the extent of available information systems resources to facilitate the measurement of outcomes including, but not limited to, reduction in future criminal or antisocial conduct.

(4) The youth authority may administer a program of state assistance to counties for the construction and operation of local youth detention facilities or to purchase detention services.

(5) The youth authority shall accept and exercise legal or physical custody of youth offenders and others 12 years of age and over and under 25 years of age who are committed to, or placed with, the youth authority pursuant to:

(a) A juvenile court adjudication and disposition under ORS chapter 419C; or

(b) ORS 137.124.

(6)(a) The youth authority shall cooperate with and assist county governments and juvenile departments in carrying out the principles and purposes of the juvenile justice system as provided in ORS 419C.001.

(b) The youth authority is authorized to contract with counties, groups of counties or private providers to administer juvenile corrections programs and services as provided in ORS 420.017, 420.019, 420A.145 and 420A.155 (1) to (4).

(c) The youth authority may provide consultation services related to the juvenile justice system to local or statewide public or private agencies, groups and individuals or may initiate such consultation services. Consultation services include, but are not limited to, conducting studies and surveys, sponsoring or participating in educational programs and providing advice and assistance. Nothing in ORS 419C.001 and 420A.005 to 420A.155 is intended to diminish the state's efforts to plan, evaluate and deliver effective human services programs to youth offenders, either in a youth correction facility or on probation or parole. Therefore, the Oregon Youth Authority and the Department of Human Services shall jointly develop and implement needed social and rehabilitative services.

(7) The youth authority is the recipient of all federal funds paid or to be paid to the state to enable the state to provide youth correction programs and services assigned to the Department of Human Services prior to January 1, 1996.

(8) The youth authority shall report its progress in implementing the provisions of chapter 422, Oregon Laws 1995, to the Legislative Assembly at each odd-numbered year regular session.

(9) The equal access provisions of ORS 417.270 apply to the youth authority's development and administration of youth correction facilities, programs and services, including the development and implementation of the statewide diversion plan described in ORS 420.017.

(10) The youth authority shall:

(a) Be cognizant of and sensitive to the issue of overrepresentation of minority youth offenders in youth correction facilities;

(b) Endeavor to develop and operate, and require its subcontractors to develop and operate, culturally appropriate programs for youth offenders; and

(c) Keep data reflecting the ethnicity and gender of all youth offenders committed to its care.

(11) The youth authority is a designated agency as defined in ORS 181.010. [1995 c.422 §2; 1997 c.433 §7; 2003 c.396 §142; 2011 c.545 §53]

Note: Legislative Counsel has substituted "chapter 422, Oregon Laws 1995," for the words "this Act" in section 2, chapter 422, Oregon Laws 1995, compiled as 420A.010. Specific ORS references have not been substituted pursuant to 173.160. These sections may be determined by referring to the 1995 Comparative Section Table located in Volume 20 of ORS.

420A.012 Recidivism; definition; reporting system; duties of Oregon Youth Authority and juvenile departments. (1) The Oregon Youth Authority, in consultation with the Oregon Juvenile Department Directors' Association, shall adopt one or more definitions of recidivism and establish a recidivism reporting system applicable to youth offenders. The definition must be designed to address outcomes including, but not limited to, community safety and rehabilitation.

(2) The juvenile department of a county annually shall submit to the Oregon Youth Authority, in the form established under subsection (1) of this section, statistical data relating to the recidivism of delinquent youths experienced by the county during the previous year.

(3) The Oregon Youth Authority shall publish an annual comprehensive report that includes the data provided by the counties under subsection (2) of this section and similar data that measures the recidivism of youths supervised by the youth authority who are on probation or parole.

(4) The Oregon Youth Authority shall cooperate and, to the extent of available information systems resources, shall share data with the Department of Corrections to enable the department to track youth offenders who later enter the adult corrections system and to assess the effect of juvenile corrections on future criminal conduct that occurs during and after supervision by the Oregon Youth Authority and county juvenile departments. The Department of Corrections shall manage data under this subsection in a manner consistent with the confidentiality of juvenile court records and the effectiveness of orders of expunction. [1995 c.422 §§128,129; 1997 c.433 §8; 2001 c.904 §7; 2001 c.905 §8]

Note: 420A.012 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 420A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

420A.014 Enumeration of duties not exclusive. The enumeration of duties, functions and powers in ORS 420A.010 is not intended to be exclusive nor limit the duties, functions and powers imposed on or vested in the Oregon Youth Authority by other statutes. [1995 c.422 §3]

420A.015 Director; appointment. (1) The Oregon Youth Authority is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers of the youth authority.

(2) The Governor shall appoint the director, who holds office at the pleasure of the Governor.

(3) The director shall receive a salary as provided by law or, if not so provided, as prescribed by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the director in the performance of official duties.

(4) For purposes of administration, subject to the approval of the Governor, the Director of the Oregon Youth Authority may organize and reorganize the youth authority as the director considers necessary to conduct properly the work of the youth authority.

(5) The director may divide the functions of the youth authority into administrative divisions. Each division is under the supervision of a person appointed by the director, subject to the approval of the Governor, to serve at the pleasure of the director and not to be subject to the State Personnel Relations Law. Each person must be well qualified by technical training and experience in the functions to be performed by the person. [1995 c.422 §5]

420A.017 Senate confirmation of director. The appointment of the Director of the Oregon Youth Authority is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565. [1995 c.422 §6]

420A.020 Subordinate officers and employees; appointment. (1) The Director of the Oregon Youth Authority may appoint, subject to the approval of the Governor, a deputy director to serve at the pleasure of the director, with authority to act for the director in the absence of the director but subject to the control of the director at all times. The designation of the deputy director must be by written order, filed with the Secretary of State.

(2) Subject to any applicable provisions of the State Personnel Relations Law, the director shall appoint all subordinate officers and employees of the youth authority, prescribe their duties and fix their compensation. [1995 c.422 §7]

420A.021 Authority of Oregon Youth Authority to require fingerprints. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Oregon Youth Authority may require the fingerprints of a person who:

(1) Is employed or applying for employment by the youth authority;

(2) Provides services or seeks to provide services to the youth authority as a contractor, vendor or volunteer; or

(3) Is an applicant to operate a youth offender foster home, as defined in ORS 420.888, or who is an adult member of the applicant's household as defined by rule. [2005 c.730 §61; 2009 c.207 §1]

Note: 420A.021 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 420A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

420A.022 Certification of employees to provide mental health services; rules. (1) The Oregon Youth Authority may certify employees of the authority to provide mental health services to youth offenders and other persons placed in the physical custody of the authority in accordance with standards established by the authority by rule.

(2) As used in this section, "youth offenders" has the meaning given that term in ORS 419A.004. [2011 c.333 §2]

Note: 420A.022 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 420A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Section 3, chapter 333, Oregon Laws 2011, provides:

Sec. 3. The licensure, certification and practice requirements established by chapter 442, Oregon Laws 2009, do not apply to the provision of mental health services by current or former employees of:

(1) The Department of Corrections, if the mental health services are provided within the employee's scope of employment with the department on or after January 1, 2011, and before the date that is 30 days after the effective date of the rules adopted under section 1 of this 2011 Act [423.077].

(2) The Oregon Youth Authority, if the mental health services are provided within the employee's scope of employment with the authority on or after January 1, 2011, and before the date that is 30 days after the effective date of rules adopted by the authority under section 2 of this 2011 Act [420A.022]. [2011 c.333 §3]

420A.023 Authority of youth correction officers to exercise power of peace officer. (1) The Director of the Oregon Youth Authority may authorize an individual youth correction officer or group of youth correction officers to exercise the powers and authority of a peace officer in the supervision and custody of youth offenders and persons in the physical custody of the youth authority under ORS 137.124 or other applicable law.

(2) The authority of a youth correction officer acting as a peace officer under subsection (1) of this section includes but is not limited to:

(a) Preventing an escape from the grounds of a youth correction facility by a person in the custody of the youth authority; and

(b) Going beyond the grounds of a youth correction facility to:

(A) Pursue a person in the custody of the youth authority who is in the act of escaping from a youth correction facility;

(B) Search for a person in the custody of the youth authority who is in the act of escaping from a youth correction facility; and

(C) Recapture a person in the custody of the youth authority who is in the act of escaping from a youth correction facility.

(3) A youth correction officer acting as a peace officer under subsection (1) of this section retains the authority until the law enforcement agency that has general jurisdiction over the area in which the escape or attempted escape took place assumes responsibility for recapturing the person.

(4) The Oregon Youth Authority shall inform the appropriate law enforcement agency of the escape or attempted escape of a person in youth authority custody as soon as is reasonably practicable. [1995 c.422 §9]

420A.025 Rules. In accordance with applicable provisions of ORS chapter 183, the Director of the Oregon Youth Authority may adopt rules necessary for the administration of the laws that the Oregon Youth Authority is charged with administering. [1995 c.422 §8]

420A.030 Oregon Youth Authority Account. (1) The Oregon Youth Authority Account is established in the General Fund of the State Treasury. Except for moneys otherwise designated by statute, all fees, assessments and other moneys received by the Oregon Youth Authority shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously and shall be used by the youth authority for purposes authorized by law.

(2) The youth authority shall keep a record of all moneys deposited in the account. The record shall indicate by separate cumulative accounts the sources from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The Oregon Youth Authority is authorized to accept gifts, grants and donations from any source to carry out the duties imposed upon the youth authority. [1995 c.422 §§10,11]

420A.032 Revolving fund. (1) Upon written request of the Oregon Youth Authority, the Oregon Department of Administrative Services shall establish a revolving fund by drawing warrants on amounts appropriated to the Oregon Youth Authority for operating expenses. The revolving fund shall be deposited with the State Treasurer, to be held in a special account against which the Oregon Youth Authority may draw checks.

(2) The revolving fund established under subsection (1) of this section may be used by the Oregon Youth Authority to pay expenses of youth authority operations when it is appropriate to make immediate payments for goods and services, including advance payments of travel expenses or emergency payroll draws.

(3) The revolving fund shall be reimbursed by funds drawn as authorized by law and charged against the appropriate fund or account. [1995 c.422 §12]

420A.035 Authorization to deposit money belonging to youth offenders in trust account. The Oregon Youth Authority may deposit money belonging to youth offenders in a trust account in the State Treasury separate and distinct from the General Fund. Interest earned by the account, if any, shall accrue to the benefit of the account. [1995 c.422 §12a]

420A.040 Provision of juvenile corrections programs and services to tribal youth offender; agreements; award of funds. (1) An agency that provides juvenile corrections programs may enter into an agreement with a tribe for the purposes of placing a tribal youth offender into a state youth correction facility or program. The tribe shall pay the agency reasonable expenses associated with the incarceration and treatment of the youth offender.

(2)(a) The Oregon Youth Authority may receive applications from, and award funds under a competitive process to, tribes for the administration and provision of services to tribal youth. The services eligible for funding under this subsection must be intended to protect the public and reduce juvenile delinquency.

(b) As used in this subsection, "tribal youth" means a member of a tribe who is:

(A) A youth as defined in ORS 419A.004; or

(B) A person under 18 years of age who:

(i) Has more than one of the risk factors identified in ORS 417.855 (2)(a); or

(ii) Is demonstrating at-risk behaviors that will lead to imminent or increased involvement in the juvenile justice system.

(3) As used in this section, "tribe" means a federally recognized Indian tribe in Oregon. [1995 c.422 §131L; 2009 c.239 §1]

Note: 420A.040 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 420A or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

YOUTH CORRECTION FACILITIES

420A.100 Authority to establish and operate. (1) The Oregon Youth Authority may establish and operate youth correction facilities. If the youth authority establishes youth correction facilities, the youth authority shall site the facilities in accordance with applicable state and local laws.

(2) Youth correction facilities must be used for the confinement of youth offenders and others placed in the custody of the youth authority and for the development of those persons into productive members of society. [1995 c.422 §13]

420A.105 Rules. The Director of the Oregon Youth Authority may adopt rules necessary to carry out the provisions of ORS 420A.105 to 420A.155. The rules must include but need not be limited to:

(1) Procedures by which youth offenders may apply for transfers from one level of custody to another; and

(2) Rules applicable to parole of youth offenders. [1995 c.422 §15]

420A.108 Policy regarding rules and dispositions for violations of rules; review of dispositions. (1) It is the policy of the State of Oregon that:

(a) Rules regulating the conduct of youth offenders be based on the following principles and goals:

(A) Concrete expectations and goals for the conduct of youth offenders;

(B) Safety of youth correction facility staff, the public, visitors and youth offenders;

(C) Maintenance of order within youth correction facilities;

(D) Maintenance of a structured environment within youth correction facilities; and

(E) Maintenance of an atmosphere necessary for effective education, training, treatment and reform within youth correction facilities.

(b) Dispositions and sanctions for violations of rules regulating the conduct of youth offenders must be structured to reflect the severity and frequency of the violations and must be consistently and promptly imposed.

(2) The Director of the Oregon Youth Authority, upon request, shall review any disposition that results in the transfer of a youth offender to a different youth correction facility no later than 72 hours after the transfer. [1995 c.422 §19]

420A.111 Levels of custody; transfer between levels; significance. (1) The Director of the Oregon Youth Authority may authorize the transfer of a youth offender from one level of custody to another.

(2) Before a transfer under subsection (1) of this section may take place, the Director of the Oregon Youth Authority shall review the record of the youth offender and enter an order granting or denying the transfer.

(3) The youth offender subject to a transfer order, or an order denying transfer, may request a hearing. The request must be in writing and submitted no later than 10 days after receipt of the order.

(4) In a hearing that would result in the transfer of a youth offender to a less restrictive setting, the youth offender has the burden of demonstrating that the transfer is warranted and consistent with ORS 419C.001.

(5) Different levels of custody in youth correction facilities reflect the differences between the level of security and direct supervision of the facilities. [1995 c.422 §§14,18]

420A.115 Parole of youth offenders. (1) The Director of the Oregon Youth Authority may authorize any youth offender to go on parole, subject to conditions of supervision and custody established by the Director of the Oregon Youth Authority and subject to being taken into custody and detained under written order of the Director of the Oregon Youth Authority or as provided in ORS 420A.120.

(2) The Director of the Oregon Youth Authority shall determine whether violations of conditions of parole have occurred. [1995 c.422 §16]

420A.120 Suspension of parole or conditional release; rules. (1) The Oregon Youth Authority, upon being informed and having reasonable grounds to believe that a youth offender under the youth authority's supervision or control has violated the conditions of parole or other conditional release from custody, may suspend the youth offender's parole or conditional release and order that the youth offender be taken into custody and detained. The written order of the youth authority is sufficient warrant for any law enforcement officer to take custody of the youth offender.

(2) The youth authority shall adopt rules establishing standards and procedures for revocation of parole and conditional release. The rules must be consistent with the requirements of due process and other applicable law.

(3) If the juvenile court has committed a youth offender to the legal custody of the youth authority and has placed the youth offender on probation, and the youth authority

has probable cause to believe that the youth offender has violated a condition of probation, the juvenile court, upon request of the youth authority, may order that the youth offender be taken into custody as provided in ORS chapter 419C. [1995 c.422 §17; 1997 c.727 §10]

420A.122 Notice of release or discharge of youth offender. (1) Prior to a youth offender's release or discharge from a youth correction facility, the Oregon Youth Authority shall notify the following of the release or discharge:

(a) Law enforcement agencies in the community in which the youth offender is going to reside;

(b) The school administrator of the school the youth offender will attend or, if the school the youth offender will attend is unknown, the school administrator of the school district in which the youth offender will reside; and

(c) If requested by the victim, as defined in ORS 419A.004, the victim.

(2) The youth authority shall include in the notification:

(a) The youth offender's name and date of birth;

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

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

(d) The name and contact information of the individual to contact for further information about the notification;

(e) The youth offender's date of release or discharge;

(f) The type of placement to which the youth offender is released;

(g) The specific offense that brought the youth offender within the jurisdiction of the juvenile court;

(h) Any terms of parole including, but not limited to, whether school attendance is a condition of release; and

(i) Any other conditions required by the court.

(3) The youth authority, a law enforcement agency or anyone employed by or acting on behalf of the youth authority or law enforcement agency with responsibility for sending records under this section is not liable civilly or criminally for failing to disclose the information under this section.

(4) No later than seven days after a youth offender's release or discharge from a youth correction facility, the Department of Education or its contractor shall provide the youth offender's education records to the school administrator of the school or of the school district in which the youth offender enrolls.

(5) As used in this section, "school administrator" has the meaning given that term in ORS 419A.305. [1999 c.620 §4; 2001 c.884 §7; 2007 c.609 §25; 2009 c.447 §9]

Note: 420A.122 was added to and made a part of 420A.005 to 420A.155 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

420A.125 Youth offenders; intake assessments; reformation plan; placement. (1) The Oregon Youth Authority shall conduct, or cause to be conducted, intake assessments when youth offenders and other persons are initially placed in a youth correction facility.

(2) At the time of the intake assessment, the youth authority shall provide the person with a copy of the rules of conduct for youth offenders and other persons in custody in youth correction facilities. The youth authority shall also provide a youth offender with information concerning the process for transferring from one level of custody to another.

(3) An intake assessment shall include the following for each person:

(a) A physical health evaluation;

(b) If appropriate, a psychiatric evaluation;

(c) A psychological evaluation if a psychological evaluation of the person has not been done in the six months prior to the person's commitment to the youth correction facility;

(d) A drug and alcohol abuse evaluation;

(e) If appropriate, a sex offender evaluation; and

(f) If appropriate, a vocational evaluation.

(4) For a youth offender, the intake assessment must also include an educational evaluation to be provided by the Department of Education. The educational evaluation must include evaluations for special education as required by the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

(5) Following assessment of a youth offender, the Director of the Oregon Youth Authority shall prepare, or cause to be prepared, a reformation plan for the youth offender and make the initial placement of the youth offender based upon the plan. The director shall base the placement on:

(a) The evaluations required by subsections (3) and (4) of this section;

(b) The severity of the conduct engaged in by the youth offender;

(c) The juvenile record of the youth offender; and

(d) The conduct of the youth offender during assessment. [1995 c.422 §20; 1999 c.369 §1]

420A.135 Secure regional youth facilities. (1) The Oregon Youth Authority may establish up to five secure regional youth facilities.

(2) A secure regional youth facility shall:

(a) Provide secure incarceration;

(b) Provide education and job and life skills training including, but not limited to, anger management and self-control; and

(c) Include a drug and alcohol treatment component that meets the standards promulgated by the Oregon Health Authority pursuant to ORS 430.357.

(3) The Director of the Oregon Youth Authority is solely responsible for determining which persons committed to, or placed in the custody of, the youth authority are eligible to participate in, and are accepted for placement in, a secure regional youth facility. The juvenile court may recommend to the Oregon Youth Authority that a youth offender be placed in a secure regional youth facility, but the recommendation is not binding on the youth authority. [1995 c.422 §§21,22; 2005 c.271 §4; 2009 c.595 §377]

420A.145 Regional youth accountability camps. (1) The Oregon Youth Authority may establish up to eight regional youth accountability camps.

(2) A regional youth accountability camp shall:

(a) Be based on a military basic training model that includes discipline, physical work, physical exercise and military drill;

(b) Provide for cognitive restructuring in conformance with generally accepted rehabilitative standards; and

(c) Include a drug and alcohol treatment component that meets the standards promulgated by the Oregon Health Authority pursuant to ORS 430.357.

(3) The youth authority may contract with all of the governing bodies of the counties in a region to administer cooperatively a regional youth accountability camp subject to the provisions of ORS 420.011, 420.014, 420A.108 and 420A.111 (5).

(4) The youth authority may contract with any private agency to administer a regional youth accountability camp subject to the provisions of ORS 420A.108 and 420A.111 (5). [1995 c.422 §23; 2005 c.271 §5; 2009 c.595 §378]

420A.147 Placement in regional youth accountability camps. (1) The Director of the Oregon Youth Authority is solely responsible for determining which persons committed to, or placed in the custody of, the youth authority are eligible to participate in, and are accepted for, a regional youth accountability camp. The juvenile court may recommend to the Oregon Youth Authority that a youth offender be placed in a regional youth accountability camp, but the recommendation is not binding on the youth authority.

(2) In determining whether to place a person in a regional youth accountability camp, the Director of the Oregon Youth Authority must find that the person is physically and mentally able to withstand the rigors of the program or that the program can be modified to accommodate a person's physical or mental limitations. If the Director of the Oregon Youth Authority determines that a person's acceptance into a regional youth accountability camp is consistent with the safety of the community, the welfare of the person, the objectives of the regional youth accountability camp and the rules of the youth authority, the Director of the Oregon Youth Authority may place the person into the program. [1995 c.422 §24]

420A.155 Regional residential academies. (1) The Oregon Youth Authority may establish up to four regional residential academies.

(2) A regional residential academy shall:

(a) Provide a secure, closed residential campus;

(b) Provide year-round education, job and life skills training, vocational training and apprenticeship programs; and

(c) Include a drug and alcohol treatment component that meets the standards promulgated by the Oregon Health Authority pursuant to ORS 430.357.

(3) The youth authority may contract with all of the governing bodies of the counties in a region to administer cooperatively a regional residential academy subject to the provisions of ORS 420.011, 420.014, 420A.108 and 420A.111 (5).

(4) The youth authority may contract with any private agency to administer a regional residential academy subject to the provisions of ORS 420A.108 and 420A.111 (5).

(5) The Director of the Oregon Youth Authority is solely responsible for determining which persons committed to, or placed in the physical custody of, the youth authority are eligible to participate in, and are accepted for, a regional residential academy. The juvenile court may recommend to the Oregon Youth Authority that a youth offender be placed in a regional residential academy, but the recommendation is not binding on the youth authority. [1995 c.422 §§25,26; 2005 c.271 §6; 2009 c.595 §379]

SECOND LOOK

420A.200 Duration of custody of Oregon Youth Authority. (1) A person may not continue in the legal or physical custody of the Oregon Youth Authority after the person attains 25 years of age.

(2) Except as otherwise provided in ORS 137.124 and 420.011, when a person in the physical custody of the Oregon Youth Authority under ORS 137.124 attains 24 years and 11 months of age and if the person will not complete the term of imprisonment imposed before the person attains 25 years of age, the Oregon Youth Authority shall transfer the person to the physical custody of the Department of Corrections. [1995 c.422 §52]

420A.203 Eligibility for second look; report to sentencing court; hearing; disposition. (1)(a) This section and ORS 420A.206 apply only to persons who were under 18 years of age at the time of the commission of the offense for which the persons were sentenced to a term of imprisonment, who committed the offense on or after June 30, 1995, and who were:

(A) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370; or

(B) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 (5)(b)(A) or (7)(b).

(b) When a person described in paragraph (a) of this subsection has served one-half of the sentence imposed, the sentencing court shall determine what further commitment or disposition is appropriate as provided in this section. As used in this subsection and subsection (2) of this section, "sentence imposed" means the total period of mandatory incarceration imposed for all convictions resulting from a single prosecution or criminal proceeding not including any reduction in the sentence under ORS 421.121 or any other statute.

(2)(a) No more than 120 days and not less than 60 days before the date on which a person has served one-half of the sentence imposed, the Oregon Youth Authority or the Department of Corrections, whichever has physical custody of the person, shall file in the sentencing court a notice and request that the court set a time and place for the hearing required under this section. The youth authority or department shall serve the person with a copy of the notice and request for hearing on or before the date of filing.

(b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection, the sentencing court shall schedule a hearing for a date not more than 30 days after the date on which the person will have served one-half of the sentence imposed or such later date as is agreed upon by the parties.

(c) The court shall notify the following of the time and place of the hearing:

(A) The person and the person's parents;

(B) The records supervisor of the correctional institution in which the person is incarcerated; and

(C) The district attorney who prosecuted the case.

(d) The court shall make reasonable efforts to notify the following of the time and place of the hearing:

(A) The victim and the victim's parents or legal guardian; and

(B) Any other person who has filed a written request with the court to be notified of any hearing concerning the transfer, discharge or release of the person.

(3) In a hearing under this section:

(a) The person and the state are parties to the proceeding.

(b) The person has the right to appear with counsel. If the person requests that the court appoint counsel and the court determines that the person is financially eligible for appointed counsel at state expense, the court shall order that counsel be appointed.

(c) The district attorney represents the state.

(d) The court shall determine admissibility of evidence as if the hearing were a sentencing proceeding.

(e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within a reasonable time before the hearing, as determined by the court, the person must be given the opportunity to examine all reports and other documents concerning the person that the state, the Oregon Youth Authority or the Department of Corrections intends to submit for consideration by the court at the hearing.

(f) Except as otherwise provided by law or by order of the court based on good cause, the person must be given access to the records maintained in the person's case by the Oregon Youth Authority and the Department of Corrections.

(g) The person may examine all of the witnesses called by the state, may subpoena and call witnesses to testify on the person's behalf and may present evidence and argument. The court may permit witnesses to ap-

pear by telephone or other two-way electronic communication device.

(h) The hearing must be recorded.

(i) The hearing and the record of the hearing are open to the public.

(j) The question to be decided is which of the dispositions provided in subsection (4) of this section should be ordered in the case.

(k) The person has the burden of proving by clear and convincing evidence that the person has been rehabilitated and reformed, and if conditionally released, the person would not be a threat to the safety of the victim, the victim's family or the community and that the person would comply with the release conditions.

(4)(a) At the conclusion of the hearing and after considering and making findings regarding each of the factors in paragraph (b) of this subsection, the court shall order one of the following dispositions:

(A) Order that the person serve the entire remainder of the sentence of imprisonment imposed, taking into account any reduction in the sentence under ORS 421.121 or any other statute, with the person's physical custody determined under ORS 137.124, 420.011 and 420A.200.

(B) Order that the person be conditionally released under ORS 420A.206 at such time as the court may order, if the court finds that the person:

(i) Has been rehabilitated and reformed;

(ii) Is not a threat to the safety of the victim, the victim's family or the community; and

(iii) Will comply with the conditions of release.

(b) In making the determination under this section, the court shall consider:

(A) The experiences and character of the person before and after commitment to the Oregon Youth Authority or the Department of Corrections;

(B) The person's juvenile and criminal records;

(C) The person's mental, emotional and physical health;

(D) The gravity of the loss, damage or injury caused or attempted, during or as part of the criminal act for which the person was convicted and sentenced;

(E) The manner in which the person committed the criminal act for which the person was convicted and sentenced;

(F) The person's efforts, participation and progress in rehabilitation programs since the person's conviction;

(G) The results of any mental health or substance abuse treatment;

(H) Whether the person demonstrates accountability and responsibility for past and future conduct;

(I) Whether the person has made and will continue to make restitution to the victim and the community;

(J) Whether the person will comply with and benefit from all conditions that will be imposed if the person is conditionally released;

(K) The safety of the victim, the victim's family and the community;

(L) The recommendations of the district attorney, the Oregon Youth Authority and the Department of Corrections; and

(M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Authority, the Department of Corrections or the person.

(5) The court shall provide copies of its disposition order under subsection (4) of this section to the parties, to the records supervisor of the correctional institution in which the person is incarcerated and to the manager of the institution-based records office of the Department of Corrections.

(6) The person or the state may appeal an order entered under this section. On appeal, the appellate court's review is limited to claims that:

(a) The disposition is not authorized under this section;

(b) The court failed to comply with the requirements of this section in imposing the disposition; or

(c) The findings of the court are not supported by substantial evidence in the record. [1995 c.422 §53; 1997 c.727 §15; 2001 c.962 §99]

420A.206 Conditional release; release plan; conditions; effect of violation of release plan; revocation. (1)(a) If, after the hearing required by ORS 420A.203, the court determines that conditional release is the appropriate disposition, the court shall direct the Department of Corrections to prepare a proposed release plan. The Department of Corrections shall submit the release plan no later than 45 days after completion of the hearing. The Department of Corrections shall incorporate any conditions recommended by the court and shall consider any recommendations made by the Oregon Youth Authority. The release plan submitted to the court must include:

(A) A description of support services and program opportunities available to the person;

(B) The recommended conditions of the release and supervision;

(C) The level of supervision required;

(D) Conditions or requirements that provide for the safety of the victim, the victim's family and the community;

(E) For persons whose sentences include a requirement to make restitution or to pay compensatory fines or attorney fees and who have not yet made full payment, a payment schedule;

(F) Any conditions reasonably necessary to further the reform and rehabilitation of the person and to ensure compliance with the other conditions imposed; and

(G) Any special conditions necessary because of the person's individual circumstances.

(b) If the court does not approve the proposed release plan, the court shall return the plan to the Department of Corrections with recommended modifications and additions. The Department of Corrections shall submit a revised plan to the court no later than 15 days after receipt of the court's recommended modifications and additions.

(c) If the court does not approve the revised plan, the court shall make any changes that the court deems appropriate and prepare the final release plan. The final release plan must require, in addition to any other conditions, that the person:

(A) Comply with the conditions of post-release supervision;

(B) Be under the supervision of the Department of Corrections and its representatives and follow the direction and counsel of the Department of Corrections and its representatives;

(C) Answer all reasonable inquiries of the court or the supervisory authority of the Department of Corrections;

(D) Report to the supervision officer as directed by the court or the supervisory authority of the Department of Corrections;

(E) Not own, possess or be in control of any dangerous weapon or deadly weapon, as those terms are defined in ORS 161.015, or any dangerous animal;

(F) Respect and obey all municipal, county, state and federal laws;

(G) Participate in a victim impact treatment program; and

(H) Pay any restitution, compensatory fine or attorney fees ordered and regularly perform any community service ordered.

(2) When the court has approved a final release plan, the court shall enter an order conditionally releasing the person. The order of conditional release shall:

(a) State the conditions of release;

(b) Require the person to comply fully with all of the conditions of release;

(c) Confirm that the person has been given a copy of the conditions of release;

(d) Continue the person's commitment to the legal custody of the Department of Corrections;

(e) Provide that the Department of Corrections or its designee shall supervise the person;

(f) Provide that the period of supervision is the entire remainder of the sentence of imprisonment imposed, taking into account any reduction in the sentence under ORS 421.121 or any other statute, unless the conditional release is revoked or suspended; and

(g) Require that the Department of Corrections or its designee submit a report to the court no later than 90 days after the person is conditionally released and at least every 180 days thereafter informing the court of the person's circumstances and progress on conditional release.

(3)(a) A person conditionally released under this section remains within the jurisdiction of the sentencing court for the period of the conditional release.

(b) At any time after the entry of an order of conditional release, the court, on its own motion or on motion of the Department of Corrections, may amend the conditional release order to modify the conditions of the person's release and supervision, providing that the modifications are consistent with the requirements for conditions of release in subsections (1) and (2) of this section. Before entering an amended order under this paragraph, the court shall provide the Department of Corrections and the person with a reasonable amount of time to comment on the proposed modifications. The court shall serve the Department of Corrections and the person with a copy of the amended order at least 15 days before the order takes effect.

(c) The Department of Corrections and the supervisory authority may adjust the level of the person's supervision as is appropriate to the person's progress and conduct in the community.

(4)(a) If an officer of the Department of Corrections or the supervisory authority or a law enforcement officer has reasonable grounds to believe that a person released under this section has violated a condition of the release, the officer may take the person into custody and detain the person pending a hearing on the alleged violation as provided in paragraph (c) of this subsection.

No later than 24 hours after a person is taken into custody under this subsection, the Department of Corrections or the supervisory authority shall file a notice and affidavit with the court as provided in paragraph (b) of this subsection and serve a copy of the notice and affidavit on the person.

(b) When a notice and affidavit is filed under paragraph (a) of this subsection and if the court finds that the notice and affidavit state reasonable grounds to believe the person has violated a condition of the release, the court shall issue an order that the person appear and show cause why the conditional release should not be revoked or suspended as a sanction for the alleged violation. When a court issues an order under this paragraph, the court shall:

(A) Serve a copy of the order to show cause on the person and the district attorney; and

(B) Provide the person with written notice containing the following information:

(i) The time, place and purpose of the hearing;

(ii) That the person has the right to have adverse witnesses present at the hearing for purpose of confrontation and cross-examination unless the court determines that good cause exists for not permitting confrontation;

(iii) That the person has the right to subpoena witnesses and present documentary evidence and testimony of witnesses;

(iv) That the person has the right to be represented by counsel and, if financially eligible, to have counsel appointed at state expense as provided in paragraph (d) of this subsection; and

(v) The possible sanction authorized if the court determines that the person has violated the conditions of release.

(c) The court shall hold the hearing no more than 15 days after issuing the order to appear and show cause. The court may order the person to be detained pending the hearing and disposition.

(d) In a hearing under this subsection:

(A) The person has the right to be represented by counsel and, if financially eligible, to have counsel appointed at state expense if the court determines, after request, that the request is based on a timely and colorable claim that:

(i) The person has not committed the alleged violation of the release conditions;

(ii) Even if the violation is a matter of public record or is uncontested, there are substantial reasons that justify or mitigate the violation and make revocation inappropriate and the reasons are complex or otherwise difficult to develop or present; or

(iii) The person, in doubtful cases, appears to be incapable of speaking effectively on the person's own behalf;

(B) The Department of Corrections or the supervisory authority has the burden of proving the alleged violation by a preponderance of the evidence;

(C) The state is a party and is represented by the district attorney;

(D) The standards for the introduction and admissibility of evidence in contested case hearings under ORS 183.450 (1) and (2) apply in the hearing;

(E) If the court finds that the person has violated the conditions of release and that subsection (5) of this section does not apply, the person has the burden of establishing good cause why the conditional release should not be revoked or suspended; and

(F) At the conclusion of the hearing, the court shall enter an order containing findings of fact and, if the court finds that the person violated a condition of release, stating what sanctions are imposed.

(e) Except as provided in subsection (5) of this section, when the court finds that the person has violated a condition of release, the court shall impose one or more of the following sanctions:

(A) Adjustments to the level of supervision;

(B) Modifications of the conditions of release;

(C) Any appropriate available local sanctions including, but not limited to, community service work, house arrest, electronic surveillance, restitution centers, work release centers or day centers;

(D) Suspension of conditional release for up to 180 days; or

(E) Revocation of conditional release.

(5) At the conclusion of the hearing, the court shall revoke the person's conditional release and order the person committed to the physical custody of the Department of Corrections to be confined for the entire remainder of the sentence of imprisonment imposed, taking into account any reduction in the sentence under ORS 421.121 or any other statute, if the court finds that:

(a) The person has been convicted of a new criminal offense;

(b) The person has violated the condition prohibiting ownership, possession or control of a dangerous weapon or deadly weapon, as those terms are defined in ORS 161.015, or a dangerous animal; or

(c) The person's conditional release has been suspended twice under this section within the past 18 months.

(6)(a) The state, the Department of Corrections or the person may appeal from an order of conditional release under this section. The appellate court's review is limited to claims that the court failed to comply with the requirements of law in ordering the conditional release.

(b) The state, the Department of Corrections or the person may appeal from an order of the court entered under subsection (4) or (5) of this section. The appellate court's review is limited to claims that:

(A) The disposition is not authorized under this section;

(B) The court failed to comply with the requirements of law; and

(C) The finding of the court that the person did or did not violate a condition of release is not supported by substantial evidence in the record. [1995 c.422 §56; 1997 c.727 §16; 2001 c.962 §92]

MISCELLANEOUS PROVISIONS

420A.220 Damage to property of employee of Oregon Youth Authority; claims; payment. (1) The Oregon Youth Authority may audit, allow and pay a claim for damage to property made by an employee from funds appropriated to the youth authority if:

(a) The damage to property arises out of the employee's employment at one of the institutions or facilities operated by the youth authority; and

(b) The employee files a written claim with the employee's employer within 180 days after the employee discovers or should have discovered the damage.

(2) No claim under subsection (1) of this section shall be paid:

(a) That exceeds, in the aggregate with payments of other claims, the moneys appropriated for such purpose.

(b) To the extent that the person incurring damage has been or may be compensated by liability insurance or otherwise.

(c) If the youth authority determines the cause or occasion of the accident resulting in damage is chargeable to the conduct or negligence of the person damaged.

(3) The decision of the youth authority to reject any claim filed under this section is final and is not subject to review under ORS chapter 183 or by any other agency or court. The provisions of this section do not affect any other remedy that may be available to the claimant under law.

(4)(a) If any person owes a debt to this state or a state agency, and the debt has been fixed by final judgment of a court of competent jurisdiction or is no longer subject to judicial review, the youth authority shall deduct the amount of the debt from any award made to that person under this section.

(b) The youth authority shall request the State Treasurer to transfer to the appropriate fund or account to which the debt is owed, an amount equal to the amount deducted from the award under paragraph (a) of this subsection, for use during that biennium in accordance with law by the state agency administering the fund or account to which the debt is owed. The State Treasurer shall evidence the transfer by proper bookkeeping entries. If the youth authority or State Treasurer cannot determine the appropriate fund or account, the amount shall be transferred to the General Fund for general governmental purposes.

(c) Any debt owed by a person to this state or a state agency is satisfied, upon the completion of a transfer made pursuant to paragraph (b) of this subsection, to the extent of the amount so transferred. [1999 c.905 §10]

420A.223 Juvenile Justice Information System; establishment; rules. (1) The Juvenile Justice Information System, an electronic information system administered by the state through the Oregon Youth Authority, is established. The youth authority shall adopt rules governing the administration of the Juvenile Justice Information System including, but not limited to:

(a) Confidentiality of information;

(b) State and county roles and costs; and

(c) County reporting requirements.

(2) The youth authority shall develop and administer the Juvenile Justice Information System according to the Criminal Justice Information Standards program established under ORS 181.715.

(3) Counties shall provide the youth authority with required data elements in the format required by the rules of the youth authority at no cost to the state. [1999 c.595 §1]