

House Bill 2940

Sponsored by Representative BYNUM (at the request of Oregon Youth Authority) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates exception to 28-day time limit for detention of youth if request for waiver hearing is pending.

Permits youth to waive 10-day detention review hearings. Extends frequency of detention review hearings to 30 days if request for waiver hearing is pending. Permits youth to waive individual 30-day detention review hearing.

A BILL FOR AN ACT

Relating to detention of youth; amending ORS 419C.150 and 419C.153.

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

SECTION 1. ORS 419C.150 is amended to read:

419C.150. (1) Except as **otherwise** provided in [*subsection (3) of*] this section, a youth may be held in detention under this section and ORS 419C.145, 419C.153 and 419C.156 for a maximum of 28 days except for good cause shown prior to the expiration of the 28-day period. If good cause for continued detention is shown, the period of detention may be extended for no more than an additional 28 days unless the adjudication is continued with the express consent of the youth.

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

(3)(a) The time limits described in subsection (1) of this section do not apply if:

(A) The court has stayed the proceedings on the petition alleging jurisdiction under ORS 419C.005 pursuant to ORS 419C.378;

(B) The court has not entered an order determining the youth's fitness to proceed pursuant to a motion made under ORS 419C.378 or the motion has not otherwise been resolved; and

(C) The court holds the review hearings required by ORS 419C.153 and determines that detention of the youth under ORS 419C.145 should continue.

(b)(A) Except as provided in subparagraph (B) of this paragraph, the detention of the youth whose detention has been continued under paragraph (a) of this subsection may be extended for no more than 28 days upon entry of an order determining the youth's fitness to proceed pursuant to a motion made under ORS 419C.378 or upon other resolution of the motion, and if the court holds the review hearings required by ORS 419C.153 and determines that detention of the youth under ORS 419C.145 should continue.

(B) The detention of the youth may be extended for more than 28 days under this paragraph if expressly agreed to by the youth, and if the court holds the review hearings required by ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 419C.153 and determines that detention of the youth under ORS 419C.145 should continue.

2 **(4)(a) The time limits described in subsection (1) of this section do not apply if:**

3 **(A) The state has filed a motion requesting waiver under ORS 419C.349;**

4 **(B) The motion has not been resolved; and**

5 **(C) The court holds the review hearings required by ORS 419C.153 and determines that**
 6 **detention of the youth should continue.**

7 **(b)(A) Except as provided in subparagraph (B) of this paragraph, the detention of the**
 8 **youth whose detention has been continued under paragraph (a) of this subsection may be**
 9 **extended for no more than 28 days upon entry of an order denying a motion for waiver**
 10 **hearing or an order denying waiver, and if the court holds the review hearings required by**
 11 **ORS 419C.153 and determines that detention of the youth should continue.**

12 **(B) The detention of the youth may be extended for more than 28 days under this para-**
 13 **graph if expressly agreed to by the youth, and if the court holds the review hearings required**
 14 **by ORS 419C.153 and determines that detention of the youth should continue.**

15 **SECTION 2.** ORS 419C.153 is amended to read:

16 **419C.153. (1)(a) Except as provided in subsection (2) of this section or waived by the youth**
 17 **under paragraph (b) of this subsection, any youth ordered detained under ORS 419C.145, 419C.150**
 18 **and 419C.156 shall have a review hearing at least every 10 days, excluding Saturdays, Sundays and**
 19 **judicial holidays. At the review hearing the court shall determine whether sufficient cause exists to**
 20 **require continued detention of the youth. In addition, the court may review and may confirm, revoke**
 21 **or modify any order for the detention or release of the youth under this section or ORS 419C.109,**
 22 **419C.136, 419C.139, 419C.145, 419C.150 or 419C.156 and, in the event that the youth is alleged to**
 23 **have committed an offense which if committed by an adult would be a misdemeanor or Class C fel-**
 24 **ony, may do so ex parte. Release of a youth may not be revoked, however, except upon a finding that**
 25 **the youth may be detained under this section or ORS 419C.145, 419C.150 and 419C.156, and after a**
 26 **hearing is held in accordance with ORS 419C.109, 419C.136 and 419C.139. [If the victim requests, the**
 27 **district attorney or juvenile department shall notify the victim of the review hearing.]**

28 **(b) Upon the filing with the court of a written waiver signed by the youth and the youth's**
 29 **counsel, the court may waive a review hearing under this subsection. The waiver filed with**
 30 **the court must certify that the youth and the youth's counsel had contact no more than 10**
 31 **days prior to the date the waiver is filed.**

32 **(2)(a) Unless waived by the youth under paragraph (b) of this subsection, any youth de-**
 33 **tained under ORS 419C.145, 419C.150 and 419C.156 in whose case the state has filed a request**
 34 **for a waiver hearing under ORS 419C.349 (1) shall have a review hearing at least every 30**
 35 **days. At the review hearing the court shall determine whether sufficient cause exists to re-**
 36 **quire continued detention of the youth and shall review the progress and timelines of the**
 37 **case. In addition, the court may review and may confirm, revoke or modify any order for the**
 38 **detention or release of the youth under this subsection or ORS 419C.109, 419C.136, 419C.139,**
 39 **419C.145, 419C.150 or 419C.156. Release of a youth may not be revoked, however, except upon**
 40 **a finding that the youth may be detained under this section or ORS 419C.145, 419C.150 or**
 41 **419C.156, and after a hearing is held in accordance with ORS 419C.109, 419C.136 and 419C.139.**

42 **(b) Upon the filing with the court of a written waiver signed by the youth and the youth's**
 43 **counsel, the court may waive a review hearing under this subsection. The waiver filed with**
 44 **the court must certify that the youth and the youth's counsel had contact no more than 10**
 45 **days prior to the date the waiver is filed.**

1 **(3) If a victim requests, the district attorney or juvenile department shall notify the**
2 **victim of a review hearing under subsection (1) or (2) of this section.**
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