

Senate Bill 142

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Oregon Youth Authority)

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**.

Provides that persons committed to legal custody of Department of Corrections who are placed in physical custody of Oregon Youth Authority are subject to same provisions regarding transfer to institutions for mentally ill or mentally deficient, voluntary admission to hospitals, violation of rules and authority's liability for their misconduct as are youth offenders.

Permits Oregon Youth Authority to retain legal custody of youth offender upon parole.

A BILL FOR AN ACT

1
2 Relating to the Oregon Youth Authority; amending ORS 420.031, 420.040, 420.500, 420.505, 420.910
3 and 420A.108.

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

5 **SECTION 1.** ORS 420.031 is amended to read:

6 420.031. (1) The granting of legal custody and guardianship over the youth offender to the
7 Oregon Youth Authority does not terminate the juvenile court's jurisdiction over the youth offender.

8 (2) Upon parole of the youth offender from a youth correction facility, the *[legal custody of the*
9 *youth offender is vested in the parents of the youth offender or other person to whom the youth offender*
10 *is returned, subject to ORS 420.045 (3)]* **Oregon Youth Authority retains legal custody of the**
11 **youth offender, subject to ORS 420.045 (2).**

12 **SECTION 2.** ORS 420.040 is amended to read:

13 420.040. The youth correction facility, the superintendents thereof, the director and personnel
14 of the Oregon Youth Authority are not liable for any damages whatsoever that are sustained by any
15 person on account of the actions or misconduct of a youth offender **or other person** placed in a
16 youth correction facility.

17 **SECTION 3.** ORS 420.500 is amended to read:

18 420.500. No youth offender **or other person placed** in a youth correction facility may be
19 transferred to an institution for the mentally ill or mentally deficient for a period of more than 14
20 days unless the youth offender **or other person** has been committed to an institution for the men-
21 tally ill or mentally deficient in the manner specified in ORS 420.505 and 420.525.

22 **SECTION 4.** ORS 420.505 is amended to read:

23 420.505. (1) A youth offender *[at]* **or other person placed in** a youth correction facility may
24 apply for admission to a hospital or facility designated by the Department of Human Services. *[The*
25 *application may be made on behalf of the youth offender by]* The parents or legal guardian of the
26 youth offender **or other person may make the application on behalf of the youth offender or**
27 **other person.** However, the superintendent *[shall]* **is** not *[be]* required to cause the examination of
28 a youth offender **or other person** who applies under this section more often than once in six

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 months.

2 (2) Within five working days after receipt of the application, the superintendent of the youth
3 correction facility shall cause the youth offender **or other person** to be examined by one or more
4 qualified persons at the facility and shall request the examination of the youth offender **or other**
5 **person** by one or more qualified persons employed or designated by the department. The examina-
6 tion conducted or authorized by the department shall take place within five working days after re-
7 ceipt of the request from the superintendent. The examiners shall prepare separate reports and shall
8 submit such reports to the superintendent. A copy of the reports shall be given to the applicant.

9 (3) If the superintendent finds that there is a probable cause to believe that the youth offender
10 **or other person** is mentally ill and that it would be in the best interests of the youth offender **or**
11 **other person** to be admitted to a hospital or facility designated by the department, the superinten-
12 dent shall notify the department and shall order the youth offender **or other person** transferred
13 pursuant to ORS 179.473.

14 (4) [No] A youth offender [at] **or other person placed in** a youth correction facility **and** vol-
15 untarily admitted to a hospital or facility designated by the department [shall] **may not** be detained
16 therein more than 72 hours after the youth offender **or other person** is of the age specified in ORS
17 420A.010 (5) setting the age limits for which the Oregon Youth Authority may retain legal [and] **or**
18 physical custody of [the] a youth offender **or other person** and has given notice in writing of the
19 desire of the youth offender **or other person** to be released. If the youth offender **or other person**
20 is under the age specified in ORS 420A.010 (5) setting the age limits for which the Oregon Youth
21 Authority may retain legal and physical custody of the youth offender **or other person**, the youth
22 offender **or other person** may be returned to the youth correction facility after notice in writing
23 has been given by the parent or legal guardian of the youth offender **or other person**, that such
24 parent or guardian desires that the youth offender **or other person** be discharged from the hospital
25 or facility designated by the department.

26 **SECTION 5.** ORS 420.910 is amended to read:

27 420.910. (1)(a) When a youth offender **or other person** placed in a youth correction facility has
28 escaped or is absent without authorization from the youth correction facility or from the custody
29 of any person in whose charge the youth offender **or other person** lawfully has been placed, the
30 superintendent of the youth correction facility concerned, or the superintendent's authorized repre-
31 sentative, may order the arrest and detention of the youth offender **or other person**.

32 (b) When a youth offender on parole from a youth correction facility is absent from the custody
33 of a person in whose charge the youth offender lawfully has been placed, or has failed to abide by
34 rules of parole supervision or to respond successfully to prior sanctions imposed by the Oregon
35 Youth Authority pursuant to administrative rule, the superintendent of the youth correction facility
36 from which the youth offender is on parole, or the superintendent's authorized representative, may
37 order the arrest and detention of the youth offender.

38 (c) The superintendent or authorized representative may issue an order under this subsection
39 based on a reasonable belief that grounds exist for issuing the order. Where reasonable, the super-
40 intendent or representative shall investigate to ascertain whether such grounds exist.

41 (2) Any order issued by the superintendent of a youth correction facility, or the superintendent's
42 representative, as authorized by subsection (1) of this section constitutes full authority for the arrest
43 and detention of the escapee, absentee or parole violator, and all laws applicable to warrants of
44 arrest shall apply to such orders.

45 (3) In lieu of the procedure in subsection (1) of this section, the juvenile court of the county from

1 which the youth offender, **other person** or parolee was committed may direct issuance of a warrant
2 of arrest against the youth offender, **other person** or parolee when notified by the superintendent
3 or authorized representative of the superintendent of the youth correction facility concerned that
4 any youth offender **or other person** placed in a youth correction facility has escaped or is absent
5 without authorization from the institution to which committed, from parole supervision or from the
6 custody of any person in whose charge the youth offender **or other person** lawfully has been placed.

7 **SECTION 6.** ORS 420A.108 is amended to read:

8 420A.108. (1) It is the policy of the State of Oregon that:

9 (a) Rules regulating the conduct of youth offenders **and other persons placed in a youth**
10 **correction facility** be based on the following principles and goals:

11 (A) Concrete expectations and goals for the conduct of youth offenders **and other persons**
12 **placed in a youth correction facility**;

13 (B) Safety of **youth offenders and other persons placed in a youth correction facility**, youth
14 correction facility staff, the public[,] **and** visitors [*and youth offenders*];

15 (C) Maintenance of order within youth correction facilities;

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

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

19 (b) Dispositions and sanctions for violations of rules regulating the conduct of youth offenders
20 **and other persons placed in a youth correction facility** must be structured to reflect the severity
21 and frequency of the violations and must be consistently and promptly imposed.

22 (2) The Director of the Oregon Youth Authority, upon request, shall review any disposition that
23 results in the transfer of a youth offender **or other person** to a different youth correction facility
24 no later than 72 hours after the transfer.

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