

Senate Bill 207

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 Attorney General Hardy Myers for Attorney General's Restitution Reform Task Force)

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**.

Allows juvenile court to award compensatory fines in judgments in criminal actions involving youth offenders. Provides that formal accountability agreement must require that youth make restitution for physical injury or loss or damage to property. Allows restitution or compensatory fine of less than full amount of economic damages, with consent of victim. Defines "victim" for purposes of restitution or compensatory fines.

A BILL FOR AN ACT

1
2 Relating to compensation for victims of juvenile crime; creating new provisions; and amending ORS
3 137.295, 419A.004, 419B.395, 419C.236, 419C.450 and 419C.459.

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

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of ORS chapter 419C.**

6 **SECTION 2. (1)(a) Notwithstanding ORS 419C.501 and 419C.504, when the court has or-
7 dered a youth offender to pay restitution under ORS 419C.450 or a compensatory fine under
8 ORS 419C.459, the judgment must be entered in the register or docket of the court in the
9 manner provided by ORS chapter 18 for judgments in criminal actions. The judgment is a
10 judgment in favor of the state and may be enforced only by the state. If the state seeks to
11 enforce the judgment, the judgment must be enforced in the manner provided by ORS 18.252
12 to 18.993.**

13 **(b) Notwithstanding ORS 419A.255, a judgment for restitution entered under ORS 419C.450
14 or a compensatory fine entered under ORS 419C.459 is a public record. Judgments entered
15 under ORS 419C.450 or 419C.459 are judgments in criminal actions that are subject to ORS
16 18.048, 18.180 and 18.182.**

17 **(2) When a youth who is allowed diversion under ORS 419C.225, a youth who has entered
18 into a formal accountability agreement under ORS 419C.230 or a youth offender who has been
19 adjudicated makes a payment of money to be credited against monetary obligations imposed
20 as a result of the diversion, agreement or adjudication, the clerk of the court shall credit
21 and distribute the payment as provided in ORS 137.295.**

22 **SECTION 3. ORS 419A.004 is amended to read:**

23 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
24 otherwise:

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

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

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 (3) “Community service” has the meaning given that term in ORS 137.126.
- 2 (4) “Conflict of interest” means a *[person appointed to a local citizen review board who has a]*
3 *personal or pecuniary interest in a case [being reviewed by that board].*
- 4 (5) “Counselor” means a juvenile department counselor or a county juvenile probation officer.
- 5 (6) “Court” means the juvenile court.
- 6 (7) “Court appointed special advocate” or “CASA” means a person appointed by the court pur-
7 *suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.*
- 8 (8) “Court facility” has the meaning given that term in ORS 166.360.
- 9 (9) “Department” means the Department of Human Services.
- 10 (10) “Detention” or “detention facility” means a facility established under ORS 419A.010 to
11 *419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders*
12 *pursuant to a judicial commitment or order.*
- 13 (11) “Director” means the director of a juvenile department established under ORS 419A.010 to
14 *419A.020 and 419A.050 to 419A.063.*
- 15 **(12) “Economic damages” has the meaning given that term in ORS 31.710, except that**
16 **“economic damages” does not include future impairment of earning capacity.**
- 17 *[(12)]* (13) “Guardian” means guardian of the person and not guardian of the estate.
- 18 *[(13)]* (14) “Indian child” means any unmarried person less than 18 years of age who is:
- 19 (a) A member of an Indian tribe; or
- 20 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
21 *Indian tribe.*
- 22 *[(14)]* (15) “Juvenile court” means the court having jurisdiction of juvenile matters in the several
23 *counties of this state.*
- 24 *[(15)]* (16) “Local citizen review board” means the board specified by ORS 419A.090 and
25 *419A.092.*
- 26 *[(16)]* (17) “Parent” means the biological or adoptive mother and the legal father of the child,
27 *ward, youth or youth offender. As used in this subsection, “legal father” means:*
- 28 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
29 *established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and*
- 30 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
31 *cable tribal law.*
- 32 *[(17)]* (18) “Permanent foster care” means *(17)* an out-of-home placement in which there is a long-
33 *term contractual foster care agreement between the foster parents and the department that is ap-*
34 *proved by the juvenile court and in which the foster parents commit to raise a ward in substitute*
35 *care or youth offender until the age of majority.*
- 36 *[(18)]* (19) “Planned permanent living arrangement” means an out-of-home placement other than
37 *by adoption, placement with a relative or placement with a legal guardian that is consistent with*
38 *the case plan and in the best interests of the ward.*
- 39 *[(19)]* (20) “Public building” has the meaning given that term in ORS 166.360.
- 40 *[(20)]* (21) “Reasonable time” means a period of time that is reasonable given a child or ward’s
41 *emotional and developmental needs and ability to form and maintain lasting attachments.*
- 42 *[(21)]* (22) “Records” means any information in written form, pictures, photographs, charts,
43 *graphs, recordings or documents pertaining to a case.*
- 44 *[(22)]* (23) “Resides” or “residence,” when used in reference to the residence of a child, ward,
45 *youth or youth offender, means the place where the child, ward, youth or youth offender is actually*

1 living or the jurisdiction in which wardship or jurisdiction has been established.

2 [(23)] (24) "Restitution" has the meaning given that term in ORS 137.103.

3 [(24)] (25) "Serious physical injury" means:

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

5 (b) A physical injury that:

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

7 (B) Results in substantial and recurring pain; or

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

9 [(25)] (26) "Shelter care" means a home or other facility suitable for the safekeeping of a child,
10 ward, youth or youth offender who is taken into temporary custody pending investigation and dis-
11 position.

12 [(26)] (27) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for
13 holding children, youths and youth offenders pending further placement.

14 [(27)] (28) "Sibling" means one of two or more children or wards related:

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

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

17 [(28)] (29) "Substitute care" means an out-of-home placement directly supervised by the depart-
18 ment or other agency, including placement in a foster family home, group home or other child caring
19 institution or facility. "Substitute care" does not include care in:

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

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

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

25 [(29)] (30) "Surrogate" means a person appointed by the court to protect the right of the child,
26 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
27 appropriate public education.

28 [(30)] (31) "Tribal court" means a court with jurisdiction over child custody proceedings and
29 that is either a Court of Indian Offenses, a court established and operated under the code of custom
30 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
31 custody proceedings.

32 [(31)] (32) "Victim" means any person determined by the district attorney or juvenile department
33 to have suffered direct financial, psychological or physical harm as a result of an act that has
34 brought the youth or youth offender before the juvenile court. When the victim is a minor,
35 "victim" includes the legal guardian of the minor. The youth or youth offender may not be consid-
36 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-
37 presented by the district attorney, are considered the victims.

38 [(32)] (33) "Violent felony" means any offense that, if committed by an adult, would constitute
39 a felony and:

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

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

43 [(33)] (34) "Ward" means a person within the jurisdiction of the juvenile court under ORS
44 419B.100.

45 [(34)] (35) "Young person" means a person who has been found responsible except for insanity

1 under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

2 [(35)] (36) “Youth” means a person under 18 years of age who is alleged to have committed an
 3 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
 4 of the United States or a state, county or city.

5 [(36)] (37) “Youth care center” has the meaning given that term in ORS 420.855.

6 [(37)] (38) “Youth offender” means a person who has been found to be within the jurisdiction
 7 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
 8 of age.

9 **SECTION 4.** ORS 419C.236 is amended to read:

10 419C.236. (1) A formal accountability agreement may require participation in or referral to
 11 counseling, a period of community service, drug or alcohol education or treatment, vocational
 12 training or any other legal activity which in the opinion of the counselor would be beneficial to the
 13 youth.

14 (2) A formal accountability agreement may require that the youth make restitution to any per-
 15 son who was physically injured or who suffered loss of or damage to property as a result of the
 16 conduct alleged. Before setting the amount of restitution, the juvenile department shall consult with
 17 the victim concerning the amount of damage. **Unless the victim consents to a lesser amount of**
 18 **restitution, a formal accountability agreement must impose restitution in the full amount**
 19 **of loss or damages suffered by the victim.** Restitution does not limit or impair the right of a
 20 victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the victim
 21 be admissible in such civil action to prove consent or agreement by the victim. However, the court
 22 shall credit any restitution paid by the youth to a victim against any judgment in favor of the victim
 23 in such civil action.

24 (3) **For purposes of this section, “victim” has the meaning given that term in ORS**
 25 **137.103.**

26 **SECTION 5.** ORS 419C.450 is amended to read:

27 419C.450. (1)(a) It is the policy of the State of Oregon to encourage and promote the payment
 28 of restitution and other obligations by youth offenders as well as by adult offenders. In any case
 29 within the jurisdiction of the juvenile court pursuant to ORS 419C.005 in which the youth offender
 30 caused another person any physical, emotional or psychological injury or any loss of or damage to
 31 property, the victim has the right to receive prompt restitution. The district attorney shall investi-
 32 gate and present to the court, prior to or at the time of adjudication, evidence of the nature and
 33 amount of the injury, loss or damage. If the court finds from the evidence presented that a victim
 34 suffered injury, loss or damage, in addition to any other sanction it may impose, the court shall
 35 **include one of the following in the judgment:**

36 (A) *[Include in the judgment]* A requirement that the youth offender pay the victim restitution
 37 in a specific amount that equals the full amount of the victim’s injury, loss or damage as determined
 38 by the court[; or].

39 (B) **A requirement that the youth offender pay the victim restitution in a specific amount**
 40 **that is less than the full amount of the victim’s economic damages as determined by the**
 41 **court. The court may not order that the youth offender pay less than the full amount of**
 42 **economic damages without the consent of the victim.**

43 [(B)] (C) *[Include in the judgment]* A requirement that the youth offender pay the victim
 44 restitution, and that the specific amount of restitution will be established by a supplemental judg-
 45 ment based upon a determination made by the court within 90 days of entry of the judgment. In the

1 supplemental judgment, the court shall establish a specific amount of restitution that equals the full
2 amount of the victim's injury, loss or damage as determined by the court **or, if the victim con-**
3 **sents, a specific amount that is less than the full amount of the victim's economic**
4 **damages.** The court may extend the time within which the determination and supplemental judg-
5 ment may be completed for good cause. The lien, priority of the lien and ability to enforce a specific
6 amount of restitution established under this subparagraph by a supplemental judgment relates back
7 to the date of the original judgment that is supplemented.

8 (b) After the district attorney makes a presentation described in paragraph (a) of this subsection,
9 if the court is unable to find from the evidence presented that a victim suffered injury, loss or
10 damage, the court shall make a finding on the record to that effect.

11 (c) **Except as provided in subsection (2) of this section,** no finding made by the court or
12 failure of the court to make a finding under this subsection limits or impairs the rights of a person
13 injured to sue and recover damages in a civil action under subsection (2) of this section.

14 (d) The court may order restitution, including but not limited to counseling and treatment ex-
15 penses, for emotional or psychological injury under this section only:

16 (A) When the act that brought the youth offender within the jurisdiction of the court would
17 constitute aggravated murder, murder or a sex crime if committed by an adult; and

18 (B) For an injury suffered by the victim or a member of the victim's family who observed the
19 act.

20 (e) If the youth offender will be present at a hearing under this subsection and the victim re-
21 quests notice, the district attorney or juvenile department shall notify the victim of the hearing.

22 (2) Restitution for injury inflicted upon a person by the youth offender, for property taken,
23 damaged or destroyed by the youth offender and for a reward offered by the victim or an organiza-
24 tion authorized by the victim and paid for information leading to the apprehension of the youth
25 offender, shall be required as a condition of probation. Restitution does not limit or impair the right
26 of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the
27 victim be admissible in such civil action to prove consent or agreement by the victim. **Evidence**
28 **that the youth offender has paid or has been ordered to pay restitution under this section**
29 **may not be introduced in any civil action arising out of the facts or events that were the**
30 **basis for restitution.** However, the court shall credit any restitution paid by the youth offender to
31 a victim against any judgment in favor of the victim in such civil action. Before setting the amount
32 of such restitution, the court shall notify the person upon whom the injury was inflicted or the
33 owner of the property taken, damaged or destroyed and give such person an opportunity to be heard
34 on the issue of restitution.

35 (3)(a) If a judgment or supplemental judgment described in subsection (1) of this section includes
36 restitution, a court may delay the enforcement of the monetary sanctions, including restitution, only
37 if the youth offender alleges and establishes to the satisfaction of the court the youth offender's in-
38 ability to pay the judgment in full at the time the judgment is entered. If the court finds that the
39 youth offender is unable to pay, the court may establish or allow an appropriate supervising au-
40 thority to establish a payment schedule. The supervising authority shall be authorized to modify any
41 payment schedule established under this section. In establishing a payment schedule, the court or
42 the supervising authority shall take into consideration:

43 (A) The availability to the youth offender of paid employment during such time as the youth
44 offender may be committed to a youth correction facility;

45 (B) The financial resources of the youth offender and the burden that payment of restitution

1 will impose, with due regard to the other obligations of the youth offender;

2 (C) The present and future ability of the youth offender to pay restitution on an installment
3 basis or on other conditions to be fixed by the court; and

4 (D) The rehabilitative effect on the youth offender of the payment of restitution and the method
5 of payment.

6 (b) As used in this subsection, “supervising authority” means any state or local agency that is
7 authorized to supervise the youth offender.

8 *[(4) Notwithstanding ORS 419C.501 and 419C.504, when the court has ordered a youth offender to*
9 *pay restitution, as provided in this section, the judgment shall be entered in the register or docket of*
10 *the court in the manner provided by ORS chapter 18 and enforced in the manner provided by ORS*
11 *18.252 to 18.993. The judgment is in favor of the state and may be enforced only by the state.*
12 *Notwithstanding ORS 419A.255, a judgment for restitution entered under this subsection is a public*
13 *record. Judgments entered under this subsection are subject to ORS 18.048.]*

14 [(5)] (4) A person required to pay restitution under subsection (1) of this section may file a mo-
15 tion supported by an affidavit for satisfaction of the judgment or supplemental judgment requiring
16 payment of restitution in the circuit court of the county in which the original judgment was entered
17 if:

18 (a) At least 50 percent of the monetary obligation is satisfied or at least 10 years have passed
19 since the original judgment was entered;

20 (b) The person has substantially complied with all established payment plans;

21 (c) The person has not been found to be within the jurisdiction of the juvenile court under ORS
22 419C.005 or convicted of an offense since the date the original judgment of restitution was entered;
23 and

24 (d) The person has satisfactorily completed any required period of probation or parole for the
25 act for which the judgment of restitution was entered.

26 [(6)] (5) When a person files a motion described in subsection [(5)] (4) of this section, the district
27 attorney for the county in which the motion was filed shall promptly notify the victim for whose
28 benefit the judgment of restitution was entered that the person has filed the motion and that the
29 victim may object in writing to the motion through the district attorney.

30 [(7)] (6) If the victim does not object to the motion as provided in subsection [(6)] (5) of this
31 section, the court shall hold a hearing on the motion and may enter an order granting a full or
32 partial satisfaction if the allegations in the affidavit supporting the motion are true and failure to
33 grant the motion would result in an injustice. In determining whether an injustice would result, the
34 court shall take into account:

35 (a) The financial resources of the defendant and the burden that continued payment of
36 restitution will impose, with due regard to the other obligations of the defendant;

37 (b) The ability of the defendant to continue paying restitution on an installment basis or under
38 other conditions to be fixed by the court; and

39 (c) The rehabilitative effect on the defendant of the continued payment of restitution and the
40 method of payment.

41 [(8)] (7) A person may file a motion under subsection [(5)] (4) of this section no more than one
42 time per year for each judgment of restitution entered against the person.

43 (8) **For purposes of this section, “victim” has the meaning given that term in ORS**
44 **137.103.**

45 **SECTION 6.** ORS 419C.459 is amended to read:

1 419C.459. (1) In circumstances under which, if the youth offender were an adult, a fine not ex-
 2 ceeding a certain amount could be imposed under the Oregon Criminal Code, the court may impose
 3 such a fine upon the youth offender. In determining whether to impose a fine and, if so, then in what
 4 amount, the court shall consider whether the youth offender will be able to pay a fine and whether
 5 payment of a fine is likely to have a rehabilitative effect on the youth offender. Fines ordered paid
 6 under this section shall be collected by the clerk of the court.

7 **(2)(a) Whenever the court imposes a fine under this section as a penalty, the court may**
 8 **order that the youth offender pay any portion of the fine separately to the clerk of the court**
 9 **as a compensatory fine when:**

10 **(A) The act causing the youth offender to be found within the jurisdiction of the court**
 11 **resulted in injury to another person or property; and**

12 **(B) Unless the issue of punitive damages has been previously decided in a civil case**
 13 **arising out of the same act and transaction, the person injured by the act causing the youth**
 14 **offender to be found within the jurisdiction of the court has a remedy by civil action in the**
 15 **case.**

16 **(b) The clerk shall credit and distribute the payment as provided in ORS 137.295. The**
 17 **clerk shall pay over to the injured victim or victims, as directed in the court's order, moneys**
 18 **paid to the court as compensatory fines under this subsection. This subsection shall be lib-**
 19 **erally construed in favor of victims.**

20 **(c) Nothing in this subsection limits or impairs the right of a person injured by a youth**
 21 **offender's criminal acts to sue and recover damages from the youth offender in a civil action.**
 22 **Evidence that the youth offender has paid or has been ordered to pay a compensatory fine**
 23 **under this subsection may not be introduced in any civil action arising out of the facts or**
 24 **events that were the basis for the compensatory fine. However, the court in the civil action**
 25 **shall credit any compensatory fine paid by the youth offender to a victim against any judg-**
 26 **ment for punitive damages in favor of the victim in the civil action.**

27 **(d) For purposes of this subsection, "victim" has the meaning given that term in ORS**
 28 **137.103.**

29 **SECTION 7.** ORS 137.295 is amended to read:

30 137.295. (1) When a defendant convicted of a crime or violation in the circuit, justice or munic-
 31 ipal court, or allowed diversion in such a case, makes a payment of money to be credited against
 32 monetary obligations imposed as a result of that conviction or diversion, the clerk shall distribute
 33 the payment as provided in this section.

34 (2) There are four categories of monetary obligations. The categories are as follows:

35 (a) Category 1 consists of compensatory fines under ORS 137.101 **and 419C.459.**

36 (b) Category 2 consists of restitution as defined in ORS 137.103 and restitution under ORS
 37 419C.450 and a monetary obligation imposed under ORS 811.706.

38 (c) Category 3 consists of the unitary assessment imposed under ORS 137.290, costs imposed
 39 under ORS 151.505 or 161.665 and those fines, costs, forfeited security amounts and other monetary
 40 obligations payable to the state or to the General Fund of the state in criminal and quasi-criminal
 41 cases for which moneys the law does not expressly provide other disposition.

42 (d) Category 4 consists of monetary obligations imposed upon the defendant as a result of the
 43 conviction, but which do not fall under category 1, category 2 or category 3 of the obligation cate-
 44 gories. These include, but are not limited to, fines and other monetary obligations that the law ex-
 45 pressly directs be paid to an agency, person or political subdivision of the state, and any other

1 obligation to reimburse for payment of a reward under ORS 131.897. Notwithstanding paragraph (c)
2 of this subsection, the portion of assessments collected as required by ORS 137.290 (2)(c) and (d)
3 shall be considered category 4 obligations.

4 (3) As long as there remains unpaid any obligation under category 1, the clerk shall credit to-
5 ward category 1 all of each payment received.

6 (4) After the total obligation has been credited under category 1, then as long as there remains
7 unpaid any obligation under both categories 2 and 3, the clerk shall credit toward each such cate-
8 gory 50 percent of each payment received.

9 (5) The clerk shall monthly transfer the moneys credited under category 1 and under category
10 2 to the victims for whose benefit moneys under that category were ordered paid. If there are mul-
11 tiple victims for whose benefit moneys have been ordered paid under category 2, the clerk shall first
12 transfer moneys credited under category 2 to the victim, as defined in ORS 137.103 (4)(a). When the
13 moneys due the victim, as defined in ORS 137.103 (4)(a), have been fully paid, the clerk shall transfer
14 moneys credited under category 2 to the Criminal Injuries Compensation Account if moneys have
15 been ordered paid to the account under category 2. When the moneys due the account have been
16 fully paid, the clerk shall transfer moneys credited under category 2 to any other victims, as defined
17 in ORS 137.103 (4)(b) or (d), for whose benefit moneys under that category were ordered paid in
18 proportion to the amounts ordered. The clerk of a circuit court shall monthly transfer the moneys
19 credited under category 3 as directed by the State Court Administrator for deposit in the State
20 Treasury to the credit of the Criminal Fine and Assessment Account established under ORS 137.300.
21 The clerk of a justice or municipal court shall monthly transfer the moneys credited under category
22 3 to the Department of Revenue as provided in ORS 305.830.

23 (6) When the entire amount owing for purposes of either category 2 or category 3 has been
24 credited, further payments by the defendant shall be credited by the clerk entirely to the unpaid
25 balance of whichever of those categories remains unpaid, until both category 2 and category 3 have
26 been entirely paid.

27 (7) When category 1, category 2 and category 3 have been entirely paid and any obligation re-
28 mains owing under category 4, the clerk shall credit further payments by the defendant to the ob-
29 ligations under category 4 and shall monthly transfer the moneys so received to the appropriate
30 recipient, giving first priority to counties and cities entitled to revenues generated by prosecutions
31 in justice and municipal courts and giving last priority to persons entitled to moneys as reimburse-
32 ment for reward under ORS 131.897. The clerk shall monthly transfer the portion of assessments
33 collected as required by ORS 137.290 (2)(c) and (d) to the county for administration of substance
34 abuse treatment programs described in ORS 430.420.

35 (8) Notwithstanding subsection (5) of this section, the clerk of a circuit court shall monthly
36 transfer the moneys attributable to parking violations to the State Treasurer for deposit in the
37 General Fund.

38 (9) The clerk of a justice or municipal court must make the transfers required by this section
39 not later than the last day of the month immediately following the month in which a payment is
40 made.

41 **SECTION 8.** ORS 419B.395 is amended to read:

42 419B.395. (1) If in any proceeding under ORS 419B.100 or 419B.500 the juvenile court determines
43 that the child or ward has no legal father or that paternity is disputed as allowed in ORS 109.070,
44 the court may enter a judgment of paternity or a judgment of nonpaternity in compliance with the
45 provisions of ORS 109.070, 109.124 to 109.230, 109.250 to 109.262 and 109.326.

1 (2) Before entering a judgment under subsection (1) of this section, the court must find that
2 adequate notice and an opportunity to be heard was provided to:

3 (a) The parties to the proceeding;

4 (b) The man alleged or claiming to be the child or ward's father; and

5 (c) The Administrator of the Division of Child Support of the Department of Justice or the
6 branch office providing support services to the county in which the court is located.

7 (3) When appropriate, the court shall inform a man before the court claiming to be the father
8 of a child or ward that paternity establishment services may be available through the administrator
9 if the child or ward:

10 (a) Is a child born out of wedlock;

11 (b) Has not been placed for adoption; and

12 (c) Has no legal father.

13 (4) As used in this section:

14 (a) "Administrator" has the meaning given that term in ORS 25.010.

15 (b) "Child born out of wedlock" has the meaning given that term in ORS 109.124.

16 (c) "Legal father" has the meaning given that term in ORS 419A.004 [(16)] (17).
17
