

Enrolled
House Bill 2707

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

CHAPTER

AN ACT

Relating to the detention of juveniles; amending ORS 137.705 and 419C.130; and declaring an emergency.

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

SECTION 1. ORS 137.705 is amended to read:

137.705. (1)(a) As used in this section and ORS 137.707:

(A) "Charged" means the filing of an accusatory instrument in a court of criminal jurisdiction alleging the commission of an offense listed in ORS 137.707.

(B) "Detention facility" has the meaning given that term in ORS 419A.004.

~~[(B)]~~ (C) "Prosecuted" includes pretrial and trial procedures, requirements and limitations provided for in criminal cases.

(b) Unless otherwise provided in ORS 137.707, ORS chapters 137 and 138 apply to proceedings under ORS 137.707.

(2)(a) Notwithstanding ORS 419B.100 and 419C.005, a person 15, 16 or 17 years of age at the time of committing the offense may be charged with the commission of an offense listed in ORS 137.707 and may be prosecuted as an adult.

(b) The district attorney shall notify the juvenile court and the juvenile department when a person under 18 years of age is charged with an offense listed in ORS 137.707.

(c) The filing of an accusatory instrument in a criminal court under ORS 137.707 divests the juvenile court of jurisdiction in the matter if juvenile court jurisdiction is based on the conduct alleged in the accusatory instrument or any conduct arising out of the same act or transaction. Upon receiving notice from the district attorney under paragraph (b) of this subsection, the juvenile court shall dismiss, without prejudice, the juvenile court proceeding and enter any order necessary to transfer the matter or transport the person to the criminal court for further proceedings. Nothing in this paragraph affects the authority or jurisdiction of the juvenile court with respect to other matters or conduct.

(3)(a) A person charged with a crime under ORS 137.707 who is 16 or 17 years of age shall be detained in custody **in a detention facility, unless the director of the county juvenile department and the sheriff agree to detain the person** in a jail or other place where adults are detained. **A person detained in accordance with this paragraph is** subject to release on the same terms and conditions as for adults.

[(b) Notwithstanding paragraph (a) of this subsection, the sheriff and the director of the county juvenile department may agree to detain the person charged in a place other than the county jail.]

[(c)] (b) If a person charged with a crime under ORS 137.707 is under 16 years of age, the person may not be detained, either before conviction or after conviction but before execution of the sentence, in a jail or other place where adults are detained.

SECTION 2. ORS 419C.130 is amended to read:

419C.130. (1) A youth or youth offender may not be detained at any time in a police station, jail, prison or other place where adults are detained, except as follows:

(a) A youth or youth offender may be detained in a police station for up to five hours when necessary to obtain the youth or youth offender's name, age, residence and other identifying information.

(b) A youth waived under ORS 419C.349 or 419C.364 to the court handling criminal actions or to municipal court may be detained in a jail or other place where adults are detained, *except that any such person under 16 years of age shall, prior to conviction or after conviction but prior to execution of sentence, be detained, if at all, in a facility used by the county for the detention of youths* **if:**

(A) The youth is at least 16 years of age; and

(B) The director of the county juvenile department and the sheriff, or other official responsible for the jail or other place, agree to detain the youth in a jail or other place where adults are detained.

(c) When detention is authorized by ORS 419C.453, a youth offender may be detained in a jail or other place where adults are detained.

(2) A youth waived to the court handling criminal actions or to municipal court pursuant to a standing order of the juvenile court under ORS 419C.370, including a youth accused of nonpayment of fines, may not be detained in a jail or other place where adults are detained.

(3) As used in this section, "adult" does not include a person who is 18 years of age or older and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS 419C.005.

SECTION 3. This 2011 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect on its passage.

Passed by House March 28, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 9, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2011

Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State