

# House Bill 2707

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

## 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**.

Requires agreement between county juvenile department and sheriff or other jailer before certain persons who are 16 or 17 years of age may be detained in jail or other place where adults are detained.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the detention of juveniles; amending ORS 137.705 and 419C.130; and declaring an emer-  
3 gency.

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

5 **SECTION 1.** ORS 137.705 is amended to read:

6 137.705. (1)(a) As used in this section and ORS 137.707:

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

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

10 ~~[(B)]~~ (C) "Prosecuted" includes pretrial and trial procedures, requirements and limitations pro-  
11 vided for in criminal cases.

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

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

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

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

27 (3)(a) A person charged with a crime under ORS 137.707 who is 16 or 17 years of age shall be  
28 detained in custody **in a detention facility, unless the director of the county juvenile depart-**  
29 **ment and the sheriff agree to detain the person** in a jail or other place where adults are de-  
30 tained. **A person detained in accordance with this paragraph is** subject to release on the same

**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 terms and conditions as for adults.

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

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

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

8 419C.130. (1) A youth or youth offender may not be detained at any time in a police station, jail,  
9 prison or other place where adults are detained, except as follows:

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

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

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

18 **(B) The director of the county juvenile department and the sheriff, or other official re-**  
19 **sponsible for the jail or other place, agree to detain the youth in a jail or other place where**  
20 **adults are detained.**

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

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

26 (3) As used in this section, "adult" does not include a person who is 18 years of age or older  
27 and is alleged to be, or has been found to be, within the jurisdiction of the juvenile court under ORS  
28 419C.005.

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

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