

House Bill 3197

Sponsored by JOINT COMMITTEE ON PUBLIC SAFETY

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**.

Removes limit of 25 years of age on person who may continue in legal or physical custody of Oregon Youth Authority.

A BILL FOR AN ACT

1
2 Relating to Oregon Youth Authority; creating new provisions; and amending ORS 137.124, 419C.495,
3 419C.501, 419C.504, 420.011, 420.505, 420A.010, 420A.200 and 420A.203.

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

5 **SECTION 1.** ORS 420A.200 is amended to read:

6 420A.200. [(1)] A person may [not] continue in the legal or physical custody of the Oregon Youth
7 Authority after the person attains 25 years of age.

8 [(2) *Except as otherwise provided in ORS 137.124 and 420.011, when a person in the physical*
9 *custody of the Oregon Youth Authority under ORS 137.124 attains 24 years and 11 months of age and*
10 *if the person will not complete the term of imprisonment imposed before the person attains 25 years of*
11 *age, the Oregon Youth Authority shall transfer the person to the physical custody of the Department*
12 *of Corrections.*]

13 **SECTION 2.** ORS 137.124 is amended to read:

14 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of
15 incarceration that exceeds 12 months:

16 (a) The court shall not designate the correctional facility in which the defendant is to be con-
17 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-
18 rections; and

19 (b) If the judgment provides that the term of incarceration be served consecutively to a term
20 of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this
21 state upon conviction of a felony, the defendant shall serve any remaining part of the previously
22 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

23 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of
24 incarceration that is 12 months or less, the court shall commit the defendant to the legal and
25 physical custody of the supervisory authority of the county in which the crime of conviction oc-
26 curred.

27 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon
28 conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall
29 commit the defendant to the legal and physical custody of the Department of Corrections if the court
30 orders that the term of incarceration be served consecutively to a term of incarceration that ex-
31 ceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court

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 of this state upon conviction of a felony.

2 (3) After assuming custody of the convicted person the Department of Corrections may transfer
 3 inmates from one correctional facility to another such facility for the purposes of diagnosis and
 4 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-
 5 tection and welfare of the community and the inmate.

6 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall
 7 commit the defendant to the custody of the supervisory authority of the county in which the crime
 8 of conviction occurred.

9 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20
 10 years of age at the time of sentencing is committed to the Department of Corrections under ORS
 11 137.707, the Department of Corrections shall transfer the physical custody of the person to the
 12 Oregon Youth Authority as provided in ORS 420.011 if[.]

13 [(A) *The person will complete the sentence imposed before the person attains 25 years of age; or*]

14 [(B)] the Department of Corrections and the Oregon Youth Authority determine that, because
 15 of the person's age, immaturity, mental or emotional condition or risk of physical harm to the per-
 16 son, the person should not be incarcerated initially in a Department of Corrections institution.

17 (b) A person placed in the custody of the Oregon Youth Authority under this subsection shall
 18 be returned to the physical custody of the Department of Corrections whenever the Director of the
 19 Oregon Youth Authority, after consultation with the Department of Corrections, determines that the
 20 conditions or circumstances that warranted the transfer of custody under this subsection are no
 21 longer present.

22 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20
 23 years of age at the time of sentencing is committed to the legal and physical custody of the De-
 24 partment of Corrections or the supervisory authority of a county following waiver under ORS
 25 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or
 26 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the
 27 person to the physical custody of the Oregon Youth Authority for placement as provided in ORS
 28 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS
 29 420A.200 to 420A.206.

30 (b) When a person under 16 years of age is waived under ORS 419C.349, 419C.352, 419C.364 or
 31 419C.370 and subsequently is sentenced to a term of imprisonment in the county jail, the sheriff shall
 32 transfer the person to a youth correction facility for physical custody as provided in ORS 420.011
 33 (3).

34 (7) If the Director of the Oregon Youth Authority concurs in the decision, the Department of
 35 Corrections or the supervisory authority of a county shall transfer the physical custody of a person
 36 committed to the Department of Corrections or the supervisory authority of the county under sub-
 37 section (1) or (2) of this section to the Oregon Youth Authority as provided in ORS 420.011 (2) if:

38 (a) The person was at least 18 years of age but under 20 years of age at the time of committing
 39 the felony for which the person is being sentenced to a term of incarceration;

40 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-
 41 rections or the supervisory authority of the county;

42 (c) The person has not been committed previously to the legal and physical custody of the De-
 43 partment of Corrections or the supervisory authority of a county;

44 (d) The person has not been convicted and sentenced to a term of incarceration for the com-
 45 mission of a felony in any other state;

1 *[(e) The person will complete the term of incarceration imposed before the person attains 25 years*
 2 *of age;]*

3 *[(f)] (e)* The person is likely in the foreseeable future to benefit from the rehabilitative and
 4 treatment programs administered by the Oregon Youth Authority;

5 *[(g)] (f)* The person does not pose a substantial danger to Oregon Youth Authority staff or per-
 6 sons in the custody of the Oregon Youth Authority; and

7 *[(h)] (g)* At the time of the proposed transfer, no more than 50 persons are in the physical cus-
 8 tody of the Oregon Youth Authority under this subsection.

9 (8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this section, the department
 10 or the supervisory authority of a county may not transfer the physical custody of the person under
 11 subsection (5)(a)(A) or (7) of this section if the Director of the Oregon Youth Authority, after con-
 12 sultation with the Department of Corrections or the supervisory authority of a county, determines
 13 that, because of the person's age, mental or emotional condition or risk of physical harm to other
 14 persons, the person should not be incarcerated in a youth correction facility.

15 **SECTION 3.** ORS 420A.010 is amended to read:

16 420A.010. (1) The Oregon Youth Authority is established. The youth authority shall:

17 (a) Supervise the management and administration of youth correction facilities, state parole and
 18 probation services, community out-of-home placement for youth offenders committed to its legal
 19 custody and other functions related to state programs for youth corrections;

20 (b) Provide capital improvements and capital construction necessary for the implementation of
 21 all youth correction facilities;

22 (c) Carry out dispositions of youth offenders committed to its legal custody;

23 (d) Exercise custody and supervision over those youth offenders committed to the youth au-
 24 thority by order of the juvenile court and persons placed in the physical custody of the youth au-
 25 thority under ORS 137.124 or other statute until the time that a lawful release authority authorizes
 26 release or terminates the commitment or placement;

27 (e) Provide adequate food, clothing, health and medical care, sanitation and security for confined
 28 youth offenders and others in youth authority custody;

29 (f) Provide youth offenders and others in youth authority custody with opportunities for self-
 30 improvement and work; and

31 (g) Conduct investigations and prepare reports for release authorities.

32 (2) To meet the individual circumstances of each person committed to its custody, the youth
 33 authority shall:

34 (a) Develop a flexible fee-for-service provider system that can respond quickly to each person's
 35 identified and changing circumstances; and

36 (b) Develop a process for joint state and county review of contracts entered into under sub-
 37 section (6)(b) of this section and paragraph (a) of this subsection based on:

38 (A) Measurable outcomes, which must include in dominant part the reduction of future criminal
 39 or antisocial conduct and which also must include:

40 (i) Academic progress;

41 (ii) Social adjustments;

42 (iii) Behavioral improvements;

43 (iv) Rearrests; and

44 (v) Other measurements as determined by the youth authority;

45 (B) Performance measurements including:

- 1 (i) Fiscal accountability;
- 2 (ii) Compliance with state and federal regulations;
- 3 (iii) Record keeping, including data collection and management; and
- 4 (iv) Reporting; and
- 5 (C) Provision of services identified under the reformation plan.

6 (3) In order to measure performance as required in subsection (2) of this section, the youth au-
 7 thority shall require parties to the contracts to compile, manage and exchange data to the extent
 8 of available information systems resources to facilitate the measurement of outcomes including, but
 9 not limited to, reduction in future criminal or antisocial conduct.

10 (4) The youth authority may administer a program of state assistance to counties for the con-
 11 struction and operation of local youth detention facilities or to purchase detention services.

12 (5) The youth authority shall accept and exercise legal or physical custody of youth offenders
 13 and others 12 years of age and over [*and under 25 years of age*] who are committed to, or placed
 14 with, the youth authority pursuant to:

- 15 (a) A juvenile court adjudication and disposition under ORS chapter 419C; or
- 16 (b) ORS 137.124.

17 (6)(a) The youth authority shall cooperate with and assist county governments and juvenile de-
 18 partments in carrying out the principles and purposes of the juvenile justice system as provided in
 19 ORS 419C.001.

20 (b) The youth authority is authorized to contract with counties, groups of counties or private
 21 providers to administer juvenile corrections programs and services as provided in ORS 420.017,
 22 420.019, 420A.145 and 420A.155 (1) to (4).

23 (c) The youth authority may provide consultation services related to the juvenile justice system
 24 to local or statewide public or private agencies, groups and individuals or may initiate such con-
 25 sultation services. Consultation services include, but are not limited to, conducting studies and
 26 surveys, sponsoring or participating in educational programs and providing advice and assistance.
 27 Nothing in ORS 419C.001 and 420A.005 to 420A.155 is intended to diminish the state's efforts to plan,
 28 evaluate and deliver effective human services programs to youth offenders, either in a youth cor-
 29 rection facility or on probation or parole. Therefore, the Oregon Youth Authority and the Depart-
 30 ment of Human Services shall jointly develop and implement needed social and rehabilitative
 31 services.

32 (7) The youth authority is the recipient of all federal funds paid or to be paid to the state to
 33 enable the state to provide youth correction programs and services assigned to the Department of
 34 Human Services prior to January 1, 1996.

35 (8) The youth authority shall report its progress in implementing the provisions of chapter 422,
 36 Oregon Laws 1995, to the Legislative Assembly at each odd-numbered year regular session.

37 (9) The equal access provisions of ORS 417.270 apply to the youth authority's development and
 38 administration of youth correction facilities, programs and services, including the development and
 39 implementation of the statewide diversion plan described in ORS 420.017.

40 (10) The youth authority shall:

- 41 (a) Be cognizant of and sensitive to the issue of overrepresentation of minority youth offenders
 42 in youth correction facilities;
- 43 (b) Endeavor to develop and operate, and require its subcontractors to develop and operate,
 44 culturally appropriate programs for youth offenders; and
- 45 (c) Keep data reflecting the ethnicity and gender of all youth offenders committed to its care.

1 (11) The youth authority is a designated agency as defined in ORS 181.010.

2 **SECTION 4.** ORS 420.011 is amended to read:

3 420.011. (1) Except as provided in subsections (2) and (3) of this section, admissions to the youth
4 correction facilities are limited to youth offenders who are at least 12 but less than 19 years of age,
5 found by the juvenile court to have committed an act that if committed by an adult would constitute
6 aggravated murder, murder, a felony or a Class A misdemeanor and placed in the legal custody of
7 the Oregon Youth Authority. A youth offender admitted to a youth correction facility may not be
8 transferred by administrative process to any penal or correctional institution.

9 (2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS
10 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority
11 or the director's designee, persons who are committed to the Department of Corrections under ORS
12 137.124 and meet the requirements of ORS 137.124 (5) or (7) may be temporarily assigned to a youth
13 correction facility as provided by ORS 137.124 (5) or (7). A person assigned on such a temporary
14 basis remains within the legal custody of the Department of Corrections and such reassignment is
15 subject to termination by the Director of the Oregon Youth Authority by referring the person back
16 to the Department of Corrections as provided in paragraph (b) of this subsection.

17 (b) After a person is transferred to the physical custody of the youth authority under ORS
18 137.124 (5) or (7), the Director of the Oregon Youth Authority may refer the person back to the
19 Department of Corrections for physical custody and placement if the director, after consulting with
20 the Department of Corrections, determines that the person:

21 (A) Poses a substantial danger to youth authority staff or persons in the custody of the youth
22 authority; or

23 (B) Is not likely, in the foreseeable future, to benefit from the rehabilitation and treatment pro-
24 grams administered by the youth authority and is appropriate for placement in a Department of
25 Corrections institution.

26 (3) Any person under 18 years of age at the time of committing the crime and under 20 years
27 of age at the time of sentencing and commitment who, after waiver under ORS 419C.349, 419C.352,
28 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to
29 a term of imprisonment in the custody of the Department of Corrections, and any person under 16
30 years of age who after waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing
31 under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712 is sentenced to a term of imprisonment in the county
32 jail, shall be temporarily assigned to a youth correction facility by the Department of Corrections,
33 or by the sheriff to whose custody the person has been committed, pursuant to ORS 137.124 (6). The
34 director shall designate the appropriate youth correction facility or schools for such assignment. A
35 person assigned to a youth correction facility under ORS 137.124 (6) and this subsection remains
36 within the legal custody of the Department of Corrections or sheriff to whose custody the person
37 was committed. The assignment of such a person to the youth correction facility is subject, when
38 the person is 16 years of age or older, to termination by the director by referring the person back
39 to the Department of Corrections or the sheriff to serve the balance of the person's sentence. [*As-*
40 *signment to a youth correction facility pursuant to ORS 137.124 (6) and this subsection, if not termi-*
41 *nated earlier by the director, shall terminate upon the person's attaining the age specified in ORS*
42 *420A.010 (5) setting the age limits for which the Oregon Youth Authority may retain legal and physical*
43 *custody of the person, and the person shall be referred to the Department of Corrections or the sheriff*
44 *having legal custody of the person to serve the balance of the person's sentence.*]

45 (4) Whenever a person committed to the custody of the Department of Corrections is temporarily

1 assigned to a youth correction facility pursuant to this section, the youth authority may provide
2 programs and treatment for the person, and may adopt rules relating to conditions of confinement
3 at the youth correction facility, as the youth authority determines are appropriate. However, the
4 person remains subject to laws and rules of the State Board of Parole and Post-Prison Supervision
5 relating to parole.

6 **SECTION 5.** ORS 420.505 is amended to read:

7 420.505. (1) A youth offender at a youth correction facility may apply for admission to a hospital
8 or facility designated by the Department of Human Services or the Oregon Health Authority. The
9 application may be made on behalf of the youth offender by the parents or legal guardian of the
10 youth offender. However, the superintendent shall not be required to cause the examination of a
11 youth offender who applies under this section more often than once in six months.

12 (2) Within five working days after receipt of the application, the superintendent of the youth
13 correction facility shall cause the youth offender to be examined by one or more qualified persons
14 at the facility and shall request the examination of the youth offender by one or more qualified
15 persons employed or designated by the department or the Oregon Health Authority. The examination
16 conducted or authorized by the department or the Oregon Health Authority shall take place within
17 five working days after receipt of the request from the superintendent. The examiners shall prepare
18 separate reports and shall submit such reports to the superintendent. A copy of the reports shall
19 be given to the applicant.

20 (3) If the superintendent finds that there is a probable cause to believe that the youth offender
21 has a mental illness and that it would be in the best interests of the youth offender to be admitted
22 to a hospital or facility designated by the department or the Oregon Health Authority, the super-
23 intendent shall notify the department or the Oregon Health Authority and shall order the youth
24 offender transferred pursuant to ORS 179.473.

25 (4) No youth offender at a youth correction facility voluntarily admitted to a hospital or facility
26 designated by the department or the Oregon Health Authority shall be detained therein more than
27 72 hours after the youth offender [*is of the age specified in ORS 420A.010 (5) setting the age limits*
28 *for which the Oregon Youth Authority may retain legal and physical custody of the youth offender*
29 *and]* has given notice in writing of the desire of the youth offender to be released. [*If the youth*
30 *offender is under the age specified in ORS 420A.010 (5) setting the age limits for which the Oregon*
31 *Youth Authority may retain legal and physical custody of the youth offender,*] The youth offender may
32 be returned to the youth correction facility after notice in writing has been given by the parent or
33 legal guardian of the youth offender, that such parent or guardian desires that the youth offender
34 be discharged from the hospital or facility designated by the department or the Oregon Health Au-
35 thority.

36 **SECTION 6.** ORS 419C.495 is amended to read:

37 419C.495. (1) A youth offender placed in the legal custody of the Oregon Youth Authority may
38 be placed in a youth correction facility or in a private institution operated as a facility for youth
39 offenders requiring secure custody only when the juvenile court having jurisdiction so recommends.

40 (2) A youth offender who is admitted to a youth correction facility may be retained in the fa-
41 cility for the duration of the commitment period. [*In no case may a youth offender be retained in a*
42 *youth correction facility after the youth offender has attained 25 years of age.*]

43 (3) No youth offender shall be transferred or returned after discharge to a facility described in
44 subsection (1) of this section, except upon court order under this chapter.

45 (4) Nothing in subsection (3) of this section shall be deemed to prohibit return of a youth

1 offender to a facility described in subsection (1) of this section, in the discretion of the youth au-
 2 thority, if the youth offender has been released from the facility on temporary or indefinite parole,
 3 or to prohibit transfer of a youth offender from one such facility to another.

4 **SECTION 7.** ORS 419C.501 is amended to read:

5 419C.501. [(1)] The court shall fix the duration of any disposition made pursuant to this chapter
 6 and the duration may be for an indefinite period. Any placement in the legal custody of the De-
 7 partment of Human Services or the Oregon Youth Authority under ORS 419C.478 or placement un-
 8 der the jurisdiction of the Psychiatric Security Review Board under ORS 419C.529 shall be for an
 9 indefinite period. However, the period of institutionalization or commitment may not exceed:

10 [(a)] (1) The period of time specified in the statute defining the crime for an act that would
 11 constitute an unclassified misdemeanor if committed by an adult;

12 [(b)] (2) Thirty days for an act that would constitute a Class C misdemeanor if committed by an
 13 adult;

14 [(c)] (3) Six months for an act that would constitute a Class B misdemeanor if committed by an
 15 adult;

16 [(d)] (4) One year for an act that would constitute a Class A misdemeanor if committed by an
 17 adult;

18 [(e)] (5) Five years for an act that would constitute a Class C felony if committed by an adult;

19 [(f)] (6) Ten years for an act that would constitute a Class B felony if committed by an adult;

20 [(g)] (7) Twenty years for an act that would constitute a Class A felony if committed by an adult;
 21 and

22 [(h)] (8) Life for a young person who was found to have committed an act that, if committed by
 23 an adult would constitute murder or any aggravated form of murder under ORS 163.095 or 163.115.

24 [(2) *Except as provided in subsection (1)(h) of this section, the period of any disposition may not*
 25 *extend beyond the date on which the young person or youth offender becomes 25 years of age.*]

26 **SECTION 8.** ORS 419C.504 is amended to read:

27 419C.504. In any case under ORS 419C.005 the court, notwithstanding ORS 419C.501, may place
 28 the youth offender on probation to the court for a period not to exceed five years. [*However, the*
 29 *period of probation shall not extend beyond the date on which the youth offender becomes 23 years of*
 30 *age.*]

31 **SECTION 9.** ORS 420A.203 is amended to read:

32 420A.203. (1)(a) This section and ORS 420A.206 apply only to persons who were under 18 years
 33 of age at the time of the commission of the offense for which the persons were sentenced to a term
 34 of imprisonment, who committed the offense on or after June 30, 1995, and who were:

35 (A) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS
 36 419C.349, 419C.352, 419C.364 or 419C.370; or

37 (B) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 (5)(b)(A) or
 38 (7)(b).

39 (b) When a person described in paragraph (a) of this subsection has served one-half of the sen-
 40 tence imposed, the sentencing court shall determine what further commitment or disposition is ap-
 41 propriate as provided in this section. As used in this subsection and subsection (2) of this section,
 42 “sentence imposed” means the total period of mandatory incarceration imposed for all convictions
 43 resulting from a single prosecution or criminal proceeding not including any reduction in the sen-
 44 tence under ORS 421.121 or any other statute.

45 (2)(a) No more than 120 days and not less than 60 days before the date on which a person has

1 served one-half of the sentence imposed, the Oregon Youth Authority or the Department of Cor-
2 rections, whichever has physical custody of the person, shall file in the sentencing court a notice
3 and request that the court set a time and place for the hearing required under this section. The
4 youth authority or department shall serve the person with a copy of the notice and request for
5 hearing on or before the date of filing.

6 (b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection,
7 the sentencing court shall schedule a hearing for a date not more than 30 days after the date on
8 which the person will have served one-half of the sentence imposed or such later date as is agreed
9 upon by the parties.

10 (c) The court shall notify the following of the time and place of the hearing:

11 (A) The person and the person's parents;

12 (B) The records supervisor of the correctional institution in which the person is incarcerated;
13 and

14 (C) The district attorney who prosecuted the case.

15 (d) The court shall make reasonable efforts to notify the following of the time and place of the
16 hearing:

17 (A) The victim and the victim's parents or legal guardian; and

18 (B) Any other person who has filed a written request with the court to be notified of any hear-
19 ing concerning the transfer, discharge or release of the person.

20 (3) In a hearing under this section:

21 (a) The person and the state are parties to the proceeding.

22 (b) The person has the right to appear with counsel. If the person requests that the court ap-
23 point counsel and the court determines that the person is financially eligible for appointed counsel
24 at state expense, the court shall order that counsel be appointed.

25 (c) The district attorney represents the state.

26 (d) The court shall determine admissibility of evidence as if the hearing were a sentencing pro-
27 ceeding.

28 (e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the
29 Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within
30 a reasonable time before the hearing, as determined by the court, the person must be given the op-
31 portunity to examine all reports and other documents concerning the person that the state, the
32 Oregon Youth Authority or the Department of Corrections intends to submit for consideration by
33 the court at the hearing.

34 (f) Except as otherwise provided by law or by order of the court based on good cause, the person
35 must be given access to the records maintained in the person's case by the Oregon Youth Authority
36 and the Department of Corrections.

37 (g) The person may examine all of the witnesses called by the state, may subpoena and call
38 witnesses to testify on the person's behalf and may present evidence and argument. The court may
39 permit witnesses to appear by telephone or other two-way electronic communication device.

40 (h) The hearing must be recorded.

41 (i) The hearing and the record of the hearing are open to the public.

42 (j) The question to be decided is which of the dispositions provided in subsection (4) of this
43 section should be ordered in the case.

44 (k) The person has the burden of proving by clear and convincing evidence that the person has
45 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to

1 the safety of the victim, the victim's family or the community and that the person would comply with
 2 the release conditions.

3 (4)(a) At the conclusion of the hearing and after considering and making findings regarding each
 4 of the factors in paragraph (b) of this subsection, the court shall order one of the following dispo-
 5 sitions:

6 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,
 7 taking into account any reduction in the sentence under ORS 421.121 or any other statute, with the
 8 person's physical custody determined under ORS 137.124[,] **and** 420.011 [*and 420A.200*].

9 (B) Order that the person be conditionally released under ORS 420A.206 at such time as the
 10 court may order, if the court finds that the person:

11 (i) Has been rehabilitated and reformed;

12 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and

13 (iii) Will comply with the conditions of release.

14 (b) In making the determination under this section, the court shall consider:

15 (A) The experiences and character of the person before and after commitment to the Oregon
 16 Youth Authority or the Department of Corrections;

17 (B) The person's juvenile and criminal records;

18 (C) The person's mental, emotional and physical health;

19 (D) The gravity of the loss, damage or injury caused or attempted, during or as part of the
 20 criminal act for which the person was convicted and sentenced;

21 (E) The manner in which the person committed the criminal act for which the person was con-
 22 victed and sentenced;

23 (F) The person's efforts, participation and progress in rehabilitation programs since the person's
 24 conviction;

25 (G) The results of any mental health or substance abuse treatment;

26 (H) Whether the person demonstrates accountability and responsibility for past and future con-
 27 duct;

28 (I) Whether the person has made and will continue to make restitution to the victim and the
 29 community;

30 (J) Whether the person will comply with and benefit from all conditions that will be imposed if
 31 the person is conditionally released;

32 (K) The safety of the victim, the victim's family and the community;

33 (L) The recommendations of the district attorney, the Oregon Youth Authority and the Depart-
 34 ment of Corrections; and

35 (M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Au-
 36 thority, the Department of Corrections or the person.

37 (5) The court shall provide copies of its disposition order under subsection (4) of this section to
 38 the parties, to the records supervisor of the correctional institution in which the person is
 39 incarcerated and to the manager of the institution-based records office of the Department of Cor-
 40 rections.

41 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-
 42 pellate court's review is limited to claims that:

43 (a) The disposition is not authorized under this section;

44 (b) The court failed to comply with the requirements of this section in imposing the disposition;

45 or

1 (c) The findings of the court are not supported by substantial evidence in the record.

2 **SECTION 10. The amendments to ORS 137.124, 419C.495, 419C.501, 419C.504, 420.011,**
3 **420.505, 420A.010, 420A.200 and 420A.203 by sections 1 to 9 of this 2013 Act apply to persons**
4 **placed in the legal or physical custody of the Oregon Youth Authority on or after the effec-**
5 **tive date of this 2013 Act.**

6
