

# D R A F T

## SUMMARY

Requires court to specify date in dispositional order for youth offender before which youth offender may not be released from legal custody of Oregon Youth Authority or Department of Human Services.

### A BILL FOR AN ACT

Relating to dispositional orders for custody of youth offenders; creating new provisions; and amending ORS 419C.478, 419C.492 and 419C.501.

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

**SECTION 1.** ORS 419C.478 is amended to read:

419C.478. (1) The court may, in addition to probation or any other dispositional order[,];

(a) Place a youth offender who is at least 12 years of age in the legal custody of the Oregon Youth Authority for care, placement and supervision [*or*,];

(b) When authorized under subsection [(3)] (4) of this section, place a youth offender in the legal custody of the Department of Human Services for care, placement and supervision; **or**

(c) **Order a youth offender into close custody in any youth authority correctional facility.**

(2) (a) In any order issued under this section, the court shall include:

(A) Written findings describing why it is in the best interests of the youth offender to be placed with the youth authority or the department; **and**

(B) **Subject to ORS 419C.501, a date before which the youth offender may not be released from the legal custody of the youth authority or**

1 **the department.**

2 **(b) The youth authority may offer its expertise to the court in the**  
3 **determination of a close custody release date under this section. The**  
4 **information provided by the youth authority must be offered in open**  
5 **court and made available to all parties.**

6 [(2)] **(3)** If the court places a youth offender under subsection (1) of this  
7 section, the court may specify the type of care, supervision or services to be  
8 provided by the youth authority or the department to youth offenders placed  
9 in the youth authority's or department's custody and to the parents or  
10 guardians of the youth offenders, but the actual planning and provision of  
11 the care, supervision, security or services is the responsibility of the youth  
12 authority or the department, **provided, however, that the youth authority**  
13 **may not release the youth offender from close custody prior to the**  
14 **date ordered by the court under subsection (1) of this section.** The  
15 youth authority or the department may place the youth offender in a youth  
16 care center or other facility authorized to accept the youth offender.

17 [(3)] **(4)** The court may place a youth offender in the legal custody of the  
18 department under subsection (1) of this section if:

19 (a) The court has determined that a period of out-of-home placement and  
20 supervision should be part of the disposition in the case;

21 (b) The court finds that, because of the youth offender's age or mental  
22 or emotional condition, the youth offender:

23 (A) Is not amenable to reform and rehabilitation through participation in  
24 the programs provided and administered by the youth authority; and

25 (B) Is amenable to reform and rehabilitation through participation in the  
26 programs provided and administered by the department;

27 (c) The court finds that the department can provide adequate security to  
28 protect the community and the youth offender;

29 (d) The court provides for periodic review of the placement; and

30 (e) The court, in making the findings and determinations required by this  
31 subsection, has considered the relevant facts and circumstances of the case,

1 as provided in ORS 419C.411.

2 [(4)] (5) Uniform commitment blanks, in a form approved by the director  
3 of the youth authority, or by the Director of Human Services for placements  
4 under subsection [(3)] (4) of this section, shall be used by all courts for  
5 placing youth offenders in the legal custody of the youth authority or the  
6 department.

7 [(5)] (6) If the youth offender has been placed in the custody of the youth  
8 authority or the department, the court may not make a commitment directly  
9 to any residential facility, but shall cause the youth offender to be delivered  
10 into the custody of the youth authority or the department at the time and  
11 place fixed by rules of the youth authority or the department. A youth  
12 offender committed under this subsection may not be placed in a Department  
13 of Corrections institution.

14 [(6)] (7) When the court places a youth offender in the legal custody of  
15 the department under subsection (1) of this section, ORS 419B.440, 419B.443,  
16 419B.446, 419B.449, 419B.452, 419B.470, 419B.473 and 419B.476 apply as if the  
17 youth offender were a ward.

18 **SECTION 2.** ORS 419C.501 is amended to read:

19 419C.501. (1) The court shall fix the duration of any disposition made  
20 pursuant to this chapter and the duration may be for an indefinite period[.  
21 *Any*], **unless the placement is** in the legal custody of the Department of  
22 Human Services or the Oregon Youth Authority under ORS 419C.478 [*or*] **in**  
23 **which case the court shall fix a specific date before which the place-**  
24 **ment in the legal custody of the department or youth authority may**  
25 **not end.** Any placement under the jurisdiction of the Psychiatric Security  
26 Review Board under ORS 419C.529 shall be for an indefinite period. How-  
27 ever, the period of institutionalization or commitment may not exceed:

28 (a) The period of time specified in the statute defining the crime for an  
29 act that would constitute an unclassified misdemeanor if committed by an  
30 adult;

31 (b) Thirty days for an act that would constitute a Class C misdemeanor

1 if committed by an adult;

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

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

6 (e) Five years for an act that would constitute a Class C felony if com-  
7 mitted by an adult;

8 (f) Ten years for an act that would constitute a Class B felony if com-  
9 mitted by an adult;

10 (g) Twenty years for an act that would constitute a Class A felony if  
11 committed by an adult; and

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

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

18 **SECTION 3.** ORS 419C.492 is amended to read:

19 419C.492. Commitment of a youth offender to the Oregon Youth Authority  
20 or the Department of Human Services does not terminate the court's con-  
21 tinuing jurisdiction to protect the rights of the youth offender or the youth  
22 offender's parents or guardians. Notwithstanding ORS 419C.478 [(5)] (6), if  
23 upon review of a placement of a youth offender made by the youth authority  
24 or the department, the court determines that the placement is so inappro-  
25 priate as to violate the rights of the youth offender or the youth offender's  
26 parents or guardians, the court may direct the youth authority or the de-  
27 partment to place the youth offender in a specific type of residential place-  
28 ment, but the actual planning and placement of the youth offender shall be  
29 the responsibility of the youth authority or the department. Nothing in this  
30 section affects any contractual right of a private agency to refuse or termi-  
31 nate a placement.

1        **SECTION 4. The amendments to ORS 419C.478, 419C.492 and 419C.501**  
2 **by sections 1 and 2 of this 2015 Act apply to dispositional orders for**  
3 **youth offenders made on or after the effective date of this 2015 Act.**

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