

# House Bill 2905

Sponsored by 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 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

1  
2 Relating to dispositional orders for custody of youth offenders; creating new provisions; and  
3 amending ORS 419C.478, 419C.492 and 419C.501.

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

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

6 419C.478. (1) The court may, in addition to probation or any other dispositional order[,]:

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

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

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

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

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

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

18 (b) **The youth authority may offer its expertise to the court in the determination of a  
19 close custody release date under this section. The information provided by the youth au-  
20 thority must be offered in open court and made available to all parties.**

21 [(2)] (3) If the court places a youth offender under subsection (1) of this section, the court may  
22 specify the type of care, supervision or services to be provided by the youth authority or the de-  
23 partment to youth offenders placed in the youth authority's or department's custody and to the  
24 parents or guardians of the youth offenders, but the actual planning and provision of the care,  
25 supervision, security or services is the responsibility of the youth authority or the department,  
26 **provided, however, that the youth authority may not release the youth offender from close  
27 custody prior to the date ordered by the court under subsection (1) of this section.** The youth  
28 authority or the department may place the youth offender in a youth care center or other facility  
29 authorized to accept the youth offender.

30 [(3)] (4) The court may place a youth offender in the legal custody of the department under  
31 subsection (1) of this section if:

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

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

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

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

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

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

12 (e) The court, in making the findings and determinations required by this subsection, has con-  
 13 sidered the relevant facts and circumstances of the case, as provided in ORS 419C.411.

14 [(4)] (5) Uniform commitment blanks, in a form approved by the director of the youth authority,  
 15 or by the Director of Human Services for placements under subsection [(3)] (4) of this section, shall  
 16 be used by all courts for placing youth offenders in the legal custody of the youth authority or the  
 17 department.

18 [(5)] (6) If the youth offender has been placed in the custody of the youth authority or the de-  
 19 partment, the court may not make a commitment directly to any residential facility, but shall cause  
 20 the youth offender to be delivered into the custody of the youth authority or the department at the  
 21 time and place fixed by rules of the youth authority or the department. A youth offender committed  
 22 under this subsection may not be placed in a Department of Corrections institution.

23 [(6)] (7) When the court places a youth offender in the legal custody of the department under  
 24 subsection (1) of this section, ORS 419B.440, 419B.443, 419B.446, 419B.449, 419B.452, 419B.470,  
 25 419B.473 and 419B.476 apply as if the youth offender were a ward.

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

27 419C.501. (1) The court shall fix the duration of any disposition made pursuant to this chapter  
 28 and the duration may be for an indefinite period[. Any], **unless the placement is** in the legal custody  
 29 of the Department of Human Services or the Oregon Youth Authority under ORS 419C.478 [or] **in**  
 30 **which case the court shall fix a specific date before which the placement in the legal custody**  
 31 **of the department or youth authority may not end.** Any placement under the jurisdiction of the  
 32 Psychiatric Security Review Board under ORS 419C.529 shall be for an indefinite period. However,  
 33 the period of institutionalization or commitment may not exceed:

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

36 (b) Thirty days for an act that would constitute a Class C misdemeanor if committed by an adult;

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

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

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

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

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

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

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

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

2        419C.492. Commitment of a youth offender to the Oregon Youth Authority or the Department  
3 of Human Services does not terminate the court's continuing jurisdiction to protect the rights of the  
4 youth offender or the youth offender's parents or guardians. Notwithstanding ORS 419C.478 [(5)]  
5 **(6)**, if upon review of a placement of a youth offender made by the youth authority or the depart-  
6 ment, the court determines that the placement is so inappropriate as to violate the rights of the  
7 youth offender or the youth offender's parents or guardians, the court may direct the youth au-  
8 thority or the department to place the youth offender in a specific type of residential placement, but  
9 the actual planning and placement of the youth offender shall be the responsibility of the youth  
10 authority or the department. Nothing in this section affects any contractual right of a private  
11 agency to refuse or terminate a placement.

12        **SECTION 4. The amendments to ORS 419C.478, 419C.492 and 419C.501 by sections 1 and**  
13 **2 of this 2015 Act apply to dispositional orders for youth offenders made on or after the ef-**  
14 **fective date of this 2015 Act.**

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