

SB 49-1  
(LC 503)  
2/27/17 (BLS/ps)

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 49**

1 On page 1 of the printed bill, line 3, delete “419C.392” and insert  
2 “419C.396”.

3 On page 2, line 12, after “section” insert “unless the youth has been  
4 placed in a detention facility as defined in ORS 419A.004 or a youth cor-  
5 rection facility as defined in ORS 420.005”.

6 Delete lines 14 through 31.

7 In line 32, delete “4” and insert “3”.

8 In lines 37 through 41, restore the bracketed material and delete the  
9 boldfaced material.

10 On page 3, line 3, after “services” insert “unless the youth has been  
11 placed in a detention facility as defined in ORS 419A.004 or a youth cor-  
12 rection facility as defined in ORS 420.005”.

13 After line 3, insert:

14 **“SECTION 4.** ORS 419C.396 is amended to read:

15 “419C.396. (1) The Oregon Health Authority shall arrange for the pro-  
16 vision of or begin providing restorative services within 30 days after receiv-  
17 ing a court order under ORS 419C.392 (3). The authority shall send a report  
18 to the court, with copies to the parties to the proceeding initiated by a pe-  
19 tition alleging jurisdiction under ORS 419C.005, no later than 90 days after  
20 receipt of the order. The report must describe the nature and duration of  
21 restorative services provided, indicate whether the youth is fit to proceed or

1 presents a substantial probability of gaining or regaining fitness to proceed  
2 and recommend whether restorative services should be continued and, if so,  
3 the type and duration of the services.

4 “(2) Within 14 days after receiving a report under subsection (1) of this  
5 section, the court shall determine the youth’s fitness to proceed.

6 “(3) Upon the recommendation of the authority, the request of a party or  
7 the court’s own motion, the court may hold a review hearing concerning the  
8 evaluation of the youth’s fitness to proceed at any time during which  
9 restorative services are provided pursuant to an order under ORS 419C.392  
10 (3). After a review hearing, the court shall determine the youth’s fitness to  
11 proceed.

12 “(4) If the court finds that a youth is fit to proceed, the court shall vacate  
13 the stay under ORS 419C.378.

14 “(5) If the court finds that the youth remains unfit to proceed and that  
15 there is not a substantial probability that the youth will gain or regain fit-  
16 ness to proceed in the foreseeable future, the court shall:

17 “(a) Immediately enter a judgment that dismisses the petition alleging  
18 jurisdiction under ORS 419C.005 without prejudice; or

19 “(b) If necessary for planning or instituting an alternative proceeding,  
20 then not more than five days after the findings are made enter a judgment  
21 that dismisses the petition without prejudice.

22 “(6) If the court finds under subsection (2) or (3) of this section that the  
23 youth remains unfit to proceed, but that the youth presents a substantial  
24 probability of gaining or regaining fitness to proceed, the court shall order  
25 that restorative services be continued. The court shall order the authority  
26 to send a report to the court, with copies to the parties, within a specified  
27 time, not to exceed 90 days from the time the order is filed.

28 “(7) If the court finds under subsection (2) or (3) of this section that a  
29 youth remains unfit to proceed, the youth shall be discharged within a period  
30 of time that is reasonable for making a determination whether the youth

1 presents a substantial probability of gaining or regaining fitness to proceed.  
2 Regardless of the number of acts the petition alleging jurisdiction under ORS  
3 419C.005 alleges that the youth committed, the youth may not be continued  
4 in restorative services for longer than whichever of the following, measured  
5 from the date the petition is filed, is shorter:

6 “(a) Three years; or

7 “(b) The period of time that is equal to the maximum commitment the  
8 court could have imposed if the petition had been adjudicated.

9 “(8)(a) If the court orders placement for restorative services, the court  
10 may specify the type of care, supervision, security or services to be provided  
11 by the authority to any youth placed in the custody of the Department of  
12 Human Services and to the parents or guardians of the youth.

13 “(b) The authority, in [*consultation with the department*] **coordination**  
14 **with the Department of Human Services, the local juvenile department**  
15 **and the youth’s family**, may place the youth in any facility authorized to  
16 accept the youth and provide the necessary services and care **that are most**  
17 **appropriate for the youth.**

18 “(c) **The authority shall continue to provide restorative services**  
19 **wherever the youth is placed.”.**

20 In line 4, delete “419C.392” and insert “419C.396”.

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