

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
HOUSE BILL 2616**

1 On page 1 of the printed bill, delete lines 5 through 24 and insert:
2 **“SECTION 1.** ORS 419C.200 is amended to read:
3 *“419C.200. (1) [If the youth, the parent or guardian requests counsel for the*
4 *youth but is without sufficient financial means to employ suitable counsel*
5 *possessing skills and experience commensurate with the nature of the petition*
6 *and the complexity of the case, the court may appoint suitable counsel to rep-*
7 *resent the youth at state expense if the youth is determined to be financially*
8 *eligible under the policies, procedures, standards and guidelines of the Public*
9 *Defense Services Commission. Whenever requested to do so,] The court shall*
10 *appoint counsel to represent the youth in every case filed pursuant to ORS*
11 *419C.005* **at all stages of the proceeding** *in which the youth would be en-*
12 *titled to appointed counsel if the youth were an adult charged with the same*
13 *offense* **or probation violation. If the youth, or the youth’s parents or**
14 **guardians, are without sufficient financial means to employ suitable**
15 **counsel possessing the skills and experience commensurate with the**
16 **nature of the petition and the complexity of the case, the court may**
17 **appoint suitable counsel to represent the youth at state expense if the**
18 **youth is determined to be financially eligible under the policies, pro-**
19 **cedures, standards and guidelines of the Public Defense Services**
20 **Commission.** *The court may not substitute one appointed counsel for an-*
21 *other except pursuant to the policies, procedures, standards and guidelines*

1 of the Public Defense Services Commission.

2 **“(2) Except as provided in subsection (3) of this section and ORS**
3 **419C.245, a court may not accept a waiver of counsel by a youth.**

4 **“(3)(a) A court may not accept a waiver of counsel by a youth ex-**
5 **cept under the following conditions:**

6 **“(A) The youth is at least 12 years of age;**

7 **“(B) The youth has met with and been advised regarding the right**
8 **to counsel by counsel who has been appointed by the court or retained**
9 **on behalf of the youth;**

10 **“(C) A written waiver, signed by both the youth and the youth’s**
11 **counsel, is filed with the court; and**

12 **“(D) A hearing is held on the record where the youth’s counsel ap-**
13 **pears and the court, after consulting with the youth, finds the waiver**
14 **was knowingly, intelligently and voluntarily made and not unduly in-**
15 **fluenced by the interests of others, including the interests of the**
16 **youth’s parents or guardians.**

17 **“(b) This subsection does not apply to a youth entering into a**
18 **formal accountability agreement under ORS 419C.230.**

19 **“[(2)] (4) Upon presentation of the order of appointment under this section**
20 **by the attorney for the youth, any agency, hospital, school organization, di-**
21 **vision or department of the state, doctor, nurse or other health care provider,**
22 **psychologist, psychiatrist, police department or mental health clinic shall**
23 **permit the attorney to inspect and copy any records of the youth or youths**
24 **involved in the case, without the consent of the youth or youths or parents.**
25 **This subsection does not apply to records of a police agency relating to an**
26 **ongoing investigation prior to charging.”.**

27 In line 26, after “inform” insert “, in writing,”.

28 In line 27, delete “guardian” and insert “guardians”.

29 On page 2, delete lines 2 through 7 and insert:

30 **“(2) The youth may waive the right to counsel prior to the youth’s**

1 **entering into a formal accountability agreement, provided that:**

2 **“(a) The youth’s juvenile department counselor has advised the**
3 **youth of the youth’s right to counsel, in writing; and**

4 **“(b) The waiver is in writing, signed by the youth and presented to**
5 **the youth’s juvenile department counselor.”.**

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