

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 in which the youth would be entitled to appointed counsel if the youth*  
12 *were an adult charged with the same offense.] (1)(a) **When a petition is filed***  
13 **under ORS 419C.005, the court:**

14 **“(A) Shall appoint counsel to represent the youth at all stages of**  
15 **the proceeding if the offense alleged in the petition is classified as a**  
16 **crime.**

17 **“(B) Shall appoint counsel for the youth at any proceeding con-**  
18 **cerning an order of probation.**

19 **“(C) Notwithstanding subparagraph (A) or (B) of this paragraph,**  
20 **shall appoint counsel for the youth in any case in which the youth**  
21 **would be entitled to appointed counsel if the youth were an adult**

1 **charged with the same offense.**

2 **“(D) May appoint counsel for the youth in any other proceeding**  
3 **under ORS 419C.005.**

4 **“(b) Appointment of counsel under this subsection requires the**  
5 **court’s determination that the youth, or the youth’s parents or**  
6 **guardians, are without sufficient financial means to employ suitable**  
7 **counsel possessing the skills and experience commensurate with the**  
8 **nature of the petition and the complexity of the case under the poli-**  
9 **cies, procedures, standards and guidelines of the Public Defense Ser-**  
10 **vices Commission.**

11 **“(c) The court may not substitute one appointed counsel for another ex-**  
12 **cept pursuant to the policies, procedures, standards and guidelines of the**  
13 **Public Defense Services Commission.**

14 **“(2)(a) A court may not accept a waiver of counsel by a youth ex-**  
15 **cept under the following circumstances:**

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

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

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

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

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

29 **“[(2)] (3) Upon presentation of the order of appointment under this section**  
30 **by the [attorney] counsel for the youth, any agency, hospital, school organ-**

1 ization, division or department of the state, doctor, nurse or other health  
2 care provider, psychologist, psychiatrist, police department or mental health  
3 clinic shall permit the [attorney] **counsel** to inspect and copy any records  
4 of the youth or youths involved in the case, without the consent of the youth  
5 or youths or parents. This subsection does not apply to records of a police  
6 agency relating to an ongoing investigation prior to charging.”.

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

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

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

10 “(2) The youth may waive the right to counsel prior to the youth’s en-  
11 tering into a formal accountability agreement, provided that:

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

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

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