

# D R A F T

## SUMMARY

Specifies procedures for providing notice to defendant in charging instrument and at arraignment when conviction would result in firearm prohibition. Specifies procedures for proving nature of relationship between defendant and alleged victim for certain crimes. Directs court to make determination concerning relationship and enter order prohibiting defendant from possessing firearms. Directs court to provide determination and order to Department of State Police and county sheriff for entry into databases.

Shifts duty to receive complaints alleging law enforcement profiling from Law Enforcement Contacts Policy and Data Review Committee to Oregon Criminal Justice Commission.

Exempts from definition of commercial motor vehicle emergency vehicles operated by police officers.

Creates exception to 28-day time limit for detention of youth if request for waiver hearing is pending.

Permits youth to waive 10-day detention review hearings. Extends frequency of detention review hearings to 30 days if request for waiver hearing is pending. Permits youth to waive individual 30-day detention review hearing.

Declares venue of juvenile proceeding subject to waiver hearing to be county where alleged act was committed. Prohibits venue transfer unless court determines case may not be waived or state stipulates it will not request waiver.

Authorizes certain youth offenders who are less than 20 years of age to be admitted to youth correction facility.

## A BILL FOR AN ACT

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Relating to public safety; creating new provisions; amending ORS 131.920, 131.925, 419C.013, 419C.150, 419C.153, 420.011 and 801.208; and repealing ORS 181A.287.

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



1 cause shown, at arraignment or no later than 45 days prior to trial or  
2 entry of a guilty or no contest plea, serve on the defendant and file  
3 with the court a notice stating that, due to the nature of the offense,  
4 the defendant will be prohibited from possessing firearms if convicted  
5 of the offense.

6 (2) The Department of Justice, in consultation with the State Court  
7 Administrator, shall develop a form to be used to provide a notice de-  
8 scribed in subsection (1) of this section. The form must:

9 (a) Allow the district attorney, if applicable, to specify the re-  
10 lationship between the defendant and the alleged victim, and whether  
11 the relationship between the defendant and the alleged victim would  
12 cause the defendant to be prohibited from possessing firearms under  
13 federal law, Oregon law or both; and

14 (b) Advise the defendant that the failure to allege any specified re-  
15 lationship between the defendant and the victim, or the absence of a  
16 court determination or order under section 3 of this 2020 Act, does not  
17 affect the lawfulness of the defendant's possession of firearms under  
18 ORS 166.250 or 166.255 or under federal law.

19 SECTION 3. (1) If a defendant has been charged with an offense  
20 described in ORS 166.255 (1)(b) on a charging instrument alleging that  
21 the relationship existing between the defendant and the person alleged  
22 to be the victim of the offense, at the time of the offense, is a type  
23 listed in section 1 of this 2020 Act, the specified relationship may be  
24 established as follows:

25 (a) At any time prior to entry of a plea of guilty or no contest, the  
26 defendant may stipulate, orally on the record or in writing, to the  
27 nature of the relationship. Upon the stipulation, the court shall find  
28 that the relationship has been established and shall proceed under  
29 subsection (2) of this section.

30 (b) If the defendant enters a plea of guilty or no contest to the of-  
31 fense described in ORS 166.255 (1)(b), but does not stipulate or admit

1 to the nature of the relationship between the defendant and the vic-  
2 tim, the district attorney has the burden of proving the nature of the  
3 relationship beyond a reasonable doubt. If the court finds that the  
4 burden of proof has been met, the court shall proceed under subsection  
5 (2) of this section.

6 (c) If the defendant proceeds to trial on the offense described in  
7 ORS 166.255 (1)(b), the district attorney has the burden of proving the  
8 nature of the relationship beyond a reasonable doubt. The fact finder  
9 shall return a special verdict of “yes” or “no” on the issue of whether  
10 the nature of the relationship between the defendant and victim is as  
11 alleged. If the fact finder returns a verdict of “yes,” the court shall  
12 proceed under subsection (2) of this section.

13 (2) If the nature of the relationship between the defendant and the  
14 victim has been established under subsection (1) of this section, upon  
15 conviction of the offense described in ORS 166.255 (1)(b), the court  
16 shall:

17 (a) Make a written determination concerning the nature of the re-  
18 lationship;

19 (b) Enter an order prohibiting the defendant from possessing  
20 firearms; and

21 (c) Inform the defendant that the determination and order will be  
22 provided to the Department of State Police and to the sheriff for entry  
23 into state and federal databases.

24 (3)(a) The court shall cause a copy of the determination and order  
25 described in subsection (2) of this section to be provided to the De-  
26 partment of State Police and the county sheriff.

27 (b) Upon receipt of the determination and order described in para-  
28 graph (a) of this subsection:

29 (A) The Department of State Police shall enter the information into  
30 any appropriate state or national databases; and

31 (B) The sheriff shall enter the information into any appropriate

1 state or national databases.

2 (4)(a) Upon conviction of stalking under ORS 163.732, the court  
3 shall:

4 (A) Enter an order prohibiting the defendant from possessing  
5 firearms; and

6 (B) Inform the defendant that the order will be provided to the  
7 Department of State Police and to the sheriff for entry into state and  
8 federal databases.

9 (b) The court shall cause a copy of the order described in paragraph  
10 (a) of this subsection to be provided to the Department of State Police  
11 and the county sheriff.

12 (c) Upon receipt of the order described in paragraph (b) of this  
13 subsection:

14 (A) The Department of State Police shall enter the information into  
15 any appropriate state or national databases; and

16 (B) The sheriff shall enter the information into any appropriate  
17 state or national databases.

18 (5) The State Court Administrator shall develop a form to be used  
19 for the determination and order described in subsection (2) of this  
20 section and the order described in subsection (4)(a) of this section. The  
21 form must allow the court to designate the crime of conviction, specify  
22 the relationship between the defendant and the victim, if applicable,  
23 and specify whether the conviction or relationship causes the defend-  
24 ant to be prohibited from possessing firearms under federal law,  
25 Oregon law or both.

26 (6) The absence of a court determination or order under this section  
27 does not affect the lawfulness of the defendant's possession of firearms  
28 under ORS 166.250 or 166.255 or under federal law.

29 SECTION 4. The Department of State Police, when entering infor-  
30 mation received under section 3 of this 2020 Act into a state or na-  
31 tional database, shall ensure, and shall develop a process if necessary

1 to ensure, that the information specifies whether the defendant is  
2 prohibited from possessing firearms under federal law, Oregon law or  
3 both.

4 SECTION 5. ORS 181A.287 is repealed.

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6 **LAW ENFORCEMENT PROFILING COMPLAINTS**

7

8 SECTION 6. ORS 131.920 is amended to read:

9 131.920. (1) All law enforcement agencies shall have written policies and  
10 procedures prohibiting profiling. The policies and procedures shall, at a  
11 minimum, include:

12 (a) A prohibition on profiling;

13 (b) Procedures allowing a complaint alleging profiling to be made to the  
14 agency:

15 (A) In person;

16 (B) In a writing signed by the complainant and delivered by hand, postal  
17 mail, facsimile or electronic mail; or

18 (C) By telephone, anonymously or through a third party;

19 (c) The provision of appropriate forms to use for submitting complaints  
20 alleging profiling;

21 (d) Procedures for submitting a copy of each profiling complaint to the  
22 [*Law Enforcement Contacts Policy and Data Review Committee*] **Oregon**  
23 **Criminal Justice Commission** and for receiving profiling complaints for-  
24 warded from the [*committee*] **commission**; and

25 (e) Procedures for investigating all complaints alleging profiling.

26 (2) A law enforcement agency shall:

27 (a) Investigate all complaints alleging profiling that are received by the  
28 agency or forwarded from the [*committee*] **commission**.

29 [*(b) Accept for investigation a complaint alleging profiling that is made to*  
30 *the agency within 180 days of the alleged profiling incident.*]

31 [*(c)*] (b) Respond to every complaint alleging profiling within a reasonable

1 time after the conclusion of the investigation. The response must contain a  
2 statement of the final disposition of the complaint.

3 **SECTION 7.** ORS 131.925 is amended to read:

4 131.925. (1)(a) A law enforcement agency shall provide to the [*Law*  
5 *Enforcement Contacts Policy and Data Review Committee*] **Oregon Criminal**  
6 **Justice Commission** information concerning each complaint the agency re-  
7 ceives alleging profiling, and shall notify the [*committee*] **commission** of the  
8 disposition of the complaint, in the manner described in this subsection.

9 (b) The law enforcement agency shall submit to the [*committee*] **com-**  
10 **mission** a profiling complaint report form summarizing each profiling com-  
11 plaint and the disposition of the complaint, and a copy of each profiling  
12 complaint, once each year no later than January 31.

13 (c) The law enforcement agency shall submit the form described in para-  
14 graph (b) of this subsection even if the agency has not received any profiling  
15 complaints.

16 (d) The profiling complaint report form and copies of profiling complaints  
17 submitted to the [*committee*] **commission** may not include personal infor-  
18 mation concerning the complainant or a law enforcement officer except as  
19 to any personal information recorded on the form as described in subsection  
20 (4)(c) of this section.

21 (2)(a) A person may submit to the [*committee*] **commission** a complaint  
22 alleging profiling and the [*committee*] **commission** shall receive the com-  
23 plaints.

24 (b) The [*committee*] **commission** also shall receive complaints alleging  
25 profiling that are forwarded from a law enforcement agency.

26 (c) The [*committee*] **commission** shall forward a copy of each profiling  
27 complaint the [*committee*] **commission** receives to the law enforcement  
28 agency employing the officer that is the subject of the complaint. The for-  
29 warded complaint must include the name of the complainant unless the  
30 complainant requests to remain anonymous, in which case the complainant's  
31 name must be redacted.

1 (3)(a) The [*committee*] **commission** may not release any personal infor-  
2 mation concerning a complainant or a law enforcement officer who is the  
3 subject of a profiling complaint.

4 (b) The personal information of complainants and of law enforcement of-  
5 ficers who are the subject of profiling complaints are exempt from public  
6 disclosure under ORS 192.355.

7 (4) The [*Department of State Police*] **commission** shall develop a stand-  
8 ardized profiling complaint report form. The form must provide for recording  
9 the following information:

10 (a) A summary of total complaints and a certification that a law  
11 enforcement agency's profiling policy conforms to ORS 131.920;

12 (b) A summary of each complaint received by the law enforcement agency,  
13 including the date, time and location of the incident and the disposition of  
14 the complaint; and

15 (c) To the extent known, the complainant's gender, gender identity, age,  
16 race, ethnicity, sexual orientation, primary language, national origin, reli-  
17 gion, political affiliation, homeless status and disability status, recorded in  
18 a manner that does not identify the complainant.

19 (5) As used in this section, "personal information" has the meaning given  
20 that term in ORS 807.750.

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## EMERGENCY VEHICLES

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24 **SECTION 8.** ORS 801.208 is amended to read:

25 801.208. (1) "Commercial motor vehicle" means a motor vehicle or combi-  
26 nation of motor vehicles and one or more vehicles that:

27 (a) Has a gross combination weight rating or gross combination weight  
28 of 26,001 pounds or more, whichever is greater, inclusive of one or more  
29 towed units, with a gross vehicle weight rating or gross vehicle weight of  
30 more than 10,000 pounds, whichever is greater;

31 (b) Has a gross vehicle weight rating or gross vehicle weight of 26,001



1 pounds or more;

2 (c) Is designed to transport 16 or more persons, including the driver; or

3 (d) Is of any size and is used in the transportation of hazardous materials.

4 (2) Notwithstanding subsection (1) of this section, the term “commercial  
5 motor vehicle” does not include the following:

6 (a) An emergency fire vehicle being operated by firefighters as defined in  
7 ORS 652.050;

8 (b) Emergency vehicles being operated by qualified emergency service  
9 volunteers as defined in ORS 401.358 **or police officers as defined in ORS**  
10 **801.395;**

11 (c) A motor home used to transport or house, for nonbusiness purposes,  
12 the operator or the operator’s family members or personal possessions; or

13 (d) A recreational vehicle that is operated solely for personal use.

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## DETENTION REVIEW HEARINGS

16

17 **SECTION 9.** ORS 419C.150 is amended to read:

18 419C.150. (1) Except as **otherwise** provided in [*subsection (3) of*] this sec-  
19 tion, a youth may be held in detention under this section and ORS 419C.145,  
20 419C.153 and 419C.156 for a maximum of 28 days except for good cause shown  
21 prior to the expiration of the 28-day period. If good cause for continued de-  
22 tention is shown, the period of detention may be extended for no more than  
23 an additional 28 days unless the adjudication is continued with the express  
24 consent of the youth.

25 (2) Subsection (1) of this section does not apply to a youth alleged to be  
26 within the jurisdiction of the juvenile court for having committed an act that  
27 would be murder, attempted murder, conspiracy to commit murder or treason  
28 if committed by an adult and if proof of the act is evident or the presumption  
29 strong that the youth committed the act. The juvenile court may conduct  
30 such hearing as the court considers necessary to determine whether the proof  
31 is evident or the presumption strong.

1 (3)(a) The time limits described in subsection (1) of this section do not  
2 apply if:

3 (A) The court has stayed the proceedings on the petition alleging juris-  
4 diction under ORS 419C.005 pursuant to ORS 419C.378;

5 (B) The court has not entered an order determining the youth's fitness to  
6 proceed pursuant to a motion made under ORS 419C.378 or the motion has  
7 not otherwise been resolved; and

8 (C) The court holds the review hearings required by ORS 419C.153 and  
9 determines that detention of the youth under ORS 419C.145 should continue.

10 (b)(A) Except as provided in subparagraph (B) of this paragraph, the de-  
11 tention of the youth whose detention has been continued under subsection  
12 (3)(a) of this section may be extended for no more than 28 days upon entry  
13 of an order determining the youth's fitness to proceed pursuant to a motion  
14 made under ORS 419C.378 or upon other resolution of the motion, and if the  
15 court holds the review hearings required by ORS 419C.153 and determines  
16 that detention of the youth under ORS 419C.145 should continue.

17 (B) The detention of the youth may be extended for more than 28 days  
18 under this paragraph if expressly agreed to by the youth, and if the court  
19 holds the review hearings required by ORS 419C.153 and determines that  
20 detention of the youth under ORS 419C.145 should continue.

21 **(4)(a) The time limits described in subsection (1) of this section do**  
22 **not apply if:**

23 **(A) The state has filed a motion requesting waiver under ORS**  
24 **419C.349;**

25 **(B) The motion has not been resolved; and**

26 **(C) The court holds the review hearings required by ORS 419C.153**  
27 **and determines that detention of the youth should continue.**

28 **(b)(A) Except as provided in subparagraph (B) of this paragraph, the**  
29 **detention of youth whose detention has been continued under sub-**  
30 **section (4)(a) of this section may be extended for no more than 28 days**  
31 **upon entry of an order denying a motion for waiver hearing or an or-**

1 **der denying waiver, and if the court holds the review hearings required**  
2 **by ORS 419C.153 and determines that detention of the youth should**  
3 **continue.**

4 **(B) The detention of the youth may be extended for more than 28**  
5 **days under this paragraph if expressly agreed to by the youth, and if**  
6 **the court holds the review hearings required by ORS 419C.153 and de-**  
7 **termines that detention of the youth should continue.**

8 **SECTION 10.** ORS 419C.153 is amended to read:

9 **419C.153. (1)(a) Except as provided in subsection (2) of this section**  
10 **or waived by the youth under paragraph (b) of this subsection, any**  
11 **youth ordered detained under ORS 419C.145, 419C.150 and 419C.156 shall**  
12 **have a review hearing at least every 10 days, excluding Saturdays, Sundays**  
13 **and judicial holidays. At the review hearing the court shall determine**  
14 **whether sufficient cause exists to require continued detention of the youth.**  
15 **In addition, the court may review and may confirm, revoke or modify any**  
16 **order for the detention or release of the youth under this section or ORS**  
17 **419C.109, 419C.136, 419C.139, 419C.145, 419C.150 or 419C.156 and, in the event**  
18 **that the youth is alleged to have committed an offense which if committed**  
19 **by an adult would be a misdemeanor or Class C felony, may do so ex parte.**  
20 **Release of a youth may not be revoked, however, except upon a finding that**  
21 **the youth may be detained under this section or ORS 419C.145, 419C.150 and**  
22 **419C.156, and after a hearing is held in accordance with ORS 419C.109,**  
23 **419C.136 and 419C.139. If the victim requests, the district attorney or juvenile**  
24 **department shall notify the victim of the review hearing.**

25 **(b) Upon the filing with the court of a written waiver signed by the**  
26 **youth and the youth's counsel, the court may waive one or, if specif-**  
27 **ically waived by the youth, all future review hearings under this sub-**  
28 **section. The waiver filed with the court must certify that the youth**  
29 **and the youth's counsel had contact no more than 10 days prior to the**  
30 **date the waiver is filed.**

31 **(2)(a) Unless waived by the youth under paragraph (b) of this sub-**

1 **section, any youth detained under ORS 419C.145, 419C.150 and 419C.156**  
2 **in whose case the state has filed a request for a waiver hearing under**  
3 **ORS 419C.349 (1) shall have a review hearing at least every 30 days.**  
4 **At the review hearing the court shall determine whether sufficient**  
5 **cause exists to require continued detention of the youth and to review**  
6 **the progress and timelines of the case. In addition, the court may re-**  
7 **view and may confirm, revoke or modify any order for the detention**  
8 **or release of the youth under this subsection or ORS 419C.109, 419C.136,**  
9 **419C.139, 419C.145, 419C.150 or 419C.156. Release of a youth may not be**  
10 **revoked, however, except upon a finding that the youth may be de-**  
11 **tained under this section or ORS 419C.145, 419C.150 or 419C.156, and**  
12 **after a hearing is held in accordance with ORS 419C.109, 419C.136 and**  
13 **419C.139.**

14 **(b) Upon the filing with the court of a written waiver signed by the**  
15 **youth and the youth's counsel, the court may waive a review hearing**  
16 **under this subsection. The waiver filed with the court must certify**  
17 **that the youth and the youth's counsel had contact no more than 10**  
18 **days prior to the date the waiver is filed.**

19 **(3) If a victim requests, the district attorney or juvenile department**  
20 **shall notify the victim of a review hearing under subsections (1) or (2)**  
21 **of this section.**

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23

## WAIVER

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25 **SECTION 11.** ORS 419C.013 is amended to read:

26 **419C.013. (1)(a) Except as otherwise provided in this subsection, a**  
27 **juvenile proceeding based on allegations of jurisdiction under ORS 419C.005**  
28 **shall commence in either the county where the youth resides or the county**  
29 **in which the alleged act was committed.**

30 **(b) A juvenile proceeding described in paragraph (a) of this sub-**  
31 **section that is subject to a waiver hearing under ORS 419C.319 (1) shall**

1 **commence in the county where the alleged act was committed and**  
2 **may not be transferred under ORS 419C.050, 419C.053 or 419C.056 unless:**

3 **(A) The court determines that the case may not be waived under**  
4 **ORS 419C.349; or**

5 **(B) The state stipulates that it will not file a motion requesting**  
6 **waiver under ORS 419C.349 (1).**

7 (2) Notwithstanding the provisions of ORS 34.320, an application for a  
8 writ of habeas corpus brought by or on behalf of a person who has been  
9 committed or placed in a youth correction facility which attacks the validity  
10 of the order of commitment shall be brought in the county in which the court  
11 that entered the order of commitment is located.

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## **YOUTH CORRECTION FACILITIES**

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15 **SECTION 12.** ORS 420.011 is amended to read:

16 420.011. (1) Except as provided in subsections (2), [*and*] (3) **and (4)** of this  
17 section, admissions to the youth correction facilities are limited to youth  
18 offenders who are at least 12 but less than [19] **20** years of age, found by the  
19 juvenile court to have committed an act that if committed by an adult would  
20 constitute aggravated murder, murder, a felony or a Class A misdemeanor  
21 and placed in the legal custody of the Oregon Youth Authority. A youth  
22 offender admitted to a youth correction facility may not be transferred by  
23 administrative process to any penal or correctional institution.

24 (2)(a) In addition to the persons placed in the legal custody of the youth  
25 authority under ORS 419C.478 (1) or 419C.481, and with the concurrence of  
26 the Director of the Oregon Youth Authority or the director's designee, per-  
27 sons who are committed to the Department of Corrections under ORS 137.124  
28 and meet the requirements of ORS 137.124 (5) may be temporarily assigned  
29 to a youth correction facility as provided by ORS 137.124 (5). A person as-  
30 signed on such a temporary basis remains within the legal custody of the  
31 Department of Corrections and such reassignment is subject to termination

1 by the Director of the Oregon Youth Authority by referring the person back  
2 to the Department of Corrections as provided in paragraph (b) of this sub-  
3 section.

4 (b) After a person is transferred to the physical custody of the youth au-  
5 thority under ORS 137.124 (5), the Director of the Oregon Youth Authority  
6 may refer the person back to the Department of Corrections for physical  
7 custody and placement if the director, after consulting with the Department  
8 of Corrections, determines that the person is at least 18 years of age and:

9 (A) Poses a substantial danger to youth authority staff or persons in the  
10 custody of the youth authority; or

11 (B) Is not likely, in the foreseeable future, to benefit from the rehabili-  
12 tation and treatment programs administered by the youth authority and is  
13 appropriate for placement in a Department of Corrections institution.

14 (3) Any person under 18 years of age at the time of committing the crime  
15 and under 20 years of age at the time of sentencing and commitment who,  
16 after waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 or  
17 sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to  
18 a term of imprisonment in the custody of the Department of Corrections, and  
19 any person under 16 years of age who after waiver under ORS 419C.349 (1)(b),  
20 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or  
21 (7)(b) or 137.712 is sentenced to a term of imprisonment in the county jail,  
22 shall be temporarily assigned to a youth correction facility by the Depart-  
23 ment of Corrections, or by the sheriff to whose custody the person has been  
24 committed, pursuant to ORS 137.124 (6). The director shall designate the ap-  
25 propriate youth correction facility or schools for such assignment. A person  
26 assigned to a youth correction facility under ORS 137.124 (6) and this sub-  
27 section remains within the legal custody of the Department of Corrections  
28 or sheriff to whose custody the person was committed. The assignment of  
29 such a person to the youth correction facility is subject, when the person is  
30 18 years of age or older, to termination by the director by referring the  
31 person back to the Department of Corrections or the sheriff to serve the

1 balance of the person's sentence. Assignment to a youth correction facility  
2 pursuant to ORS 137.124 (6) and this subsection, if not terminated earlier by  
3 the director, shall terminate upon the person's attaining the age specified in  
4 ORS 420A.010 (5) setting the age limits for which the Oregon Youth Au-  
5 thority may retain legal and physical custody of the person, and the person  
6 shall be referred to the Department of Corrections or the sheriff having legal  
7 custody of the person to serve the balance of the person's sentence.

8 **(4)(a) Admission to youth correction facilities for youth offenders**  
9 **who have been previously adjudicated, but who have not been previ-**  
10 **ously placed in custody of a youth correction facility as a result of the**  
11 **adjudication, is limited to youth offenders under 19 years of age.**

12 **(b) Notwithstanding paragraph (a) of this subsection, admission to**  
13 **youth correction facilities for youth offenders who have been previ-**  
14 **ously adjudicated for an act that, if committed by an adult, would**  
15 **constitute a crime listed in ORS 137.712 (1), but who have not been**  
16 **previously placed in custody of a youth correction facility as a result**  
17 **of the adjudication, is limited to youth offenders under 20 years of age.**

18 [(4)] (5) Whenever a person committed to the custody of the Department  
19 of Corrections is temporarily assigned to a youth correction facility pursuant  
20 to this section, the youth authority may provide programs and treatment for  
21 the person, and may adopt rules relating to conditions of confinement at the  
22 youth correction facility, as the youth authority determines are appropriate.  
23 However, the person remains subject to laws and rules of the State Board  
24 of Parole and Post-Prison Supervision relating to parole.

25 [(5)] (6) For the purposes of determining the person's age at the time of  
26 committing an offense under this section:

27 (a) If the person is convicted of two or more offenses occurring on dif-  
28 ferent days, the person's age shall be calculated using the earliest date.

29 (b) If the person is convicted of an offense occurring within a range of  
30 dates, the person's age shall be calculated using the date at the beginning  
31 of the range.

1        **SECTION 13. The unit captions used in this 2020 Act are provided**  
2 **only for the convenience of the reader and do not become part of the**  
3 **statutory law of this state or express any legislative intent in the**  
4 **enactment of this 2020 Act.**

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