

# Senate Bill 924

Sponsored by Senator MANNING JR; Senators DEMBROW, FAGAN, GELSER, MONNES ANDERSON, Representatives BYNUM, GREENLICK, PILUSO, POWER, SANCHEZ

## 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**.

Modifies juvenile code to prohibit placement of children and wards taken into protective custody in detention facilities.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the deinstitutionalization of children taken into protective custody; creating new pro-  
3 visions; amending ORS 169.070, 169.080, 169.085, 419A.004, 419A.010, 419A.014, 419A.050,  
4 419A.059, 419A.245, 419B.121, 419B.150, 419B.160, 419B.165, 419B.168, 419B.171, 419B.175,  
5 419B.180, 419B.183, 419B.185, 419C.109, 419C.133, 419C.139, 419C.150, 419C.153, 419C.156 and  
6 420.915; and declaring an emergency.

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

8 **SECTION 1.** ORS 419A.004 is amended to read:

9 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires  
10 otherwise:

11 (1) "Age-appropriate or developmentally appropriate activities" means:

12 (a) Activities or items that are generally accepted as suitable for children of the same chrono-  
13 logical age or level of maturity or that are determined to be developmentally appropriate for a child,  
14 based on the development of cognitive, emotional, physical and behavioral capacities that are typical  
15 for an age or age group; and

16 (b) In the case of a specific child, activities or items that are suitable for the child based on the  
17 developmental stages attained by the child with respect to the cognitive, emotional, physical and  
18 behavioral capacities of the child.

19 (2) "Another planned permanent living arrangement" means an out-of-home placement for a ward  
20 16 years of age or older that is consistent with the case plan and in the best interests of the ward  
21 other than placement:

22 (a) By adoption;

23 (b) With a legal guardian; or

24 (c) With a fit and willing relative.

25 (3) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile  
26 court, has received accreditation from the National CASA Association and has entered into a con-  
27 tract with the Oregon Department of Administrative Services under ORS 184.492 to recruit, train  
28 and supervise volunteers to serve as court appointed special advocates.

29 (4) "Child care center" means a residential facility for wards or youth offenders that is licensed,  
30 certified or otherwise authorized as a child-caring agency as that term is defined in ORS 418.205.

**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 (5) "Community service" has the meaning given that term in ORS 137.126.
- 2 (6) "Conflict of interest" means a person appointed to a local citizen review board who has a  
3 personal or pecuniary interest in a case being reviewed by that board.
- 4 (7) "Counselor" means a juvenile department counselor or a county juvenile probation officer.
- 5 (8) "Court" means the juvenile court.
- 6 (9) "Court appointed special advocate" means a person in a CASA Volunteer Program who is  
7 appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.
- 8 (10) "Court facility" has the meaning given that term in ORS 166.360.
- 9 (11) "Current caretaker" means a foster parent:
- 10 (a) Who is currently caring for a ward who is in the legal custody of the Department of Human  
11 Services and who has a permanency plan or concurrent permanent plan of adoption; and
- 12 (b) Who has cared for the ward, or at least one sibling of the ward, for at least 12 cumulative  
13 months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two  
14 years of age, calculated cumulatively.
- 15 (12) "Department" means the Department of Human Services.
- 16 (13) "Detention" or "detention facility" means a facility established under ORS 419A.010 to  
17 419A.020 and 419A.050 to 419A.063 for the detention of [*children, wards,*] youths or youth offenders  
18 pursuant to a judicial commitment or order.
- 19 (14) "Director" means the director of a juvenile department established under ORS 419A.010 to  
20 419A.020 and 419A.050 to 419A.063.
- 21 (15) "Guardian" means guardian of the person and not guardian of the estate.
- 22 (16) "Indian child" means any unmarried person less than 18 years of age who is:
- 23 (a) A member of an Indian tribe; or
- 24 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-  
25 dian tribe.
- 26 (17) "Juvenile court" means the court having jurisdiction of juvenile matters in the several  
27 counties of this state.
- 28 (18) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.
- 29 (19) "Parent" means the biological or adoptive mother and the legal parent of the child, ward,  
30 youth or youth offender. As used in this subsection, "legal parent" means:
- 31 (a) A person who has adopted the child, ward, youth or youth offender or whose parentage has  
32 been established or declared under ORS 109.065 or 416.400 to 416.465 or by a juvenile court; and
- 33 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-  
34 cable tribal law.
- 35 (20) "Permanent foster care" means an out-of-home placement in which there is a long-term  
36 contractual foster care agreement between the foster parents and the department that is approved  
37 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or  
38 youth offender until the age of majority.
- 39 (21) "Public building" has the meaning given that term in ORS 166.360.
- 40 (22) "Reasonable and prudent parent standard" means the standard, characterized by careful and  
41 sensible parental decisions that maintain the health, safety and best interests of a child or ward  
42 while encouraging the emotional and developmental growth of the child or ward, that a substitute  
43 care provider shall use when determining whether to allow a child or ward in substitute care to  
44 participate in extracurricular, enrichment, cultural and social activities.
- 45 (23) "Reasonable time" means a period of time that is reasonable given a child or ward's emo-

1 tional and developmental needs and ability to form and maintain lasting attachments.

2 (24) "Records" means any information in written form, pictures, photographs, charts, graphs,  
3 recordings or documents pertaining to a case.

4 (25) "Resides" or "residence," when used in reference to the residence of a child, ward, youth  
5 or youth offender, means the place where the child, ward, youth or youth offender is actually living  
6 or the jurisdiction in which wardship or jurisdiction has been established.

7 (26) "Restitution" has the meaning given that term in ORS 137.103.

8 (27) "Serious physical injury" means:

9 (a) A serious physical injury as defined in ORS 161.015; or

10 (b) A physical injury that:

11 (A) Has a permanent or protracted significant effect on a child's daily activities;

12 (B) Results in substantial and recurring pain; or

13 (C) In the case of a child under 10 years of age, is a broken bone.

14 (28) "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward,  
15 youth or youth offender who is taken into temporary custody pending investigation and disposition.

16 (29) "Short-term detention facility" means a facility established under ORS 419A.050 (3) for  
17 holding [*children,*] youths and youth offenders pending further placement.

18 (30) "Sibling" means one of two or more children or wards related:

19 (a) By blood or adoption through a common legal parent; or

20 (b) Through the marriage of the children's or wards' legal or biological parents.

21 (31) "Substitute care" means an out-of-home placement directly supervised by the department  
22 or other agency, including placement in a foster family home, group home, child-caring agency as  
23 defined in ORS 418.205 or other child caring institution or facility. "Substitute care" does not in-  
24 clude care in:

25 (a) A detention facility, forestry camp or youth correction facility;

26 (b) A family home that the court has approved as a ward's permanent placement, when a child-  
27 caring agency as defined in ORS 418.205 has been appointed guardian of the ward and when the  
28 ward's care is entirely privately financed; or

29 (c) In-home placement subject to conditions or limitations.

30 (32) "Surrogate" means a person appointed by the court to protect the right of the child, ward,  
31 youth or youth offender to receive procedural safeguards with respect to the provision of free ap-  
32 propriate public education.

33 (33) "Tribal court" means a court with jurisdiction over child custody proceedings and that is  
34 either a Court of Indian Offenses, a court established and operated under the code of custom of an  
35 Indian tribe or any other administrative body of a tribe that is vested with authority over child  
36 custody proceedings.

37 (34) "Victim" means any person determined by the district attorney, the juvenile department or  
38 the court to have suffered direct financial, psychological or physical harm as a result of the act that  
39 has brought the youth or youth offender before the juvenile court. When the victim is a minor,  
40 "victim" includes the legal guardian of the minor. The youth or youth offender may not be consid-  
41 ered the victim. When the victim of the crime cannot be determined, the people of Oregon, as re-  
42 presented by the district attorney, are considered the victims.

43 (35) "Violent felony" means any offense that, if committed by an adult, would constitute a felony  
44 and:

45 (a) Involves actual or threatened serious physical injury to a victim; or

1 (b) Is a sexual offense. As used in this paragraph, “sexual offense” has the meaning given the  
2 term “sex crime” in ORS 163A.005.

3 (36) “Ward” means a person within the jurisdiction of the juvenile court under ORS 419B.100.

4 (37) “Young person” means a person who has been found responsible except for insanity under  
5 ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

6 (38) “Youth” means a person under 18 years of age who is alleged to have committed an act that  
7 is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the  
8 United States or a state, county or city.

9 (39) “Youth care center” has the meaning given that term in ORS 420.855.

10 (40) “Youth offender” means a person who has been found to be within the jurisdiction of the  
11 juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

12 **SECTION 2.** ORS 419A.010 is amended to read:

13 419A.010. (1)(a) Subject to paragraph (b) of this subsection, the governing body of any county,  
14 after consultation with the judges of the juvenile court in that county, shall appoint or designate  
15 one or more persons of good moral character as counselors of the juvenile department of the county,  
16 to serve at the pleasure of and at a salary designated by the governing body of the county.

17 (b) The governing bodies of two or more contiguous counties may, pursuant to an agreement  
18 between the counties concerned, and after consultation with the judges of the juvenile courts in  
19 those counties, jointly appoint one or more persons of good moral character as counselors of the  
20 juvenile departments of the counties, to serve at the pleasure of and at a salary designated by the  
21 governing bodies of the counties concerned.

22 (c) When more than one person is appointed under this subsection, the appointing authority may  
23 designate one as director of the juvenile department or departments and the others to serve as ju-  
24 venile counselors or staff members.

25 (d) Additional qualifications for a person appointed director of a juvenile department of a county  
26 under this subsection may be established by the governing body of a county, subject to the approval  
27 of such qualifications by the judge of the juvenile court in that county.

28 (e) When the chairperson of the governing body of the county is also the judge of the juvenile  
29 court under ORS 5.020, only the judge shall make the decisions described in this subsection.

30 (2) The director shall be the administrator of the juvenile department or departments for the  
31 county or counties, including any juvenile detention facilities maintained by the county or by the  
32 counties jointly, and the supervisor of the staff of the juvenile department or departments and de-  
33 tention facilities, subject to the direction of the appointing authority.

34 (3) Notwithstanding subsection (2) of this section, if the county has entered into a written  
35 agreement under ORS 190.010 with any other unit or units of local government to coordinate juve-  
36 nile detention facilities established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for  
37 the detention of [*children, wards,*] youths or youth offenders pursuant to a judicial commitment or  
38 order, a juvenile director oversight committee may assume the duties and powers described in sub-  
39 section (2) of this section and ORS 419A.012, 419A.014, 419A.015 and 419A.016 if the following re-  
40 quirements have been met:

41 (a) The agreement to coordinate juvenile detention facilities provides for the formation and op-  
42 eration of a juvenile director oversight committee;

43 (b) A juvenile director oversight committee consisting of the juvenile director of each county  
44 that has entered into the agreement has been formed; and

45 (c) Each juvenile director has an equal vote on the juvenile director oversight committee.

1        **SECTION 3.** ORS 419A.014 is amended to read:

2        419A.014. The juvenile department of a county shall report annually to the Oregon Criminal  
3 Justice Commission the frequency with which [*runaway children held under ORS 419C.156,*] youths  
4 and youth offenders are held in preadjudicative detention and the duration of the detention.

5        **SECTION 4.** ORS 419A.050 is amended to read:

6        419A.050. (1) Any county may acquire in any lawful manner, equip and maintain within the  
7 county suitable facilities for the shelter [*or detention*] of children, wards, youths and youth  
8 offenders, **or the detention of youths and youth offenders**, confined pursuant to a judicial com-  
9 mitment or order pending final adjudication of the case by the juvenile court.

10        (2) When two or more counties have entered into an agreement under ORS 419A.010, the coun-  
11 ties jointly may acquire in any lawful manner, equip and maintain, at a suitable site or sites in the  
12 counties, facilities suitable for the shelter [*or detention*] of children, wards, youths and youth  
13 offenders, **or the detention of youths and youth offenders**, confined pursuant to judicial com-  
14 mitment or order pending final adjudication of the case by the juvenile court.

15        (3) Any county may designate, equip and maintain a short-term detention facility for [*children,*]  
16 youths and youth offenders in transit. The facility may house up to a total of five [*children,*] youths  
17 and youth offenders in transit for a period not to exceed four continuous days pending further  
18 placement. Short-term detention facilities:

19        (a) May not be located with detention facilities established under subsection (1) or (2) of this  
20 section; and

21        (b) Are subject to the standards and specifications found in ORS 169.740 and 419A.052. Upon  
22 written request of the county, the Department of Corrections may approve waivers and variances  
23 from the standards and specifications as long as the waivers or variances are consistent with the  
24 safety and welfare of detained [*children,*] youths and youth offenders.

25        **SECTION 5.** ORS 419A.059 is amended to read:

26        419A.059. (1) The juvenile court of each county shall designate the place or places in which  
27 children, wards, youths or youth offenders are to be placed in [*detention or*] shelter care, **or in**  
28 **which youths or youth offenders are to be placed in detention**, when taken into temporary  
29 custody.

30        (2) If the county is adjacent to another state, the court may designate a place or places in the  
31 adjoining state where children, wards, youths or youth offenders, pursuant to an agreement between  
32 such place or places and the juvenile department of the county, may be placed in [*detention or*]  
33 shelter care when taken into custody.

34        (3) **If the county is adjacent to another state, the court may designate a place or places**  
35 **in the adjoining state where youths or youth offenders, pursuant to an agreement between**  
36 **such place or places and the juvenile department of the county, may be placed in detention**  
37 **when taken into custody.** A county juvenile department may not enter into an agreement with an  
38 out-of-state place for placement in detention as provided in this [*section*] **subsection**, unless the  
39 place or places conform to standards of this state for such a place and unless the agreement includes  
40 a provision that the place be subject to inspection by officers of this state under ORS 419A.061.

41        **SECTION 6.** ORS 419A.245 is amended to read:

42        419A.245. (1) During the transportation of a youth, youth offender, young person, ward or child  
43 by the Department of Human Services, the Oregon Health Authority or an agent of the department  
44 or authority:

45        [(1)] (a) Instruments of physical restraint, such as handcuffs, chains, irons, straitjackets, cloth

1 restraints, leather restraints, plastic restraints and other similar items, may not be used unless:

2 [(a)] (A) The transportation is secure transportation to a detention facility, youth correction  
3 facility, **as defined in ORS 420.005**, secure hospital, secure intensive community inpatient facility  
4 or other secure facility; or

5 [(b)] (B) Restraints are necessary due to an immediate and serious risk of dangerous or disrupt-  
6 tive behavior and there are no less restrictive alternatives that will alleviate the immediate and  
7 serious risk of dangerous or disruptive behavior.

8 [(2)] (b) Prior to the use of restraints during transportation, a transportation safety plan, in-  
9 cluding documentation of the need for restraints, must be created. The transportation safety plan  
10 must address intervention strategies designed to modify behavior without the use of restraints and  
11 recommend the least restrictive effective alternative.

12 [(3)] (c) Only staff who have been adequately trained in restraint device usage may use and  
13 apply restraints during transportation.

14 [(4)] (d) Restraints during transportation may not be used as punishment, for convenience or as  
15 a substitute for staff supervision.

16 [(5)] (2) This section applies to all circumstances of transportation of a ward or child by the  
17 Department of Human Services, the Oregon Health Authority or an agent of the department or au-  
18 thority, including but not limited to transportation between placements with child-caring agencies,  
19 foster homes, shelter [*homes*] **care facilities**, treatment and residential facilities or any other type  
20 of placement destination for a ward or child in the custody of the Department of Human Services.

21 [(6) *As used in this section:*]

22 [(a) "*Detention facility*" has the meaning given that term in ORS 419A.004.]

23 [(b) "*Youth correction facility*" has the meaning given that term in ORS 420.005.]

24 **SECTION 7.** ORS 419B.121 is amended to read:

25 419B.121. [*Notwithstanding ORS 419C.145,*] The court may order [*the detention of a child who*]  
26 **placement of a child in shelter care if the child** resides in another state [*if*] **and** the court finds  
27 probable cause to believe that the child has run away from home or from a placement. If a child is  
28 ordered [*detained*] **placed** under this section, the court shall make such orders as are necessary to  
29 cause the child to be immediately returned to the child's state of residence.

30 **SECTION 8.** ORS 419B.150 is amended to read:

31 419B.150. (1) A child may be taken into protective custody by a peace officer, counselor, em-  
32 ployee of the Department of Human Services or any other person authorized by the juvenile court  
33 of the county in which the child is found, in the following circumstances:

34 (a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the  
35 child's welfare;

36 (b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or  
37 otherwise, has ordered that the child be taken into protective custody; or

38 (c) When it reasonably appears that the child has run away from home.

39 (2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an  
40 affidavit sworn on information and belief provided by a peace officer, counselor or employee of the  
41 department or other person authorized by the juvenile court that sets forth with particularity the  
42 facts and circumstances on which the request for protective custody is based, why protective cus-  
43 tody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare  
44 Act applies, active efforts made by the department to eliminate the need for protective custody of  
45 the child.

1 (b) Except as provided in paragraph (c) of this subsection, an order directing that a child be  
 2 taken into protective custody under subsection (1) of this section shall contain written findings, in-  
 3 cluding a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, ac-  
 4 tive efforts to eliminate the need for protective custody of the child that the department has made  
 5 and why protective custody is in the best interests of the child.

6 (c) The court may issue an order even though no services have been provided if the court makes  
 7 written findings that no existing services could eliminate the need for protective custody of the child  
 8 and that protective custody is in the best interests of the child.

9 (3) When a child is taken into protective custody as a runaway under subsection (1) of this  
 10 section, the peace officer or other person who takes the child into **protective** custody:

11 (a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or  
 12 guardian or to a shelter **care** facility that has agreed to provide care and services to children who  
 13 have run away from home and that has been designated by the juvenile court to provide such care  
 14 and services; or

15 (B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

16 (b) Shall, if possible, determine the preferences of the child and the child's parent or guardian  
 17 as to whether the best interests of the child are better served by placement in a shelter **care** facility  
 18 that has agreed to provide care and services to children who have run away from home and that  
 19 has been designated by the juvenile court to provide such care and services or by release to the  
 20 child's parent or guardian; and

21 (c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to  
 22 a shelter **care** facility that has agreed to provide care and services to children who have run away  
 23 from home and that has been designated by the juvenile court to provide such care and services if  
 24 it reasonably appears that the child would not willingly remain at home if released to the child's  
 25 parent or guardian.

26 **SECTION 9.** ORS 419B.160 is amended to read:

27 419B.160. (1)(a) **A child or ward taken into protective custody may not be placed in de-**  
 28 **tention except as provided in ORS chapter 419C for a person over whom the juvenile court**  
 29 **has jurisdiction under ORS 419C.005.**

30 (b) **Except as provided in ORS 419C.130,** a child or ward may not be [*detained*] **held** at any  
 31 time in a police station, jail, prison or other place where adults are [*detained*] **held**, except that a  
 32 child or ward may be [*detained*] **held** in a police station for up to five hours when necessary to ob-  
 33 tain the child or ward's name, age, residence and other identifying information.

34 (2) All peace officers shall keep a record of children taken into protective custody and shall  
 35 promptly notify the juvenile court or counselor of all children taken into protective custody.

36 (3) As soon as practicable after the child is taken into **protective** custody, the person taking  
 37 the child into **protective** custody shall notify the child's parent, guardian or other person responsi-  
 38 ble for the child. The notice shall inform the parent, guardian or other person of the action taken  
 39 and the time and place of the hearing.

40 **SECTION 10.** ORS 419B.165 is amended to read:

41 419B.165. The person taking the child into **protective** custody shall release the child to the  
 42 **protective** custody of the child's parent or other responsible person in this state, except in the fol-  
 43 lowing cases:

44 (1) Where the court has issued an order directing that the child be taken into protective cus-  
 45 tody.

1 (2) Where the person taking the child into **protective** custody has probable cause to believe that  
 2 the welfare of the child or others may be immediately endangered by the release of the child.

3 **SECTION 11.** ORS 419B.168 is amended to read:

4 419B.168. (1) If a child taken into protective custody is not released as provided in ORS 419B.165  
 5 and the juvenile court for the county has not established the alternative procedure authorized in  
 6 subsection (4) of this section, the person taking the child into **protective** custody shall, without  
 7 unnecessary delay, do one of the following:

8 (a) Take the child before the court or a person appointed by the court to effect disposition under  
 9 ORS 419B.165.

10 (b) Take the child to a place of [*detention or*] shelter care or a public or private agency desig-  
 11 nated by the court and as soon as possible thereafter notify the court that the child has been taken  
 12 into **protective** custody.

13 (2) Where a child residing in some other county is taken into protective custody the child may  
 14 be:

15 (a) Released to the child’s parent or other responsible person in this state as provided in ORS  
 16 419B.165.

17 (b) Delivered to a peace officer or juvenile counselor in the county in which the child resides,  
 18 if such delivery can be made without unnecessary delay. In such event, the person to whom the child  
 19 is delivered shall assume protective custody of the child and shall proceed as provided in this  
 20 chapter.

21 (3) Where a child is released or delivered as provided in subsection (2) of this section, the ju-  
 22 risdiction of the juvenile court of the county in which the child resides shall attach from the time  
 23 the child is taken into **protective** custody.

24 (4) The juvenile court may establish, as an alternative to the provisions of subsection (1) of this  
 25 section, that if a child taken into protective custody is not released as provided in ORS 419B.165,  
 26 procedures shall be followed that comply with the following:

27 (a) The person taking the child into **protective** custody may communicate, by telecommuni-  
 28 cations or otherwise, with the person appointed by the court to effect disposition under ORS  
 29 419B.175.

30 (b) After interviewing the person taking the child into **protective** custody and obtaining such  
 31 other information as is considered necessary, the person appointed by the court under ORS 419B.175  
 32 to effect disposition may exercise the authority granted under that section and shall, in such case,  
 33 direct that the person taking the child into **protective** custody release the child or deliver the child  
 34 in accordance with such direction.

35 (c) The person taking the child into **protective** custody shall comply with the direction of the  
 36 person appointed by the court to effect disposition.

37 **SECTION 12.** ORS 419B.171 is amended to read:

38 419B.171. Except where the child is taken into **protective** custody pursuant to an order of the  
 39 court, the person taking the child into **protective** custody shall promptly file with the court or a  
 40 counselor a brief written report stating all of the following:

41 (1) The child’s name, age and address.

42 (2) The name and address of the person having legal or physical custody of the child.

43 (3) Efforts to notify the person having legal or physical custody of the child and the results of  
 44 those efforts.

45 (4) Reasons for and circumstances under which the child was taken into protective custody.

1 (5) If the child is not taken to court, the placement of the child.

2 (6) If the child was not released, the reason why the child was not released.

3 (7) If the child is not taken to court, why the type of placement was chosen.

4 (8) Efforts to determine whether the child or the parents have any Indian heritage and the re-  
5 sults of those efforts. If the child is an Indian child, the placement of the child shall be according  
6 to the preferences and criteria set out in the Indian Child Welfare Act.

7 **SECTION 13.** ORS 419B.175 is amended to read:

8 419B.175. (1) This subsection establishes the authority and procedures that apply to a person  
9 designated by a court to effect disposition of a child taken into protective custody or brought before  
10 the court under ORS 419B.160, 419B.165, 419B.168 or 419B.171. The person shall, when the person  
11 has taken **protective** custody of a child or has authority to effect disposition of a child taken into  
12 **protective** custody:

13 (a) Release the child to the custody of a parent, guardian or other responsible person;

14 (b) Release the child on the child's own recognizance when appropriate;

15 (c) Subject to ORS 419B.121 or 419B.180, place the child in shelter care [*or detention. The child*  
16 *shall be placed in shelter care rather than detention, unless the person has probable cause to believe*  
17 *that the court will be able to detain the child under ORS 419B.121*]; or

18 (d) Pursuant to order of the court made after the filing of a petition, hold, retain or place the  
19 child in shelter care subject to further order.

20 (2) If the child is released under subsection (1)(a) of this section, the person releasing the child  
21 shall inform the juvenile court.

22 **SECTION 14.** ORS 419B.180 is amended to read:

23 419B.180. The juvenile court of each county shall designate the place or places in which children  
24 are to be placed in [*detention or*] shelter care when taken into protective custody. [*If the county is*  
25 *adjacent to another state, the court may designate a place or places in the adjoining state where chil-*  
26 *dren, pursuant to an agreement between such place or places and the juvenile department of the county,*  
27 *may be placed in detention when taken into custody. A county juvenile department shall not enter into*  
28 *an agreement with an out-of-state place for detention of juveniles, as provided in this section, unless the*  
29 *place or places conform to standards of this state for such a place and unless the agreement includes*  
30 *a provision that the place be subject to inspection by officers of this state under ORS 419A.061.]*

31 **SECTION 15.** ORS 419B.183 is amended to read:

32 419B.183. A child or ward may not be held in [*detention or*] shelter care more than 24 hours,  
33 excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to  
34 a hearing.

35 **SECTION 16.** ORS 419B.185 is amended to read:

36 419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody  
37 pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in [*detention or*]  
38 shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court  
39 at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or  
40 ward can be returned home without further danger of suffering physical injury or emotional harm,  
41 endangering or harming others, or not remaining within the reach of the court process prior to ad-  
42 judication. At the hearing:

43 (a) The court shall make written findings as to whether the Department of Human Services has  
44 made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or  
45 eliminate the need for removal of the child or ward from the home and to make it possible for the

1 child or ward to safely return home. When the court finds that no services were provided but that  
2 reasonable services would not have eliminated the need for protective custody, the court shall con-  
3 sider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies,  
4 active efforts to prevent or eliminate the need for protective custody. The court shall include in the  
5 written findings a brief description of the preventive and reunification efforts made by the depart-  
6 ment.

7 (b) In determining whether a child or ward shall be removed or continued out of home, the court  
8 shall consider whether the provision of reasonable services can prevent or eliminate the need to  
9 separate the family.

10 (c) In determining whether the department has made reasonable efforts or, if the Indian Child  
11 Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward  
12 from the home and to make it possible for the child or ward to safely return home, the court shall  
13 consider the child or ward's health and safety the paramount concerns.

14 (d) The court shall make a written finding in every order of removal that describes why it is in  
15 the best interests of the child or ward that the child or ward be removed from the home or contin-  
16 ued in care.

17 (e) When the court determines that a child or ward shall be removed from the home or contin-  
18 ued in care, the court shall make written findings whether the department made diligent efforts  
19 pursuant to ORS 419B.192. The court shall include in its written findings a brief description of the  
20 efforts made by the department.

21 (f) The court shall determine whether the child or ward is an Indian child as defined in ORS  
22 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

23 (g) The court may receive testimony, reports and other evidence without regard to whether the  
24 evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant  
25 to the determinations and findings required under this section. As used in this paragraph, "relevant  
26 evidence" has the meaning given that term in ORS 40.150.

27 (2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of  
28 this section, the department shall present written documentation to the court outlining:

29 (a) The efforts made to prevent taking the child or ward into protective custody and to provide  
30 services to make it possible for the child or ward to safely return home;

31 (b) The efforts the department made pursuant to ORS 419B.192; and

32 (c) Why protective custody is in the best interests of the child or ward.

33 **SECTION 17.** ORS 419C.109 is amended to read:

34 419C.109. (1) Except as otherwise provided in subsection (3) of this section, the court may des-  
35 ignate a person to effect disposition of a youth taken into custody or brought before the court under  
36 ORS 419C.097, 419C.100, 419C.103 and 419C.106. If the requirements of ORS 419C.145 (3) are met, the  
37 person may do any of the following when the person has taken custody of a youth or has authority  
38 to effect disposition of a youth taken into custody:

39 (a) Release the youth to the custody of a parent, guardian or other responsible person.

40 (b) Release the youth on the youth's own recognizance when appropriate.

41 (c) Upon a finding that release of the youth on the youth's own recognizance is unwarranted,  
42 or upon order of the court or if probable cause exists to believe the youth may be detained under  
43 ORS 419C.145, 419C.150, 419C.153, [419C.156,] 419C.159 or 419C.453, place the youth on conditional  
44 release.

45 (d) Subject to ORS 419A.059, 419A.061, 419C.130 and 419C.133, place the youth in shelter care

1 or detention. The youth shall be placed in shelter care rather than detention, unless the person has  
2 probable cause to believe that the court will be able to detain the youth under ORS 419C.145,  
3 419C.150, 419C.153, [419C.156,] 419C.159 or 419C.453.

4 (e) Pursuant to order of the court made subsequent to the filing of a petition, hold, retain or  
5 place the youth in detention or shelter care subject to further order.

6 (f) Exercise authority to detain the youth as provided in ORS 419C.136.

7 (2) If the youth is released under subsection (1) of this section, the person releasing the youth  
8 may issue a summons to the youth requiring the youth to appear before the court. The summons  
9 must include the date, time and location for the youth to appear before the court. The person re-  
10 leasing the youth shall inform the juvenile court, which may review the release as provided in ORS  
11 419C.153. If the youth fails to appear on the date and time required by the summons, the court may  
12 issue a warrant for the arrest of the youth.

13 (3)(a) When a youth is retained in custody under ORS 419C.100 (3) and 419C.103 (2) and a peti-  
14 tion is filed under ORS 419C.005 alleging that the youth, while in or on a public building or court  
15 facility within the last 120 days, possessed a firearm or destructive device in violation of ORS  
16 166.250, 166.370 or 166.382, the court shall determine the youth's initial disposition at a hearing  
17 conducted pursuant to ORS 419C.145. The parties to the hearing are the youth, the juvenile de-  
18 partment and the state, represented by the district attorney.

19 (b) The court shall inform the youth:

20 (A) Of the youth's rights, including the right to be represented by counsel and the right to re-  
21 main silent; and

22 (B) Of the allegations against the youth.

23 (c) The court shall make a determination under ORS 419C.145 whether the youth should remain  
24 in detention pending adjudication on the merits. The court may order that the hearing be continued  
25 and that the youth remain in detention for a reasonable period of time not to exceed seven days if  
26 the court finds:

27 (A) That additional information concerning the youth is necessary to aid the court in making  
28 the determination under ORS 419C.145; and

29 (B) There is probable cause to believe that the youth, while in or on a public building or court  
30 facility within the last 120 days, possessed a firearm or destructive device in violation of ORS  
31 166.250, 166.370 or 166.382.

32 (d) If the court orders that the hearing be continued and that the youth remain in detention  
33 under paragraph (c) of this subsection, in addition to and not in lieu of any other order the court  
34 may make, the court may order a mental health assessment or screening of the youth.

35 (e) If the court determines that the youth should not be detained pending adjudication on the  
36 merits, the court may order any other preadjudication disposition authorized.

37 **SECTION 18.** ORS 419C.133 is amended to read:

38 419C.133. No youth under 12 years of age shall be placed in detention except pursuant to judi-  
39 cial review and written findings describing why it is in the best interests of the youth to be placed  
40 in detention. Such review may be ex parte, and the youth does not need to be present. However, a  
41 juvenile court judge or referee must determine that the youth is eligible for detention under ORS  
42 419C.145 [or 419C.156] and that appropriate alternative methods of controlling the youth's behavior  
43 are unavailable. A youth detained under this section shall have the right to a hearing as provided  
44 in ORS 419C.153.

45 **SECTION 19.** ORS 419C.139 is amended to read:

1 419C.139. No youth shall be held in detention [*or shelter care*] more than 36 hours, excluding  
 2 Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing  
 3 under ORS 419C.109 (3), 419C.145, 419C.150, 419C.153, [419C.156] and 419C.159.

4 **SECTION 20.** ORS 419C.150 is amended to read:

5 419C.150. (1) Except as provided in subsection (3) of this section, a youth may be held in de-  
 6 tention under this section and ORS 419C.145[,] **and** 419C.153 [*and 419C.156*] for a maximum of 28  
 7 days except for good cause shown prior to the expiration of the 28-day period. If good cause for  
 8 continued detention is shown, the period of detention may be extended for no more than an addi-  
 9 tional 28 days unless the adjudication is continued with the express consent of the youth.

10 (2) Subsection (1) of this section does not apply to a youth alleged to be within the jurisdiction  
 11 of the juvenile court for having committed an act that would be murder, attempted murder, con-  
 12 spiracy to commit murder or treason if committed by an adult and if proof of the act is evident or  
 13 the presumption strong that the youth committed the act. The juvenile court may conduct such  
 14 hearing as the court considers necessary to determine whether the proof is evident or the  
 15 presumption strong.

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

17 (A) The court has stayed the proceedings on the petition alleging jurisdiction under ORS  
 18 419C.005 pursuant to ORS 419C.378;

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

21 (C) The court holds the review hearings required by ORS 419C.153 and determines that de-  
 22 tention of the youth under ORS 419C.145 should continue.

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

29 (B) The detention of the youth may be extended for more than 28 days under this paragraph if  
 30 expressly agreed to by the youth, and if the court holds the review hearings required by ORS  
 31 419C.153 and determines that detention of the youth under ORS 419C.145 should continue.

32 **SECTION 21.** ORS 419C.153 is amended to read:

33 419C.153. Any youth ordered detained under ORS 419C.145[,] **and** 419C.150 [*and 419C.156*] shall  
 34 have a review hearing at least every 10 days, excluding Saturdays, Sundays and judicial holidays.  
 35 At the review hearing the court shall determine whether sufficient cause exists to require continued  
 36 detention of the youth. In addition, the court may review and may confirm, revoke or modify any  
 37 order for the detention or release of the youth under this section or ORS 419C.109, 419C.136,  
 38 419C.139, 419C.145[,] **or** 419C.150 [*or 419C.156*] and, in the event that the youth is alleged to have  
 39 committed an offense which if committed by an adult would be a misdemeanor or Class C felony,  
 40 may do so ex parte. Release of a youth may not be revoked, however, except upon a finding that the  
 41 youth may be detained under this section or ORS 419C.145[,] **and** 419C.150 [*and 419C.156*], and after  
 42 a hearing is held in accordance with ORS 419C.109, 419C.136 and 419C.139. If the victim requests,  
 43 the district attorney or juvenile department shall notify the victim of the review hearing.

44 **SECTION 22.** ORS 419C.156 is amended to read:

45 419C.156. [*Notwithstanding ORS 419C.145 (1) and (2),*] The court may order the [*detention*]

1 **placement in shelter care** of a youth who resides in another state if the court makes written  
 2 findings that there is probable cause to believe that the youth has run away from home or from a  
 3 placement and that describe why it is in the best interests of the youth to be placed in [*detention*]  
 4 **shelter care**. If a youth is ordered [*detained*] **placed** under this section, the court shall make such  
 5 orders as are necessary to cause the youth to be immediately returned to the youth's state of resi-  
 6 dence.

7 **SECTION 23.** ORS 420.915 is amended to read:

8 420.915. (1) Upon issuance of an order or warrant of arrest under ORS 420.910, a peace officer  
 9 may apprehend and deliver to a juvenile detention facility as described in ORS 419A.050 and  
 10 419A.052 the escapee, absentee or parole violator who is under 18 years of age. If the escapee, ab-  
 11 sentee or parole violator is 18 years of age or older, a peace officer may deliver the person to an  
 12 adult detention facility.

13 (2) Upon issuance of an order for arrest under ORS 420.910 (1)(b), a juvenile community super-  
 14 vision officer may apprehend and deliver to a juvenile detention facility as described in ORS  
 15 419A.050 and 419A.052 the parole violator who is under 18 years of age. If the parole violator is 18  
 16 years of age or older, a juvenile community supervision officer may deliver the person to an adult  
 17 detention facility.

18 (3) A youth correction facility escapee or absentee described in ORS 420.910 may be held in a  
 19 juvenile detention facility as described in ORS 419A.050 and 419A.052 or an adult detention facility  
 20 as provided in subsection (1) of this section for up to 36 hours.

21 (4) The parole violator described in ORS 420.910 may be held in a juvenile detention facility as  
 22 described in ORS 419A.050 and 419A.052 or an adult detention facility as provided in subsection (1)  
 23 or (2) of this section no more than 72 hours, excluding Saturdays, Sundays and judicial holidays,  
 24 except pursuant to such provisions as the Oregon Youth Authority may adopt by rule to govern the  
 25 use of detention for parolees and review of revocation of parole.

26 (5) The director or authorized representative of the juvenile department in whose juvenile de-  
 27 tention facility the escapee or absentee from a youth correction facility is held, or the administrator  
 28 of the adult detention facility in which the escapee or absentee is held, shall immediately inform the  
 29 institution to which such escapee or absentee was committed and shall surrender the escapee or  
 30 absentee to any person authorized by the superintendent or authorized representative of such insti-  
 31 tution to receive the escapee or absentee.

32 (6) The director or authorized representative of the juvenile department in whose juvenile de-  
 33 tention facility the parole violator is held, or the administrator of the adult detention facility in  
 34 which the violator is held, shall immediately inform the paroling authority.

35 (7) Except as provided in subsection (4) of this section, the provisions of ORS [*419B.175,*  
 36 *419B.183, 419B.185,*] 419C.109, 419C.136, 419C.139, 419C.145, 419C.150, 419C.153, 419C.170 and  
 37 419C.173 do not apply to the detention of an escapee, absentee or parole violator under this section.

38 **SECTION 24.** ORS 169.070 is amended to read:

39 169.070. (1) The Department of Corrections shall provide and coordinate state services to local  
 40 governments with respect to local correctional facilities and juvenile detention facilities. The Di-  
 41 rector of the Department of Corrections shall designate staff to provide technical assistance to local  
 42 governmental agencies in the planning and operation of local correctional facilities, lockups, tem-  
 43 porary holds and juvenile detention facilities, and advice on provisions of state law applicable to  
 44 these facilities. The department shall inspect local correctional facilities, lockups, temporary holds  
 45 and juvenile detention facilities, to ensure compliance with the standards established in ORS 169.076

1 to 169.078, 169.740[,] **and** 419A.059 [*and 419B.180*].

2 (2) In carrying out its duties under subsection (1) of this section, the department may enter into  
 3 agreements with public or private entities to conduct inspections of local correctional facilities,  
 4 lockups, temporary holds and juvenile detention facilities.

5 (3) When a county that operates a local correctional facility has conducted, or caused a public  
 6 or private entity to conduct, an inspection of the local correctional facility within 24 months before  
 7 an inspection would be conducted under subsection (1) of this section, the department is not required  
 8 to conduct the next inspection required under subsection (1) of this section if:

9 (a) The standards meet or exceed the standards established in ORS 169.076;

10 (b) The inspection is conducted in a manner that allows the county to satisfy the requirement  
 11 of paragraph (c) of this subsection; and

12 (c) Within 45 days after the inspection is completed, the county provides to the department:

13 (A) A statement or copy of the standards used to conduct the inspection and the date the stan-  
 14 dards were adopted; and

15 (B) A portion of the findings and recommendations of the inspection that is the equivalent of the  
 16 information that would have been obtained in an inspection conducted under subsection (1) of this  
 17 section.

18 (4) The information provided to the department under subsection (3) of this section is a public  
 19 record for the purposes of ORS 192.311 to 192.478 and is subject to the same disclosure requirements  
 20 and retention schedule that applies to an inspection conducted under subsection (1) of this section.

21 **SECTION 25.** ORS 169.080 is amended to read:

22 169.080. (1) If the condition or treatment of prisoners in a local correctional facility, lockup or  
 23 temporary hold or juvenile detention facility is not in accordance with the standards established in  
 24 ORS 169.076 to 169.078, 169.740[,] **and** 419A.059 [*or 419B.180*], the staff of the Department of Cor-  
 25 rections may notify in writing the appropriate local governmental agency of the standards which  
 26 are not being met and specific recommendations for the agency to comply with the standards. Cor-  
 27 rective measures shall be taken by the local governmental agency to insure compliance with all  
 28 standards within a reasonable length of time jointly agreed upon by the agency and the Department  
 29 of Corrections.

30 (2) The provisions of ORS 169.076 to 169.078, 169.740, 419A.059, 419B.160[, *419B.180*] and  
 31 419C.130 shall be enforceable by the Attorney General of the State of Oregon. The Attorney Gen-  
 32 eral, at the request of the Department of Corrections, may bring suit or action and may seek  
 33 declaratory judgment as provided in ORS chapter 28 as well as pursue any other form of suit or  
 34 action provided under Oregon law. Nothing in this section shall preclude a private right of suit or  
 35 action.

36 **SECTION 26.** ORS 169.085 is amended to read:

37 169.085. All plans of new construction or major renovation of local correctional facilities,  
 38 lockups and juvenile detention facilities shall be submitted to the Department of Corrections for  
 39 review and advisory recommendations to assist local governmental agencies to provide a safe and  
 40 secure facility. The recommendations of the Department of Corrections shall be advisory and not  
 41 binding upon the local governmental agency with the exception of those standards established in  
 42 ORS 169.076 to 169.078, 169.740[,] **and** 419A.059 [*and 419B.180*]. The Department of Corrections must  
 43 notify the respective local governmental agency 45 days after submission of the plans of its recom-  
 44 mendations on the proposed construction or major renovation of the local correctional facility.

45 **SECTION 27.** The amendments to statutes by sections 1 to 26 of this 2019 Act apply to

1 children, wards, youths and youth offenders within the jurisdiction of the juvenile court on  
2 or after the effective date of this 2019 Act.

3 SECTION 28. This 2019 Act being necessary for the immediate preservation of the public  
4 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect  
5 on its passage.  
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