

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 969**

1 On page 5 of the printed bill, delete lines 33 through 45 and insert:

2 **“SECTION 3.** ORS 419C.349 is amended to read:

3 **“419C.349. (1)** *[The juvenile court, after a hearing]* Except as otherwise
4 provided in ORS 419C.364 or 419C.370, *[may waive a youth to a circuit, justice*
5 *or municipal court of competent jurisdiction for prosecution as an adult if]* **the**
6 **juvenile court shall conduct a waiver hearing when:**

7 **“[(1)** *The youth is 15 years of age or older at the time of the commission*
8 *of the alleged offense;]*

9 **“[(2)** *The youth, except as otherwise provided in ORS 419C.364 and*
10 *419C.370, is alleged to have committed a criminal offense constituting:]*

11 **“(a) The state files a motion requesting a waiver hearing in a case**
12 **in which a petition has been filed alleging that a youth has committed**
13 **an act when the youth was 15, 16 or 17 years of age that, if committed**
14 **by an adult, would constitute aggravated murder or an offense listed**
15 **in ORS 137.707; or**

16 **“(b) The state files a motion requesting a waiver hearing in a case**
17 **in which a petition has been filed alleging that a youth has committed**
18 **an act when the youth was 15, 16 or 17 years of age that, if committed**
19 **by an adult, would constitute:**

20 **“[(a)** *Murder under ORS 163.115 or any aggravated form thereof;]*

21 **“[(b)] (A)** A Class A or Class B felony;

1 “[c] (B) Any of the following Class C felonies:
2 “[A] (i) Escape in the second degree under ORS 162.155;
3 “[B] (ii) Assault in the third degree under ORS 163.165;
4 “[C] (iii) Coercion under ORS 163.275 (1)(a);
5 “[D] (iv) Arson in the second degree under ORS 164.315; or
6 “[E] (v) Robbery in the third degree under ORS 164.395;
7 “[d] (C) Any Class C felony in which the youth used or threatened to
8 use a firearm; or
9 “[e] (D) Any other [*felony or any misdemeanor if the youth and the state*
10 *stipulate to the waiver;*] **crime that the state and the youth stipulate is**
11 **subject to waiver.**
12 **“(2) After the hearing, the juvenile court may waive the youth to**
13 **a circuit, justice or municipal court of competent jurisdiction if:**
14 “[3] (a) The youth at the time of the alleged offense was of sufficient
15 sophistication and maturity to appreciate the nature and quality of the con-
16 duct involved; and
17 “[4] (b) The juvenile court, after considering the following criteria, de-
18 termines by a preponderance of the evidence that retaining jurisdiction will
19 not serve the best interests of the youth and of society and therefore is not
20 justified:
21 “[a] (A) The amenability of the youth to treatment and rehabilitation
22 given the techniques, facilities and personnel for rehabilitation available to
23 the juvenile court and to the criminal court [*which*] **that** would have juris-
24 diction after transfer;
25 “[b] (B) The protection required by the community, given the serious-
26 ness of the offense alleged, **and whether the youth can be safely reha-**
27 **bilitated under the jurisdiction of the juvenile court;**
28 “[c] (C) The aggressive, violent, premeditated or willful manner in which
29 the offense was alleged to have been committed;
30 “[d] (D) The previous history of the youth, including:

1 “[(A)] (i) Prior treatment efforts and out-of-home placements; and
2 “[(B)] (ii) The physical, emotional and mental health of the youth;
3 “[(e)] (E) The youth’s prior record of acts [*which*] **that** would be crimes
4 if committed by an adult;

5 “[(f)] (F) The gravity of the loss, damage or injury caused or attempted
6 during the offense;

7 “[(g)] (G) The prosecutive merit of the case against the youth; and

8 “[(h)] (H) The desirability of disposing of all cases in one trial if there
9 were adult co-offenders.

10 **“(3) The victim of the alleged offense has the right to appear at a
11 hearing under this section and to provide the court with any infor-
12 mation reasonably related to the court’s determination.**

13 **“(4) The right to counsel, and the appointment of counsel under
14 ORS 419C.200, applies to a hearing under this section.**

15 **“(5) The juvenile court may order a psychiatric evaluation to aid in
16 its determination of whether to waive the youth under this section.”.**

17 On page 6, delete lines 1 through 41.

18 On page 20, delete lines 33 through 43.

19 In line 44, delete “23” and insert “22”.

20 On page 21, line 2, delete “January 1, 2020” and insert “the effective date
21 of this 2019 Act”.

22 In line 3, delete “24” and insert “23”.

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