

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 1008**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and lines 3 and 4 and insert “amending ORS 137.071, 137.124, 137.705,
3 137.707, 137.712, 144.185, 161.610, 161.620, 163.105, 163.115, 163.155, 163A.130,
4 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349,
5 419C.352, 419C.355, 419C.358, 419C.361, 420.011, 420.081 and 420A.203; pre-
6 scribing an effective date; and providing for criminal sentence reduction that
7 requires approval by a two-thirds majority.”.

8 Delete lines 6 through 30 and delete pages 2 through 10 and insert:
9

10 **“CUSTODY OF JUVENILE OFFENDERS**

11
12 **“SECTION 1.** ORS 137.071 is amended to read:

13 “137.071. (1) The judge in a criminal action shall ensure that the creation
14 and filing of a judgment document complies with this section. On appeal, the
15 appellate court may give leave as provided in ORS 19.270 for entry of a
16 judgment document that complies with this section but may not reverse or
17 set aside a judgment, determination or disposition on the sole ground that
18 the judgment document fails to comply with this section.

19 “(2) A judgment document in a criminal action must comply with ORS
20 18.038. In addition, a judgment document in a criminal action must:

21 “(a) Indicate whether the defendant was determined to be financially eli-

1 gible for purposes of appointed counsel in the action.

2 “(b) Indicate whether the court appointed counsel for the defendant in the
3 action.

4 “(c) If there is no attorney for the defendant, indicate whether the de-
5 fendant knowingly waived any right to an attorney after having been in-
6 formed of that right.

7 “(d) Include the identity of the recorder or reporter for the proceeding
8 or action who is to be served under ORS 138.081.

9 “(e) Include any information specifically required by statute or by court
10 rule.

11 “(f) Specify clearly the court’s determination for each charge in the in-
12 formation, indictment or complaint.

13 “(g) Specify clearly the court’s disposition, including all legal conse-
14 quences the court establishes or imposes. If the determination is one of
15 conviction, the judgment document must include any suspension of sentence,
16 forfeiture, imprisonment, cancellation of license, removal from office, mone-
17 tary obligation, probation, conditions of probation, discharge, restitution,
18 community service and all other sentences and legal consequences imposed
19 by the court. Nothing in this paragraph requires the judgment document to
20 specify any consequences that may result from the determination but are not
21 established or imposed by the court.

22 “(h) Include the identities of the attorney for the state and the attorney,
23 if any, for the defendant.

24 **“(i) If the court sentences the defendant to a term of incarceration,**
25 **and the physical custody of the defendant as determined by ORS**
26 **137.124 is related to the age of the defendant at the time of committing**
27 **an offense, indicate the age of the defendant at the time of committing**
28 **the offense.**

29 “(3) A judgment document in a criminal action that includes a money
30 award, as defined in ORS 18.005, must comply with ORS 18.048.

1 “(4) The requirements of this section do not apply to a judgment document
2 if the action was commenced by the issuance of a uniform citation adopted
3 under ORS 1.525 and the court has used the space on the citation for the
4 entry of a judgment. The exemption provided by this subsection does not
5 apply if any indictment, information or complaint other than a uniform ci-
6 tation is filed in the action.

7 **“(5) For the purposes of determining the defendant’s age at the time
8 of committing an offense under subsection (2) of this section:**

9 **“(a) If the defendant is convicted of two or more offenses occurring
10 on different days, the defendant’s age shall be calculated using the
11 earliest date.**

12 **“(b) If the defendant is convicted of an offense occurring within a
13 range of dates, the defendant’s age shall be calculated using the date
14 at the beginning of the range.**

15 **“SECTION 2. ORS 137.124 is amended to read:**

16 **“137.124. (1) If the court imposes a sentence upon conviction of a felony
17 that includes a term of incarceration that exceeds 12 months:**

18 **“(a) The court shall not designate the correctional facility in which the
19 defendant is to be confined but shall commit the defendant to the legal and
20 physical custody of the Department of Corrections; and**

21 **“(b) If the judgment provides that the term of incarceration be served
22 consecutively to a term of incarceration of 12 months or less that was im-
23 posed in a previous proceeding by a court of this state upon conviction of a
24 felony, the defendant shall serve any remaining part of the previously im-
25 posed term of incarceration in the legal and physical custody of the Depart-
26 ment of Corrections.**

27 **“(2)(a) If the court imposes a sentence upon conviction of a felony that
28 includes a term of incarceration that is 12 months or less, the court shall
29 commit the defendant to the legal and physical custody of the supervisory
30 authority of the county in which the crime of conviction occurred.**

1 “(b) Notwithstanding paragraph (a) of this subsection, when the court
2 imposes a sentence upon conviction of a felony that includes a term of in-
3 carceration that is 12 months or less, the court shall commit the defendant
4 to the legal and physical custody of the Department of Corrections if the
5 court orders that the term of incarceration be served consecutively to a term
6 of incarceration that exceeds 12 months that was imposed in a previous
7 proceeding or in the same proceeding by a court of this state upon conviction
8 of a felony.

9 “(3) After assuming custody of the convicted person the Department of
10 Corrections may transfer inmates from one correctional facility to another
11 such facility for the purposes of diagnosis and study, rehabilitation and
12 treatment, as best seems to fit the needs of the inmate and for the protection
13 and welfare of the community and the inmate.

14 “(4) If the court imposes a sentence of imprisonment upon conviction of
15 a misdemeanor, it shall commit the defendant to the custody of the supervi-
16 sory authority of the county in which the crime of conviction occurred.

17 “(5)(a) When a person under 18 years of age at the time of committing the
18 offense and under 20 years of age at the time of sentencing is committed to
19 the Department of Corrections under ORS 137.707 **or due to the fact that**
20 **criminal proceedings were initiated after the person attained 18 years**
21 **of age**, the Department of Corrections shall transfer the physical custody
22 of the person to the Oregon Youth Authority as provided in ORS 420.011 if:

23 “(A) The person will complete the sentence imposed before the person
24 attains 25 years of age;

25 “(B) The Department of Corrections and the Oregon Youth Authority de-
26 termine that, because of the person’s age, immaturity, mental or emotional
27 condition or risk of physical harm to the person, the person should not be
28 incarcerated initially in a Department of Corrections institution; or

29 “(C) The person is under 18 years of age at the time of sentencing and
30 commitment.

1 “(b) A person placed in the custody of the Oregon Youth Authority under
2 this subsection who is at least 18 years of age shall be returned to the
3 physical custody of the Department of Corrections whenever the Director of
4 the Oregon Youth Authority, after consultation with the Department of
5 Corrections, determines that the conditions or circumstances that warranted
6 the transfer of custody under this subsection are no longer present.

7 “(c) Notwithstanding ORS 137.320, the sheriff may by agreement with the
8 Department of Corrections transfer the person described in this subsection
9 directly to a youth correction facility for physical custody without first de-
10 livering the person to the Department of Corrections. As part of the agree-
11 ment with the Department of Corrections, the sheriff may designate the
12 county juvenile department or the Oregon Youth Authority to conduct the
13 direct transfer described in this paragraph if the sheriff has entered into a
14 written agreement with the county juvenile department, the Oregon Youth
15 Authority, or both, to provide the direct transfer.

16 “(6)(a) When a person under 18 years of age at the time of committing the
17 offense and under 20 years of age at the time of sentencing is committed to
18 the legal and physical custody of the Department of Corrections or the su-
19 pervisory authority of a county following waiver under ORS 419C.349
20 **(1)(b)**, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707
21 (5)(b)(A) or (7)(b) or 137.712, the Department of Corrections or the supervi-
22 sory authority of a county shall transfer the person to the physical custody
23 of the Oregon Youth Authority for placement as provided in ORS 420.011 (3).
24 The terms and conditions of the person’s incarceration and custody are gov-
25 erned by ORS 420A.200 to 420A.206. Notwithstanding ORS 137.320, the sheriff
26 may by agreement with the Department of Corrections or the supervisory
27 authority of a county transfer the person described in this subsection di-
28 rectly to a youth correction facility for physical custody without first deliv-
29 ering the person to the Department of Corrections or supervisory authority
30 of the county. As part of the agreement with the Department of Corrections

1 or supervisory authority of the county, the sheriff may designate the county
2 juvenile department or the Oregon Youth Authority to conduct the direct
3 transfer described in this paragraph if the sheriff has entered into a written
4 agreement with the county juvenile department, the Oregon Youth Author-
5 ity, or both, to provide the direct transfer.

6 “(b) Notwithstanding ORS 137.320, when a person under 16 years of age
7 is waived under ORS 419C.349 **(1)(b)**, 419C.352, 419C.364 or 419C.370 and
8 subsequently is sentenced to a term of imprisonment in the county jail, the
9 sheriff shall transfer the person to a youth correction facility for physical
10 custody as provided in ORS 420.011 (3).

11 *“[(7) If the Director of the Oregon Youth Authority concurs in the decision,*
12 *the Department of Corrections or the supervisory authority of a county shall*
13 *transfer the physical custody of a person committed to the Department of Cor-*
14 *rections or the supervisory authority of the county under subsection (1) or (2)*
15 *of this section to the Oregon Youth Authority as provided in ORS 420.011 (2)*
16 *if:]*

17 *“[(a) The person was at least 18 years of age but under 20 years of age at*
18 *the time of committing the felony for which the person is being sentenced to*
19 *a term of incarceration;]*

20 *“[(b) The person is under 20 years of age at the time of commitment to the*
21 *Department of Corrections or the supervisory authority of the county;]*

22 *“[(c) The person has not been committed previously to the legal and phys-*
23 *ical custody of the Department of Corrections or the supervisory authority of*
24 *a county;]*

25 *“[(d) The person has not been convicted and sentenced to a term of incar-*
26 *ceration for the commission of a felony in any other state;]*

27 *“[(e) The person will complete the term of incarceration imposed before the*
28 *person attains 25 years of age;]*

29 *“[(f) The person is likely in the foreseeable future to benefit from the*
30 *rehabilitative and treatment programs administered by the Oregon Youth Au-*

1 *thority;]*

2 “[(g) *The person does not pose a substantial danger to Oregon Youth Au-*
3 *thority staff or persons in the custody of the Oregon Youth Authority; and]*

4 “[(h) *At the time of the proposed transfer, no more than 50 persons are in*
5 *the physical custody of the Oregon Youth Authority under this subsection.]*

6 “[~~(8)~~ **(7)** Notwithstanding the provisions of [~~subsections~~] **subsection**
7 **(5)(a)(A)** [~~or (7)~~] of this section, the department or the supervisory authority
8 of a county may not transfer the physical custody of the person under sub-
9 section **(5)(a)(A)** [~~or (7)~~] of this section if the Director of the Oregon Youth
10 Authority, after consultation with the Department of Corrections or the su-
11 pervisory authority of a county, determines that, because of the person’s age,
12 mental or emotional condition or risk of physical harm to other persons, the
13 person should not be incarcerated in a youth correction facility.

14 “[~~(9)~~ **(8)** Notwithstanding any other provision of this section, under no
15 circumstances may a person under 18 years of age be incarcerated in a De-
16 partment of Corrections institution.

17 “**(9) If a defendant is transferred under subsection (5) of this sec-**
18 **tion, the defendant shall also be transferred after a resentencing on**
19 **the same charges resulting from an appellate decision or a post-**
20 **conviction relief proceeding or for any other reason, even if the de-**
21 **fendant is 20 years of age or older at the time of the resentencing.**

22 “**(10) For the purposes of determining the person’s age at the time**
23 **of committing an offense under this section:**

24 “**(a) If the person is convicted of two or more offenses occurring**
25 **on different days, the person’s age shall be calculated using the earli-**
26 **est date.**

27 “**(b) If the person is convicted of an offense occurring within a**
28 **range of dates, the person’s age shall be calculated using the date at**
29 **the beginning of the range.**

30 “**SECTION 3.** ORS 420.011 is amended to read:

1 “420.011. (1) Except as provided in subsections (2) and (3) of this section,
2 admissions to the youth correction facilities are limited to youth offenders
3 who are at least 12 but less than 19 years of age, found by the juvenile court
4 to have committed an act that if committed by an adult would constitute
5 aggravated murder, murder, a felony or a Class A misdemeanor and placed
6 in the legal custody of the Oregon Youth Authority. A youth offender ad-
7 mitted to a youth correction facility may not be transferred by administra-
8 tive process to any penal or correctional institution.

9 “(2)(a) In addition to the persons placed in the legal custody of the youth
10 authority under ORS 419C.478 (1) or 419C.481, and with the concurrence of
11 the Director of the Oregon Youth Authority or the director’s designee, per-
12 sons who are committed to the Department of Corrections under ORS 137.124
13 and meet the requirements of ORS 137.124 (5) [*or* (7)] may be temporarily
14 assigned to a youth correction facility as provided by ORS 137.124 (5) [*or*
15 (7)]. A person assigned on such a temporary basis remains within the legal
16 custody of the Department of Corrections and such reassignment is subject
17 to termination by the Director of the Oregon Youth Authority by referring
18 the person back to the Department of Corrections as provided in paragraph
19 (b) of this subsection.

20 “(b) After a person is transferred to the physical custody of the youth
21 authority under ORS 137.124 (5) [*or* (7)], the Director of the Oregon Youth
22 Authority may refer the person back to the Department of Corrections for
23 physical custody and placement if the director, after consulting with the
24 Department of Corrections, determines that the person is at least 18 years
25 of age and:

26 “(A) Poses a substantial danger to youth authority staff or persons in the
27 custody of the youth authority; or

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

1 “(3) Any person under 18 years of age at the time of committing the crime
2 and under 20 years of age at the time of sentencing and commitment who,
3 after waiver under ORS 419C.349 **(1)(b)**, 419C.352, 419C.364 or 419C.370 or
4 sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to
5 a term of imprisonment in the custody of the Department of Corrections, and
6 any person under 16 years of age who after waiver under ORS 419C.349
7 **(1)(b)**, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707
8 (5)(b)(A) or (7)(b) or 137.712 is sentenced to a term of imprisonment in the
9 county jail, shall be temporarily assigned to a youth correction facility by
10 the Department of Corrections, or by the sheriff to whose custody the person
11 has been committed, pursuant to ORS 137.124 (6). The director shall desig-
12 nate the appropriate youth correction facility or schools for such assignment.
13 A person assigned to a youth correction facility under ORS 137.124 (6) and
14 this subsection remains within the legal custody of the Department of Cor-
15 rections or sheriff to whose custody the person was committed. The assign-
16 ment of such a person to the youth correction facility is subject, when the
17 person is 18 years of age or older, to termination by the director by referring
18 the person back to the Department of Corrections or the sheriff to serve the
19 balance of the person’s sentence. Assignment to a youth correction facility
20 pursuant to ORS 137.124 (6) and this subsection, if not terminated earlier by
21 the director, shall terminate upon the person’s attaining the age specified in
22 ORS 420A.010 (5) setting the age limits for which the Oregon Youth Au-
23 thority may retain legal and physical custody of the person, and the person
24 shall be referred to the Department of Corrections or the sheriff having legal
25 custody of the person to serve the balance of the person’s sentence.

26 “(4) Whenever a person committed to the custody of the Department of
27 Corrections is temporarily assigned to a youth correction facility pursuant
28 to this section, the youth authority may provide programs and treatment for
29 the person, and may adopt rules relating to conditions of confinement at the
30 youth correction facility, as the youth authority determines are appropriate.

1 However, the person remains subject to laws and rules of the State Board
2 of Parole and Post-Prison Supervision relating to parole.

3 **“(5) For the purposes of determining the person’s age at the time
4 of committing an offense under this section:**

5 **“(a) If the person is convicted of two or more offenses occurring
6 on different days, the person’s age shall be calculated using the earli-
7 est date.**

8 **“(b) If the person is convicted of an offense occurring within a
9 range of dates, the person’s age shall be calculated using the date at
10 the beginning of the range.**

11

12

“WAIVER TO ADULT COURT

13

14 **“SECTION 4.** ORS 137.705 is amended to read:

15 **“137.705. (1)(a) As used in this section and ORS 137.707:**

16 **“(A) ‘Charged’ means the filing of an accusatory instrument in a court
17 of criminal jurisdiction [*alleging the commission of an offense listed in ORS
18 137.707*].**

19 **“(B) ‘Detention facility’ has the meaning given that term in ORS
20 419A.004.**

21 **“(C) ‘Prosecuted’ includes pretrial and trial procedures, requirements and
22 limitations provided for in criminal cases.**

23 **“(b) Unless otherwise provided in ORS 137.707, ORS chapters 137 and 138
24 apply to proceedings under ORS 137.707.**

25 **“[(2)(a) *Notwithstanding ORS 419B.100 and 419C.005, a person 15, 16 or
26 17 years of age at the time of committing the offense may be charged with the
27 commission of an offense listed in ORS 137.707 and may be prosecuted as an
28 adult.*]**

29 **“[(b) *The district attorney shall notify the juvenile court and the juvenile
30 department when a person under 18 years of age is charged with an offense***

1 *listed in ORS 137.707.]*

2 “[(c) *The filing of an accusatory instrument in a criminal court under ORS*
3 *137.707 divests the juvenile court of jurisdiction in the matter if juvenile court*
4 *jurisdiction is based on the conduct alleged in the accusatory instrument or*
5 *any conduct arising out of the same act or transaction. Upon receiving notice*
6 *from the district attorney under paragraph (b) of this subsection, the juvenile*
7 *court shall dismiss, without prejudice, the juvenile court proceeding and enter*
8 *any order necessary to transfer the matter or transport the person to the*
9 *criminal court for further proceedings. Nothing in this paragraph affects the*
10 *authority or jurisdiction of the juvenile court with respect to other matters or*
11 *conduct.*”]

12 “[*(3)(a)*] **(2)(a)** [A person charged with a crime under ORS 137.707 who is
13 16 or 17 years of age shall] **If the juvenile court enters an order of waiver**
14 **under ORS 419C.349 (1)(a), the person waived may be charged with the**
15 **commission of an offense listed in ORS 137.707 and may be prosecuted**
16 **as an adult. The person may** be detained in custody **only** in a detention
17 facility, unless the **person is 16 or 17 years of age and the** director of the
18 county juvenile department and the sheriff agree to detain the person in a
19 jail or other place where adults are detained. A person detained in accord-
20 ance with this paragraph is subject to release on the same terms and condi-
21 tions as for adults.

22 “(b) If a person [*charged with a crime under ORS 137.707*] **waived under**
23 **ORS 419C.349 (1)(a)** is under 16 years of age, the person may not be
24 detained[, *either*] before conviction, or after conviction but before execution
25 of the sentence, in a jail or other place where adults are detained.

26 **“SECTION 5.** ORS 137.707 is amended to read:

27 “137.707. [(1)(a) *Notwithstanding any other provision of law, when a person*
28 *charged with aggravated murder, as defined in ORS 163.095, or an offense*
29 *listed in subsection (4)(a) of this section is 15, 16 or 17 years of age at the time*
30 *the offense is committed, and the offense is committed on or after April 1, 1995,*

1 *or when a person charged with an offense listed in subsection (4)(b) of this*
2 *section is 15, 16 or 17 years of age at the time the offense is committed, and*
3 *the offense is committed on or after October 4, 1997, or when a person charged*
4 *with the offense described in subsection (4)(c) of this section is 15, 16 or 17*
5 *years of age at the time the offense is committed and the offense is committed*
6 *on or after January 1, 2008, the person shall be prosecuted as an adult in*
7 *criminal court.]*

8 *“(b) A district attorney, the Attorney General or a juvenile department*
9 *counselor may not file in juvenile court a petition alleging that a person has*
10 *committed an act that, if committed by an adult, would constitute aggravated*
11 *murder or an offense listed in subsection (4) of this section if the person was*
12 *15, 16 or 17 years of age at the time the act was committed.]*

13 *“(2) (1) When a person [charged under this section] **waived under ORS***
14 ***419C.349 (1)(a)** is convicted of an offense listed in subsection (4) of this*
15 *section, the court shall impose at least the presumptive term of imprisonment*
16 *provided for the offense in subsection (4) of this section. The court may im-*
17 *pose a greater presumptive term if otherwise permitted by law, but may not*
18 *impose a lesser term. The person is not, during the service of the term of*
19 *imprisonment, eligible for release on post-prison supervision or any form of*
20 *temporary leave from custody. The person is not eligible for any reduction*
21 *in[, or based on,] the minimum sentence for any reason under ORS 421.121*
22 *or any other provision of law. **The person is eligible for a hearing and***
23 ***conditional release under ORS 420A.203 and 420A.206.***

24 *“(2) ORS 138.052, 163.105 and 163.150 apply to sentencing a person prose-*
25 *cuted under this section and convicted of aggravated murder under ORS*
26 *163.095 except that a person who was under 18 years of age at the time the*
27 *offense was committed is not subject to a sentence of death **or life***
28 ***imprisonment without the possibility of release or parole.***

29 *“(3) The court shall commit the person to the legal and physical custody*
30 *of the Department of Corrections.*

1 “(4) The offenses to which this section applies and the presumptive sen-
2 tences are:

3 “ _____

- 4 (a)(A) Murder, as defined in
5 ORS 163.115.....300 months
- 6 (B) Attempt or conspiracy
7 to commit aggravated
8 murder, as defined
9 in ORS 163.095.....120 months
- 10 (C) Attempt or conspiracy
11 to commit murder, as
12 defined in ORS 163.115.90 months
- 13 (D) Manslaughter in the
14 first degree, as defined
15 in ORS 163.118.....120 months
- 16 (E) Manslaughter in the
17 second degree, as defined
18 in ORS 163.125.....75 months
- 19 (F) Assault in the first
20 degree, as defined
21 in ORS 163.185.....90 months
- 22 (G) Assault in the second
23 degree, as defined
24 in ORS 163.175.....70 months
- 25 (H) Kidnapping in the first
26 degree, as defined in
27 ORS 163.235.....90 months
- 28 (I) Kidnapping in the second
29 degree, as defined in
30 ORS 163.225.....70 months

- 1 (J) Rape in the first degree,
2 as defined in ORS 163.375....100 months
- 3 (K) Rape in the second
4 degree, as defined in
5 ORS 163.365.....75 months
- 6 (L) Sodomy in the first
7 degree, as defined in
8 ORS 163.405.....100 months
- 9 (M) Sodomy in the second
10 degree, as defined in
11 ORS 163.395.....75 months
- 12 (N) Unlawful sexual
13 penetration in the first
14 degree, as defined
15 in ORS 163.411.....100 months
- 16 (O) Unlawful sexual
17 penetration in the
18 second degree, as
19 defined in ORS 163.408.75 months
- 20 (P) Sexual abuse in the first
21 degree, as defined in
22 ORS 163.427.....75 months
- 23 (Q) Robbery in the first
24 degree, as defined in
25 ORS 164.415.....90 months
- 26 (R) Robbery in the second
27 degree, as defined in
28 ORS 164.405.....70 months
- 29 (b)(A) Arson in the first degree,
30 as defined in

- 1 ORS 164.325, when
- 2 the offense represented
- 3 a threat of serious
- 4 physical injury.90 months
- 5 (B) Using a child in a display
- 6 of sexually explicit
- 7 conduct, as defined in
- 8 ORS 163.670.70 months
- 9 (C) Compelling prostitution,
- 10 as defined in ORS 167.017
- 11 (1)(a), (b) or (d).70 months
- 12 (c) Aggravated vehicular
- 13 homicide, as defined in
- 14 ORS 163.149.240 months

15 “ _____

16 “(5) If a person charged with an offense under this section is found guilty
 17 of a lesser included offense and the lesser included offense is:

18 “(a) An offense listed in subsection (4) of this section, the court shall
 19 sentence the person as provided in [*subsection (2)*] **subsections (1) and (2)**
 20 of this section.

21 “(b) Not an offense listed in subsection (4) of this section:

22 “(A) But constitutes an offense for which waiver is authorized under ORS
 23 419C.349 **(1)(b)**, the court, upon motion of the district attorney, shall hold a
 24 hearing to determine whether to retain jurisdiction or to transfer the case
 25 to juvenile court for disposition. In determining whether to retain jurisdic-
 26 tion, the court shall consider the criteria for waiver in ORS 419C.349. If the
 27 court retains jurisdiction, the court shall sentence the person as an adult
 28 under sentencing guidelines. If the court does not retain jurisdiction, the
 29 court shall:

30 “(i) Order that a presentence report be prepared;

1 “(ii) Set forth in a memorandum any observations and recommendations
2 that the court deems appropriate; [and]

3 “(iii) Enter an order transferring the case to the juvenile court for dis-
4 position under ORS 419C.067 and 419C.411; **and**

5 **“(iv) Enter an order providing that all court records of the case are**
6 **subject to the same limitations on inspection, copying and disclosure**
7 **of records, reports and materials as those set forth under ORS**
8 **419A.255.**

9 “(B) And is not an offense for which waiver is authorized under ORS
10 419C.349 (1)(b), the court may not sentence the person. The court shall:

11 “(i) Order that a presentence report be prepared;

12 “(ii) Set forth in a memorandum any observations and recommendations
13 that the court deems appropriate; [and]

14 “(iii) Enter an order transferring the case to the juvenile court for dis-
15 position under ORS 419C.067 and 419C.411; **and**

16 **“(iv) Enter an order providing that all court records of the case are**
17 **subject to the same limitations on inspection, copying and disclosure**
18 **of records, reports and materials as those set forth under ORS**
19 **419A.255.**

20 “(6) When a person is charged under this section, other offenses based on
21 the same act or transaction shall be charged as separate counts in the same
22 accusatory instrument and consolidated for trial, whether or not the other
23 offenses are aggravated murder or offenses listed in subsection (4) of this
24 section. If it appears, upon motion, that the state or the person charged is
25 prejudiced by the joinder and consolidation of offenses, the court may order
26 an election or separate trials of counts or provide whatever other relief jus-
27 tice requires.

28 “(7)(a) If a person charged and tried as provided in subsection (6) of this
29 section is found guilty of aggravated murder or an offense listed in sub-
30 section (4) of this section and one or more other offenses, the court shall

1 impose the sentence for aggravated murder or the offense listed in subsection
2 (4) of this section as provided in [*subsection (2)*] **subsections (1) and (2)** of
3 this section and shall impose sentences for the other offenses as otherwise
4 provided by law.

5 “(b) If a person charged and tried as provided in subsection (6) of this
6 section is not found guilty of aggravated murder or an offense listed in
7 subsection (4) of this section, but is found guilty of one of the other charges
8 that constitutes an offense for which waiver is authorized under ORS
9 419C.349 **(1)(b)**, the court, upon motion of the district attorney, shall hold a
10 hearing to determine whether to retain jurisdiction or to transfer the case
11 to juvenile court for disposition. In determining whether to retain jurisdic-
12 tion, the court shall consider the criteria for waiver in ORS 419C.349. If the
13 court retains jurisdiction, the court shall sentence the person as an adult
14 under sentencing guidelines. If the court does not retain jurisdiction, the
15 court shall:

16 “(A) Order that a presentence report be prepared;

17 “(B) Set forth in a memorandum any observations and recommendations
18 that the court deems appropriate; [*and*]

19 “(C) Enter an order transferring the case to the juvenile court for dispo-
20 sition under ORS 419C.067 and 419C.411; **and**

21 **“(D) Enter an order providing that all court records of the case are**
22 **subject to the same limitations on inspection, copying and disclosure**
23 **of records, reports and materials as those set forth under ORS**
24 **419A.255.**

25 **“SECTION 6.** ORS 419C.349 is amended to read:

26 “419C.349. **(1)** [*The juvenile court, after a hearing*] Except as otherwise
27 provided in ORS 419C.364 or 419C.370, [*may waive a youth to a circuit, justice*
28 *or municipal court of competent jurisdiction for prosecution as an adult if*] **the**
29 **juvenile court shall conduct a waiver hearing when:**

30 “[*(1) The youth is 15 years of age or older at the time of the commission*]

1 *of the alleged offense;]*

2 “[*(2) The youth, except as otherwise provided in ORS 419C.364 and*
3 *419C.370, is alleged to have committed a criminal offense constituting:]*

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

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

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

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

15 “[*(c)*] **(B)** Any of the following Class C felonies:

16 “[*(A)*] **(i)** Escape in the second degree under ORS 162.155;

17 “[*(B)*] **(ii)** Assault in the third degree under ORS 163.165;

18 “[*(C)*] **(iii)** Coercion under ORS 163.275 (1)(a);

19 “[*(D)*] **(iv)** Arson in the second degree under ORS 164.315; or

20 “[*(E)*] **(v)** Robbery in the third degree under ORS 164.395;

21 “[*(d)*] **(C)** Any Class C felony in which the youth used or threatened to
22 use a firearm; or

23 “[*(e)*] **(D)** Any other [*felony or any misdemeanor if the youth and the state*
24 *stipulate to the waiver;]* **crime that the state and the youth stipulate is**
25 **subject to waiver.**

26 “**(2) After the hearing, the juvenile court may waive the youth to**
27 **a circuit, justice or municipal court of competent jurisdiction if:**

28 “[*(3)*] **(a)** The youth at the time of the alleged offense was of sufficient
29 sophistication and maturity to appreciate the nature and quality of the con-
30 duct involved; and

1 “[~~4~~] (b) The juvenile court, after considering the following criteria, de-
2 termines by a preponderance of the evidence that retaining jurisdiction will
3 not serve the best interests of the youth and of society and therefore is not
4 justified:

5 “[*(a)*] (A) The amenability of the youth to treatment and rehabilitation
6 given the techniques, facilities and personnel for rehabilitation available to
7 the juvenile court and to the criminal court [*which*] **that** would have juris-
8 diction after transfer;

9 “[*(b)*] (B) The protection required by the community, given the serious-
10 ness of the offense alleged, **and whether the youth can be safely reha-**
11 **bilitated under the jurisdiction of the juvenile court;**

12 “[*(c)*] (C) The aggressive, violent, premeditated or willful manner in which
13 the offense was alleged to have been committed;

14 “[*(d)*] (D) The previous history of the youth, including:

15 “[*(A)*] (i) Prior treatment efforts and out-of-home placements; and

16 “[*(B)*] (ii) The physical, emotional and mental health of the youth;

17 “[*(e)*] (E) The youth’s prior record of acts [*which*] **that** would be crimes
18 if committed by an adult;

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

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

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

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

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

29 **“(5) The state has the right to have at least one psychiatrist or li-**
30 **censed psychologist of its selection examine the youth concerning the**

1 **determination of whether to waive the youth under this section.**

2 **“SECTION 7.** ORS 161.610 is amended to read:

3 “161.610. (1) As used in this section, ‘firearm’ has the meaning given that
4 term in ORS 166.210.

5 “(2) The use or threatened use of a firearm, whether operable or inoper-
6 able, by a defendant during the commission of a felony may be pleaded in the
7 accusatory instrument and proved at trial as an element in aggravation of
8 the crime as provided in this section. When a crime is so pleaded, the ag-
9 gravated nature of the crime may be indicated by adding the words ‘with a
10 firearm’ to the title of the offense. The unaggravated crime shall be consid-
11 ered a lesser included offense.

12 “(3) Notwithstanding the provisions of ORS 161.605 or 137.010 (3) and ex-
13 cept as otherwise provided in subsection (6) of this section, if a defendant is
14 convicted of a felony having as an element the defendant’s use or threatened
15 use of a firearm during the commission of the crime, the court shall impose
16 at least the minimum term of imprisonment as provided in subsection (4) of
17 this section. Except as provided in ORS 144.122 and 144.126 and subsection
18 (5) of this section, in no case shall any person punishable under this section
19 become eligible for work release, parole, temporary leave or terminal leave
20 until the minimum term of imprisonment is served, less a period of time
21 equivalent to any reduction of imprisonment granted for good time served
22 or time credits earned under ORS 421.121, nor shall the execution of the
23 sentence imposed upon such person be suspended by the court.

24 “(4) The minimum terms of imprisonment for felonies having as an ele-
25 ment the defendant’s use or threatened use of a firearm in the commission
26 of the crime shall be as follows:

27 “(a) Except as provided in subsection (5) of this section, upon the first
28 conviction for such felony, five years, except that if the firearm is a machine
29 gun, short-barreled rifle, short-barreled shotgun or is equipped with a
30 firearms silencer, the term of imprisonment shall be 10 years.

1 “(b) Upon conviction for such felony committed after punishment pursu-
2 ant to paragraph (a) of this subsection or subsection (5) of this section, 10
3 years, except that if the firearm is a machine gun, short-barreled rifle,
4 short-barreled shotgun or is equipped with a firearms silencer, the term of
5 imprisonment shall be 20 years.

6 “(c) Upon conviction for such felony committed after imprisonment pur-
7 suant to paragraph (b) of this subsection, 30 years.

8 “(5) If it is the first time that the defendant is subject to punishment
9 under this section, rather than impose the sentence otherwise required by
10 subsection (4)(a) of this section, the court may:

11 “(a) For felonies committed prior to November 1, 1989, suspend the exe-
12 cution of the sentence or impose a lesser term of imprisonment, when the
13 court expressly finds mitigating circumstances justifying such lesser sentence
14 and sets forth those circumstances in its statement on sentencing; or

15 “(b) For felonies committed on or after November 1, 1989, impose a lesser
16 sentence in accordance with the rules of the Oregon Criminal Justice Com-
17 mission.

18 “(6) When a defendant who is convicted of a felony having as an element
19 the defendant’s use or threatened use of a firearm during the commission of
20 the crime is a person who was waived [*from juvenile court*] under ORS 137.707
21 (5)(b)(A), 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370, the court is not re-
22 quired to impose a minimum term of imprisonment under this section.

23 **“SECTION 8.** ORS 161.620 is amended to read:

24 “161.620. Notwithstanding any other provision of law, a sentence imposed
25 upon any person waived [*from the juvenile court*] under ORS 419C.349,
26 419C.352, 419C.364 or 419C.370 shall not include any sentence of death or life
27 imprisonment without the possibility of release or parole nor imposition of
28 any mandatory minimum sentence except that a mandatory minimum sen-
29 tence under:

30 **“(1) ORS 137.707 shall be imposed, except as provided in ORS 137.712;**

1 “[(1)] (2) ORS 163.105 (1)(c) shall be imposed; and

2 “[(2)] (3) ORS 161.610 may be imposed.

3 **“SECTION 9.** ORS 163A.130 is amended to read:

4 “163A.130. (1) A person required to report as a sex offender under ORS
5 163A.025 (1)(a), (b) or (c), or required to report as a sex offender under the
6 laws of another state as a result of an adjudication in an Oregon juvenile
7 court, may file a petition for an order relieving the person of the obligation
8 to report. The person must pay the filing fee established under ORS 21.135.
9 If the person resides:

10 “(a) In this state and is required to report under ORS 163A.025 (2) or (3),
11 the petition must be filed in the juvenile court in which the person was ad-
12 judicated for the act that requires reporting.

13 “(b) In another state and is required to report under ORS 163A.025 (4),
14 the petition must be filed in the juvenile court in the county in which the
15 person attends school or works.

16 “(c) In another state and is required to report under the laws of the other
17 state, the petition must be filed in the juvenile court in which the person
18 was adjudicated for the act that requires reporting.

19 “(2) If the act giving rise to the obligation to report would constitute:

20 “(a) A Class A or Class B felony sex crime if committed by an adult, the
21 petition may be filed no sooner than two years after the termination of ju-
22 venile court jurisdiction over the person or, if the person is placed under the
23 jurisdiction of the Psychiatric Security Review Board, no sooner than two
24 years after the person is discharged from the jurisdiction of the board.

25 “(b) A Class C felony sex crime if committed by an adult, the petition
26 may be filed no sooner than 30 days before the termination of juvenile court
27 jurisdiction over the person or, if the person is placed under the jurisdiction
28 of the Psychiatric Security Review Board, no sooner than 30 days before the
29 person is discharged from the jurisdiction of the board.

30 “(3)(a) The juvenile court in which a petition under this section is filed

1 may transfer the matter to the juvenile court of the county that last super-
2 vised the person if the court determines that the convenience of the parties,
3 the victim and witnesses require the transfer.

4 “(b) The juvenile court has exclusive original jurisdiction in any pro-
5 ceeding under this section.

6 “(c) The person, the district attorney and the juvenile department are
7 parties to a hearing on a petition filed under this section.

8 “(4) The person filing the petition has the burden of proving by clear and
9 convincing evidence that the person is rehabilitated and does not pose a
10 threat to the safety of the public. In determining whether the person has
11 met the burden of proof, the juvenile court may consider but need not be
12 limited to considering:

13 “(a) The extent and impact of any physical or emotional injury to the
14 victim;

15 “(b) The nature of the act that subjected the person to the obligation of
16 reporting as a sex offender;

17 “(c) Whether the person used or threatened to use force in committing the
18 act;

19 “(d) Whether the act was premeditated;

20 “(e) Whether the person took advantage of a position of authority or trust
21 in committing the act;

22 “(f) The age of any victim at the time of the act, the age difference be-
23 tween any victim and the person and the number of victims;

24 “(g) The vulnerability of the victim;

25 “(h) Other acts committed by the person that would be crimes if commit-
26 ted by an adult and criminal activities engaged in by the person before and
27 after the adjudication;

28 “(i) Statements, documents and recommendations by or on behalf of the
29 victim or the parents of the victim;

30 “(j) The person’s willingness to accept personal responsibility for the act

1 and personal accountability for the consequences of the act;

2 “(k) The person’s ability and efforts to pay the victim’s expenses for
3 counseling and other trauma-related expenses or other efforts to mitigate the
4 effects of the act;

5 “(L) Whether the person has participated in and satisfactorily completed
6 a sex offender treatment program or any other intervention, and if so the
7 juvenile court may also consider:

8 “(A) The availability, duration and extent of the treatment activities;

9 “(B) Reports and recommendations from the providers of the treatment;

10 “(C) The person’s compliance with court, board or supervision require-
11 ments regarding treatment; and

12 “(D) The quality and thoroughness of the treatment program;

13 “(m) The person’s academic and employment history;

14 “(n) The person’s use of drugs or alcohol before and after the adjudi-
15 cation;

16 “(o) The person’s history of public or private indecency;

17 “(p) The person’s compliance with and success in completing the terms
18 of supervision;

19 “(q) The results of psychological examinations of the person;

20 “(r) The protection afforded the public by the continued existence of the
21 records; and

22 “(s) Any other relevant factors.

23 “(5) In a hearing under this section, the juvenile court may receive tes-
24 timony, reports and other evidence without regard to whether the evidence
25 is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence
26 is relevant to the determination and findings required under this section.
27 As used in this subsection, ‘relevant evidence’ has the meaning given that
28 term in ORS 40.150.

29 “(6) When a petition is filed under this section, the state has the right
30 to have a psychosexual evaluation of the person conducted. The state shall

1 file notice with the juvenile court of its intention to have the person evalu-
2 ated. If the person objects to the evaluator chosen by the state, the juvenile
3 court for good cause shown may direct the state to select a different evalu-
4 ator.

5 “(7) As soon as practicable after a petition has been filed under this sec-
6 tion, the district attorney or juvenile department shall make a reasonable
7 effort to notify the victim of the crime that the person has filed a petition
8 seeking relief under this section and, if the victim has requested, to inform
9 the victim of the date, time and place of a hearing on the petition in advance
10 of the hearing.

11 “(8)(a) When a petition filed under this section is filed:

12 “(A) While the person is under the jurisdiction of the juvenile court or
13 the Psychiatric Security Review Board or less than three years after the date
14 the jurisdiction is terminated, the court shall hold a hearing no sooner than
15 60 days and no later than 120 days after the date of filing.

16 “(B) Three years or more after the date the juvenile court or board ju-
17 risdiction is terminated, the court shall hold a hearing no sooner than 90
18 days and no later than 150 days after the date of filing.

19 “(b) Notwithstanding paragraph (a) of this subsection, upon a showing of
20 good cause, the court may extend the period of time in which a hearing on
21 the petition must be held.

22 “(9)(a) When the person proves by clear and convincing evidence that the
23 person is rehabilitated and does not pose a threat to the safety of the public,
24 the court shall grant the petition.

25 “(b) Notwithstanding paragraph (a) of this subsection, the court may not
26 grant a petition filed under this section before the date the juvenile court
27 or board jurisdiction over the person is terminated.

28 “(10) When a juvenile court enters an order relieving a person of the re-
29 quirement to report under ORS 163A.025, the person shall send a certified
30 copy of the juvenile court order to the Department of State Police.

1 “(11) If a person commits an act [*that could be charged as a sex crime*
2 *listed in ORS 137.707*] **for which the person could be waived under ORS**
3 **419C.349 (1)(a)** and the person is 15, 16 or 17 years of age at the time the
4 act is committed, the state and the person may stipulate that the person may
5 not petition for relief under this section as part of an agreement that the
6 [*person be subject to the jurisdiction of the juvenile court rather than being*
7 *prosecuted as an adult under ORS 137.707*] **state not file a motion re-**
8 **questing waiver under ORS 419C.349 (1)(a).**

9 “(12) When a petition is filed under subsection (2)(b) of this section before
10 the termination of juvenile court or board jurisdiction, if the person, or the
11 parent or guardian of the person if the person is less than 18 years of age,
12 requests counsel and is without sufficient financial means to employ suitable
13 counsel to represent the person, for purposes of the petition described in this
14 section, the court shall appoint suitable counsel to represent the person.
15 Appointment of counsel under this subsection is subject to ORS 419C.200,
16 419C.203, 419C.206 and 419C.209.

17 **“SECTION 10.** ORS 163A.135 is amended to read:

18 “163A.135. (1) Except as provided in subsection (7) of this section, a per-
19 son required to report under ORS 163A.025 (1)(d) may file a petition in the
20 juvenile court for an order relieving the person of the duty to report. The
21 person must pay the filing fee established under ORS 21.135. If the person
22 resides:

23 “(a) In this state and is required to report under ORS 163A.025 (2) or (3),
24 the petition must be filed in the juvenile court of the county in which the
25 person resides.

26 “(b) In another state and is required to report under ORS 163A.025 (4),
27 the petition must be filed in the juvenile court of the county in which the
28 person attends school or works.

29 “(2) If the act giving rise to the obligation to report would constitute:

30 “(a) A Class A or Class B felony sex crime if committed in this state by

1 an adult, the petition may be filed no sooner than two years after the ter-
2 mination of the other United States court's jurisdiction over the person.

3 “(b) A Class C felony sex crime if committed in this state by an adult, the
4 petition may be filed no sooner than 30 days before the termination of the
5 other United States court's jurisdiction over the person.

6 “(3) The person filing the petition must submit with the petition all re-
7 leases and waivers necessary to allow the district attorney for the county in
8 which the petition is filed to obtain the following documents from the ju-
9 risdiction in which the person was adjudicated for the act for which report-
10 ing is required:

11 “(a) The juvenile court petition;

12 “(b) The dispositional report to the court;

13 “(c) The order of adjudication or jurisdiction;

14 “(d) Any other relevant court documents;

15 “(e) The police report relating to the act for which reporting is required;

16 “(f) The order terminating jurisdiction for the act for which reporting is
17 required; and

18 “(g) The evaluation and treatment records or reports of the person that
19 are related to the act for which reporting is required.

20 “(4) A person filing a petition under this section has the burden of prov-
21 ing by clear and convincing evidence that the person is rehabilitated and
22 does not pose a threat to the safety of the public.

23 “(5) Unless the court finds good cause for a continuance, the court shall
24 hold a hearing on the petition no sooner than 90 days and no later than 150
25 days after the date the petition is filed.

26 “(6) If a person who files a petition under this section is required to re-
27 port as a sex offender for having committed an act that if committed in this
28 state could have subjected the person to [*prosecution as an adult under ORS*
29 *137.707*] **waiver under ORS 419C.349 (1)(a)**, the court may not grant the
30 petition notwithstanding the fact that the person has met the burden of proof

1 established in subsection (4) of this section unless the court determines that
2 to do so is in the interest of public safety.

3 “(7) This section does not apply to a person who is required to register
4 as a sex offender for life in the jurisdiction in which the offense occurred.

5 “(8) In a hearing under this section, the court may receive testimony, re-
6 ports and other evidence without regard to whether the evidence is admissi-
7 ble under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant
8 to the determination and findings required under this section. As used in this
9 subsection, ‘relevant evidence’ has the meaning given that term in ORS
10 40.150.

11 “(9) If the court is satisfied by clear and convincing evidence that the
12 person is rehabilitated and that the person does not pose a threat to the
13 safety of the public, the court shall enter an order relieving the person of
14 the duty to report. When the court enters an order under this subsection, the
15 person shall send a certified copy of the court order to the Department of
16 State Police.

17 **“SECTION 11.** ORS 339.317 is amended to read:

18 “339.317. (1)(a) No later than five days after a person under 18 years of
19 age is [*charged with a crime under ORS 137.707 or is*] waived under ORS
20 419C.349, 419C.352 or 419C.364, the district attorney or city attorney, if the
21 person is waived to municipal court or, in the case of a juvenile department
22 that has agreed to be responsible for providing the notice required under this
23 section, the juvenile department shall give notice of the charge to the school
24 administrator of the school attended by the person or to the school admin-
25 istrator of the school district in which the person resides. For purposes of
26 this section, ‘school administrator’ has the meaning given that term in ORS
27 419A.305.

28 “(b) The district attorney, city attorney or juvenile department shall in-
29 clude in the notice the following:

30 “(A) The crime with which the person is charged;

- 1 “(B) The name and date of birth of the person;
- 2 “(C) The names and addresses of the person’s parents or guardians;
- 3 “(D) The name and contact information of the attorney for the person, if
- 4 known;
- 5 “(E) The name and contact information of the individual to contact for
- 6 further information about the notice;
- 7 “(F) Any conditions of release or terms of probation; and
- 8 “(G) Any other conditions required by the court.

9 “(2) A person who sends records under this section is not civilly or

10 criminally liable for failing to disclose the information under this section.

11 **“SECTION 12.** ORS 339.319 is amended to read:

12 “339.319. (1)(a) When a person under 18 years of age is convicted of a

13 crime [*under ORS 137.707 or*] following waiver under ORS 419C.349, 419C.352,

14 419C.364 or 419C.370 (1)(b), the agency supervising the person or, in the case

15 of a juvenile department that has agreed to be responsible for providing the

16 notice required under this section, the juvenile department shall give notice

17 of the conviction within five days following sentencing to the school ad-

18 ministrator of the school attended by the person or to the school adminis-

19 trator of the school district in which the person resides. For purposes of this

20 section, ‘school administrator’ has the meaning given that term in ORS

21 419A.305.

22 “(b) The agency supervising the person or the juvenile department shall

23 include in the notice:

- 24 “(A) The name and date of birth of the person;
- 25 “(B) The names and addresses of the person’s parents or guardians;
- 26 “(C) The crime of conviction;
- 27 “(D) The sentence imposed;
- 28 “(E) The name and contact information of the attorney for the person, if
- 29 known;
- 30 “(F) The name and contact information of the individual to contact for

1 further information about the notice;

2 “(G) Any conditions of release or terms of probation including, but not
3 limited to, whether school attendance is a condition of the release; and

4 “(H) Any other conditions required by the court.

5 “(2) An agency supervising a person or anyone employed by or acting on
6 behalf of an agency supervising a person who sends records under this sec-
7 tion is not civilly or criminally liable for failing to disclose the information
8 under this section.

9 **“SECTION 13.** ORS 339.321 is amended to read:

10 “339.321. (1) No later than 15 days before the release or discharge of a
11 person committed to the legal custody of the Department of Corrections or
12 the supervisory authority of a county [*under ORS 137.707 or*] following
13 waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370, the department
14 or supervisory authority or, in the case of a juvenile department that has
15 agreed to be responsible for providing the notice required under this section,
16 the juvenile department shall notify the following of the release or discharge
17 if the person is under 21 years of age at the time of the release:

18 “(a) Law enforcement agencies in the community in which the person is
19 going to reside; and

20 “(b) The school administrator of the school the person will attend or the
21 school administrator of the school district in which the person will reside.

22 “(2) The department, supervisory authority or the juvenile department
23 shall include in the notification:

24 “(a) The name and date of birth of the person;

25 “(b) The date of release or discharge;

26 “(c) The person’s address;

27 “(d) The names and addresses of the person’s parents or guardians;

28 “(e) The name and contact information of the attorney for the person, if
29 known;

30 “(f) The name and contact information of the individual to contact for

1 further information about the notice;

2 “(g) Any conditions of release or terms of probation including, but not
3 limited to, the type of supervision under which the person is released and
4 whether school attendance is a condition of release; and

5 “(h) Any other conditions required by the court.

6 “(3) The department, supervisory authority or anyone employed by or
7 acting on behalf of the department or supervisory authority who sends re-
8 cords under this section is not civilly or criminally liable for failing to dis-
9 close the information under this section.

10 “(4) As used in this section, ‘school administrator’ has the meaning given
11 that term in ORS 419A.305.

12 **“SECTION 14.** ORS 419C.005 is amended to read:

13 “419C.005. (1) [*Except as otherwise provided in ORS 137.707,*] The juvenile
14 court has exclusive original jurisdiction in any case involving a person who
15 is under 18 years of age and who has committed an act that is a violation,
16 or that if done by an adult would constitute a violation, of a law or ordi-
17 nance of the United States or a state, county or city.

18 “(2) The provisions of subsection (1) of this section do not prevent a court
19 of competent jurisdiction from entertaining a civil action or suit involving
20 a youth.

21 “(3) The court does not have jurisdiction as provided in subsection (1) of
22 this section after a minor has been emancipated pursuant to ORS 419B.550
23 to 419B.558.

24 “(4) The court’s jurisdiction over a person under this section or ORS
25 419C.067 continues until one of the following occurs:

26 “(a) The court dismisses a petition filed under this chapter or waives the
27 case under ORS 419C.340. If jurisdiction is based on a previous adjudication,
28 then dismissal or waiver of a later case does not terminate jurisdiction under
29 the previous case unless the court so orders.

30 “(b) The court transfers jurisdiction of the case as provided in ORS

1 419C.053, 419C.056 and 419C.059.

2 “(c) The court enters an order terminating jurisdiction.

3 “(d) The person becomes 25 years of age.

4 “(e) The court places the person under the jurisdiction of the Psychiatric
5 Security Review Board as provided in ORS 419C.529. If the court also has
6 jurisdiction over the person based on a previous adjudication under this
7 chapter or ORS chapter 419B, placing a person under the jurisdiction of the
8 board in a later case does not terminate wardship under the previous case
9 unless the court so orders.

10 **“SECTION 15.** ORS 419C.050 is amended to read:

11 “419C.050. [*Except as otherwise provided in ORS 137.707,*] If during the
12 pendency of a proceeding involving an allegation of a crime in any court
13 other than a juvenile court it is ascertained that the age of the person who
14 is the subject of the proceeding is such that the matter is within the exclu-
15 sive jurisdiction of the juvenile court, it is the duty of the court in which
16 the proceeding is pending to transfer the proceeding to the juvenile court
17 of the county in which the proceeding is pending. The clerk of the court
18 transferring the proceeding shall notify the clerk of the juvenile court of the
19 transfer.

20 **“SECTION 16.** ORS 419C.346 is amended to read:

21 “419C.346. If the juvenile court waives a youth to another court under
22 ORS 419C.349 (1)(b) or[, 419C.355 and] 419C.370 for disposition as an adult,
23 the juvenile court nevertheless may retain jurisdiction over the youth’s par-
24 ents or guardians under ORS 419C.570. However, if the court enters an order
25 of waiver under ORS **419C.349 (1)(a) or** 419C.364, jurisdiction over the par-
26 ents or guardians under ORS 419C.570 shall terminate.

27 **“SECTION 17.** ORS 419C.352 is amended to read:

28 “419C.352. The juvenile court, after a hearing, except as provided in ORS
29 419C.364 or 419C.370, may waive a youth under 15 years of age at the time
30 the act was committed to circuit court for prosecution as an adult if:

1 “(1) The youth is represented by counsel during the waiver proceedings;
2 “(2) The juvenile court makes the findings required under ORS 419C.349
3 [(3) and (4)] (2); and
4 “(3) The youth is alleged to have committed an act or acts that if com-
5 mitted by an adult would constitute one or more of the following crimes:
6 “(a) Murder or any aggravated form thereof under ORS 163.095 or 163.115;
7 “(b) Rape in the first degree under ORS 163.375 (1)(a);
8 “(c) Sodomy in the first degree under ORS 163.405 (1)(a); or
9 “(d) Unlawful sexual penetration in the first degree under ORS 163.411
10 (1)(a).

11 **“SECTION 18.** ORS 419C.355 is amended to read:

12 “419C.355. The juvenile court shall make a specific, detailed, written
13 finding of fact to support [*any determination*] **the findings made** under ORS
14 419C.349 [(3) and (4)] (2).

15 **“SECTION 19.** ORS 419C.358 is amended to read:

16 “419C.358. (1) **Except as otherwise provided in subsection (2) of this**
17 **section and ORS 137.707 (6),** when a person is waived for prosecution as
18 an adult, the person shall be waived only on the actual charges justifying
19 the waiver under ORS 419C.349 [(2)] or 419C.352, as the case may be.

20 “(2) Any nonwaivable charges arising out of the same act or transaction
21 as the waivable charge shall be consolidated with the waivable charge [*for*
22 *purposes of conducting the adjudicatory hearing on the nonwaivable charges*].

23 **“SECTION 20.** ORS 419C.361 is amended to read:

24 “419C.361. (1)(a) Notwithstanding that the juvenile court has waived the
25 case under ORS 419C.349, 419C.352, [*419C.355, 419C.358,*] 419C.364[, *419C.367*
26 *and*] **or** 419C.370, the court of waiver shall return the case to the juvenile
27 court unless an accusatory instrument is filed in the court of waiver alleg-
28 ing, in the case of a person under [*16*] **15** years of age, a crime listed in ORS
29 419C.352 or, in the case of any other person, a crime [*listed in ORS 419C.349*
30 *(2). Also in the case of a waived person,*] **described in ORS 419C.349 (1).**

1 “(b) When a trial has been held in the court of waiver upon an
2 accusatory instrument alleging a crime listed in ORS 419C.349 [(2)] (1)(b) or
3 419C.352, as the case may be, and the person is found guilty of any lesser
4 included offense that is not itself a waivable offense, the trial court shall
5 not sentence the defendant therein, but the trial court shall order a presen-
6 tence report to be made in the case, shall set forth in a memorandum such
7 observations as the court may make regarding the case and shall then return
8 the case to the juvenile court in order that the juvenile court make disposi-
9 tion in the case based upon the guilty finding in the court of waiver. Dis-
10 position shall be as if the juvenile court itself had found the youth to be in
11 its jurisdiction pursuant to ORS 419C.005. The records and consequences of
12 the case shall, in all respects, be as if the juvenile court itself had found the
13 youth to be in its jurisdiction pursuant to ORS 419C.005. When the person
14 is found guilty of a nonwaivable charge that was consolidated with a
15 waivable charge under ORS 419C.358, the case shall be returned to the ju-
16 venile court for disposition as provided in this subsection for lesser included
17 offenses.

18 “(2) Nothing in this section or ORS 419C.358 applies to a waiver under
19 ORS 419C.364 or 419C.370.

20 “**SECTION 21.** ORS 420.081 is amended to read:

21 “420.081. (1) The total population of youth offenders confined in the youth
22 correction facilities may not exceed the design capacity of the facilities
23 designated for close custody purposes by the Director of the Oregon Youth
24 Authority. The total population limit shall include offenders in the youth
25 correction facility who were waived by the juvenile court to be prosecuted
26 as adults [*or who were prosecuted as adults under ORS 137.707*].

27 “(2) The director by rule shall determine reasonable standards for care
28 and treatment of youth offenders housed in youth correction facilities.
29 Within the total limit established under subsection (1) of this section, the
30 Director of the Oregon Youth Authority shall establish and impose a maxi-

1 mum allowable population level for each youth correction facility. The
2 maximum allowable population shall not exceed the design capacity for the
3 facility and shall be further limited by the ability of the facility to meet the
4 standard of care and treatment established by rule under this subsection,
5 protect communities, hold youth offenders accountable for their behavior and
6 improve the competency of youth offenders to become responsible and pro-
7 ductive members of their communities.

8 “(3) The director by rule shall establish criteria upon which the decision
9 to place a youth in a youth correction facility must be based, and which, in
10 turn, shall be based upon behaviors and characteristics of youths otherwise
11 eligible for commitment to a youth correction facility.

12 “(4) After conferring with the juvenile court judges, the director shall
13 develop and implement by rule, a method of controlling admissions to the
14 youth correction facilities so as not to exceed maximum levels determined
15 under subsections (1) and (2) of this section.

16

17 **“SECOND LOOK**

18

19 **“SECTION 22.** ORS 420A.203 is amended to read:

20 “420A.203. (1)(a) This section and ORS 420A.206 apply only to [*persons*]
21 **a person** who:

22 “(A) [*Were*] **Was** under 18 years of age at the time of the commission of
23 the offense for which the [*persons were*] **person was** sentenced to a term of
24 imprisonment, who committed the offense on or after June 30, 1995, and who
25 [*were*] **was**:

26 “[A] (i) Sentenced to a term of imprisonment of at least 24 months fol-
27 lowing waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370; or

28 “[B] (ii) Sentenced to a term of imprisonment of at least 24 months un-
29 der ORS 137.707 [(5)(b)(A) or (7)(b).] **or 137.712; or**

30 **“(B)(i) Was under 18 years of age at the time of the commission of**

1 **all offenses for which the person was sentenced to a term of**
2 **imprisonment;**

3 **“(ii) Is in the physical custody of the Oregon Youth Authority; and**

4 **“(iii) Has a projected release date, as determined by the Department**
5 **of Corrections, that falls on or after the person’s 25th birthday and**
6 **before the person’s 27th birthday.**

7 **“(b) When a person described in paragraph (a)(A) of this subsection has**
8 **served one-half of the sentence imposed or when a person described in**
9 **paragraph (a)(B) of this subsection attains 24 years and six months of**
10 **age, the sentencing court shall determine what further commitment or dis-**
11 **position is appropriate as provided in this section. As used in this subsection**
12 **and subsection (2) of this section, ‘sentence imposed’ means the total period**
13 **of mandatory incarceration imposed for all convictions resulting from a sin-**
14 **gle prosecution or criminal proceeding not including any reduction in the**
15 **sentence under ORS 421.121 or any other statute.**

16 **“(2)(a) No more than 120 days and not less than 60 days before the date**
17 **on which a person has served one-half of the sentence imposed or attains**
18 **24 years and six months of age, the Oregon Youth Authority or the De-**
19 **partment of Corrections, whichever has physical custody of the person, shall**
20 **file in the sentencing court a notice and request that the court set a time**
21 **and place for the hearing required under this section. The youth authority**
22 **or department shall serve the person with a copy of the notice and request**
23 **for hearing on or before the date of filing.**

24 **“(b) Upon receiving the notice and request for a hearing under paragraph**
25 **(a) of this subsection, the sentencing court shall schedule a hearing for a**
26 **date not more than 30 days after the date on which the person will have**
27 **served one-half of the sentence imposed or attains 24 years and six months**
28 **of age, or such later date as is agreed upon by the parties.**

29 **“(c) The court shall notify the following of the time and place of the**
30 **hearing:**

1 “(A) The person and, **if the person is under 18 years of age**, the
2 person’s parents;

3 “(B) The records supervisor of the correctional institution in which the
4 person is incarcerated; and

5 “(C) The district attorney who prosecuted the case.

6 “(d) The court shall make reasonable efforts to notify the following of the
7 time and place of the hearing:

8 “(A) The victim and, **if the victim is under 18 years of age**, the victim’s
9 parents or legal guardian; and

10 “(B) Any other person who has filed a written request with the court to
11 be notified of any hearing concerning the transfer, discharge or release of
12 the person.

13 **“(e) Notwithstanding paragraph (b) of this subsection, the court
14 may delay the hearing for good cause.**

15 “(3) In a hearing under this section:

16 “(a) The person and the state are parties to the proceeding.

17 “(b) The person has the right to appear with counsel. If the person re-
18 quests that the court appoint counsel and the court determines that the
19 person is financially eligible for appointed counsel at state expense, the
20 court shall order that counsel be appointed.

21 “(c) The district attorney represents the state.

22 “(d) The court shall determine admissibility of evidence as if the hearing
23 were a sentencing proceeding.

24 “(e) The court may consider, when relevant, written reports of the Oregon
25 Youth Authority, the Department of Corrections and qualified experts, in
26 addition to the testimony of witnesses. Within a reasonable time before the
27 hearing, as determined by the court, the person must be given the opportu-
28 nity to examine all reports and other documents concerning the person that
29 the state, the Oregon Youth Authority or the Department of Corrections in-
30 tends to submit for consideration by the court at the hearing.

1 “(f) Except as otherwise provided by law or by order of the court based
2 on good cause, the person must be given access to the records maintained in
3 the person’s case by the Oregon Youth Authority and the Department of
4 Corrections.

5 “(g) The person may examine all of the witnesses called by the state, may
6 subpoena and call witnesses to testify on the person’s behalf and may present
7 evidence and argument. The court may permit witnesses to appear by tele-
8 phone or other two-way electronic communication device.

9 “(h) The hearing must be recorded.

10 “(i) The hearing and the record of the hearing are open to the public.

11 “(j) The question to be decided is which of the dispositions provided in
12 subsection (4) of this section should be ordered in the case.

13 “(k) The person has the burden of proving by clear and convincing evi-
14 dence that the person has been rehabilitated and reformed, and if condi-
15 tionally released, the person would not be a threat to the safety of the
16 victim, the victim’s family or the community and that the person would
17 comply with the release conditions.

18 “(4)(a) At the conclusion of the hearing and after considering and making
19 findings regarding each of the factors in paragraph (b) of this subsection, the
20 court shall order one of the following dispositions:

21 “(A) Order that the person serve the entire remainder of the sentence of
22 imprisonment imposed, taking into account any reduction in the sentence
23 under ORS 421.121 or any other statute, with the person’s physical custody
24 determined under ORS 137.124, 420.011 and 420A.200.

25 “(B) Order that the person be conditionally released under ORS 420A.206
26 at such time as the court may order, if the court finds that the person:

27 “(i) Has been rehabilitated and reformed;

28 “(ii) Is not a threat to the safety of the victim, the victim’s family or the
29 community; and

30 “(iii) Will comply with the conditions of release.

1 “(b) In making the determination under this section, the court shall con-
2 sider:

3 “(A) The experiences and character of the person before and after com-
4 mitment to the Oregon Youth Authority or the Department of Corrections;

5 “(B) The person’s juvenile and criminal records;

6 “(C) The person’s mental, emotional and physical health;

7 “(D) The gravity of the loss, damage or injury caused or attempted, during
8 or as part of the criminal act for which the person was convicted and sen-
9 tenced;

10 “(E) The manner in which the person committed the criminal act for
11 which the person was convicted and sentenced;

12 “(F) The person’s efforts, participation and progress in rehabilitation
13 programs since the person’s conviction;

14 “(G) The results of any mental health or substance abuse treatment;

15 “(H) Whether the person demonstrates accountability and responsibility
16 for past and future conduct;

17 “(I) Whether the person has made and will continue to make restitution
18 to the victim and the community;

19 “(J) Whether the person will comply with and benefit from all conditions
20 that will be imposed if the person is conditionally released;

21 “(K) The safety of the victim, the victim’s family and the community;

22 “(L) The recommendations of the district attorney, the Oregon Youth
23 Authority and the Department of Corrections; and

24 “(M) Any other relevant factors or circumstances raised by the state, the
25 Oregon Youth Authority, the Department of Corrections or the person.

26 “(5) The court shall provide copies of its disposition order under sub-
27 section (4) of this section to the parties, to the records supervisor of the
28 correctional institution in which the person is incarcerated and to the man-
29 ager of the institution-based records office of the Department of Corrections.

30 “(6) The person or the state may appeal an order entered under this sec-

1 tion. On appeal, the appellate court’s review is limited to claims that:

2 “(a) The disposition is not authorized under this section;

3 “(b) The court failed to comply with the requirements of this section in
4 imposing the disposition; or

5 “(c) The findings of the court are not supported by substantial evidence
6 in the record.

7 “(7) **A person described in subsection (1)(a)(B) of this section may**
8 **waive a hearing under this section.**

9 “**SECTION 23.** ORS 137.712 is amended to read:

10 “137.712. (1)(a) Notwithstanding ORS 137.700 and 137.707, when a person
11 is convicted of manslaughter in the second degree as defined in ORS 163.125,
12 assault in the second degree as defined in ORS 163.175 (1)(b), kidnapping in
13 the second degree as defined in ORS 163.225, rape in the second degree as
14 defined in ORS 163.365, sodomy in the second degree as defined in ORS
15 163.395, unlawful sexual penetration in the second degree as defined in ORS
16 163.408, sexual abuse in the first degree as defined in ORS 163.427 (1)(a)(A)
17 or robbery in the second degree as defined in ORS 164.405, the court may
18 impose a sentence according to the rules of the Oregon Criminal Justice
19 Commission that is less than the minimum sentence that otherwise may be
20 required by ORS 137.700 or 137.707 if the court, on the record at sentencing,
21 makes the findings set forth in subsection (2) of this section and finds that
22 a substantial and compelling reason under the rules of the Oregon Criminal
23 Justice Commission justifies the lesser sentence. When the court imposes a
24 sentence under this subsection, the person is eligible for a reduction in the
25 sentence as provided in ORS 421.121 and any other statute **and is eligible**
26 **for a hearing and conditional release under ORS 420A.203 and**
27 **420A.206.**

28 “(b) In order to make a dispositional departure under this section, the
29 court must make the following additional findings on the record:

30 “(A) There exists a substantial and compelling reason not relied upon in

1 paragraph (a) of this subsection;

2 “(B) A sentence of probation will be more effective than a prison term in
3 reducing the risk of offender recidivism; and

4 “(C) A sentence of probation will better serve to protect society.

5 “(2) A conviction is subject to subsection (1) of this section only if the
6 sentencing court finds on the record by a preponderance of the evidence:

7 “(a) If the conviction is for manslaughter in the second degree:

8 “(A) That the victim was a dependent person as defined in ORS 163.205
9 who was at least 18 years of age;

10 “(B) That the defendant is the mother or father of the victim;

11 “(C) That the death of the victim was the result of an injury or illness
12 that was not caused by the defendant;

13 “(D) That the defendant treated the injury or illness solely by spiritual
14 treatment in accordance with the religious beliefs or practices of the de-
15 fendant and based on a good faith belief that spiritual treatment would bring
16 about the victim’s recovery from the injury or illness;

17 “(E) That no other person previously under the defendant’s care has died
18 or sustained significant physical injury as a result of or despite the use of
19 spiritual treatment, regardless of whether the spiritual treatment was used
20 alone or in conjunction with medical care; and

21 “(F) That the defendant does not have a previous conviction for a crime
22 listed in subsection (4) of this section or for criminal mistreatment in the
23 second degree.

24 “(b) If the conviction is for assault in the second degree:

25 “(A) That the victim was not physically injured by means of a deadly
26 weapon;

27 “(B) That the victim did not suffer a significant physical injury; and

28 “(C) That the defendant does not have a previous conviction for a crime
29 listed in subsection (4) of this section.

30 “(c) If the conviction is for kidnapping in the second degree:

1 “(A) That the victim was at least 12 years of age at the time the crime
2 was committed; and

3 “(B) That the defendant does not have a previous conviction for a crime
4 listed in subsection (4) of this section.

5 “(d) If the conviction is for robbery in the second degree:

6 “(A) That the victim did not suffer a significant physical injury;

7 “(B) That, if the defendant represented by words or conduct that the de-
8 fendant was armed with a dangerous weapon, the representation did not
9 reasonably put the victim in fear of imminent significant physical injury;

10 “(C) That, if the defendant represented by words or conduct that the de-
11 fendant was armed with a deadly weapon, the representation did not rea-
12 sonably put the victim in fear of imminent physical injury; and

13 “(D) That the defendant does not have a previous conviction for a crime
14 listed in subsection (4) of this section.

15 “(e) If the conviction is for rape in the second degree, sodomy in the
16 second degree or sexual abuse in the first degree:

17 “(A) That the victim was at least 12 years of age, but under 14 years of
18 age, at the time of the offense;

19 “(B) That the defendant does not have a prior conviction for a crime
20 listed in subsection (4) of this section;

21 “(C) That the defendant has not been previously found to be within the
22 jurisdiction of a juvenile court for an act that would have been a felony
23 sexual offense if the act had been committed by an adult;

24 “(D) That the defendant was no more than five years older than the vic-
25 tim at the time of the offense;

26 “(E) That the offense did not involve sexual contact with any minor other
27 than the victim; and

28 “(F) That the victim’s lack of consent was due solely to incapacity to
29 consent by reason of being under 18 years of age at the time of the offense.

30 “(f) If the conviction is for unlawful sexual penetration in the second

1 degree:

2 “(A) That the victim was 12 years of age or older at the time of the of-
3 fense;

4 “(B) That the defendant does not have a prior conviction for a crime
5 listed in subsection (4) of this section;

6 “(C) That the defendant has not been previously found to be within the
7 jurisdiction of a juvenile court for an act that would have been a felony
8 sexual offense if the act had been committed by an adult;

9 “(D) That the defendant was no more than five years older than the vic-
10 tim at the time of the offense;

11 “(E) That the offense did not involve sexual contact with any minor other
12 than the victim;

13 “(F) That the victim’s lack of consent was due solely to incapacity to
14 consent by reason of being under 18 years of age at the time of the offense;
15 and

16 “(G) That the object used to commit the unlawful sexual penetration was
17 the hand or any part thereof of the defendant.

18 “(3) In making the findings required by subsections (1) and (2) of this
19 section, the court may consider any evidence presented at trial and may re-
20 ceive and consider any additional relevant information offered by either
21 party at sentencing.

22 “(4) The crimes to which subsection (2)(a)(F), (b)(C), (c)(B), (d)(D), (e)(B)
23 and (f)(B) of this section refer are:

24 “(a) A crime listed in ORS 137.700 (2) or 137.707 (4);

25 “(b) Escape in the first degree, as defined in ORS 162.165;

26 “(c) Aggravated murder, as defined in ORS 163.095;

27 “(d) Criminally negligent homicide, as defined in ORS 163.145;

28 “(e) Assault in the third degree, as defined in ORS 163.165;

29 “(f) Criminal mistreatment in the first degree, as defined in ORS 163.205
30 (1)(b)(A);

1 “(g) Rape in the third degree, as defined in ORS 163.355;
2 “(h) Sodomy in the third degree, as defined in ORS 163.385;
3 “(i) Sexual abuse in the second degree, as defined in ORS 163.425;
4 “(j) Stalking, as defined in ORS 163.732;
5 “(k) Burglary in the first degree, as defined in ORS 164.225, when it is
6 classified as a person felony under the rules of the Oregon Criminal Justice
7 Commission;
8 “(L) Arson in the first degree, as defined in ORS 164.325;
9 “(m) Robbery in the third degree, as defined in ORS 164.395;
10 “(n) Intimidation in the first degree, as defined in ORS 166.165;
11 “(o) Promoting prostitution, as defined in ORS 167.012; and
12 “(p) An attempt or solicitation to commit any Class A or B felony listed
13 in paragraphs (a) to (L) of this subsection.
14 “(5) Notwithstanding ORS 137.545 (5)(b), if a person sentenced to pro-
15 bation under this section violates a condition of probation by committing a
16 new crime, the court shall revoke the probation and impose the presumptive
17 sentence of imprisonment under the rules of the Oregon Criminal Justice
18 Commission.
19 “(6) As used in this section:
20 “(a) ‘Conviction’ includes, but is not limited to:
21 “(A) A juvenile court adjudication finding a person within the court’s
22 jurisdiction under ORS 419C.005, if the person was at least 15 years of age
23 at the time the person committed the offense that brought the person within
24 the jurisdiction of the juvenile court. ‘Conviction’ does not include a juvenile
25 court adjudication described in this subparagraph if the person successfully
26 asserted the defense set forth in ORS 419C.522.
27 “(B) A conviction in another jurisdiction for a crime that if committed
28 in this state would constitute a crime listed in subsection (4) of this section.
29 “(b) ‘Previous conviction’ means a conviction that was entered prior to
30 imposing sentence on the current crime provided that the prior conviction

1 is based on a crime committed in a separate criminal episode. ‘Previous
2 conviction’ does not include a conviction for a Class C felony, including an
3 attempt or solicitation to commit a Class B felony, or a misdemeanor, unless
4 the conviction was entered within the 10-year period immediately preceding
5 the date on which the current crime was committed.

6 “(c) ‘Significant physical injury’ means a physical injury that:

7 “(A) Creates a risk of death that is not a remote risk;

8 “(B) Causes a serious and temporary disfigurement;

9 “(C) Causes a protracted disfigurement; or

10 “(D) Causes a prolonged impairment of health or the function of any
11 bodily organ.

12

13 **“LIFE IMPRISONMENT**

14

15 **“SECTION 24. (1) A court may not impose a sentence of life**
16 **imprisonment without the possibility of release or parole on a person**
17 **who was under 18 years of age at the time of committing the offense.**

18 **“(2) In determining the appropriate sentence for a person who was**
19 **under 18 years of age at the time of committing the offense, if the**
20 **court is provided information concerning the following circumstances,**
21 **or any other relevant circumstances, the court shall consider those**
22 **circumstances in imposing the sentence:**

23 **“(a) The person’s age, intellectual capacity and impetuosity at**
24 **the time of the offense.**

25 **“(b) The person’s family and community environment, history of**
26 **trauma and prior involvement in the juvenile dependency system at**
27 **the time of the offense.**

28 **“(c) The person’s ability at the time of the offense to appreciate the**
29 **risks and consequences of the conduct constituting the offense.**

30 **“(d) The person’s community involvement prior to the offense.**

1 “(e) Any peer or familial pressure to which the person was subjected
2 at the time of the offense.

3 “(f) Whether and to what extent an adult was involved in the
4 commission of the offense.

5 “(g) The person’s capacity for rehabilitation.

6 “(h) The person’s school records and special education evaluations.

7 “(i) Any other mitigating factors or circumstances presented by the
8 person.

9 “(3)(a) If the court is provided with a report of a mental health
10 evaluation of the person, the court shall give the evaluation substan-
11 tial weight in imposing the sentence if:

12 “(A) The evaluation was conducted by a psychiatrist or psychologist
13 whose primary practice involves the treatment of adolescents; and

14 “(B) The report includes the assessment of the person’s degree of
15 insight, judgment, self-awareness, emotional regulation and impulse
16 control.

17 “(b) Paragraph (a) of this subsection does not constitute a require-
18 ment that a person obtain or submit an evaluation for sentencing.

19 “(4) When sentencing a person who was under 18 years of age at the
20 time of committing the offense, under no circumstances may the court
21 consider the age of the person as an aggravating factor.

22 “(5) When sentencing a person who was under 18 years of age at the
23 time of committing an offense to a term of imprisonment, the court
24 shall indicate in the judgment:

25 “(a) The age of the person at the time of committing the offense;
26 and

27 “(b) That the person is eligible for a hearing and release under
28 section 25 of this 2019 Act.

29 “SECTION 25. (1)(a) A person convicted of an offense or offenses
30 committed when the person was under 18 years of age, who is serving

1 a sentence of imprisonment for the offense or offenses, is eligible for
2 release on parole or post-prison supervision as provided in this section
3 after the person has served 15 years of imprisonment.

4 “(b) Nothing in this section is intended to prevent a person from
5 being released prior to serving 15 years of imprisonment under any
6 other provision of law.

7 “(c) As used in this subsection, ‘served 15 years of imprisonment’
8 means that 15 years have passed since the person began serving the
9 sentence, including pretrial incarceration but not including any re-
10 duction in sentence under ORS 421.121 or any other statute.

11 “(2) This section applies notwithstanding the fact that the person
12 was:

13 “(a) Sentenced to a minimum sentence under ORS 163.105, 163.115
14 or 163.155.

15 “(b) Sentenced to a mandatory minimum sentence under ORS
16 137.700, 137.707 or 137.717, a determinate sentence under ORS 137.635
17 or a sentence required by any other provision of law.

18 “(c) Sentenced to two or more consecutive sentences under ORS
19 137.123.

20 “(3) When a person eligible for release on parole or post-prison
21 supervision as described in subsection (1) of this section has served 15
22 years of imprisonment, the State Board of Parole and Post-Prison
23 Supervision shall hold a hearing. The hearing must provide the person
24 a meaningful opportunity to be released on parole or post-prison
25 supervision.

26 “(4) The board may require the person, before holding a hearing
27 described in this section, to be examined by a psychiatrist or psychol-
28 ogist with expertise in adolescent development. Within 60 days of the
29 evaluation, the examining psychiatrist or psychologist shall file a
30 written report of the findings and conclusions of the examination with

1 the board. A certified copy of the report shall be provided to the person
2 and the person's attorney.

3 “(5) During a hearing under this section, the board shall consider
4 and give substantial weight to the fact that a person under 18 years
5 of age is incapable of the same reasoning and impulse control as an
6 adult and the diminished culpability of minors as compared to that of
7 adults. The board shall also consider the following circumstances, if
8 relevant to the specific person and offense:

9 “(a) The age and immaturity of the person at the time of the of-
10 fense.

11 “(b) Whether and to what extent an adult was involved in the of-
12 fense.

13 “(c) The person's family and community circumstances at the time
14 of the offense, including any history of abuse, trauma and involvement
15 in the juvenile dependency system.

16 “(d) The person's subsequent emotional growth and increased ma-
17 turity during the person's imprisonment.

18 “(e) The person's participation in rehabilitative and educational
19 programs while in custody if such programs have been made available
20 to the person and use of self-study for self-improvement.

21 “(f) A mental health diagnosis.

22 “(g) Any other mitigating factors or circumstances presented by the
23 person.

24 “(6) Under no circumstances may the board consider the age of the
25 person as an aggravating factor.

26 “(7) If the board finds that, based on the consideration of the age
27 and immaturity of the person at the time of the offense and the
28 person's behavior thereafter, the person has demonstrated maturity
29 and rehabilitation, the board shall release the person as follows:

30 “(a) For a person sentenced under ORS 163.105, 163.115 or 163.155,

1 the board shall set a release date that is not more than 60 days from
2 the date of the hearing and, notwithstanding section 28, chapter 790,
3 Oregon Laws 1989, the person shall be released on parole in accordance
4 with ORS 144.125, 144.260 and 144.270.

5 “(b) A person sentenced to a term of imprisonment under a pro-
6 vision of law other than ORS 163.105, 163.115 or 163.155 shall be released
7 on post-prison supervision in accordance with ORS 144.096 and 144.098
8 within 60 days of the date of the hearing.

9 “(8) Unless the context requires otherwise, the provisions of ORS
10 144.260 to 144.380 apply to a person released on parole under subsection
11 (7)(a) of this section.

12 “(9) If the board determines that the person has not demonstrated
13 maturity and rehabilitation under subsection (7) of this section, the
14 board may postpone a subsequent hearing to a date that is at least two
15 years but no more than 10 years from the date of the hearing.

16 “(10) The person may waive a hearing under this section. Not-
17 withstanding waiver of the hearing, the board shall hold a hearing
18 under this section upon the person’s written request.

19 “(11) The board shall provide notice of the hearing to:

20 “(a) The district attorney of the county in which the person was
21 convicted; and

22 “(b) The victim of any offense for which the person is serving a
23 sentence, if the victim requests to be notified and furnishes the board
24 with a current address.

25 “(12) A person has the right to counsel, including counsel appointed
26 at board expense, at a hearing under this section.

27 “(13) The board may adopt rules to carry out the provisions of this
28 section.

29 “**SECTION 26.** ORS 144.185 is amended to read:

30 “144.185. Before making a determination regarding a prisoner’s release on

1 parole as provided by ORS 144.125 or **section 25 of this 2019 Act**, the State
2 Board of Parole and Post-Prison Supervision may cause to be brought before
3 it current records and information regarding the prisoner, including:

4 “(1) Any relevant information which may be submitted by the prisoner,
5 the prisoner’s attorney, the victim of the crime, the Department of Cor-
6 rections, or by other persons;

7 “(2) The presentence investigation report specified in ORS 144.791 or if
8 no such report has been prepared, a report of similar content prepared by
9 institutional staff;

10 “(3) The reports of any physical, mental and psychiatric examinations of
11 the prisoner;

12 “(4) The prisoner’s parole plan; and

13 “(5) Other relevant information concerning the prisoner as may be rea-
14 sonably available.

15 **“SECTION 27.** ORS 163.105 is amended to read:

16 “163.105. Notwithstanding the provisions of ORS chapter 144 and ORS
17 421.450 to 421.490:

18 “(1)(a) Except as otherwise provided in ORS 137.707, when a defendant is
19 convicted of aggravated murder as defined by ORS 163.095, the defendant
20 shall be sentenced, pursuant to ORS 163.150, to death, life imprisonment
21 without the possibility of release or parole or life imprisonment.

22 “(b) A person sentenced to life imprisonment without the possibility of
23 release or parole under this section shall not have that sentence suspended,
24 deferred or commuted by any judicial officer, and the State Board of Parole
25 and Post-Prison Supervision may not parole the prisoner nor reduce the pe-
26 riod of confinement in any manner whatsoever. The Department of Cor-
27 rections or any executive official may not permit the prisoner to participate
28 in any sort of release or furlough program.

29 “(c) If sentenced to life imprisonment, the court shall order that the de-
30 fendant shall be confined for a minimum of 30 years without possibility of

1 parole[,] or release to post-prison supervision **except as provided in section**
2 **25 of this 2019 Act, and without the possibility of** release on work release
3 or any form of temporary leave or employment at a forest or work camp.

4 “(2) At any time after completion of a minimum period of confinement
5 pursuant to subsection (1)(c) of this section, the State Board of Parole and
6 Post-Prison Supervision, upon the petition of a prisoner so confined, shall
7 hold a hearing to determine if the prisoner is likely to be rehabilitated
8 within a reasonable period of time. The sole issue is whether or not the
9 prisoner is likely to be rehabilitated within a reasonable period of time. At
10 the hearing, the prisoner has:

11 “(a) The burden of proving by a preponderance of the evidence the like-
12 lihood of rehabilitation within a reasonable period of time;

13 “(b) The right, if the prisoner is without sufficient funds to employ an
14 attorney, to be represented by legal counsel, appointed by the board, at board
15 expense; and

16 “(c) The right to a subpoena upon a showing of the general relevance and
17 reasonable scope of the evidence sought, provided that any subpoena issued
18 on behalf of the prisoner must be issued by the State Board of Parole and
19 Post-Prison Supervision pursuant to rules adopted by the board.

20 “(3) If, upon hearing all of the evidence, the board, upon a unanimous
21 vote of three board members or, if the chairperson requires all voting mem-
22 bers to participate, a unanimous vote of all voting members, finds that the
23 prisoner is capable of rehabilitation and that the terms of the prisoner’s
24 confinement should be changed to life imprisonment with the possibility of
25 parole, release to post-prison supervision or work release, it shall enter an
26 order to that effect and the order shall convert the terms of the prisoner’s
27 confinement to life imprisonment with the possibility of parole, release to
28 post-prison supervision or work release and may set a release date. Otherwise
29 the board shall deny the relief sought in the petition.

30 “(4) If the board denies the relief sought in the petition, the board shall

1 determine the date of the subsequent hearing, and the prisoner may petition
2 for an interim hearing, in accordance with ORS 144.285.

3 “(5) The board’s final order shall be accompanied by findings of fact and
4 conclusions of law. The findings of fact shall consist of a concise statement
5 of the underlying facts supporting the findings as to each contested issue of
6 fact and as to each ultimate fact required to support the board’s order.

7 **“SECTION 28.** ORS 163.115 is amended to read:

8 “163.115. (1) Except as provided in ORS 163.118 and 163.125, criminal
9 homicide constitutes murder:

10 “(a) When it is committed intentionally, except that it is an affirmative
11 defense that, at the time of the homicide, the defendant was under the in-
12 fluence of an extreme emotional disturbance;

13 “(b) When it is committed by a person, acting either alone or with one
14 or more persons, who commits or attempts to commit any of the following
15 crimes and in the course of and in furtherance of the crime the person is
16 committing or attempting to commit, or during the immediate flight there-
17 from, the person, or another participant if there be any, causes the death of
18 a person other than one of the participants:

19 “(A) Arson in the first degree as defined in ORS 164.325;

20 “(B) Criminal mischief in the first degree by means of an explosive as
21 defined in ORS 164.365;

22 “(C) Burglary in the first degree as defined in ORS 164.225;

23 “(D) Escape in the first degree as defined in ORS 162.165;

24 “(E) Kidnapping in the second degree as defined in ORS 163.225;

25 “(F) Kidnapping in the first degree as defined in ORS 163.235;

26 “(G) Robbery in the first degree as defined in ORS 164.415;

27 “(H) Any felony sexual offense in the first degree defined in this chapter;

28 “(I) Compelling prostitution as defined in ORS 167.017; or

29 “(J) Assault in the first degree, as defined in ORS 163.185, and the victim
30 is under 14 years of age, or assault in the second degree, as defined in ORS

1 163.175 (1)(a) or (b), and the victim is under 14 years of age; or

2 “(c) By abuse when a person, recklessly under circumstances manifesting
3 extreme indifference to the value of human life, causes the death of a child
4 under 14 years of age or a dependent person, as defined in ORS 163.205, and:

5 “(A) The person has previously engaged in a pattern or practice of assault
6 or torture of the victim or another child under 14 years of age or a dependent
7 person; or

8 “(B) The person causes the death by neglect or maltreatment.

9 “(2) An accusatory instrument alleging murder by abuse under subsection
10 (1)(c) of this section need not allege specific incidents of assault or torture.

11 “(3) It is an affirmative defense to a charge of violating subsection (1)(b)
12 of this section that the defendant:

13 “(a) Was not the only participant in the underlying crime;

14 “(b) Did not commit the homicidal act or in any way solicit, request,
15 command, importune, cause or aid in the commission thereof;

16 “(c) Was not armed with a dangerous or deadly weapon;

17 “(d) Had no reasonable ground to believe that any other participant was
18 armed with a dangerous or deadly weapon; and

19 “(e) Had no reasonable ground to believe that any other participant in-
20 tended to engage in conduct likely to result in death.

21 “(4) It is an affirmative defense to a charge of violating subsection
22 (1)(c)(B) of this section that the victim was a dependent person who was at
23 least 18 years of age and was under care or treatment solely by spiritual
24 means pursuant to the religious beliefs or practices of the dependent person
25 or the guardian of the dependent person.

26 “(5) Except as otherwise provided in ORS 163.155 **and section 25 of this**
27 **2019 Act:**

28 “(a) A person convicted of murder, who was at least 15 years of age at
29 the time of committing the murder, shall be punished by imprisonment for
30 life.

1 “(b) When a defendant is convicted of murder under this section, the court
2 shall order that the defendant shall be confined for a minimum of 25 years
3 without possibility of parole, release to post-prison supervision, release on
4 work release or any form of temporary leave or employment at a forest or
5 work camp.

6 “(c) At any time after completion of a minimum period of confinement
7 pursuant to paragraph (b) of this subsection, the State Board of Parole and
8 Post-Prison Supervision, upon the petition of a prisoner so confined, shall
9 hold a hearing to determine if the prisoner is likely to be rehabilitated
10 within a reasonable period of time. The sole issue is whether the prisoner
11 is likely to be rehabilitated within a reasonable period of time. At the
12 hearing the prisoner has:

13 “(A) The burden of proving by a preponderance of the evidence the like-
14 lihood of rehabilitation within a reasonable period of time;

15 “(B) The right, if the prisoner is without sufficient funds to employ an
16 attorney, to be represented by legal counsel, appointed by the board, at board
17 expense; and

18 “(C) The right to a subpoena upon a showing of the general relevance and
19 reasonable scope of the evidence sought, provided that any subpoena issued
20 on behalf of the prisoner must be issued by the State Board of Parole and
21 Post-Prison Supervision pursuant to rules adopted by the board.

22 “(d) If, upon hearing all of the evidence, the board, upon a unanimous
23 vote of three board members or, if the chairperson requires all voting mem-
24 bers to participate, a unanimous vote of all voting members, finds that the
25 prisoner is capable of rehabilitation and that the terms of the prisoner’s
26 confinement should be changed to life imprisonment with the possibility of
27 parole, release to post-prison supervision or work release, it shall enter an
28 order to that effect and the order shall convert the terms of the prisoner’s
29 confinement to life imprisonment with the possibility of parole, release to
30 post-prison supervision or work release and may set a release date. Other-

1 wise, the board shall deny the relief sought in the petition.

2 “(e) If the board denies the relief sought in the petition, the board shall
3 determine the date of the subsequent hearing, and the prisoner may petition
4 for an interim hearing, in accordance with ORS 144.285.

5 “(f) The board’s final order shall be accompanied by findings of fact and
6 conclusions of law. The findings of fact shall consist of a concise statement
7 of the underlying facts supporting the findings as to each contested issue of
8 fact and as to each ultimate fact required to support the board’s order.

9 “(6) As used in this section:

10 “(a) ‘Assault’ means the intentional, knowing or reckless causation of
11 physical injury to another person. ‘Assault’ does not include the causation
12 of physical injury in a motor vehicle accident that occurs by reason of the
13 reckless conduct of a defendant.

14 “(b) ‘Neglect or maltreatment’ means a violation of ORS 163.535, 163.545
15 or 163.547 or a failure to provide adequate food, clothing, shelter or medical
16 care that is likely to endanger the health or welfare of a child under 14 years
17 of age or a dependent person. This paragraph is not intended to replace or
18 affect the duty or standard of care required under ORS chapter 677.

19 “(c) ‘Pattern or practice’ means one or more previous episodes.

20 “(d) ‘Torture’ means the intentional infliction of intense physical pain
21 upon an unwilling victim as a separate objective apart from any other pur-
22 pose.

23 **“SECTION 29.** ORS 163.155 is amended to read:

24 “163.155. (1) When a defendant, who was at least 15 years of age at the
25 time of committing the murder, is convicted of murdering a pregnant victim
26 under ORS 163.115 (1)(a) and the defendant knew that the victim was preg-
27 nant, the defendant shall be sentenced to life imprisonment without the
28 possibility of release or parole **if the person was at least 18 years of age**
29 **at the time of committing the offense** or to life imprisonment. The court
30 shall conduct a sentencing proceeding to determine whether the defendant

1 shall be sentenced to life imprisonment without the possibility of release or
2 parole as described in subsection (4) of this section or to life imprisonment
3 as described in subsection (5) of this section. If the defendant waives all
4 rights to a jury sentencing proceeding, the court shall conduct the sentenc-
5 ing proceeding as the trier of fact. The procedure for the sentencing pro-
6 ceeding, whether before a court or a jury, shall follow the procedure of ORS
7 163.150 (1)(a), as modified by this section.

8 “(2) Following the presentation of evidence and argument under sub-
9 section (1) of this section, the court shall instruct the jury that the trial
10 court shall sentence the defendant to life imprisonment without the possi-
11 bility of release or parole as described in subsection (4) of this section, un-
12 less after considering all of the evidence submitted, 10 or more members of
13 the jury find there are sufficient mitigating circumstances to warrant life
14 imprisonment with the possibility of release or parole as described in sub-
15 section (5) of this section. If 10 or more members of the jury do not find there
16 are sufficient mitigating circumstances to warrant life imprisonment with
17 the possibility of release or parole, the trial court shall sentence the de-
18 fendant to life imprisonment without the possibility of release or parole as
19 described in subsection (4) of this section. If 10 or more members of the jury
20 find there are sufficient mitigating circumstances to warrant life
21 imprisonment with the possibility of release or parole, the trial court shall
22 sentence the defendant to life imprisonment as described in subsection (5)
23 of this section.

24 “(3) Nothing in this section precludes the court from sentencing the de-
25 fendant to life imprisonment, as described in subsection (5) of this section,
26 or life imprisonment without the possibility of release or parole, as described
27 in subsection (4) of this section, pursuant to a stipulation of sentence or
28 stipulation of sentencing facts agreed to and offered by both parties if the
29 defendant waives all rights to a jury sentencing proceeding.

30 “(4) A sentence of life imprisonment without the possibility of release or

1 parole under this section may not be suspended, deferred or commuted by any
2 judicial officer, and the State Board of Parole and Post-Prison Supervision
3 may neither parole the prisoner nor reduce the period of confinement in any
4 manner whatsoever. The Department of Corrections or any executive official
5 may not permit the prisoner to participate in any sort of release or furlough
6 program.

7 “(5) If the defendant is sentenced to life imprisonment, the court shall
8 order that the defendant be confined for a minimum of 30 years without
9 possibility of parole[,] **or** release to post-prison supervision **except as pro-**
10 **vided in section 25 of this 2019 Act, and without the possibility of** re-
11 lease on work release or any form of temporary leave or employment at a
12 forest or work camp.

13 “(6) At any time after completion of the minimum period of confinement
14 pursuant to subsection (5) of this section, the board, upon the petition of a
15 prisoner so confined, shall hold a hearing to determine if the prisoner is
16 likely to be rehabilitated within a reasonable period of time. The sole issue
17 shall be whether the prisoner is likely to be rehabilitated within a reason-
18 able period of time. The proceeding shall be conducted in the manner pre-
19 scribed for a contested case hearing under ORS chapter 183, except that:

20 “(a) The prisoner has the burden of proving by a preponderance of the
21 evidence the likelihood of rehabilitation within a reasonable period of time;

22 “(b) The prisoner has the right, if the prisoner is without sufficient funds
23 to employ an attorney, to be represented by legal counsel, appointed by the
24 board, at board expense; and

25 “(c) The prisoner has the right to a subpoena upon a showing of the
26 general relevance and reasonable scope of the evidence sought, provided that
27 any subpoena issued on behalf of the prisoner must be issued by the board
28 pursuant to rules adopted by the board.

29 “(7) If, upon hearing all of the evidence, the board, upon a unanimous
30 vote of three board members or, if the chairperson requires all voting mem-

1 bers to participate, a unanimous vote of all voting members, finds that the
2 prisoner is capable of rehabilitation and that the terms of the prisoner's
3 confinement should be changed to life imprisonment with the possibility of
4 parole, release on post-prison supervision or work release, it shall enter an
5 order to that effect and the order shall convert the terms of the prisoner's
6 confinement to life imprisonment with the possibility of parole, release on
7 post-prison supervision or work release and may set a release date. Otherwise
8 the board shall deny the relief sought in the petition.

9 “(8) Not less than two years after the denial of the relief sought in a pe-
10 tition under this section, the prisoner may petition again for a change in the
11 terms of confinement. Further petitions for a change may be filed at inter-
12 vals of not less than two years thereafter.

13

14

“VICTIM NOTIFICATION

15

16 **“SECTION 30. (1) The division of the Department of Justice pro-**
17 **viding victim and survivor services shall, in consultation with district**
18 **attorney victim assistance programs and community-based victim**
19 **service providers, develop model policies for providing notice to victims**
20 **concerning waiver hearings under ORS 419C.349 (1)(a) and hearings**
21 **conducted pursuant to ORS 420A.203. The policies must ensure that**
22 **victim notification is provided in a trauma-informed and culturally**
23 **specific manner.**

24 **“(2) Prior to a waiver hearing under ORS 419C.349 (1)(a) or a hearing**
25 **conducted pursuant to ORS 420A.203, notice of the hearing shall be**
26 **provided to the victim of the offense by the district attorney's victim**
27 **assistance program in accordance with the model policies described in**
28 **subsection (1) of this section, and in a manner that informs the victim**
29 **of the victim's rights. The district attorney's victim assistance pro-**
30 **gram shall also provide to the victim accompaniment to court**

1 hearings and referrals to community-based victim services that are,
2 where available, culturally specific.

3
4 **“MISCELLANEOUS**

5
6 **“SECTION 31. (1) Sections 24 and 25 of this 2019 Act and the**
7 **amendments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185,**
8 **161.610, 161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317,**
9 **339.319, 339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355,**
10 **419C.358, 419C.361, 420.011, 420.081 and 420A.203 by sections 1 to 23 and**
11 **26 to 29 of this 2019 Act become operative on January 1, 2020.**

12 **“(2) The State Board of Parole and Post-Prison Supervision, the**
13 **Oregon Youth Authority, the Department of Corrections and the Ju-**
14 **dicial Department may take any action before the operative date**
15 **specified in subsection (1) of this section that is necessary to enable**
16 **the board, authority or department to exercise, on and after the op-**
17 **erative date specified in subsection (1) of this section, all of the duties,**
18 **functions and powers conferred on the board, authority or department**
19 **by sections 24 and 25 of this 2019 Act and the amendments to ORS**
20 **137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610, 161.620, 163.105,**
21 **163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005,**
22 **419C.050, 419C.346, 419C.349, 419C.352, 419C.355, 419C.358, 419C.361,**
23 **420.011, 420.081 and 420A.203 by sections 1 to 23 and 26 to 29 of this 2019**
24 **Act.**

25 **“SECTION 32. Sections 24 and 25 of this 2019 Act and the amend-**
26 **ments to ORS 137.071, 137.124, 137.705, 137.707, 137.712, 144.185, 161.610,**
27 **161.620, 163.105, 163.115, 163.155, 163A.130, 163A.135, 339.317, 339.319,**
28 **339.321, 419C.005, 419C.050, 419C.346, 419C.349, 419C.352, 419C.355,**
29 **419C.358, 419C.361, 420.011, 420.081 and 420A.203 by sections 1 to 23 and**
30 **26 to 29 of this 2019 Act apply to sentences imposed on or after January**

1 1, 2020.

2 **“SECTION 33. The unit captions used in this 2019 Act are provided**
3 **only for the convenience of the reader and do not become part of the**
4 **statutory law of this state or express any legislative intent in the**
5 **enactment of this 2019 Act.**

6 **“SECTION 34. This 2019 Act takes effect on the 91st day after the**
7 **date on which the 2019 regular session of the Eightieth Legislative**
8 **Assembly adjourns sine die.”.**

9
