

Enrolled
House Bill 2939

Sponsored by Representative BYNUM; Representatives KROFF, SOLLMAN (at the request of Oregon Youth Authority) (Presession filed.)

CHAPTER

AN ACT

Relating to public safety; creating new provisions; amending ORS 419C.013 and 420.011; and declaring an emergency.

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

WAIVER

SECTION 1. ORS 419C.013 is amended to read:

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

(b) A juvenile proceeding described in paragraph (a) of this subsection that is subject to a waiver hearing under ORS 419C.349 (1) shall commence in the county where the alleged act was committed and may not be transferred under ORS 419C.050, 419C.053 or 419C.056 unless:

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

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

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

YOUTH CORRECTION FACILITIES

SECTION 2. ORS 420.011 is amended to read:

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

(2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority or the director's designee, persons who are committed to the Department of Corrections under ORS

137.124 and meet the requirements of ORS 137.124 (5) may be temporarily assigned to a youth correction facility as provided by ORS 137.124 (5). A person assigned on such a temporary basis remains within the legal custody of the Department of Corrections and such reassignment is subject to termination by the Director of the Oregon Youth Authority by referring the person back to the Department of Corrections as provided in paragraph (b) of this subsection.

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

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

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

(3) Any person under 18 years of age at the time of committing the crime and under 20 years of age at the time of sentencing and commitment who, after waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to a term of imprisonment in the custody of the Department of Corrections, and any person under 16 years of age who after waiver under ORS 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712 is sentenced to a term of imprisonment in the county jail, shall be temporarily assigned to a youth correction facility by the Department of Corrections, or by the sheriff to whose custody the person has been committed, pursuant to ORS 137.124 (6). The director shall designate the appropriate youth correction facility or schools for such assignment. A person assigned to a youth correction facility under ORS 137.124 (6) and this subsection remains within the legal custody of the Department of Corrections or sheriff to whose custody the person was committed. The assignment of such a person to the youth correction facility is subject, when the person is 18 years of age or older, to termination by the director by referring the person back to the Department of Corrections or the sheriff to serve the balance of the person's sentence. Assignment to a youth correction facility pursuant to ORS 137.124 (6) and this subsection, if not terminated earlier by the director, shall terminate upon the person's attaining the age specified in ORS 420A.010 (5) setting the age limits for which the Oregon Youth Authority may retain legal and physical custody of the person, and the person shall be referred to the Department of Corrections or the sheriff having legal custody of the person to serve the balance of the person's sentence.

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

(b) Notwithstanding paragraph (a) of this subsection, admission to youth correction facilities for youth offenders who have been previously adjudicated for an act that, if committed by an adult, would constitute a crime listed in ORS 137.707 (4), but who have not been previously placed in custody of a youth correction facility as a result of the adjudication, is limited to youth offenders under 20 years of age.

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

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

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

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

SECTION 3. The amendments to ORS 420.011 by section 2 of this 2021 Act apply to acts committed before, on or after the effective date of this 2021 Act that are the subject of dispositional orders entered on or after the effective date of this 2021 Act that recommend placement in a youth correction facility under ORS 419C.495.

UNIT CAPTIONS

SECTION 4. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

EMERGENCY CLAUSE

SECTION 5. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by House April 15, 2021

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 28, 2021

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State