

A-Engrossed
Senate Bill 134

Ordered by the Senate April 29
Including Senate Amendments dated April 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Oregon Youth Authority)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates exemption to disclosure of information or records regarding certain youth participating in Oregon Youth Authority programs or treatment.

A BILL FOR AN ACT

1
2 Relating to limits on disclosure of youth records; amending ORS 420.011.

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

4 **SECTION 1.** ORS 420.011 is amended to read:

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

11 (2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS
12 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority
13 or the director's designee, persons who are committed to the Department of Corrections under ORS
14 137.124 and meet the requirements of ORS 137.124 (5) may be temporarily assigned to a youth cor-
15 rection facility as provided by ORS 137.124 (5). A person assigned on such a temporary basis remains
16 within the legal custody of the Department of Corrections and such reassignment is subject to ter-
17 mination by the Director of the Oregon Youth Authority by referring the person back to the De-
18 partment of Corrections as provided in paragraph (b) of this subsection.

19 (b) After a person is transferred to the physical custody of the youth authority under ORS
20 137.124 (5), the Director of the Oregon Youth Authority may refer the person back to the Depart-
21 ment of Corrections for physical custody and placement if the director, after consulting with the
22 Department of Corrections, determines that the person is at least 18 years of age and:

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

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

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

21 (4)(a) Whenever a person committed to the custody of the Department of Corrections is tempo-
 22 rarily assigned to a youth correction facility pursuant to this section, the youth authority may pro-
 23 vide programs and treatment for the person, and may adopt rules relating to conditions of
 24 confinement at the youth correction facility, as the youth authority determines are appropriate.
 25 However, the person remains subject to laws and rules of the State Board of Parole and Post-Prison
 26 Supervision relating to parole.

27 **(b) Information or records prepared or maintained by the youth authority relating to a**
 28 **person committed to the custody of the Department of Corrections and temporarily assigned**
 29 **to a youth correction facility pursuant to this section are confidential and exempt from dis-**
 30 **closure if the public interest in confidentiality clearly outweighs the public interest in dis-**
 31 **closure and:**

32 **(A) The disclosure would interfere with the rehabilitation or treatment of the person, of**
 33 **another person committed to the custody of the Department of Corrections and temporarily**
 34 **assigned to a youth correction facility under this section or of a youth offender; or**

35 **(B) The disclosure would substantially prejudice or prevent the carrying out of the**
 36 **functions of the youth authority.**

37 **(c) Nothing in this section prohibits the youth authority from disclosing information or**
 38 **records relating to a person committed to the custody of the Department of Corrections and**
 39 **temporarily assigned to a youth correction facility pursuant to this section to counsel rep-**
 40 **resenting the person or to the district attorney or assistant district attorney general repre-**
 41 **senting the state, for use in connection with the person's criminal, juvenile dependency or**
 42 **juvenile delinquency proceeding.**

43 (5) For the purposes of determining the person's age at the time of committing an offense under
 44 this section:

45 (a) If the person is convicted of two or more offenses occurring on different days, the person's

1 age shall be calculated using the earliest date.

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

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