

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED SENATE BILL 817

By COMMITTEE ON RULES

June 26

1 On page 1 of the printed A-engrossed bill, line 11, after “419C.600” insert “and section 3, chapter
2 ___, Oregon Laws 2021 (Enrolled Senate Bill 436)”.

3 On page 7, after line 13, insert:

4 **“SECTION 11a. If Senate Bill 436 becomes law, section 11 of this 2021 Act (amending ORS**
5 **419A.211) is repealed and ORS 419A.211, as amended by section 47, chapter ___, Oregon Laws**
6 **2021 (Enrolled Senate Bill 436), is amended to read:**

7 “419A.211. (1) If the child, ward, youth, adjudicated youth, parent or guardian is determined to
8 be entitled to, and, **except as provided in subsection (4) of this section**, financially eligible for,
9 appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the
10 court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent
11 the person. Counsel appointed by the court shall be paid compensation determined by the public
12 defense services executive director as provided in ORS 135.055 if the circuit court is the appellate
13 court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate
14 court. The court may not substitute one appointed counsel for another except pursuant to the poli-
15 cies, procedures, standards and guidelines of the Public Defense Services Commission.

16 “(2)(a) When the court appoints counsel to represent the child[,] **or** ward, [*youth or adjudicated*
17 *youth,*] it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the
18 Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full
19 or in part the administrative costs of determining the ability of the parents or estate to pay for legal
20 services and the costs of the legal and other services that are related to the provision of appointed
21 counsel.

22 “(b) The test of the parent’s or estate’s ability to pay costs under paragraph (a) of this sub-
23 section is the same test as applied to appointment of counsel for defendants under ORS 151.216. If
24 counsel is provided at state expense, the court shall apply this test in accordance with the guide-
25 lines adopted by the Public Defense Services Commission under ORS 151.485.

26 “(c) If counsel is provided at state expense, the court shall determine the amount the parents
27 or estate is required to pay for the costs of administrative, legal and other services related to the
28 provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

29 “(d) The court’s order of payment is enforceable in the same manner as an order of support
30 under ORS 419B.408 [*and 419C.600*].

31 “(3) When the court appoints counsel [*and the child, ward, youth, adjudicated youth, parent or*
32 *guardian has been determined to be entitled to, and financially eligible for, appointed counsel*] **under**
33 **this section** at state expense, the compensation for counsel and costs and expenses necessary to the
34 appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate
35 court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate

1 court.

2 “(4) Notwithstanding subsection (1) of this section, a youth or adjudicated youth, or the
3 parent or guardian of the youth or adjudicated youth, is entitled to court-appointed counsel
4 at state expense under this section regardless of the financial circumstances of the youth
5 or adjudicated youth or the parent or guardian of the youth or adjudicated youth. In addition,
6 the court may not order the youth’s or adjudicated youth’s parent or guardian to pay any
7 part of the administrative costs of determining the entitlement of the youth, adjudicated
8 youth, parent or guardian to court-appointed counsel at state expense nor any of the costs
9 of the legal and other services that are related to the provision of appointed counsel.”.

10 On page 12, after line 23, insert:

11 “**SECTION 21a. If Senate Bill 436 becomes law, section 21 of this 2021 Act (amending ORS**
12 **419C.446) is repealed and ORS 419C.446, as amended by section 70, chapter __, Oregon Laws**
13 **2021 (Enrolled Senate Bill 436), is amended to read:**

14 “419C.446. (1) When a court determines it would be in the best interest and welfare of an adju-
15 dicated youth, the court may place the adjudicated youth on probation. The court may direct that
16 the adjudicated youth remain in the legal custody of the adjudicated youth’s parents or other person
17 with whom the adjudicated youth is living, or the court may direct that the adjudicated youth be
18 placed in the legal custody of some relative or some person maintaining a foster home approved by
19 the court, or in a child care center or a youth care center authorized to accept the adjudicated
20 youth.

21 “(2) The court may specify particular requirements to be observed during the probation con-
22 sistent with recognized juvenile court practice, including but not limited to restrictions on visitation
23 by the adjudicated youth’s parents, restrictions on the adjudicated youth’s associates, occupation
24 and activities, restrictions on and requirements to be observed by the person having the adjudicated
25 youth’s legal custody, requirements for visitation by and consultation with a juvenile counselor or
26 other suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a
27 period of detention under ORS 419C.453, [*requirements to pay a fine under ORS 419C.459, require-*
28 *ments to pay a supervision fee under ORS 419C.449,*] requirements to perform community service
29 under ORS 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to
30 blood or buccal testing under ORS 419C.473.

31 “(3) If the adjudicated youth is a sex offender, as defined in ORS 163A.005, the juvenile depart-
32 ment shall notify the chief of police, if the adjudicated youth is going to reside within a city, and
33 the county sheriff of the county in which the adjudicated youth is going to reside of the adjudicated
34 youth’s release on probation and the requirements imposed on the adjudicated youth’s probation
35 under subsection (2) of this section.

36 “(4)(a) **The court, juvenile department or any other agency may not order the adjudicated**
37 **youth or the adjudicated youth’s parent or guardian to pay any fee, cost or surcharge as a**
38 **condition of probation or to pay any probation supervision fee.**

39 “(b) **Notwithstanding paragraph (a) of this subsection, an adjudicated youth or the adju-**
40 **dicated youth’s parent or guardian may pay fees or costs associated with participating in a**
41 **program under this section through public or private insurance or by private means.”.**

42 On page 14, after line 20, insert:

43 “**SECTION 23a. If Senate Bill 436 becomes law, section 23 of this 2021 Act (amending ORS**
44 **419C.570) is repealed and ORS 419C.570, as amended by section 96, chapter __, Oregon Laws**
45 **2021 (Enrolled Senate Bill 436), is amended to read:**

1 “419C.570. (1)(a) A parent or legal guardian of an adjudicated youth, if the parent or guardian
2 was served with summons under ORS 419C.300, 419C.303 and 419C.306 prior to the adjudication or
3 at least 10 days prior to disposition, is subject to the jurisdiction of the court for purposes of this
4 section. The court may:

5 “(A) Order the parent or guardian to assist the court in any reasonable manner in providing
6 appropriate education or counseling for the adjudicated youth; **or**

7 “[*(B) If the adjudicated youth is within the jurisdiction of the court for having committed an act
8 that if committed by an adult would constitute a violation of ORS 166.250, 166.370 or 166.382, require
9 the parent or guardian to pay or cause to be paid all or part of the reasonable costs of any mental
10 health assessment or screening ordered by the court under ORS 419C.109 (3);*]

11 “[*(C) (B) If the court orders probation, require the parent or guardian to enter into a contract
12 with the juvenile department in regard to the supervision and implementation of the adjudicated
13 youth’s probation.; or*]

14 “[*(D) If the court orders probation, require the parent or guardian to pay all or a portion of the
15 supervision fee if a supervision fee is imposed under ORS 419C.446 (2).*]

16 “(b) In all cases in which an adjudicated youth is placed on probation, the juvenile department
17 and the parent or guardian shall develop a plan for supervision of the adjudicated youth. The plan
18 must be reasonably calculated to provide the supervision necessary to prevent further acts of de-
19 linquency given the individual circumstances of the adjudicated youth. The court shall review and
20 ratify the plan and make the plan a part of the probation order.

21 “[*(2) The court may require the parent or guardian to pay a specific sum not to exceed \$1,000 for
22 a violation by the parent or guardian of the court’s order or the contract under subsection (1)(a) of this
23 section.*]

24 “[*(3) (2) The court may not revoke an adjudicated youth’s probation solely because of a failure
25 of the adjudicated youth’s parent or guardian to comply with an order or a contract under sub-
26 section (1)(a) of this section.*”.

27 On page 15, after line 25, insert:

28 “**SECTION 25a. If Senate Bill 436 becomes law, section 25 of this 2021 Act (amending ORS
29 419C.473) is repealed and ORS 419C.473, as amended by section 80, chapter __, Oregon Laws
30 2021 (Enrolled Senate Bill 436), is amended to read:**

31 “419C.473. (1) Whenever an adjudicated youth has been found to be within the jurisdiction of the
32 court under ORS 419C.005 for having committed an act that if done by an adult would constitute a
33 felony listed in subsection (2) of this section, the court shall order the adjudicated youth to submit
34 to the obtaining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall
35 further order that as soon as practicable after the entry of the dispositional order, the law
36 enforcement agency attending upon the court shall cause a blood or buccal sample to be obtained
37 and transmitted in accordance with ORS 137.076. [*The court may also order the adjudicated youth to
38 reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal
39 sample.*]

40 “(2) The felonies to which subsection (1) of this section applies are:

41 “(a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree,
42 public indecency, incest or using a child in a display of sexually explicit conduct, as those offenses
43 are defined in ORS 163.355 to 163.427, 163.465 (1)(d), 163.525 and 163.670;

44 “(b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to
45 commit any offense listed in paragraph (a) of this subsection;

1 “(c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;
2 “(d) Burglary in the first degree, as defined in ORS 164.225;
3 “(e) Assault in the first degree, as defined in ORS 163.185;
4 “(f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to
5 (e) of this subsection; or
6 “(g) Murder or aggravated murder.
7 “(3) No order for the obtaining and transmitting of a blood or buccal sample is required to be
8 entered if:
9 “(a) The Department of State Police notifies the court or the law enforcement agency attending
10 upon the court that it has previously received an adequate blood or buccal sample taken from the
11 adjudicated youth in accordance with this section, ORS 137.076 or 161.325 (4); or
12 “(b) The court determines that obtaining a sample would create a substantial and unreasonable
13 risk to the health of the adjudicated youth.
14 “(4) Notwithstanding any other provision of law, blood and buccal samples and other physical
15 evidence and criminal identification information obtained under authority of this section or as a
16 result of analysis conducted pursuant to ORS 181A.155 may be maintained, stored, destroyed and
17 released to authorized persons or agencies under the conditions established in ORS 181A.155 and
18 rules adopted by the Department of State Police under the authority of that section.
19 “(5) **The court may not order the adjudicated youth or the parent or guardian of the ad-**
20 **judicated youth to pay for or to reimburse any agency for the cost of obtaining or trans-**
21 **mitting a blood or buccal sample under this section.”.22 On page 16, after line 12, insert:
23 “**SECTION 27a. If Senate Bill 436 becomes law, section 27 of this 2021 Act (amending ORS**
24 **419A.256) is repealed and ORS 419A.256, as amended by section 53, chapter __, Oregon Laws**
25 **2021 (Enrolled Senate Bill 436), is amended to read:**
26 “419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court pro-
27 ceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255
28 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.
29 “(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or video recording has been
30 prepared in any proceeding under ORS chapter 419C, the victim, **child, ward, youth, adjudicated**
31 **youth or young person or the parent or guardian of the child, ward, youth, adjudicated youth**
32 **or young person** may obtain a copy [by paying the actual cost of preparation.] **at no cost.**
33 “(2) If the court finds that the child, ward, youth, adjudicated youth or parent or guardian of
34 the child, ward, youth or adjudicated youth is [without financial means to purchase all or a necessary
35 part of the transcript of the evidence or proceedings] **eligible for court appointed counsel at state**
36 **expense**, the court shall order, upon motion, the transcript or part of the transcript to be furnished.
37 The transcript or part of the transcript furnished under this subsection must be paid for in the same
38 manner as furnished transcripts are paid for in criminal cases.
39 “(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld
40 from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A)
41 to (Q).
42 “(4) With a finding of good cause and subject to any conditions the court finds appropriate, the
43 court may provide a copy of the audio or video recording of a juvenile court proceeding to persons
44 described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to (Q).”
45 After line 34, insert:**

1 **“SECTION 28a. If Senate Bill 436 becomes law, section 28 of this 2021 Act (amending ORS**
2 **419C.573) is repealed and ORS 419C.573, as amended by section 97, chapter __, Oregon Laws**
3 **2021 (Enrolled Senate Bill 436), is amended to read:**

4 “419C.573. (1)(a) The court may order the parent or guardian to participate in any educational
5 or counseling programs as are reasonably directed toward improvement of parenting skills and the
6 ability of the parent to supervise the adjudicated youth if the court finds:

7 “(A) That a deficiency in parenting skills has significantly contributed to the circumstances
8 bringing the adjudicated youth within the jurisdiction of the court; and

9 “(B) That participation would be consistent with the best interests of the adjudicated youth.

10 “(b) The programs may include, but need not be limited to, parenting classes.

11 “(c) The court may order such participation with the adjudicated youth or separately.

12 **“(d)(A) The court or the county may not require the parent or guardian to pay any fee**
13 **or cost associated with participating in a program under this section.**

14 **“(B) Notwithstanding subparagraph (A) of this paragraph, an adjudicated youth or the**
15 **adjudicated youth’s parent or guardian may pay fees or costs associated with participating**
16 **in a program under this section through public or private insurance or by private means.**

17 *“[(2) As an alternative to a contempt proceeding, the court may require a parent or guardian to*
18 *pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of an order under*
19 *subsection (1) of this section.]*

20 “[(3)] (2) The court may not revoke an adjudicated youth’s probation solely because of a failure
21 of the adjudicated youth’s parent or guardian to comply with an order under subsection (1) of this
22 section.”.

23 On page 19, after line 7, insert:

24 **“SECTION 32b. If Senate Bill 436 becomes law, section 3, chapter __, Oregon Laws 2021**
25 **(Enrolled Senate Bill 436) (amending ORS 25.517), is repealed.”.**

26 On page 26, after line 13, insert:

27 **“SECTION 37a. Notwithstanding sections 71 (amending ORS 419C.449), 75 (amending ORS**
28 **419C.459), 99 (amending ORS 419C.590), 100 (amending ORS 419C.595), 101 (amending 419C.597)**
29 **and 102 (amending ORS 419C.600), chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436),**
30 **if Senate Bill 436 becomes law, ORS 419C.449, 419C.459, 419C.590, 419C.595, 419C.597 and**
31 **419C.600 are repealed by section 37 of this 2021 Act.”.**