

SB 817-A7
(LC 2608)
6/26/21 (LAS/ps)

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
A-ENGROSSED SENATE BILL 817**

1 On page 1 of the printed A-engrossed bill, line 11, after “419C.600” insert
2 “and section 3, chapter ___, 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**
5 **Act (amending ORS 419A.211) is repealed and ORS 419A.211, as**
6 **amended by section 47, chapter ___, Oregon Laws 2021 (Enrolled Senate**
7 **Bill 436), is amended to read:**

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

20 “(2)(a) When the court appoints counsel to represent the child[,] **or** ward,
21 [*youth or adjudicated youth,*] it may order the parent, if able, or guardian of

1 the estate, if the estate is able, to pay to the Public Defense Services Ac-
2 count established by ORS 151.225, through the clerk of the court, in full or
3 in part the administrative costs of determining the ability of the parents or
4 estate to pay for legal services and the costs of the legal and other services
5 that are related to the provision of appointed counsel.

6 “(b) The test of the parent’s or estate’s ability to pay costs under para-
7 graph (a) of this subsection is the same test as applied to appointment of
8 counsel for defendants under ORS 151.216. If counsel is provided at state
9 expense, the court shall apply this test in accordance with the guidelines
10 adopted by the Public Defense Services Commission under ORS 151.485.

11 “(c) If counsel is provided at state expense, the court shall determine the
12 amount the parents or estate is required to pay for the costs of administra-
13 tive, legal and other services related to the provision of appointed counsel
14 in the same manner as this amount is determined under ORS 151.487.

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

17 “(3) When the court appoints counsel [*and the child, ward, youth, adju-*
18 *dicated youth, parent or guardian has been determined to be entitled to, and*
19 *financially eligible for, appointed counsel*] **under this section** at state ex-
20 pense, the compensation for counsel and costs and expenses necessary to the
21 appeal shall be determined and paid as provided in ORS 135.055 if the circuit
22 court is the appellate court or as provided in ORS 138.500 if the Court of
23 Appeals or the Supreme Court is the appellate court.

24 “(4) **Notwithstanding subsection (1) of this section, a youth or ad-**
25 **judicated youth, or the parent or guardian of the youth or adjudicated**
26 **youth, is entitled to court-appointed counsel at state expense under**
27 **this section regardless of the financial circumstances of the youth or**
28 **adjudicated youth or the parent or guardian of the youth or adjudi-**
29 **cated youth. In addition, the court may not order the youth’s or ad-**
30 **judicated youth’s parent or guardian to pay any part of the**

1 **administrative costs of determining the entitlement of the youth, ad-**
2 **judicated youth, parent or guardian to court-appointed counsel at**
3 **state expense nor any of the costs of the legal and other services that**
4 **are related to the provision of appointed counsel.”.**

5 On page 12, after line 23, insert:

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

10 “419C.446. (1) When a court determines it would be in the best interest
11 and welfare of an adjudicated youth, the court may place the adjudicated
12 youth on probation. The court may direct that the adjudicated youth remain
13 in the legal custody of the adjudicated youth’s parents or other person with
14 whom the adjudicated youth is living, or the court may direct that the ad-
15 judicated youth be placed in the legal custody of some relative or some per-
16 son maintaining a foster home approved by the court, or in a child care
17 center or a youth care center authorized to accept the adjudicated youth.

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

1 “(3) If the adjudicated youth is a sex offender, as defined in ORS 163A.005,
2 the juvenile department shall notify the chief of police, if the adjudicated
3 youth is going to reside within a city, and the county sheriff of the county
4 in which the adjudicated youth is going to reside of the adjudicated youth’s
5 release on probation and the requirements imposed on the adjudicated
6 youth’s probation under subsection (2) of this section.

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

11 “(b) **Notwithstanding paragraph (a) of this subsection, an adjudi-**
12 **cated youth or the adjudicated youth’s parent or guardian may pay**
13 **fees or costs associated with participating in a program under this**
14 **section through public or private insurance or by private means.”.**

15 On page 14, after line 20, insert:

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

20 “419C.570. (1)(a) A parent or legal guardian of an adjudicated youth, if the
21 parent or guardian was served with summons under ORS 419C.300, 419C.303
22 and 419C.306 prior to the adjudication or at least 10 days prior to disposition,
23 is subject to the jurisdiction of the court for purposes of this section. The
24 court may:

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

28 “[*(B) If the adjudicated youth is within the jurisdiction of the court for*
29 *having committed an act that if committed by an adult would constitute a vi-*
30 *olation of ORS 166.250, 166.370 or 166.382, require the parent or guardian to*

1 *pay or cause to be paid all or part of the reasonable costs of any mental health*
2 *assessment or screening ordered by the court under ORS 419C.109 (3);]*

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

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

9 “(b) In all cases in which an adjudicated youth is placed on probation, the
10 juvenile department and the parent or guardian shall develop a plan for
11 supervision of the adjudicated youth. The plan must be reasonably calculated
12 to provide the supervision necessary to prevent further acts of delinquency
13 given the individual circumstances of the adjudicated youth. The court shall
14 review and ratify the plan and make the plan a part of the probation order.

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

18 “[~~(3)~~] **(2)** The court may not revoke an adjudicated youth’s probation
19 solely because of a failure of the adjudicated youth’s parent or guardian to
20 comply with an order or a contract under subsection (1)(a) of this section.”.

21 On page 15, after line 25, insert:

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

26 “419C.473. (1) Whenever an adjudicated youth has been found to be within
27 the jurisdiction of the court under ORS 419C.005 for having committed an
28 act that if done by an adult would constitute a felony listed in subsection
29 (2) of this section, the court shall order the adjudicated youth to submit to
30 the obtaining of a blood or buccal sample in the manner provided by ORS

1 137.076. The court shall further order that as soon as practicable after the
2 entry of the dispositional order, the law enforcement agency attending upon
3 the court shall cause a blood or buccal sample to be obtained and transmit-
4 ted in accordance with ORS 137.076. [*The court may also order the adjudi-*
5 *cated youth to reimburse the appropriate agency for the cost of obtaining and*
6 *transmitting the blood or buccal sample.*]

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

8 “(a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first
9 or second degree, public indecency, incest or using a child in a display of
10 sexually explicit conduct, as those offenses are defined in ORS 163.355 to
11 163.427, 163.465 (1)(d), 163.525 and 163.670;

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

15 “(c) Promoting or compelling prostitution, as defined in ORS 167.012 and
16 167.017;

17 “(d) Burglary in the first degree, as defined in ORS 164.225;

18 “(e) Assault in the first degree, as defined in ORS 163.185;

19 “(f) Conspiracy or attempt to commit any Class A or Class B felony listed
20 in paragraphs (a) to (e) of this subsection; or

21 “(g) Murder or aggravated murder.

22 “(3) No order for the obtaining and transmitting of a blood or buccal
23 sample is required to be entered if:

24 “(a) The Department of State Police notifies the court or the law
25 enforcement agency attending upon the court that it has previously received
26 an adequate blood or buccal sample taken from the adjudicated youth in
27 accordance with this section, ORS 137.076 or 161.325 (4); or

28 “(b) The court determines that obtaining a sample would create a sub-
29 stantial and unreasonable risk to the health of the adjudicated youth.

30 “(4) Notwithstanding any other provision of law, blood and buccal sam-

1 ples and other physical evidence and criminal identification information ob-
2 tained under authority of this section or as a result of analysis conducted
3 pursuant to ORS 181A.155 may be maintained, stored, destroyed and released
4 to authorized persons or agencies under the conditions established in ORS
5 181A.155 and rules adopted by the Department of State Police under the au-
6 thority of that section.

7 **“(5) The court may not order the adjudicated youth or the parent**
8 **or guardian of the adjudicated youth to pay for or to reimburse any**
9 **agency for the cost of obtaining or transmitting a blood or buccal**
10 **sample under this section.”.**

11 On page 16, after line 12, insert:

12 **“SECTION 27a. If Senate Bill 436 becomes law, section 27 of this 2021**
13 **Act (amending ORS 419A.256) is repealed and ORS 419A.256, as**
14 **amended by section 53, chapter __, Oregon Laws 2021 (Enrolled Senate**
15 **Bill 436), is amended to read:**

16 “419A.256. (1)(a) Once prepared and filed with the court, a transcript of
17 a juvenile court proceeding is part of the record of the case maintained by
18 the clerk of the court under ORS 419A.255 (1) and is subject to the provisions
19 of ORS 419A.255 governing access and disclosure.

20 “(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or
21 video recording has been prepared in any proceeding under ORS chapter
22 419C, the victim, **child, ward, youth, adjudicated youth or young person**
23 **or the parent or guardian of the child, ward, youth, adjudicated youth**
24 **or young person** may obtain a copy [*by paying the actual cost of*
25 *preparation.*] **at no cost.**

26 “(2) If the court finds that the child, ward, youth, adjudicated youth or
27 parent or guardian of the child, ward, youth or adjudicated youth is [*without*
28 *financial means to purchase all or a necessary part of the transcript of the*
29 *evidence or proceedings*] **eligible for court appointed counsel at state ex-**
30 **pense**, the court shall order, upon motion, the transcript or part of the

1 transcript to be furnished. The transcript or part of the transcript furnished
2 under this subsection must be paid for in the same manner as furnished
3 transcripts are paid for in criminal cases.

4 “(3) The official audio, video or other recording of a juvenile court pro-
5 ceeding shall be withheld from public inspection but is open to inspection
6 by the persons described in ORS 419A.255 (1)(b)(A) to (Q).

7 “(4) With a finding of good cause and subject to any conditions the court
8 finds appropriate, the court may provide a copy of the audio or video re-
9 cording of a juvenile court proceeding to persons described in ORS 419A.255
10 (1)(b)(A), (I), (J) and (M) to (Q).”.

11 After line 34, insert:

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

16 “419C.573. (1)(a) The court may order the parent or guardian to partic-
17 ipate in any educational or counseling programs as are reasonably directed
18 toward improvement of parenting skills and the ability of the parent to su-
19 pervise the adjudicated youth if the court finds:

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

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

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

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

29 **“(d)(A) The court or the county may not require the parent or**
30 **guardian to pay any fee or cost associated with participating in a**

1 **program under this section.**

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

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

9 *“[(3)] (2) The court may not revoke an adjudicated youth’s probation*
10 *solely because of a failure of the adjudicated youth’s parent or guardian to*
11 *comply with an order under subsection (1) of this section.”.*

12 On page 19, after line 7, insert:

13 **“SECTION 32b. If Senate Bill 436 becomes law, section 3, chapter**
14 **___, Oregon Laws 2021 (Enrolled Senate Bill 436) (amending ORS**
15 **25.517), is repealed.”.**

16 On page 26, after line 13, insert:

17 **“SECTION 37a. Notwithstanding sections 71 (amending ORS**
18 **419C.449), 75 (amending ORS 419C.459), 99 (amending ORS 419C.590), 100**
19 **(amending ORS 419C.595), 101 (amending 419C.597) and 102 (amending**
20 **ORS 419C.600), chapter ___, Oregon Laws 2021 (Enrolled Senate Bill**
21 **436), if Senate Bill 436 becomes law, ORS 419C.449, 419C.459, 419C.590,**
22 **419C.595, 419C.597 and 419C.600 are repealed by section 37 of this 2021**
23 **Act.”.**

24