

## SENATE AMENDMENTS TO SENATE BILL 817

By COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

April 23

- 1 On page 1 of the printed bill, line 3, delete “1.188,”.
- 2 In line 4, after “25.511,” insert “25.517,”.
- 3 Delete line 9 and insert “419C.540, 419C.570, 419C.573, 419C.575, 420.065, 420.525, 471.430,
- 4 471.432 and”.
- 5 Delete lines 15 through 29.
- 6 On page 2, delete lines 1 and 2 and insert:
- 7 “**NOTE:** Section 1 was deleted by amendment. Subsequent sections were not renumbered.”.
- 8 On page 3, delete lines 20 through 45.
- 9 On page 4, delete lines 1 through 12.
- 10 On page 12, delete lines 25 through 45 and delete pages 13 through 16.
- 11 On page 17, delete lines 1 through 42 and insert:
- 12 “**SECTION 20.** ORS 419C.230 is amended to read:
- 13 “419C.230. (1) A formal accountability agreement may be entered into when a youth has been
- 14 referred to a county juvenile department, and a juvenile department counselor has probable cause
- 15 to believe that the youth may be found to be within the jurisdiction of the juvenile court for one
- 16 or more acts specified in ORS 419C.005.
- 17 “(2) Notwithstanding subsection (1) of this section, unless authorized by the district attorney, a
- 18 formal accountability agreement may not be entered into when the youth:
- 19 “(a) Is alleged to have committed an act that if committed by an adult would constitute:
- 20 “(A) A felony sex offense under ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408,
- 21 163.411, 163.425 or 163.427; or
- 22 “(B) An offense involving the use or possession of a firearm, as defined in ORS 166.210, or de-
- 23 structive device, as described in ORS 166.382; or
- 24 “(b) Is being referred to the county juvenile department for a second or subsequent time for
- 25 commission of an act that if committed by an adult would constitute a felony.
- 26 “(3) The juvenile department must consult the victim before entering into a formal accountabil-
- 27 ity agreement if:
- 28 “(a) The victim has requested consultation in plea negotiations; and
- 29 “(b) The formal accountability agreement involves an alleged act that if committed by an adult
- 30 would constitute a violent felony.
- 31 “**(4)(a) The juvenile department may not require the youth or youth’s parent or guardian**
- 32 **to pay any fee, cost or surcharge as a requirement of a formal accountability agreement.**
- 33 “**(b) Notwithstanding paragraph (a) of this subsection, a youth or the youth’s parent or**
- 34 **guardian may pay fees or costs associated with participating in a program under this section**
- 35 **through public or private insurance or by private means.**

1       “**SECTION 21.** ORS 419C.446 is amended to read:

2       “419C.446. (1) When a court determines it would be in the best interest and welfare of a youth  
3 offender, the court may place the youth offender on probation. The court may direct that the youth  
4 offender remain in the legal custody of the youth offender’s parents or other person with whom the  
5 youth offender is living, or the court may direct that the youth offender be placed in the legal cus-  
6 tody of some relative or some person maintaining a foster home approved by the court, or in a child  
7 care center or a youth care center authorized to accept the youth offender.

8       “(2) The court may specify particular requirements to be observed during the probation con-  
9 sistent with recognized juvenile court practice, including but not limited to restrictions on visitation  
10 by the youth offender’s parents, restrictions on the youth offender’s associates, occupation and ac-  
11 tivities, restrictions on and requirements to be observed by the person having the youth offender’s  
12 legal custody, requirements for visitation by and consultation with a juvenile counselor or other  
13 suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period  
14 of detention under ORS 419C.453, [*requirements to pay a fine under ORS 419C.459, requirements to*  
15 *pay a supervision fee under ORS 419C.449,*] requirements to perform community service under ORS  
16 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to blood or buccal  
17 testing under ORS 419C.473.

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

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

26       “(b) **Notwithstanding paragraph (a) of this subsection, a youth offender or the youth**  
27 **offender’s parent or guardian may pay fees or costs associated with participating in a pro-**  
28 **gram under this section through public or private insurance or by private means.**

29       “**SECTION 22.** ORS 419C.540 is amended to read:

30       “419C.540. (1) The director of a hospital or facility to which a young person was committed  
31 under ORS 419C.532 (5) shall apply to the juvenile panel of the Psychiatric Security Review Board  
32 for an order of discharge or conditional release of the young person if, at any time after the com-  
33 mitment, the director is of the opinion that the young person:

34       “(a) No longer has a qualifying mental disorder;

35       “(b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-  
36 sents a substantial danger to others; or

37       “(c) Can be controlled with proper supervision and treatment services if conditionally released.

38       “(2) The director shall include in an application under subsection (1) of this section a report  
39 setting forth the facts that support the opinion of the director. If the application is for conditional  
40 release, the director shall also include a verified conditional release plan. The juvenile panel shall  
41 hold a hearing on an application under subsection (1) of this section within 30 days of its receipt.  
42 Not less than 10 days prior to the hearing before the juvenile panel, copies of the report must be  
43 sent to the Attorney General or other attorney representing the state, if any, the district attorney  
44 of the county in which the young person was adjudicated, the young person, the young person’s at-  
45 torney, the young person’s parents or guardians, if known, and the person having legal custody of

1 the young person.

2 “(3) The attorney representing the state may choose a psychiatrist certified, or eligible to be  
3 certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise  
4 in child psychology to examine the young person prior to any decision of the juvenile panel on dis-  
5 charge or conditional release. The results of the examination must be in writing and filed with the  
6 juvenile panel and must include, but need not be limited to, an opinion as to whether the young  
7 person:

8 “(a)(A) Has a serious mental condition; or

9 “(B) Has a qualifying mental disorder other than a serious mental condition and presents a  
10 substantial danger to others; and

11 “(b) Could be adequately controlled with treatment services as a condition of release.

12 “(4) A young person who has been committed to a hospital or facility under ORS 419C.532 (5)  
13 or the young person’s parents or guardians acting on the young person’s behalf may apply to the  
14 juvenile panel for an order of discharge or conditional release upon the grounds that the young  
15 person:

16 “(a) No longer has a qualifying mental disorder;

17 “(b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-  
18 sents a substantial danger to others; or

19 “(c) Can be controlled with proper supervision and treatment services if conditionally released.

20 “(5) When an application is made under subsection (4) of this section, the juvenile panel shall  
21 require a report from the director of the hospital or facility. The director shall prepare and transmit  
22 the report as provided in subsection (2) of this section.

23 “(6) At a hearing on an application under subsection (4) of this section:

24 “(a) The applicant has the burden of proving the young person’s fitness for discharge or condi-  
25 tional release; or

26 “(b) If more than two years have passed since the state had the burden of proving the young  
27 person’s lack of fitness for discharge or conditional release, the state has the burden of proving the  
28 young person’s lack of fitness for discharge or conditional release.

29 “(7) A person may not file an application for discharge or conditional release under subsection  
30 (4) of this section:

31 “(a) Sooner than 90 days after the initial juvenile panel hearing concerning the young person.

32 “(b) If another application for discharge or conditional release of the young person was filed  
33 during the immediately preceding 90 days.

34 “(8) The juvenile panel shall hold a hearing on an application under subsection (4) of this section  
35 within 30 days after the application is filed.

36 “(9)(a) **The juvenile panel and the director of a hospital or facility to which a young per-  
37 son was committed under ORS 419C.532 (5) may not assess any fees or costs against the  
38 young person or the young person’s parent or guardian, including but not limited to court-  
39 appointed attorney fees, examination fees and costs and supervision expenses. This para-  
40 graph does not apply to expenses associated with the young person’s treatment.**

41 “(b) **Notwithstanding paragraph (a) of this subsection, if the young person is committed  
42 to the Oregon State Hospital, the young person’s ability to pay and cost of care are deter-  
43 mined under ORS 179.640 and 179.701.”.**

44 On page 18, delete lines 25 through 35 and insert:

45 “**SECTION 24.** ORS 420.525 is amended to read:

1 “420.525. The costs of the hearings held under ORS 179.473, 419B.328, 419B.331, 419B.334,  
2 419B.337, 419B.343, 419B.346, 419B.349, 419C.446, 419C.450, 419C.478, 419C.481, 419C.486, 419C.489,  
3 419C.492, 419C.498 and 420.500 to 420.525 and the fees for physicians and other qualified persons  
4 appointed under ORS 179.473, 419B.328, 419B.331, 419B.334, 419B.337, 419B.343, 419B.346, 419B.349,  
5 419C.446, 419C.450, 419C.478, 419C.481, 419C.486, 419C.489, 419C.492, 419C.498 and 420.500 to 420.525  
6 shall be charged to the county of the youth’s residence prior to the initial commitment of the youth  
7 to a youth correction facility or to the county of the adult’s residence prior to the initial commit-  
8 ment of the adult in custody to a penal or correctional institution. Attorney fees may also be  
9 charged to that county if the [*youth or*] adult in custody has no separate estate or if the parents of  
10 the youth refuse or are unable to provide an attorney.”.

11 On page 19, delete lines 42 through 45.

12 On page 20, delete lines 1 through 34 and insert:

13 “**SECTION 27.** ORS 419A.256 is amended to read:

14 “419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court pro-  
15 ceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255  
16 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.

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

21 “(2) If the court finds that the child, ward, youth, youth offender or parent or guardian of the  
22 child, ward, youth or youth offender is [*without financial means to purchase all or a necessary part  
23 of the transcript of the evidence or proceedings*] **eligible for court appointed counsel at state ex-  
24 pense**, the court shall order, upon motion, the transcript or part of the transcript to be furnished.  
25 The transcript or part of the transcript furnished under this subsection must be paid for in the same  
26 manner as furnished transcripts are paid for in criminal cases.

27 “(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld  
28 from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A)  
29 to (Q).

30 “(4) With a finding of good cause and subject to any conditions the court finds appropriate, the  
31 court may provide a copy of the audio or video recording of a juvenile court proceeding to persons  
32 described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to (Q).

### 33 “PARENTING PROGRAM; TREATMENT

34  
35  
36 “**SECTION 28.** ORS 419C.573 is amended to read:

37 “419C.573. (1)(a) The court may order the parent or guardian to participate in any educational  
38 or counseling programs as are reasonably directed toward improvement of parenting skills and the  
39 ability of the parent to supervise the youth offender if the court finds:

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

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

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

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

45 “(d)(A) **The court or the county may not require the parent or guardian to pay any fee**

1 or cost associated with participating in a program under this section.

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

5 “[2] *As an alternative to a contempt proceeding, the court may require a parent or guardian to*  
6 *pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of an order under*  
7 *subsection (1) of this section.*]

8 “[3] (2) The court may not revoke a youth offender’s probation solely because of a failure of  
9 the youth offender’s parent or guardian to comply with an order under subsection (1) of this  
10 section.”.

11 On page 22, delete lines 17 through 44 and insert:

12 **“SECTION 31.** ORS 471.432 is amended to read:

13 “471.432. When a person is ordered to undergo assessment and treatment as provided in ORS  
14 471.430, the court shall require the person to do all of the following:

15 “(1) **If the person is 18 years of age or older,** pay to the court the fee described under ORS  
16 813.030 in addition to any fine imposed under ORS 471.430.

17 “(2) Complete an examination by an agency or organization designated by the court to determine  
18 whether the person has a problem condition involving alcohol as described in ORS 813.040. The  
19 designated agencies or organizations must meet minimum standards established under ORS 430.357  
20 to perform the diagnostic assessment and treatment of problem drinking and alcoholism and must  
21 be certified by the Director of the Oregon Health Authority.

22 “(3) Complete a treatment program, paid at the expense of the person convicted, as follows:

23 “(a) If the examination required under this section shows that the person has a problem condi-  
24 tion involving alcohol, a program for rehabilitation for alcoholism approved by the director.

25 “(b) If the examination required by this section shows that the person does not have a problem  
26 condition involving alcohol, an alcohol information program approved by the director.

27 **“SECTION 32.** ORS 813.030 is amended to read:

28 “813.030. (1) The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$255,  
29 except that the court may waive all or part of the fee in cases involving indigent defendants. The  
30 court may make provision for payment of the fee on an installment basis. A circuit court shall de-  
31 posit the fee in the Criminal Fine Account. If the fee is collected in a municipal or justice court, the  
32 fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine  
33 Account.

34 **“(2) The court may not order the fee under ORS 471.432 to be paid in any case where the**  
35 **person who is required to undergo assessment and treatment is under 18 years of age.**

36  
37 **“PARENTAL SUPPORT**

38  
39 **“SECTION 32a.** ORS 25.517 is amended to read:

40 “25.517. An order for support entered pursuant to ORS 25.501 to 25.556 for a child in the care  
41 and custody of the Department of Human Services[, or a youth offender or other offender in the legal  
42 or physical custody of the Oregon Youth Authority,] may be made contingent upon the child[, youth  
43 offender or other offender] residing in a state financed or supported residence, shelter or other fa-  
44 cility or institution. A certificate signed by the Director of Human Services[,] or the Administrator  
45 of the Division of Child Support [or the Director of the Oregon Youth Authority] shall be sufficient

1 to establish the periods of residence and to satisfy the order for periods of nonresidence. A hearing  
2 to contest the period of nonresidency or failure to satisfy shall be held pursuant to ORS 25.513.”.

3 On page 65, delete lines 26 through 43 and insert:

4 **“SECTION 77. (1) Any judgment entered prior to the operative date specified in section**  
5 **79 (1) of this 2021 Act for fines, fees, costs or other monetary obligations is null and void and**  
6 **considered paid in full and satisfied on the operative date specified in section 79 (1) of this**  
7 **2021 Act if:**

8 **“(a) There remains a balance due, including post-judgment interest, penalties or col-**  
9 **lection expenses, on the judgment as of the operative date specified in section 79 (1) of this**  
10 **2021 Act; and**

11 **“(b) Section 6 of this 2021 Act, the amendments to statutes and session law by sections**  
12 **2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and the repeal of ORS 419C.203, 419C.449,**  
13 **419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act**  
14 **remove or repeal the underlying statutory authority for or would prohibit the assessment**  
15 **of the fee, cost or other monetary obligation included in the judgment if the judgment had**  
16 **been entered after the operative date specified in section 79 (1) of this 2021 Act.**

17 **“(2) Nothing in this section creates a right of reimbursement to a youth, youth offender**  
18 **or young person or the parent or guardian of a youth, youth offender or young person, and**  
19 **a court may not reimburse a youth, youth offender or young person or the parent or**  
20 **guardian of a youth, youth offender or young person, for fines, fees, costs or other monetary**  
21 **obligations the youth, youth offender or young person or the parent or guardian of a youth,**  
22 **youth offender or young person paid on or before the operative date specified in section 79**  
23 **(1) of this 2021 Act to satisfy a lawful order or judgment that was entered before the opera-**  
24 **tive date specified in section 79 (1) of this 2021 Act.**

25 **“(3) The court administrator, as defined in ORS 18.005, may not charge any fees associ-**  
26 **ated with the satisfaction of a judgment under subsection (1) of this section.**

27 **“(4) The Chief Justice of the Supreme Court may make any order or adopt any rules, and**  
28 **the State Court Administrator may establish any policies or procedures, necessary to carry**  
29 **out the provisions of this section.”.**

30 On page 66, line 2, delete “1” and insert “2” and delete “6a” and insert “7”.

31 In line 6, delete “1” and insert “2” and delete “6a” and insert “7”.

32 In line 14, delete “1” and insert “2” and delete “6a” and insert “7”.

33