

SB 817-1
(LC 2608)
3/12/21 (LAS/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 817**

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,
4 420.525 and 471.430”.

5 In line 10, delete “813.030”.

6 Delete lines 15 through 29.

7 On page 2, delete lines 1 and 2 and insert:

8 “**NOTE:** Section 1 was deleted by amendment. Subsequent sections were
9 not renumbered.”.

10 On page 3, delete lines 20 through 45.

11 On page 4, delete lines 1 through 12.

12 On page 12, delete lines 25 through 45 and delete pages 13 through 16.

13 On page 17, delete lines 1 through 42 and insert:

14 “**SECTION 20.** ORS 419C.230 is amended to read:

15 “419C.230. (1) A formal accountability agreement may be entered into
16 when a youth has been referred to a county juvenile department, and a ju-
17 venile department counselor has probable cause to believe that the youth
18 may be found to be within the jurisdiction of the juvenile court for one or
19 more acts specified in ORS 419C.005.

20 “(2) Notwithstanding subsection (1) of this section, unless authorized by
21 the district attorney, a formal accountability agreement may not be entered

1 into when the youth:

2 “(a) Is alleged to have committed an act that if committed by an adult
3 would constitute:

4 “(A) A felony sex offense under ORS 163.355, 163.365, 163.375, 163.385,
5 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427; or

6 “(B) An offense involving the use or possession of a firearm, as defined
7 in ORS 166.210, or destructive device, as described in ORS 166.382; or

8 “(b) Is being referred to the county juvenile department for a second or
9 subsequent time for commission of an act that if committed by an adult
10 would constitute a felony.

11 “(3) The juvenile department must consult the victim before entering into
12 a formal accountability agreement if:

13 “(a) The victim has requested consultation in plea negotiations; and

14 “(b) The formal accountability agreement involves an alleged act that if
15 committed by an adult would constitute a violent felony.

16 “(4)(a) **The juvenile department may not require the youth or
17 youth’s parent or guardian to pay any fee, cost or surcharge as a re-
18 quirement of a formal accountability agreement.**

19 “(b) **This subsection does not apply to expenses associated with
20 treatment that may be required as a condition of the formal account-
21 ability agreement.**

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

23 “419C.446. (1) When a court determines it would be in the best interest
24 and welfare of a youth offender, the court may place the youth offender on
25 probation. The court may direct that the youth offender remain in the legal
26 custody of the youth offender’s parents or other person with whom the youth
27 offender is living, or the court may direct that the youth offender be placed
28 in the legal custody of some relative or some person maintaining a foster
29 home approved by the court, or in a child care center or a youth care center
30 authorized to accept the youth offender.

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

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

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

24 “(b) **This subsection does not apply to expenses associated with**
25 **treatment that may be required as a condition of the youth offender’s**
26 **probation.**

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

28 “419C.540. (1) The director of a hospital or facility to which a young
29 person was committed under ORS 419C.532 (5) shall apply to the juvenile
30 panel of the Psychiatric Security Review Board for an order of discharge or

1 conditional release of the young person if, at any time after the commitment,
2 the director is of the opinion that the young person:

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

4 “(b) Has a qualifying mental disorder other than a serious mental condi-
5 tion but no longer presents a substantial danger to others; or

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

8 “(2) The director shall include in an application under subsection (1) of
9 this section a report setting forth the facts that support the opinion of the
10 director. If the application is for conditional release, the director shall also
11 include a verified conditional release plan. The juvenile panel shall hold a
12 hearing on an application under subsection (1) of this section within 30 days
13 of its receipt. Not less than 10 days prior to the hearing before the juvenile
14 panel, copies of the report must be sent to the Attorney General or other
15 attorney representing the state, if any, the district attorney of the county in
16 which the young person was adjudicated, the young person, the young
17 person’s attorney, the young person’s parents or guardians, if known, and the
18 person having legal custody of the young person.

19 “(3) The attorney representing the state may choose a psychiatrist certi-
20 fied, or eligible to be certified, by the Oregon Medical Board in child psy-
21 chiatry or a licensed psychologist with expertise in child psychology to
22 examine the young person prior to any decision of the juvenile panel on
23 discharge or conditional release. The results of the examination must be in
24 writing and filed with the juvenile panel and must include, but need not be
25 limited to, an opinion as to whether the young person:

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

27 “(B) Has a qualifying mental disorder other than a serious mental condi-
28 tion and presents a substantial danger to others; and

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

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

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

6 “(b) Has a qualifying mental disorder other than a serious mental condi-
7 tion but no longer presents a substantial danger to others; or

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

10 “(5) When an application is made under subsection (4) of this section, the
11 juvenile panel shall require a report from the director of the hospital or fa-
12 cility. The director shall prepare and transmit the report as provided in
13 subsection (2) of this section.

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

15 “(a) The applicant has the burden of proving the young person’s fitness
16 for discharge or conditional release; or

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

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

23 “(a) Sooner than 90 days after the initial juvenile panel hearing con-
24 cerning the young person.

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

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

29 “(9)(a) **The juvenile panel and the director of a hospital or facility**
30 **to which a young person was committed under ORS 419C.532 (5) may**

1 not assess any fees or costs against the young person or the young
2 person's parent or guardian, including but not limited to court-
3 appointed attorney fees, examination fees and costs and supervision
4 expenses.

5 “(b) This subsection does not apply to expenses associated with the
6 young person's treatment.”.

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

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

9 “420.525. The costs of the hearings held under ORS 179.473, 419B.328,
10 419B.331, 419B.334, 419B.337, 419B.343, 419B.346, 419B.349, 419C.446, 419C.450,
11 419C.478, 419C.481, 419C.486, 419C.489, 419C.492, 419C.498 and 420.500 to
12 420.525 and the fees for physicians and other qualified persons appointed
13 under ORS 179.473, 419B.328, 419B.331, 419B.334, 419B.337, 419B.343, 419B.346,
14 419B.349, 419C.446, 419C.450, 419C.478, 419C.481, 419C.486, 419C.489, 419C.492,
15 419C.498 and 420.500 to 420.525 shall be charged to the county of the youth's
16 residence prior to the initial commitment of the youth to a youth correction
17 facility or to the county of the adult's residence prior to the initial com-
18 mitment of the adult in custody to a penal or correctional institution. At-
19 torney fees may also be charged to that county if the [*youth or*] adult in
20 custody has no separate estate or if the parents of the youth refuse or are
21 unable to provide an attorney.”.

22 On page 19, delete lines 42 through 45.

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

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

25 “419A.256. (1)(a) Once prepared and filed with the court, a transcript of
26 a juvenile court proceeding is part of the record of the case maintained by
27 the clerk of the court under ORS 419A.255 (1) and is subject to the provisions
28 of ORS 419A.255 governing access and disclosure.

29 “(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or
30 video recording has been prepared in any proceeding under ORS chapter

1 419C, the victim may obtain a copy [*by paying the actual cost of*
2 *preparation.*] **at no cost to the victim.**

3 “*[(2) If the court finds that the child, ward, youth, youth offender or parent*
4 *or guardian of the child, ward, youth or youth offender is without financial*
5 *means to purchase all or a necessary part of the transcript of the evidence or*
6 *proceedings, the court shall order, upon motion, the transcript or part of the*
7 *transcript to be furnished. The transcript or part of the transcript furnished*
8 *under this subsection must be paid for in the same manner as furnished*
9 *transcripts are paid for in criminal cases.]*

10 “**(2) Upon request, the court shall provide a copy of the transcript**
11 **of the evidence or proceeding at no cost to the child, ward, youth,**
12 **youth offender or young person or the parent or guardian of the child,**
13 **ward, youth, youth offender or young person.**

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

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

21

22 **“PARENTING PROGRAM; TREATMENT**

23

24 **“SECTION 28. ORS 419C.573 is amended to read:**

25 “419C.573. (1)(a) The court may order the parent or guardian to partic-
26 ipate in any educational or counseling programs as are reasonably directed
27 toward improvement of parenting skills and the ability of the parent to su-
28 pervise the youth offender if the court finds:

29 “(A) That a deficiency in parenting skills has significantly contributed to
30 the circumstances bringing the youth offender within the jurisdiction of the

1 court; and

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

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

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

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

11 “(B) **This paragraph does not apply to expenses arising out of**
12 **treatment for which public or private insurance provides coverage.**

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

16 “[3) (2) The court may not revoke a youth offender’s probation solely
17 because of a failure of the youth offender’s parent or guardian to comply
18 with an order under subsection (1) of this section.”.

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

20

21 **“PARENTAL SUPPORT**

22

23 **“SECTION 30a.** ORS 25.517 is amended to read:

24 “25.517. An order for support entered pursuant to ORS 25.501 to 25.556 for
25 a child in the care and custody of the Department of Human Services[, *or a*
26 *youth offender or other offender in the legal or physical custody of the Oregon*
27 *Youth Authority,*] may be made contingent upon the child[, *youth offender or*
28 *other offender*] residing in a state financed or supported residence, shelter
29 or other facility or institution. A certificate signed by the Director of Human
30 Services[,] **or** the Administrator of the Division of Child Support [*or the Di-*

1 *rector of the Oregon Youth Authority]* shall be sufficient to establish the pe-
2 riods of residence and to satisfy the order for periods of nonresidence. A
3 hearing to contest the period of nonresidency or failure to satisfy shall be
4 held pursuant to ORS 25.513.

5 “**NOTE:** Sections 31 and 32 were deleted by amendment. Subsequent
6 sections were not renumbered.”

7 On page 65, line 33, delete “1” and insert “2”.

8 In line 34, delete “6a” and insert “7”.

9 On page 66, line 2, delete “1” and insert “2” and delete “6a” and insert
10 “7”.

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

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

13
