

SB 817-6
(LC 2608)
3/29/21 (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, 471.430, 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
8 not renumbered.”.

9 On page 3, delete lines 20 through 45.

10 On page 4, delete lines 1 through 12.

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

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

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

14 “419C.230. (1) A formal accountability agreement may be entered into
15 when a youth has been referred to a county juvenile department, and a ju-
16 venile department counselor has probable cause to believe that the youth
17 may be found to be within the jurisdiction of the juvenile court for one or
18 more acts specified in ORS 419C.005.

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

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

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

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

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

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

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

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

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

18 **“(b) Notwithstanding paragraph (a) of this subsection, a youth or
19 the youth’s parent or guardian may pay fees or costs associated with
20 participating in a program under this section through public or private
21 insurance or by private means.**

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

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

29 “419C.540. (1) The director of a hospital or facility to which a young
30 person was committed under ORS 419C.532 (5) shall apply to the juvenile

1 panel of the Psychiatric Security Review Board for an order of discharge or
2 conditional release of the young person if, at any time after the commitment,
3 the director is of the opinion that the young person:

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

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

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

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

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

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

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

30 “(b) Could be adequately controlled with treatment services as a condition

1 of release.

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

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

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

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

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

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

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

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

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

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

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

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

30 “(9)(a) **The juvenile panel and the director of a hospital or facility**

1 to which a young person was committed under ORS 419C.532 (5) may
2 not assess any fees or costs against the young person or the young
3 person’s parent or guardian, including but not limited to court-
4 appointed attorney fees, examination fees and costs and supervision
5 expenses. This paragraph does not apply to expenses associated with
6 the young person’s treatment.

7 “(b) Notwithstanding paragraph (a) of this subsection, if the young
8 person is committed to the Oregon State Hospital, the young person’s
9 ability to pay and cost of care are determined under ORS 179.640 and
10 179.701.”.

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

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

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

26 On page 19, delete lines 42 through 45.

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

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

29 “419A.256. (1)(a) Once prepared and filed with the court, a transcript of
30 a juvenile court proceeding is part of the record of the case maintained by

1 the clerk of the court under ORS 419A.255 (1) and is subject to the provisions
2 of ORS 419A.255 governing access and disclosure.

3 “(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or
4 video recording has been prepared in any proceeding under ORS chapter
5 419C, the victim, **child, ward, youth, youth offender or young person**
6 **or the parent or guardian of the child, ward, youth, youth offender or**
7 **young person** may obtain a copy [*by paying the actual cost of preparation.*]
8 **at no cost.**

9 “(2) If the court finds that the child, ward, youth, youth offender or par-
10 ent or guardian of the child, ward, youth or youth offender is [*without fi-*
11 *nancial means to purchase all or a necessary part of the transcript of the*
12 *evidence or proceedings*] **eligible for court appointed counsel at state ex-**
13 **pense**, the court shall order, upon motion, the transcript or part of the
14 transcript to be furnished. The transcript or part of the transcript furnished
15 under this subsection must be paid for in the same manner as furnished
16 transcripts are paid for in criminal cases.

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

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

24

25 **“PARENTING PROGRAM; TREATMENT**

26

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

28 “419C.573. (1)(a) The court may order the parent or guardian to partic-
29 ipate in any educational or counseling programs as are reasonably directed
30 toward improvement of parenting skills and the ability of the parent to su-

1 pervise the youth offender if the court finds:

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

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

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

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

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

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

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

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

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

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

26 “471.432. When a person is ordered to undergo assessment and treatment
27 as provided in ORS 471.430, the court shall require the person to do all of
28 the following:

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

1 471.430.

2 “(2) Complete an examination by an agency or organization designated
3 by the court to determine whether the person has a problem condition in-
4 volving alcohol as described in ORS 813.040. The designated agencies or
5 organizations must meet minimum standards established under ORS 430.357
6 to perform the diagnostic assessment and treatment of problem drinking and
7 alcoholism and must be certified by the Director of the Oregon Health Au-
8 thority.

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

11 “(a) If the examination required under this section shows that the person
12 has a problem condition involving alcohol, a program for rehabilitation for
13 alcoholism approved by the director.

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

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

18 “813.030. (1) The fee required by ORS 471.432 and 813.020 (1) shall be in
19 the amount of \$255, except that the court may waive all or part of the fee
20 in cases involving indigent defendants. The court may make provision for
21 payment of the fee on an installment basis. A circuit court shall deposit the
22 fee in the Criminal Fine Account. If the fee is collected in a municipal or
23 justice court, the fee shall be forwarded by the court to the Department of
24 Revenue for deposit in the Criminal Fine Account.

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

28

29 **“PARENTAL SUPPORT**

30

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

2 “25.517. An order for support entered pursuant to ORS 25.501 to 25.556 for
3 a child in the care and custody of the Department of Human Services[, *or a*
4 *youth offender or other offender in the legal or physical custody of the Oregon*
5 *Youth Authority,*] may be made contingent upon the child[, *youth offender or*
6 *other offender*] residing in a state financed or supported residence, shelter
7 or other facility or institution. A certificate signed by the Director of Human
8 Services[,] **or** the Administrator of the Division of Child Support [*or the Di-*
9 *rector of the Oregon Youth Authority*] shall be sufficient to establish the pe-
10 riods of residence and to satisfy the order for periods of nonresidence. A
11 hearing to contest the period of nonresidency or failure to satisfy shall be
12 held pursuant to ORS 25.513.”

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

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

19 **“(a) There remains a balance due, including post-judgment interest,**
20 **penalties or collection expenses, on the judgment as of the operative**
21 **date specified in section 79 (1) of this 2021 Act; and**

22 **“(b) Section 6 of this 2021 Act, the amendments to statutes and**
23 **session law by sections 2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and**
24 **the repeal of ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592,**
25 **419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act remove**
26 **or repeal the underlying statutory authority for or would prohibit the**
27 **assessment of the fee, cost or other monetary obligation included in**
28 **the judgment if the judgment had been entered after the operative**
29 **date specified in section 79 (1) of this 2021 Act.**

30 **“(2) Nothing in this section creates a right of reimbursement to a**

1 youth, youth offender or young person or the parent or guardian of a
2 youth, youth offender or young person, and a court may not reimburse
3 a youth, youth offender or young person or the parent or guardian of
4 a youth, youth offender or young person, for fines, fees, costs or other
5 monetary obligations the youth, youth offender or young person or the
6 parent or guardian of a youth, youth offender or young person paid
7 on or before the operative date specified in section 79 (1) of this 2021
8 Act to satisfy a lawful order or judgment that was entered before the
9 operative date specified in section 79 (1) of this 2021 Act.

10 “(3) The court administrator, as defined in ORS 18.005, may not
11 charge any fees associated with the satisfaction of a judgment under
12 subsection (1) of this section.

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

17 On page 66, line 2, delete “1” and insert “2” and delete “6a” and insert
18 “7”.

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

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

21
