

SB 133-1
(LC 528)
4/1/21 (LAS/ps)

Requested by SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

**PROPOSED AMENDMENTS TO
SENATE BILL 133**

1 Delete pages 3 through 5 of the printed bill and insert:

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“PAROLE

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5 **“SECTION 6.** ORS 420A.115 is amended to read:

6 “420A.115. (1) The Director of the Oregon Youth Authority may authorize
7 any youth offender to go on parole, subject to conditions of supervision and
8 custody established by the Director of the Oregon Youth Authority and
9 subject to being taken into custody and detained under written order of the
10 Director of the Oregon Youth Authority or as provided in ORS 420A.120.

11 **“(2)(a) Notwithstanding ORS 419A.257, the youth authority may**
12 **disclose the information described in paragraph (b) of this subsection**
13 **to a victim, as defined by the youth authority by rule:**

14 **“(A) When the youth authority seeks information from the victim**
15 **regarding the impact of the crime to inform the youth offender’s case**
16 **plan;**

17 **“(B) When the youth authority seeks information from the victim**
18 **regarding the potential impact of authorizing the youth offender to**
19 **go on parole; or**

20 **“(C) At the request of the victim.**

21 **“(b) When making a disclosure permitted under paragraph (a) of**

1 **this subsection, the youth authority may disclose:**

2 **“(A) The information described in ORS 420A.122 (2); and**

3 **“(B) The progress, on a prescribed metrics scale developed by the**
4 **youth authority by rule, that the youth offender has made while in a**
5 **youth correction facility in the following areas:**

6 **“(i) Completion of assigned services and reformation goals;**

7 **“(ii) Overall level of engagement in services and reformation goals;**

8 **“(iii) Recognition of the impact of the youth offender’s actions on**
9 **the victim;**

10 **“(iv) Recognition of the impact of the youth offender’s actions on**
11 **the community; and**

12 **“(v) Completion of a transition plan for parole.**

13 **“(2) (3) The Director of the Oregon Youth Authority shall determine**
14 **whether violations of conditions of parole have occurred.**

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“WAIVER DECISIONS

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18 **“SECTION 7. ORS 419C.349 is amended to read:**

19 **“419C.349. (1) Except as otherwise provided in ORS 419C.364 or 419C.370,**
20 **the juvenile court shall conduct a waiver hearing when:**

21 **“(a) The state files a motion requesting a waiver hearing in a case in**
22 **which a petition has been filed alleging that a youth has committed an act**
23 **when the youth was 15, 16 or 17 years of age that, if committed by an adult,**
24 **would constitute aggravated murder or an offense listed in ORS 137.707; or**

25 **“(b) The state files a motion requesting a waiver hearing in a case in**
26 **which a petition has been filed alleging that a youth has committed an act**
27 **when the youth was 15, 16 or 17 years of age that, if committed by an adult,**
28 **would constitute:**

29 **“(A) A Class A or Class B felony;**

30 **“(B) Any of the following Class C felonies:**

1 “(i) Escape in the second degree under ORS 162.155;
2 “(ii) Assault in the third degree under ORS 163.165;
3 “(iii) Coercion under ORS 163.275 (1)(a);
4 “(iv) Arson in the second degree under ORS 164.315; or
5 “(v) Robbery in the third degree under ORS 164.395;
6 “(C) Any Class C felony in which the youth used or threatened to use a
7 firearm; or
8 “(D) Any other crime that the state and the youth stipulate is subject to
9 waiver.
10 “(2) After the hearing, the juvenile court may waive the youth to a cir-
11 cuit, justice or municipal court of competent jurisdiction if:
12 “(a) The youth at the time of the alleged offense was of sufficient so-
13 phistication and maturity to appreciate the nature and quality of the conduct
14 involved; and
15 “(b) The juvenile court, after considering the following criteria, deter-
16 mines by a preponderance of the evidence that retaining jurisdiction will not
17 serve the best interests of the youth and of society and therefore is not jus-
18 tified:
19 “(A) The amenability of the youth to treatment and rehabilitation given
20 the techniques, facilities and personnel for rehabilitation available to the
21 juvenile court and to the criminal court that would have jurisdiction after
22 transfer;
23 “(B) The protection required by the community, given the seriousness of
24 the offense alleged, and whether the youth can be safely rehabilitated under
25 the jurisdiction of the juvenile court;
26 “(C) The aggressive, violent, premeditated or willful manner in which the
27 offense was alleged to have been committed;
28 “(D) The previous history of the youth, including:
29 “(i) Prior treatment efforts and out-of-home placements; and
30 “(ii) The physical, emotional and mental health of the youth;

1 “(E) The youth’s prior record of acts that would be crimes if committed
2 by an adult;

3 “(F) The gravity of the loss, damage or injury caused or attempted during
4 the offense;

5 “(G) The prosecutive merit of the case against the youth; and

6 “(H) The desirability of disposing of all cases in one trial if there were
7 adult co-offenders.

8 “(3)(a) The victim of the alleged offense has the right to appear at a
9 hearing under this section and to provide the court with any information
10 reasonably related to the court’s determination.

11 “(b) **Notwithstanding ORS 419A.255, the district attorney may pro-**
12 **vide to the victim, at the request of the victim and pursuant to a**
13 **protective order, a copy of the court’s written waiver findings and**
14 **determination, if any, regardless of whether the victim appeared at the**
15 **hearing or presented information to the court.**

16 “(4) The right to counsel, and the appointment of counsel under ORS
17 419C.200, applies to a hearing under this section.

18 “(5) The state has the right to have at least one psychiatrist or licensed
19 psychologist of its selection examine the youth concerning the determination
20 of whether to waive the youth under this section.

21 “**SECTION 8.** ORS 419C.352 is amended to read:

22 “419C.352. (1) The juvenile court, after a hearing, except as provided in
23 ORS 419C.364 or 419C.370, may waive a youth under 15 years of age at the
24 time the act was committed to circuit court for prosecution as an adult if:

25 “[1] (a) The youth is represented by counsel during the waiver pro-
26 ceedings;

27 “[2] (b) The juvenile court makes the findings required under ORS
28 419C.349 (2); and

29 “[3] (c) The youth is alleged to have committed an act or acts that if
30 committed by an adult would constitute one or more of the following crimes:

1 “[a] (A) Murder or any aggravated form thereof under ORS 163.095,
2 163.107 or 163.115;

3 “[b] (B) Rape in the first degree under ORS 163.375 (1)(a);

4 “[c] (C) Sodomy in the first degree under ORS 163.405 (1)(a); or

5 “[d] (D) Unlawful sexual penetration in the first degree under ORS
6 163.411 (1)(a).

7 “(2) Notwithstanding ORS 419A.255, the district attorney may pro-
8 vide to the victim, at the request of the victim and pursuant to a
9 protective order, a copy of the court’s written waiver findings and
10 determination, if any, regardless of whether the victim appeared at the
11 hearing or presented information to the court.

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“UNIT CAPTIONS

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15 “SECTION 9. The unit captions used in this 2021 Act are provided
16 only for the convenience of the reader and do not become part of the
17 statutory law of this state or express any legislative intent in the
18 enactment of this 2021 Act.”.

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