

House Bill 3711

Sponsored by Representative RESCHKE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act requires some people who were under 18 at the time of committing a crime to be charged as an adult. (Flesch Readability Score: 72.9).

Repeals some of the provisions of Senate Bill 1008 (2019). Requires that persons who were under 18 years of age at the time of committing specified crimes must be charged in adult court. Repeals eligibility for second look, the prohibition on sentences of life imprisonment and the requirement to conduct a release hearing after 15 years of incarceration for those persons required to be charged as adults.

A BILL FOR AN ACT

1
2 Relating to juvenile offenders; creating new provisions; and amending ORS 137.705, 137.707, 144.397,
3 161.740, 163.105, 163.107, 163.115, 163.150, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321,
4 419C.005, 419C.050, 419C.349 and 420A.203.

5 **Be It Enacted by the People of the State of Oregon:**

MANDATORY PROSECUTION IN ADULT COURT

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9 **SECTION 1.** ORS 137.705 is amended to read:

10 137.705. (1)(a) As used in this section and ORS 137.707:

11 (A) "Charged" means the filing of an accusatory instrument in a court of criminal jurisdiction.

12 (B) "Detention facility" has the meaning given that term in ORS 419A.004.

13 (C) "Prosecuted" includes pretrial and trial procedures, requirements and limitations provided
14 for in criminal cases.

15 (b) Unless otherwise provided in ORS 137.707, ORS chapters 137 and 138 apply to proceedings
16 under ORS 137.707.

17 **(2)(a) Notwithstanding ORS 419B.100 and 419C.005, a person 15, 16 or 17 years of age at**
18 **the time of committing an offense described in ORS 137.707 (4)(a)(A), (B), (G), (I), (K), (M),**
19 **(O), (Q) or (R) may be charged with that offense and may be prosecuted as an adult.**

20 **(b) The district attorney shall notify the juvenile court and the juvenile department when**
21 **a person under 18 years of age is charged with an offense as described in this subsection.**

22 **(c) The filing of an accusatory instrument in a criminal court for an offense described**
23 **in ORS 137.707 (4)(a)(A), (B), (G), (I), (K), (M), (O), (Q) or (R) divests the juvenile court of**
24 **jurisdiction in the matter if juvenile court jurisdiction is based on the conduct alleged in the**
25 **accusatory instrument or any conduct arising out of the same act or transaction. Upon re-**
26 **ceiving notice from the district attorney under paragraph (b) of this subsection, the juvenile**
27 **court shall dismiss, without prejudice, the juvenile court proceeding and enter any order**
28 **necessary to transfer the matter or transport the person to the criminal court for further**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **proceedings. Nothing in this paragraph affects the authority or jurisdiction of the juvenile**
 2 **court with respect to other matters or conduct.**

3 [(2)(a)] (3) **For an offense listed in ORS 137.707 (4)(a)(C) to (F), (H), (J), (L), (N), (P) or (S),**
 4 **(b) or (c),** if the juvenile court enters an order of waiver under ORS 419C.349 (1)(a), the person
 5 waived may be charged with the commission of [an] **the** offense [listed in ORS 137.707] and may be
 6 prosecuted as an adult. [The person may be detained in custody only in a detention facility, unless the
 7 person is 16 or 17 years of age and the director of the county juvenile department and the sheriff agree
 8 to detain the person in a jail or other place where adults are detained. A person detained in accordance
 9 with this paragraph is subject to release on the same terms and conditions as for adults.]

10 (4)(a) **A person charged under subsection (2) of this section or waived under ORS 419C.349**
 11 **(1)(a) may be detained in custody only in a detention facility, unless the person is 16 or 17**
 12 **years of age and the director of the county juvenile department and the sheriff agree to de-**
 13 **tain the person in a jail or other place where adults are detained. A person detained in ac-**
 14 **cordance with this paragraph is subject to release on the same terms and conditions as for**
 15 **adults.**

16 (b) If a person **charged under subsection (2) of this section or** waived under ORS 419C.349
 17 (1)(a) is under 16 years of age, the person may not be detained before conviction, or after conviction
 18 but before execution of the sentence, in a jail or other place where adults are detained.

19 **SECTION 2.** ORS 137.707 is amended to read:

20 137.707. [(1) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed in
 21 subsection (4) of this section, the court shall impose at least the presumptive term of imprisonment
 22 provided for the offense in subsection (4) of this section. The court may impose a greater presumptive
 23 term if otherwise permitted by law, but may not impose a lesser term. The person is not, during the
 24 service of the term of imprisonment, eligible for release on post-prison supervision or any form of tem-
 25 porary leave from custody. The person is not eligible for any reduction in the minimum sentence for
 26 any reason under ORS 421.121 or any other provision of law. The person is eligible for a hearing and
 27 conditional release under ORS 420A.203 and 420A.206.]

28 (1)(a) **Notwithstanding any other provision of law, when a person charged with aggra-**
 29 **vated murder as defined in ORS 163.095 or an offense listed in subsection (4)(a)(A), (B), (G),**
 30 **(I), (K), (M), (O), (Q) or (R) of this section is 15, 16 or 17 years of age at the time the offense**
 31 **is committed, the person shall be prosecuted as an adult in criminal court.**

32 (b) **A district attorney, the Attorney General or a juvenile department counselor may not**
 33 **file in juvenile court a petition alleging that a person has committed an act that, if com-**
 34 **mitted by an adult, would constitute aggravated murder or an offense listed in subsection**
 35 **(4)(a)(A), (B), (G), (I), (K), (M), (O), (Q) or (R) of this section if the person was 15, 16 or 17**
 36 **years of age at the time the act was committed.**

37 (c) **When a person is convicted of an offense listed in subsection (4)(a)(A), (B), (G), (I),**
 38 **(K), (M), (O), (Q) or (R) of this section, the court shall impose at least the presumptive term**
 39 **of imprisonment provided for the offense in subsection (4) of this section. The court may**
 40 **impose a greater presumptive term if otherwise permitted by law, but may not impose a**
 41 **lesser term. The person is not, during the service of the term of imprisonment, eligible for**
 42 **release on post-prison supervision or any form of temporary leave from custody. The person**
 43 **is not eligible for any reduction in the minimum sentence for any reason under ORS 421.121**
 44 **or any other provision of law.**

45 [(2)] (d) ORS 138.052, 163.105 and 163.150 apply to sentencing a person prosecuted under this

1 section and convicted of aggravated murder under ORS 163.095 except that a person who was under
2 18 years of age at the time the offense was committed is not subject to a sentence of death [*or life*
3 *imprisonment without the possibility of release or parole*].

4 **(2) When a person waived under ORS 419C.349 (1)(a) is convicted of an offense listed in**
5 **subsection (4)(a)(C) to (F), (H), (J), (L), (N), (P) or (S), (b) or (c) of this section, the court**
6 **shall impose at least the presumptive term of imprisonment provided for the offense in**
7 **subsection (4) of this section. The court may impose a greater presumptive term if otherwise**
8 **permitted by law, but may not impose a lesser term. The person is not, during the service**
9 **of the term of imprisonment, eligible for release on post-prison supervision or any form of**
10 **temporary leave from custody. The person is not eligible for any reduction in the minimum**
11 **sentence for any reason under ORS 421.121 or any other provision of law. The person is eli-**
12 **gible for a hearing and conditional release under ORS 420A.203 and 420A.206.**

13 (3) The court shall commit the person to the legal and physical custody of the Department of
14 Corrections.

15 (4) The offenses to which this section applies and the presumptive sentences are:
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- 17
 - 18 (a)(A) Murder in the second
 - 19 degree, as defined in
 - 20 ORS 163.115.....300 months
 - 21 (B) Murder in the first
 - 22 degree, as defined
 - 23 in ORS 163.107.....360 months
 - 24 (C) Attempt or conspiracy
 - 25 to commit aggravated
 - 26 murder, as defined
 - 27 in ORS 163.095.....120 months
 - 28 (D) Attempt or conspiracy
 - 29 to commit murder
 - 30 in any degree.....90 months
 - 31 (E) Manslaughter in the
 - 32 first degree, as defined
 - 33 in ORS 163.118.....120 months
 - 34 (F) Manslaughter in the
 - 35 second degree, as defined
 - 36 in ORS 163.125.....75 months
 - 37 (G) Assault in the first
 - 38 degree, as defined
 - 39 in ORS 163.185.....90 months
 - 40 (H) Assault in the second
 - 41 degree, as defined
 - 42 in ORS 163.175.....70 months
 - 43 (I) Kidnapping in the first
 - 44 degree, as defined in
 - 45 ORS 163.235.....90 months

- 1 (J) Kidnapping in the second
- 2 degree, as defined in
- 3 ORS 163.22570 months
- 4 (K) Rape in the first degree,
- 5 as defined in ORS 163.375....100 months
- 6 (L) Rape in the second
- 7 degree, as defined in
- 8 ORS 163.36575 months
- 9 (M) Sodomy in the first
- 10 degree, as defined in
- 11 ORS 163.405100 months
- 12 (N) Sodomy in the second
- 13 degree, as defined in
- 14 ORS 163.39575 months
- 15 (O) Unlawful sexual
- 16 penetration in the first
- 17 degree, as defined
- 18 in ORS 163.411100 months
- 19 (P) Unlawful sexual
- 20 penetration in the
- 21 second degree, as
- 22 defined in ORS 163.408.75 months
- 23 (Q) Sexual abuse in the first
- 24 degree, as defined in
- 25 ORS 163.42775 months
- 26 (R) Robbery in the first
- 27 degree, as defined in
- 28 ORS 164.41590 months
- 29 (S) Robbery in the second
- 30 degree, as defined in
- 31 ORS 164.40570 months
- 32 (b)(A) Arson in the first degree,
- 33 as defined in ORS 164.325,
- 34 when the offense represented
- 35 a threat of serious
- 36 physical injury.90 months
- 37 (B) Using a child in a display
- 38 of sexually explicit
- 39 conduct, as defined in
- 40 ORS 163.67070 months
- 41 (C) Compelling prostitution,
- 42 as defined in ORS 167.017
- 43 (1)(a), (b) or (d).....70 months
- 44 (c) Aggravated vehicular
- 45 homicide, as defined in

1 ORS 163.149240 months
2
3

4 (5) If a person charged with an offense under this section is found guilty of a lesser included
5 offense and the lesser included offense is:

6 (a) An offense listed in subsection (4) of this section, the court shall sentence the person as
7 provided in subsections (1) and (2) of this section.

8 (b) Not an offense listed in subsection (4) of this section:

9 (A) But constitutes an offense for which waiver is authorized under ORS 419C.349 (1)(b), the
10 court, upon motion of the district attorney, shall hold a hearing to determine whether to retain ju-
11 risdiction or to transfer the case to juvenile court for disposition. In determining whether to retain
12 jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court retains
13 jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If the court
14 does not retain jurisdiction, the court shall:

15 (i) Order that a presentence report be prepared;

16 (ii) Set forth in a memorandum any observations and recommendations that the court deems
17 appropriate;

18 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
19 419C.067 and 419C.411; and

20 (iv) Enter an order providing that all court records of the case are subject to the same limita-
21 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
22 ORS 419A.255.

23 (B) And is not an offense for which waiver is authorized under ORS 419C.349 (1)(b), the court
24 may not sentence the person. The court shall:

25 (i) Order that a presentence report be prepared;

26 (ii) Set forth in a memorandum any observations and recommendations that the court deems
27 appropriate;

28 (iii) Enter an order transferring the case to the juvenile court for disposition under ORS
29 419C.067 and 419C.411; and

30 (iv) Enter an order providing that all court records of the case are subject to the same limita-
31 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
32 ORS 419A.255.

33 (6) When a person is charged under this section, other offenses based on the same act or
34 transaction shall be charged as separate counts in the same accusatory instrument and consolidated
35 for trial, whether or not the other offenses are aggravated murder or offenses listed in subsection
36 (4) of this section. If it appears, upon motion, that the state or the person charged is prejudiced by
37 the joinder and consolidation of offenses, the court may order an election or separate trials of
38 counts or provide whatever other relief justice requires.

39 (7)(a) If a person charged and tried as provided in subsection (6) of this section is found guilty
40 of aggravated murder or an offense listed in subsection (4) of this section and one or more other
41 offenses, the court shall impose the sentence for aggravated murder or the offense listed in sub-
42 section (4) of this section as provided in subsections (1) and (2) of this section and shall impose
43 sentences for the other offenses as otherwise provided by law.

44 (b) If a person charged and tried as provided in subsection (6) of this section is not found guilty
45 of aggravated murder or an offense listed in subsection (4) of this section, but is found guilty of one

1 of the other charges that constitutes an offense for which waiver is authorized under ORS 419C.349
 2 (1)(b), the court, upon motion of the district attorney, shall hold a hearing to determine whether to
 3 retain jurisdiction or to transfer the case to juvenile court for disposition. In determining whether
 4 to retain jurisdiction, the court shall consider the criteria for waiver in ORS 419C.349. If the court
 5 retains jurisdiction, the court shall sentence the person as an adult under sentencing guidelines. If
 6 the court does not retain jurisdiction, the court shall:

7 (A) Order that a presentence report be prepared;

8 (B) Set forth in a memorandum any observations and recommendations that the court deems
 9 appropriate;

10 (C) Enter an order transferring the case to the juvenile court for disposition under ORS
 11 419C.067 and 419C.411; and

12 (D) Enter an order providing that all court records of the case are subject to the same limita-
 13 tions on inspection, copying and disclosure of records, reports and materials as those set forth under
 14 ORS 419A.255.

15 **SECTION 3.** ORS 419C.349 is amended to read:

16 419C.349. (1) Except as otherwise provided in ORS 419C.364 or 419C.370, the juvenile court shall
 17 conduct a waiver hearing when:

18 (a) The state files a motion requesting a waiver hearing in a case in which a petition has been
 19 filed alleging that a youth has committed an act when the youth was 15, 16 or 17 years of age that,
 20 if committed by an adult, would constitute [*aggravated murder or*] an offense listed in ORS 137.707
 21 **(4)(a)(C) to (F), (H), (J), (L), (N), (P) or (S), (b) or (c);** or

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

25 (A) A Class A or Class B felony;

26 (B) Any of the following Class C felonies:

27 (i) Escape in the second degree under ORS 162.155;

28 (ii) Assault in the third degree under ORS 163.165;

29 (iii) Coercion under ORS 163.275 (1)(a);

30 (iv) Arson in the second degree under ORS 164.315; or

31 (v) Robbery in the third degree under ORS 164.395;

32 (C) Any Class C felony in which the youth used or threatened to use a firearm; or

33 (D) Any other crime that the state and the youth stipulate is subject to waiver.

34 (2) After the hearing, the juvenile court may waive the youth to a circuit, justice or municipal
 35 court of competent jurisdiction if:

36 (a) The youth at the time of the alleged offense was of sufficient sophistication and maturity to
 37 appreciate the nature and quality of the conduct involved; and

38 (b) The juvenile court, after considering the following criteria, determines by a preponderance
 39 of the evidence that retaining jurisdiction will not serve the best interests of the youth and of so-
 40 ciety and therefore is not justified:

41 (A) The amenability of the youth to treatment and rehabilitation given the techniques, facilities
 42 and personnel for rehabilitation available to the juvenile court and to the criminal court that would
 43 have jurisdiction after transfer;

44 (B) The protection required by the community, given the seriousness of the offense alleged, and
 45 whether the youth can be safely rehabilitated under the jurisdiction of the juvenile court;

1 (C) The aggressive, violent, premeditated or willful manner in which the offense was alleged to
 2 have been committed;

3 (D) The previous history of the youth, including:

4 (i) Prior treatment efforts and out-of-home placements; and

5 (ii) The physical, emotional and mental health of the youth;

6 (E) The youth's prior record of acts that would be crimes if committed by an adult;

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

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

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

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

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

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

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

21
 22 **SECOND LOOK**
 23

24 **SECTION 4.** ORS 420A.203 is amended to read:

25 420A.203. (1)(a) This section and ORS 420A.206 apply only to a person who:

26 (A) Was under 18 years of age at the time of the commission of the offense for which the person
 27 was sentenced to a term of imprisonment, who committed the offense on or after June 30, 1995, and
 28 who was:

29 (i) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS
 30 419C.349 (1)(b), 419C.352, 419C.364 or 419C.370; or

31 (ii) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 **for a crime**
 32 **described in ORS 137.707 (4)(a)(C) to (F), (H), (J), (L), (N), (P) or (S), (b) or (c) or under ORS**
 33 **137.712; or**

34 (B)(i) Was under 18 years of age at the time of the commission of all offenses for which the
 35 person was sentenced to a term of imprisonment;

36 (ii) Is in the physical custody of the Oregon Youth Authority; and

37 (iii) Has a projected release date, as determined by the Department of Corrections, that falls on
 38 or after the person's 25th birthday and before the person's 27th birthday.

39 (b) When a person described in paragraph (a)(A) of this subsection has served one-half of the
 40 sentence imposed or when a person described in paragraph (a)(B) of this subsection attains 24 years
 41 and six months of age, the sentencing court shall determine what further commitment or disposition
 42 is appropriate as provided in this section. As used in this subsection and subsection (2) of this sec-
 43 tion, "sentence imposed" means the total period of mandatory incarceration imposed for all con-
 44 victions resulting from a single prosecution or criminal proceeding not including any reduction in
 45 the sentence under ORS 421.121 or any other statute.

1 (2)(a) No more than 120 days and not less than 60 days before the date on which a person has
 2 served one-half of the sentence imposed or attains 24 years and six months of age, the Oregon Youth
 3 Authority or the Department of Corrections, whichever has physical custody of the person, shall file
 4 in the sentencing court a notice and request that the court set a time and place for the hearing
 5 required under this section. The youth authority or department shall serve the person with a copy
 6 of the notice and request for hearing on or before the date of filing.

7 (b) Upon receiving the notice and request for a hearing under paragraph (a) of this subsection,
 8 the sentencing court shall schedule a hearing for a date not more than 30 days after the date on
 9 which the person will have served one-half of the sentence imposed or attains 24 years and six
 10 months of age, or such later date as is agreed upon by the parties.

11 (c) The court shall notify the following of the time and place of the hearing:

12 (A) The person and, if the person is under 18 years of age, the person's parents;

13 (B) The records supervisor of the correctional institution in which the person is incarcerated;
 14 and

15 (C) The district attorney who prosecuted the case.

16 (d) The court shall make reasonable efforts to notify the following of the time and place of the
 17 hearing:

18 (A) The victim and, if the victim is under 18 years of age, the victim's parents or legal guardian;
 19 and

20 (B) Any other person who has filed a written request with the court to be notified of any hear-
 21 ing concerning the transfer, discharge or release of the person.

22 (e) Notwithstanding paragraph (b) of this subsection, the court may delay the hearing for good
 23 cause.

24 (3) In a hearing under this section:

25 (a) The person and the state are parties to the proceeding.

26 (b) The person has the right to appear with counsel. If the person requests that the court ap-
 27 point counsel and the court determines that the person is financially eligible for appointed counsel
 28 at state expense, the court shall order that counsel be appointed.

29 (c) The district attorney represents the state.

30 (d) The court shall determine admissibility of evidence as if the hearing were a sentencing pro-
 31 ceeding.

32 (e) The court may consider, when relevant, written reports of the Oregon Youth Authority, the
 33 Department of Corrections and qualified experts, in addition to the testimony of witnesses. Within
 34 a reasonable time before the hearing, as determined by the court, the person must be given the op-
 35 portunity to examine all reports and other documents concerning the person that the state, the
 36 Oregon Youth Authority or the Department of Corrections intends to submit for consideration by
 37 the court at the hearing.

38 (f) Except as otherwise provided by law or by order of the court based on good cause, the person
 39 must be given access to the records maintained in the person's case by the Oregon Youth Authority
 40 and the Department of Corrections.

41 (g) The person may examine all of the witnesses called by the state, may subpoena and call
 42 witnesses to testify on the person's behalf and may present evidence and argument. The court may
 43 permit witnesses to appear by telephone or other two-way electronic communication device.

44 (h) The hearing must be recorded.

45 (i) The hearing and the record of the hearing are open to the public.

1 (j) The question to be decided is which of the dispositions provided in subsection (4) of this
2 section should be ordered in the case.

3 (k) The person has the burden of proving by clear and convincing evidence that the person has
4 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to
5 the safety of the victim, the victim's family or the community and that the person would comply with
6 the release conditions.

7 (4)(a) At the conclusion of the hearing and after considering and making findings regarding each
8 of the factors in paragraph (b) of this subsection, the court shall order one of the following dispo-
9 sitions:

10 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,
11 taking into account any reduction in the sentence under ORS 421.121 or any other statute, with the
12 person's physical custody determined under ORS 137.124, 420.011 and 420A.200.

13 (B) Order that the person be conditionally released under ORS 420A.206 at such time as the
14 court may order, if the court finds that the person:

15 (i) Has been rehabilitated and reformed;

16 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and

17 (iii) Will comply with the conditions of release.

18 (b) In making the determination under this section, the court shall consider:

19 (A) The experiences and character of the person before and after commitment to the Oregon
20 Youth Authority or the Department of Corrections;

21 (B) The person's juvenile and criminal records;

22 (C) The person's mental, emotional and physical health;

23 (D) The gravity of the loss, damage or injury caused or attempted, during or as part of the
24 criminal act for which the person was convicted and sentenced;

25 (E) The manner in which the person committed the criminal act for which the person was con-
26 victed and sentenced;

27 (F) The person's efforts, participation and progress in rehabilitation programs since the person's
28 conviction;

29 (G) The results of any mental health or substance abuse treatment;

30 (H) Whether the person demonstrates accountability and responsibility for past and future con-
31 duct;

32 (I) Whether the person has made and will continue to make restitution to the victim and the
33 community;

34 (J) Whether the person will comply with and benefit from all conditions that will be imposed if
35 the person is conditionally released;

36 (K) The safety of the victim, the victim's family and the community;

37 (L) The recommendations of the district attorney, the Oregon Youth Authority and the Depart-
38 ment of Corrections; and

39 (M) Any other relevant factors or circumstances raised by the state, the Oregon Youth Au-
40 thority, the Department of Corrections or the person.

41 (5) The court shall provide copies of its disposition order under subsection (4) of this section to
42 the parties, to the records supervisor of the correctional institution in which the person is
43 incarcerated and to the manager of the institution-based records office of the Department of Cor-
44 rections.

45 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-

1 pellate court’s review is limited to claims that:

2 (a) The disposition is not authorized under this section;

3 (b) The court failed to comply with the requirements of this section in imposing the disposition;

4 or

5 (c) The findings of the court are not supported by substantial evidence in the record.

6 (7) A person described in subsection (1)(a)(B) of this section may waive a hearing under this
7 section.

8
9 **PAROLE HEARING AFTER 15 YEARS**

10
11 **SECTION 5.** ORS 144.397 is amended to read:

12 144.397. (1)(a) A person convicted of an offense or offenses committed when the person was un-
13 der 18 years of age, who is serving a sentence of imprisonment for the offense or offenses, is eligible
14 for release on parole or post-prison supervision as provided in this section after the person has
15 served 15 years of imprisonment.

16 (b) Nothing in this section is intended to prevent a person from being released prior to serving
17 15 years of imprisonment under any other provision of law.

18 (c) As used in this subsection, “served 15 years of imprisonment” means that 15 years have
19 passed since the person began serving the sentence, including pretrial incarceration but not in-
20 cluding any reduction in sentence under ORS 421.121 or any other statute.

21 (2) This section applies notwithstanding ORS 144.110 or the fact that the person was:

22 [(a) *Sentenced to a minimum sentence under ORS 163.105, 163.107, 163.115 or 163.155.*]

23 [(b)] (a) Sentenced to a mandatory minimum sentence under ORS 137.700, 137.707 or 137.717, a
24 determinate sentence under ORS 137.635 or a sentence required by any other provision of law, **un-**
25 **less the person is serving a sentence for aggravated murder or an offense listed in ORS**
26 **137.707 (4)(a)(A), (B), (G), (I), (K), (M), (O), (Q) or (R).**

27 [(c)] (b) Sentenced to two or more consecutive sentences under ORS 137.123.

28 (3) When a person eligible for release on parole or post-prison supervision as described in sub-
29 section (1) of this section has served 15 years of imprisonment, the State Board of Parole and Post-
30 Prison Supervision shall hold a hearing. The hearing must provide the person a meaningful
31 opportunity to be released on parole or post-prison supervision.

32 (4) The board may require the person, before holding a hearing described in this section, to be
33 examined by a psychiatrist or psychologist with expertise in adolescent development. Within 60 days
34 of the evaluation, the examining psychiatrist or psychologist shall file a written report of the
35 findings and conclusions of the examination with the board. A certified copy of the report shall be
36 provided to the person and the person’s attorney.

37 (5) During a hearing under this section, the board shall consider and give substantial weight to
38 the fact that a person under 18 years of age is incapable of the same reasoning and impulse control
39 as an adult and the diminished culpability of minors as compared to that of adults. The board shall
40 also consider the following circumstances, if relevant to the specific person and offense:

41 (a) The age and immaturity of the person at the time of the offense.

42 (b) Whether and to what extent an adult was involved in the offense.

43 (c) The person’s family and community circumstances at the time of the offense, including any
44 history of abuse, trauma and involvement in the juvenile dependency system.

45 (d) The person’s subsequent emotional growth and increased maturity during the person’s

1 imprisonment.

2 (e) The person's participation in rehabilitative and educational programs while in custody if
 3 such programs have been made available to the person and use of self-study for self-improvement.

4 (f) A mental health diagnosis.

5 (g) Any other mitigating factors or circumstances presented by the person.

6 (6) Under no circumstances may the board consider the age of the person as an aggravating
 7 factor.

8 (7) If the board finds that, based on the consideration of the age and immaturity of the person
 9 at the time of the offense and the person's behavior thereafter, the person has demonstrated matu-
 10 rity and rehabilitation, the board shall release the person as follows:

11 (a) For a person sentenced under ORS 163.105, 163.107, 163.115 or 163.155, the board shall set
 12 a release date that is not more than 60 days from the date of the hearing and, notwithstanding
 13 section 28, chapter 790, Oregon Laws 1989, the person shall be released on parole in accordance
 14 with ORS 144.125, 144.260 and 144.270.

15 (b) A person sentenced to a term of imprisonment under a provision of law other than ORS
 16 163.105, 163.107, 163.115 or 163.155 shall be released on post-prison supervision in accordance with
 17 ORS 144.096 and 144.098 within 60 days of the date of the hearing.

18 (8) Unless the context requires otherwise, the provisions of ORS 144.260 to 144.380 apply to a
 19 person released on parole under subsection (7)(a) of this section.

20 (9) If the board determines that the person has not demonstrated maturity and rehabilitation
 21 under subsection (7) of this section, the board may postpone a subsequent hearing to a date that is
 22 at least two years but no more than 10 years from the date of the hearing.

23 (10) The person may waive a hearing under this section. Notwithstanding waiver of the hearing,
 24 the board shall hold a hearing under this section upon the person's written request.

25 (11) The board shall provide notice of the hearing to:

26 (a) The district attorney of the county in which the person was convicted; and

27 (b) The victim of any offense for which the person is serving a sentence, if the victim requests
 28 to be notified and furnishes the board with a current address.

29 (12) A person has the right to counsel, including counsel appointed at board expense, at a
 30 hearing under this section.

31 (13) The board may adopt rules to carry out the provisions of this section.

32
 33 **LIFE IMPRISONMENT**

34
 35 **SECTION 6.** ORS 161.740 is amended to read:

36 161.740. (1) A court may not impose a sentence of life imprisonment without the possibility of
 37 release or parole on a person who was under 18 years of age at the time of committing the offense
 38 **for a crime other than murder in the second degree, murder in the first degree or aggravated**
 39 **murder.**

40 (2) In determining the appropriate sentence for a person who was under 18 years of age at the
 41 time of committing the offense, if the court is provided information concerning the following cir-
 42 cumstances, or any other relevant circumstances, the court shall consider those circumstances in
 43 imposing the sentence:

44 (a) The person's age, intellectual capacity and impetuosity at the time of the offense.

45 (b) The person's family and community environment, history of trauma and prior involvement in

1 the juvenile dependency system at the time of the offense.

2 (c) The person’s ability at the time of the offense to appreciate the risks and consequences of
3 the conduct constituting the offense.

4 (d) The person’s community involvement prior to the offense.

5 (e) Any peer or familial pressure to which the person was subjected at the time of the offense.

6 (f) Whether and to what extent an adult was involved in the commission of the offense.

7 (g) The person’s capacity for rehabilitation.

8 (h) The person’s school records and special education evaluations.

9 (i) Any other mitigating factors or circumstances presented by the person.

10 (3)(a) If the court is provided with a report of a mental health evaluation of the person, the
11 court shall give the evaluation substantial weight in imposing the sentence if:

12 (A) The evaluation was conducted by a psychiatrist or psychologist whose primary practice in-
13 volves the treatment of adolescents; and

14 (B) The report includes the assessment of the person’s degree of insight, judgment, self-
15 awareness, emotional regulation and impulse control.

16 (b) Paragraph (a) of this subsection does not constitute a requirement that a person obtain or
17 submit an evaluation for sentencing.

18 (4) When sentencing a person who was under 18 years of age at the time of committing the of-
19 fense, under no circumstances may the court consider the age of the person as an aggravating fac-
20 tor.

21 (5) When sentencing a person who was under 18 years of age at the time of committing an of-
22 fense to a term of imprisonment, the court shall indicate in the judgment:

23 (a) The age of the person at the time of committing the offense; and

24 (b) *[That]* **Whether** the person is eligible for a hearing and release under ORS 144.397.

25
26 **CONFORMING AMENDMENTS**
27

28 **SECTION 7.** ORS 163.105 is amended to read:

29 163.105. Notwithstanding the provisions of ORS chapter 144 and ORS 421.450 to 421.490:

30 (1)(a) Except as otherwise provided in ORS 137.707, when a defendant is convicted of aggravated
31 murder as defined by ORS 163.095, the defendant shall be sentenced, pursuant to ORS 163.150, to
32 death, life imprisonment without the possibility of release or parole or life imprisonment.

33 (b) A person sentenced to life imprisonment without the possibility of release or parole under
34 this section shall not have that sentence suspended, deferred or commuted by any judicial officer,
35 and the State Board of Parole and Post-Prison Supervision may not parole the prisoner nor reduce
36 the period of confinement in any manner whatsoever. The Department of Corrections or any execu-
37 tive official may not permit the prisoner to participate in any sort of release or furlough program.

38 (c) If sentenced to life imprisonment, the court shall order that the defendant shall be confined
39 for a minimum of 30 years without possibility of parole, *[or release to post-prison supervision except*
40 *as provided in ORS 144.397, and without the possibility of]* release on work release or any form of
41 temporary leave or employment at a forest or work camp.

42 (2) At any time after completion of a minimum period of confinement pursuant to subsection
43 (1)(c) of this section, the State Board of Parole and Post-Prison Supervision, upon the petition of a
44 prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated
45 within a reasonable period of time. The sole issue is whether or not the prisoner is likely to be re-

1 habilitated within a reasonable period of time. At the hearing, the prisoner has:

2 (a) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation
3 within a reasonable period of time;

4 (b) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented
5 by legal counsel, appointed by the board, at board expense; and

6 (c) The right to a subpoena upon a showing of the general relevance and reasonable scope of
7 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by
8 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

9 (3) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
10 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
11 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
12 confinement should be changed to life imprisonment with the possibility of parole, release to post-
13 prison supervision or work release, it shall enter an order to that effect and the order shall convert
14 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
15 to post-prison supervision or work release and may set a release date. Otherwise the board shall
16 deny the relief sought in the petition.

17 (4) If the board denies the relief sought in the petition, the board shall determine the date of the
18 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS
19 144.285.

20 (5) The board's final order shall be accompanied by findings of fact and conclusions of law. The
21 findings of fact shall consist of a concise statement of the underlying facts supporting the findings
22 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

23 **SECTION 8.** ORS 163.107 is amended to read:

24 163.107. (1) "Murder in the first degree" means murder in the second degree as defined in ORS
25 163.115 which is committed under, or accompanied by, any of the following circumstances:

26 (a) The defendant committed the murder pursuant to an agreement that the defendant receive
27 money or other thing of value for committing the murder.

28 (b) The defendant solicited another to commit the murder and paid or agreed to pay the person
29 money or other thing of value for committing the murder.

30 (c) The defendant committed murder after having been convicted previously in any jurisdiction
31 of any homicide, the elements of which constitute the crime of aggravated murder as defined in ORS
32 163.095, murder in the first degree under this section, murder in the second degree as defined in
33 ORS 163.115 or manslaughter in the first degree as defined in ORS 163.118.

34 (d) There was more than one murder victim in the same criminal episode as defined in ORS
35 131.505.

36 (e) The homicide occurred in the course of or as a result of intentional maiming or torture of
37 the victim.

38 (f) The victim of the intentional homicide was a person under the age of 14 years.

39 (g) The victim was one of the following and the murder was related to the performance of the
40 victim's official duties in the justice system:

41 (A) A police officer as defined in ORS 181A.355;

42 (B) A correctional, parole and probation officer or other person charged with the duty of cus-
43 tody, control or supervision of convicted persons;

44 (C) A member of the Oregon State Police;

45 (D) A judicial officer as defined in ORS 1.210;

1 (E) A juror or witness in a criminal proceeding;

2 (F) An employee or officer of a court of justice;

3 (G) A member of the State Board of Parole and Post-Prison Supervision; or

4 (H) A regulatory specialist.

5 (h) The defendant was confined in a state, county or municipal penal or correctional facility or
6 was otherwise in custody when the murder occurred.

7 (i) The defendant committed murder by means of an explosive as defined in ORS 164.055.

8 (j) Notwithstanding ORS 163.115 (1)(b), the defendant personally and intentionally committed the
9 homicide under the circumstances set forth in ORS 163.115 (1)(b).

10 (k) The murder was committed in an effort to conceal the commission of a crime, or to conceal
11 the identity of the perpetrator of a crime.

12 (L) The murder was committed after the defendant had escaped from a state, county or municip-
13 al penal or correctional facility and before the defendant had been returned to the custody of the
14 facility.

15 (2)(a) Except as otherwise provided in ORS 163.155 and paragraph (b) of this subsection, the
16 court shall sentence a person convicted of murder in the first degree, who was at least 15 years of
17 age at the time of committing the murder, to life imprisonment. The court shall order that the de-
18 fendant be confined for a minimum of 30 years without possibility of parole or release to post-prison
19 supervision except as provided in ORS 144.397, and without the possibility of release on work re-
20 lease or any form of temporary leave or employment at a forest or work camp.

21 (b) The court may sentence the person to life imprisonment without the possibility of parole [*if*
22 *the person was at least 18 years of age at the time of committing the murder*]. The court shall state
23 on the record the reasons for imposing the sentence. A person sentenced to life imprisonment
24 without the possibility of release or parole under this paragraph shall not have that sentence sus-
25 pended, deferred or commuted by any judicial officer, and the State Board of Parole and Post-Prison
26 Supervision may not parole the prisoner nor reduce the period of confinement in any manner what-
27 soever. The Department of Corrections or any executive official may not permit the prisoner to
28 participate in any sort of release or furlough program.

29 (3)(a) For a person sentenced to life imprisonment, at any time after completion of the minimum
30 period of confinement described in subsection (2)(a) of this section, the State Board of Parole and
31 Post-Prison Supervision, upon the petition of a prisoner so confined, shall hold a hearing to deter-
32 mine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole issue
33 is whether the prisoner is likely to be rehabilitated within a reasonable period of time. At the
34 hearing the prisoner has:

35 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation
36 within a reasonable period of time;

37 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented
38 by legal counsel, appointed by the board, at board expense; and

39 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of
40 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by
41 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

42 (b) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
43 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
44 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
45 confinement should be changed to life imprisonment with the possibility of parole, release to post-

1 prison supervision or work release, it shall enter an order to that effect and the order shall convert
 2 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
 3 to post-prison supervision or work release and may set a release date. Otherwise, the board shall
 4 deny the relief sought in the petition.

5 (c) If the board denies the relief sought in the petition, the board shall determine the date of the
 6 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS
 7 144.285.

8 (d) The board's final order shall be accompanied by findings of fact and conclusions of law. The
 9 findings of fact shall consist of a concise statement of the underlying facts supporting the findings
 10 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

11 **SECTION 9.** ORS 163.115 is amended to read:

12 163.115. (1) Except as provided in ORS 163.095, 163.118 and 163.125, criminal homicide consti-
 13 tutes murder in the second degree:

14 (a) When it is committed intentionally, except that it is an affirmative defense that, at the time
 15 of the homicide, the defendant was under the influence of an extreme emotional disturbance;

16 (b) When it is committed by a person, acting either alone or with one or more persons, who
 17 commits or attempts to commit any of the following crimes and in the course of and in furtherance
 18 of the crime the person is committing or attempting to commit, or during the immediate flight
 19 therefrom, the person, or another participant if there be any, causes the death of a person other
 20 than one of the participants:

- 21 (A) Arson in the first degree as defined in ORS 164.325;
- 22 (B) Criminal mischief in the first degree by means of an explosive as defined in ORS 164.365;
- 23 (C) Burglary in the first degree as defined in ORS 164.225;
- 24 (D) Escape in the first degree as defined in ORS 162.165;
- 25 (E) Kidnapping in the second degree as defined in ORS 163.225;
- 26 (F) Kidnapping in the first degree as defined in ORS 163.235;
- 27 (G) Robbery in the first degree as defined in ORS 164.415;
- 28 (H) Any felony sexual offense in the first degree defined in this chapter;
- 29 (I) Compelling prostitution as defined in ORS 167.017; or
- 30 (J) Assault in the first degree, as defined in ORS 163.185, and the victim is under 14 years of
 31 age, or assault in the second degree, as defined in ORS 163.175 (1)(a) or (b), and the victim is under
 32 14 years of age; or

33 (c) By abuse when a person, recklessly under circumstances manifesting extreme indifference to
 34 the value of human life, causes the death of a child under 14 years of age or a dependent person,
 35 as defined in ORS 163.205, and:

- 36 (A) The person has previously engaged in a pattern or practice of assault or torture of the vic-
 37 tim or another child under 14 years of age or a dependent person; or
- 38 (B) The person causes the death by neglect or maltreatment.

39 (2) An accusatory instrument alleging murder by abuse under subsection (1)(c) of this section
 40 need not allege specific incidents of assault or torture.

41 (3) It is an affirmative defense to a charge of violating subsection (1)(b) of this section that the
 42 defendant:

- 43 (a) Was not the only participant in the underlying crime;
- 44 (b) Did not commit the homicidal act or in any way solicit, request, command, importune, cause
 45 or aid in the commission thereof;

1 (c) Was not armed with a dangerous or deadly weapon;

2 (d) Had no reasonable ground to believe that any other participant was armed with a dangerous
3 or deadly weapon; and

4 (e) Had no reasonable ground to believe that any other participant intended to engage in con-
5 duct likely to result in death.

6 (4) It is an affirmative defense to a charge of violating subsection (1)(c)(B) of this section that
7 the victim was a dependent person who was at least 18 years of age and was under care or treat-
8 ment solely by spiritual means pursuant to the religious beliefs or practices of the dependent person
9 or the guardian of the dependent person.

10 (5) Except as otherwise provided in ORS [144.397 and] 163.155:

11 (a) A person convicted of murder in the second degree, who was at least 15 years of age at the
12 time of committing the murder, shall be punished by imprisonment for life.

13 (b) When a defendant is convicted of murder in the second degree under this section, the court
14 shall order that the defendant shall be confined for a minimum of 25 years without possibility of
15 parole, release to post-prison supervision, release on work release or any form of temporary leave
16 or employment at a forest or work camp.

17 (c) At any time after completion of a minimum period of confinement pursuant to paragraph (b)
18 of this subsection, the State Board of Parole and Post-Prison Supervision, upon the petition of a
19 prisoner so confined, shall hold a hearing to determine if the prisoner is likely to be rehabilitated
20 within a reasonable period of time. The sole issue is whether the prisoner is likely to be rehabili-
21 tated within a reasonable period of time. At the hearing the prisoner has:

22 (A) The burden of proving by a preponderance of the evidence the likelihood of rehabilitation
23 within a reasonable period of time;

24 (B) The right, if the prisoner is without sufficient funds to employ an attorney, to be represented
25 by legal counsel, appointed by the board, at board expense; and

26 (C) The right to a subpoena upon a showing of the general relevance and reasonable scope of
27 the evidence sought, provided that any subpoena issued on behalf of the prisoner must be issued by
28 the State Board of Parole and Post-Prison Supervision pursuant to rules adopted by the board.

29 (d) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
30 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
31 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
32 confinement should be changed to life imprisonment with the possibility of parole, release to post-
33 prison supervision or work release, it shall enter an order to that effect and the order shall convert
34 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
35 to post-prison supervision or work release and may set a release date. Otherwise, the board shall
36 deny the relief sought in the petition.

37 (e) If the board denies the relief sought in the petition, the board shall determine the date of the
38 subsequent hearing, and the prisoner may petition for an interim hearing, in accordance with ORS
39 144.285.

40 (f) The board's final order shall be accompanied by findings of fact and conclusions of law. The
41 findings of fact shall consist of a concise statement of the underlying facts supporting the findings
42 as to each contested issue of fact and as to each ultimate fact required to support the board's order.

43 (6) As used in this section:

44 (a) "Assault" means the intentional, knowing or reckless causation of physical injury to another
45 person. "Assault" does not include the causation of physical injury in a motor vehicle accident that

1 occurs by reason of the reckless conduct of a defendant.

2 (b) "Neglect or maltreatment" means a violation of ORS 163.535, 163.545 or 163.547 or a failure
 3 to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or
 4 welfare of a child under 14 years of age or a dependent person. This paragraph is not intended to
 5 replace or affect the duty or standard of care required under ORS chapter 677.

6 (c) "Pattern or practice" means one or more previous episodes.

7 (d) "Torture" means the intentional infliction of intense physical pain upon an unwilling victim
 8 as a separate objective apart from any other purpose.

9 **SECTION 10.** ORS 163.150 is amended to read:

10 163.150. (1)(a) Upon a finding that the defendant is guilty of aggravated murder, the court, ex-
 11 cept as otherwise provided in subsection (3) of this section, shall conduct a separate sentencing
 12 proceeding to determine whether the defendant shall be sentenced to life imprisonment, as described
 13 in ORS 163.105 (1)(c), life imprisonment without the possibility of release or parole, as described in
 14 ORS 163.105 (1)(b), or death. The proceeding shall be conducted in the trial court before the trial
 15 jury as soon as practicable. If a juror for any reason is unable to perform the function of a juror,
 16 the juror shall be dismissed from the sentencing proceeding. The court shall cause to be drawn the
 17 name of one of the alternate jurors, who shall then become a member of the jury for the sentencing
 18 proceeding notwithstanding the fact that the alternate juror did not deliberate on the issue of guilt.
 19 If the defendant has pleaded guilty, the sentencing proceeding shall be conducted before a jury
 20 impaneled for that purpose. In the proceeding, evidence may be presented as to any matter that the
 21 court deems relevant to sentence including, but not limited to, victim impact evidence relating to
 22 the personal characteristics of the victim or the impact of the crime on the victim's family and any
 23 aggravating or mitigating evidence relevant to the issue in paragraph (b)(C) of this subsection;
 24 however, neither the state nor the defendant shall be allowed to introduce repetitive evidence that
 25 has previously been offered and received during the trial on the issue of guilt. The court shall in-
 26 struct the jury that all evidence previously offered and received may be considered for purposes of
 27 the sentencing hearing. This paragraph shall not be construed to authorize the introduction of any
 28 evidence secured in violation of the Constitution of the United States or of the State of Oregon. The
 29 state and the defendant or the counsel of the defendant shall be permitted to present arguments for
 30 or against a sentence of death and for or against a sentence of life imprisonment with or without
 31 the possibility of release or parole.

32 (b) Upon the conclusion of the presentation of the evidence, the court shall submit the following
 33 issues to the jury:

34 (A) Whether the conduct of the defendant that caused the death of the deceased was committed
 35 deliberately and with the reasonable expectation that death of the deceased or another would result;

36 (B) If raised by the evidence, whether the conduct of the defendant in killing the deceased was
 37 unreasonable in response to the provocation, if any, by the deceased; and

38 (C) Whether the defendant should receive a death sentence.

39 (c)(A) The court shall instruct the jury to consider, in determining the issues in paragraph (b)
 40 of this subsection, any mitigating circumstances offered in evidence, including but not limited to the
 41 defendant's age, the extent and severity of the defendant's prior criminal conduct and the extent of
 42 the mental and emotional pressure under which the defendant was acting at the time the offense
 43 was committed.

44 (B) The court shall instruct the jury to answer the question in paragraph (b)(C) of this sub-
 45 section "no" if, after considering any aggravating evidence and any mitigating evidence concerning

1 any aspect of the defendant's character or background, or any circumstances of the offense and any
 2 victim impact evidence as described in paragraph (a) of this subsection, one or more of the jurors
 3 believe that the defendant should not receive a death sentence.

4 (d) The state must prove each issue submitted under paragraph (b) of this subsection beyond a
 5 reasonable doubt, and the jury shall return a special verdict of "yes" or "no" on each issue con-
 6 sidered.

7 (e) The court shall charge the jury that it may not answer any issue "yes," under paragraph (b)
 8 of this subsection unless it agrees unanimously.

9 (f) If the jury returns an affirmative finding on each issue considered under paragraph (b) of this
 10 subsection, the trial judge shall sentence the defendant to death.

11 (2)(a) Upon the conclusion of the presentation of the evidence, the court shall also instruct the
 12 jury that if it reaches a negative finding on any issue under subsection (1)(b) of this section, the trial
 13 court shall sentence the defendant to life imprisonment without the possibility of release or parole,
 14 as described in ORS 163.105 (1)(b), unless 10 or more members of the jury further find that there are
 15 sufficient mitigating circumstances to warrant life imprisonment, in which case the trial court shall
 16 sentence the defendant to life imprisonment as described in ORS 163.105 (1)(c).

17 (b) If the jury returns a negative finding on any issue under subsection (1)(b) of this section and
 18 further finds that there are sufficient mitigating circumstances to warrant life imprisonment, the
 19 trial court shall sentence the defendant to life imprisonment in the custody of the Department of
 20 Corrections as provided in ORS 163.105 (1)(c).

21 (3)(a) When the defendant is found guilty of aggravated murder, and ORS 137.707 [(2)] **(1)(d)**
 22 applies or the state advises the court on the record that the state declines to present evidence for
 23 purposes of sentencing the defendant to death, the court:

24 (A) Shall not conduct a sentencing proceeding as described in subsection (1) of this section, and
 25 a sentence of death shall not be ordered.

26 (B) Shall conduct a sentencing proceeding to determine whether the defendant shall be sen-
 27 tenced to life imprisonment without the possibility of release or parole as described in ORS 163.105
 28 (1)(b) or life imprisonment as described in ORS 163.105 (1)(c). If the defendant waives all rights to
 29 a jury sentencing proceeding, the court shall conduct the sentencing proceeding as the trier of fact.
 30 The procedure for the sentencing proceeding, whether before a court or a jury, shall follow the
 31 procedure of subsection (1)(a) of this section, as modified by this subsection. In the proceeding,
 32 evidence may be presented as to any matter that the court deems relevant to sentence, including,
 33 but not limited to, victim impact evidence relating to the personal characteristics of the victim or
 34 the impact of the crime on the victim's family.

35 (b) Following the presentation of evidence and argument under paragraph (a) of this subsection,
 36 the court shall instruct the jury that the trial court shall sentence the defendant to life
 37 imprisonment without the possibility of release or parole as described in ORS 163.105 (1)(b), unless
 38 after considering all of the evidence submitted, 10 or more members of the jury find there are suf-
 39 ficient mitigating circumstances to warrant life imprisonment with the possibility of parole as de-
 40 scribed in ORS 163.105 (1)(c). If 10 or more members of the jury find there are sufficient mitigating
 41 circumstances to warrant life imprisonment with the possibility of parole, the trial court shall sen-
 42 tence the defendant to life imprisonment as described in ORS 163.105 (1)(c).

43 (c) Nothing in this subsection shall preclude the court from sentencing the defendant to life
 44 imprisonment, as described in ORS 163.105 (1)(c), or life imprisonment without the possibility of re-
 45 lease or parole, as described in ORS 163.105 (1)(b), pursuant to a stipulation of sentence or stipu-

1 lation of sentencing facts agreed to and offered by both parties if the defendant waives all rights to
 2 a jury sentencing proceeding.

3 (4) If any part of subsection (2) of this section is held invalid and as a result thereof a defendant
 4 who has been sentenced to life imprisonment without possibility of release or parole will instead be
 5 sentenced to life imprisonment in the custody of the Department of Corrections as provided in ORS
 6 163.105 (2), the defendant shall be confined for a minimum of 30 years without possibility of parole,
 7 release on work release or any form of temporary leave or employment at a forest or work camp.
 8 Subsection (2) of this section shall apply only to trials commencing on or after July 19, 1989.

9 (5) Notwithstanding subsection (1)(a) of this section, if the trial court grants a mistrial during
 10 the sentencing proceeding, the trial court, at the election of the state, shall either:

11 (a) Sentence the defendant to imprisonment for life in the custody of the Department of Cor-
 12 rections as provided in ORS 163.105 (1)(c); or

13 (b) Impanel a new sentencing jury for the purpose of conducting a new sentencing proceeding
 14 to determine if the defendant should be sentenced to:

15 (A) Death;

16 (B) Imprisonment for life without the possibility of release or parole as provided in ORS 163.105
 17 (1)(b); or

18 (C) Imprisonment for life in the custody of the Department of Corrections as provided in ORS
 19 163.105 (1)(c).

20 **SECTION 11.** ORS 163.155 is amended to read:

21 163.155. (1) When a defendant, who was at least 15 years of age at the time of committing the
 22 murder, is convicted of murdering a pregnant victim under ORS 163.115 (1)(a) and the defendant
 23 knew that the victim was pregnant, the defendant shall be sentenced to life imprisonment without
 24 the possibility of release or parole *[if the person was at least 18 years of age at the time of committing*
 25 *the offense]* or to life imprisonment. The court shall conduct a sentencing proceeding to determine
 26 whether the defendant shall be sentenced to life imprisonment without the possibility of release or
 27 parole as described in subsection (4) of this section or to life imprisonment as described in sub-
 28 section (5) of this section. If the defendant waives all rights to a jury sentencing proceeding, the
 29 court shall conduct the sentencing proceeding as the trier of fact. The procedure for the sentencing
 30 proceeding, whether before a court or a jury, shall follow the procedure of ORS 163.150 (1)(a), as
 31 modified by this section.

32 (2) Following the presentation of evidence and argument under subsection (1) of this section, the
 33 court shall instruct the jury that the trial court shall sentence the defendant to life imprisonment
 34 without the possibility of release or parole as described in subsection (4) of this section, unless after
 35 considering all of the evidence submitted, 10 or more members of the jury find there are sufficient
 36 mitigating circumstances to warrant life imprisonment with the possibility of release or parole as
 37 described in subsection (5) of this section. If 10 or more members of the jury do not find there are
 38 sufficient mitigating circumstances to warrant life imprisonment with the possibility of release or
 39 parole, the trial court shall sentence the defendant to life imprisonment without the possibility of
 40 release or parole as described in subsection (4) of this section. If 10 or more members of the jury
 41 find there are sufficient mitigating circumstances to warrant life imprisonment with the possibility
 42 of release or parole, the trial court shall sentence the defendant to life imprisonment as described
 43 in subsection (5) of this section.

44 (3) Nothing in this section precludes the court from sentencing the defendant to life
 45 imprisonment, as described in subsection (5) of this section, or life imprisonment without the possi-

1 bility of release or parole, as described in subsection (4) of this section, pursuant to a stipulation
 2 of sentence or stipulation of sentencing facts agreed to and offered by both parties if the defendant
 3 waives all rights to a jury sentencing proceeding.

4 (4) A sentence of life imprisonment without the possibility of release or parole under this section
 5 may not be suspended, deferred or commuted by any judicial officer, and the State Board of Parole
 6 and Post-Prison Supervision may neither parole the prisoner nor reduce the period of confinement
 7 in any manner whatsoever. The Department of Corrections or any executive official may not permit
 8 the prisoner to participate in any sort of release or furlough program.

9 (5) If the defendant is sentenced to life imprisonment, the court shall order that the defendant
 10 be confined for a minimum of 30 years without possibility of parole, [or] release to post-prison
 11 supervision, [except as provided in ORS 144.397, and without the possibility of] release on work re-
 12 lease or any form of temporary leave or employment at a forest or work camp.

13 (6) At any time after completion of the minimum period of confinement pursuant to subsection
 14 (5) of this section, the board, upon the petition of a prisoner so confined, shall hold a hearing to
 15 determine if the prisoner is likely to be rehabilitated within a reasonable period of time. The sole
 16 issue shall be whether the prisoner is likely to be rehabilitated within a reasonable period of time.
 17 The proceeding shall be conducted in the manner prescribed for a contested case hearing under ORS
 18 chapter 183, except that:

19 (a) The prisoner has the burden of proving by a preponderance of the evidence the likelihood
 20 of rehabilitation within a reasonable period of time;

21 (b) The prisoner has the right, if the prisoner is without sufficient funds to employ an attorney,
 22 to be represented by legal counsel, appointed by the board, at board expense; and

23 (c) The prisoner has the right to a subpoena upon a showing of the general relevance and rea-
 24 sonable scope of the evidence sought, provided that any subpoena issued on behalf of the prisoner
 25 must be issued by the board pursuant to rules adopted by the board.

26 (7) If, upon hearing all of the evidence, the board, upon a unanimous vote of three board mem-
 27 bers or, if the chairperson requires all voting members to participate, a unanimous vote of all voting
 28 members, finds that the prisoner is capable of rehabilitation and that the terms of the prisoner's
 29 confinement should be changed to life imprisonment with the possibility of parole, release on post-
 30 prison supervision or work release, it shall enter an order to that effect and the order shall convert
 31 the terms of the prisoner's confinement to life imprisonment with the possibility of parole, release
 32 on post-prison supervision or work release and may set a release date. Otherwise the board shall
 33 deny the relief sought in the petition.

34 (8) Not less than two years after the denial of the relief sought in a petition under this section,
 35 the prisoner may petition again for a change in the terms of confinement. Further petitions for a
 36 change may be filed at intervals of not less than two years thereafter.

37 **SECTION 12.** ORS 163A.130 is amended to read:

38 163A.130. (1) A person required to report as a sex offender under ORS 163A.025 (1)(a), (b) or (c),
 39 or required to report as a sex offender under the laws of another state as a result of an adjudication
 40 in an Oregon juvenile court, may file a petition for an order relieving the person of the obligation
 41 to report. If the person resides:

42 (a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be
 43 filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

44 (b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed
 45 in the juvenile court in the county in which the person attends school or works.

1 (c) In another state and is required to report under the laws of the other state, the petition must
 2 be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

3 (2) If the act giving rise to the obligation to report would constitute:

4 (a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed
 5 no sooner than two years after the termination of juvenile court jurisdiction over the person or, if
 6 the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than
 7 two years after the person is discharged from the jurisdiction of the board.

8 (b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than
 9 30 days before the termination of juvenile court jurisdiction over the person or, if the person is
 10 placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days be-
 11 fore the person is discharged from the jurisdiction of the board.

12 (3)(a) The juvenile court in which a petition under this section is filed may transfer the matter
 13 to the juvenile court of the county that last supervised the person if the court determines that the
 14 convenience of the parties, the victim and witnesses require the transfer.

15 (b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

16 (c) The person, the district attorney and the juvenile department are parties to a hearing on a
 17 petition filed under this section.

18 (4) The person filing the petition has the burden of proving by clear and convincing evidence
 19 that the person is rehabilitated and does not pose a threat to the safety of the public. In determining
 20 whether the person has met the burden of proof, the juvenile court may consider but need not be
 21 limited to considering:

22 (a) The extent and impact of any physical or emotional injury to the victim;

23 (b) The nature of the act that subjected the person to the obligation of reporting as a sex
 24 offender;

25 (c) Whether the person used or threatened to use force in committing the act;

26 (d) Whether the act was premeditated;

27 (e) Whether the person took advantage of a position of authority or trust in committing the act;

28 (f) The age of any victim at the time of the act, the age difference between any victim and the
 29 person and the number of victims;

30 (g) The vulnerability of the victim;

31 (h) Other acts committed by the person that would be crimes if committed by an adult and
 32 criminal activities engaged in by the person before and after the adjudication;

33 (i) Statements, documents and recommendations by or on behalf of the victim or the parents of
 34 the victim;

35 (j) The person's willingness to accept personal responsibility for the act and personal account-
 36 ability for the consequences of the act;

37 (k) The person's ability and efforts to pay the victim's expenses for counseling and other
 38 trauma-related expenses or other efforts to mitigate the effects of the act;

39 (L) Whether the person has participated in and satisfactorily completed a sex offender treatment
 40 program or any other intervention, and if so the juvenile court may also consider:

41 (A) The availability, duration and extent of the treatment activities;

42 (B) Reports and recommendations from the providers of the treatment;

43 (C) The person's compliance with court, board or supervision requirements regarding treatment;
 44 and

45 (D) The quality and thoroughness of the treatment program;

- 1 (m) The person’s academic and employment history;
- 2 (n) The person’s use of drugs or alcohol before and after the adjudication;
- 3 (o) The person’s history of public or private indecency;
- 4 (p) The person’s compliance with and success in completing the terms of supervision;
- 5 (q) The results of psychological examinations of the person;
- 6 (r) The protection afforded the public by the continued existence of the records; and
- 7 (s) Any other relevant factors.

8 (5) In a hearing under this section, the juvenile court may receive testimony, reports and other
 9 evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and
 10 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this
 11 section. As used in this subsection, “relevant evidence” has the meaning given that term in ORS
 12 40.150.

13 (6) When a petition is filed under this section, the state has the right to have a psychosexual
 14 evaluation of the person conducted. The state shall file notice with the juvenile court of its intention
 15 to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile
 16 court for good cause shown may direct the state to select a different evaluator.

17 (7) As soon as practicable after a petition has been filed under this section, the district attorney
 18 or juvenile department shall make a reasonable effort to notify the victim of the crime that the
 19 person has filed a petition seeking relief under this section and, if the victim has requested, to in-
 20 form the victim of the date, time and place of a hearing on the petition in advance of the hearing.

21 (8)(a) When a petition filed under this section is filed:

22 (A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security
 23 Review Board or less than three years after the date the jurisdiction is terminated, the court shall
 24 hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

25 (B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the
 26 court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

27 (b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court
 28 may extend the period of time in which a hearing on the petition must be held.

29 (9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated
 30 and does not pose a threat to the safety of the public, the court shall grant the petition.

31 (b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed
 32 under this section before the date the juvenile court or board jurisdiction over the person is termi-
 33 nated.

34 (10) When a juvenile court enters an order relieving a person of the requirement to report under
 35 ORS 163A.025, the person shall send a certified copy of the juvenile court order to the Department
 36 of State Police.

37 (11) If a person commits an act for which the person could be **charged as a sex crime listed**
 38 **in ORS 137.707 or** waived under ORS 419C.349 (1)(a) and the person is 15, 16 or 17 years of age at
 39 the time the act is committed, the state and the person may stipulate that the person may not pe-
 40 tition for relief under this section as part of an agreement that the **person be subject to the ju-**
 41 **risdiction of the juvenile court rather than being prosecuted as an adult under ORS 137.707,**
 42 **or that the** state not file a motion requesting waiver under ORS 419C.349 (1)(a).

43 (12) When a petition is filed under subsection (2)(b) of this section before the termination of ju-
 44 venile court or board jurisdiction, the court shall appoint suitable counsel to represent the person
 45 for purposes of the petition described in this section if the appointment of counsel is requested by

1 the person or, if the person is under 18 years of age, by the parent or guardian of the person. Ap-
 2 pointment of counsel under this subsection is subject to ORS 419C.200, 419C.206 and 419C.209.

3 **SECTION 13.** ORS 163A.135 is amended to read:

4 163A.135. (1) Except as provided in subsection (7) of this section, a person required to report
 5 under ORS 163A.025 (1)(d) may file a petition in the juvenile court for an order relieving the person
 6 of the duty to report. If the person resides:

7 (a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be
 8 filed in the juvenile court of the county in which the person resides.

9 (b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed
 10 in the juvenile court of the county in which the person attends school or works.

11 (2) If the act giving rise to the obligation to report would constitute:

12 (a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition
 13 may be filed no sooner than two years after the termination of the other United States court's ju-
 14 risdiction over the person.

15 (b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed
 16 no sooner than 30 days before the termination of the other United States court's jurisdiction over
 17 the person.

18 (3) The person filing the petition must submit with the petition all releases and waivers neces-
 19 sary to allow the district attorney for the county in which the petition is filed to obtain the fol-
 20 lowing documents from the jurisdiction in which the person was adjudicated for the act for which
 21 reporting is required:

22 (a) The juvenile court petition;

23 (b) The dispositional report to the court;

24 (c) The order of adjudication or jurisdiction;

25 (d) Any other relevant court documents;

26 (e) The police report relating to the act for which reporting is required;

27 (f) The order terminating jurisdiction for the act for which reporting is required; and

28 (g) The evaluation and treatment records or reports of the person that are related to the act for
 29 which reporting is required.

30 (4) A person filing a petition under this section has the burden of proving by clear and con-
 31 vincing evidence that the person is rehabilitated and does not pose a threat to the safety of the
 32 public.

33 (5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the
 34 petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

35 (6) If a person who files a petition under this section is required to report as a sex offender for
 36 having committed an act that if committed in this state could have subjected the person to **prose-**
 37 **cution as an adult under ORS 137.707 or** waiver under ORS 419C.349 (1)(a), the court may not
 38 grant the petition notwithstanding the fact that the person has met the burden of proof established
 39 in subsection (4) of this section unless the court determines that to do so is in the interest of public
 40 safety.

41 (7) This section does not apply to a person who is required to register as a sex offender for life
 42 in the jurisdiction in which the offense occurred.

43 (8) In a hearing under this section, the court may receive testimony, reports and other evidence
 44 without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to
 45 40.585 if the evidence is relevant to the determination and findings required under this section. As

1 used in this subsection, “relevant evidence” has the meaning given that term in ORS 40.150.

2 (9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and
 3 that the person does not pose a threat to the safety of the public, the court shall enter an order
 4 relieving the person of the duty to report. When the court enters an order under this subsection, the
 5 person shall send a certified copy of the court order to the Department of State Police.

6 **SECTION 14.** ORS 339.317 is amended to read:

7 339.317. (1)(a) No later than five days after a person under 18 years of age is **charged with a**
 8 **crime under ORS 137.707 or** waived under ORS 419C.349, 419C.352 or 419C.364, the district attor-
 9 ney or city attorney, if the person is waived to municipal court or, in the case of a juvenile de-
 10 partment that has agreed to be responsible for providing the notice required under this section, the
 11 juvenile department shall give notice of the charge to the school administrator of the school at-
 12 tended by the person or to the school administrator of the school district in which the person re-
 13 sides. For purposes of this section, “school administrator” has the meaning given that term in ORS
 14 419A.305.

15 (b) The district attorney, city attorney or juvenile department shall include in the notice the
 16 following:

- 17 (A) The crime with which the person is charged;
- 18 (B) The name and date of birth of the person;
- 19 (C) The names and addresses of the person’s parents or guardians;
- 20 (D) The name and contact information of the attorney for the person, if known;
- 21 (E) The name and contact information of the individual to contact for further information about
 22 the notice;
- 23 (F) Any conditions of release or terms of probation; and
- 24 (G) Any other conditions required by the court.

25 (2) A person who sends records under this section is not civilly or criminally liable for failing
 26 to disclose the information under this section.

27 **SECTION 15.** ORS 339.319 is amended to read:

28 339.319. (1)(a) When a person under 18 years of age is convicted of a crime **under ORS 137.707**
 29 **or** following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 (1)(b), the agency super-
 30 vising the person or, in the case of a juvenile department that has agreed to be responsible for
 31 providing the notice required under this section, the juvenile department shall give notice of the
 32 conviction within five days following sentencing to the school administrator of the school attended
 33 by the person or to the school administrator of the school district in which the person resides. For
 34 purposes of this section, “school administrator” has the meaning given that term in ORS 419A.305.

35 (b) The agency supervising the person or the juvenile department shall include in the notice:

- 36 (A) The name and date of birth of the person;
- 37 (B) The names and addresses of the person’s parents or guardians;
- 38 (C) The crime of conviction;
- 39 (D) The sentence imposed;
- 40 (E) The name and contact information of the attorney for the person, if known;
- 41 (F) The name and contact information of the individual to contact for further information about
 42 the notice;
- 43 (G) Any conditions of release or terms of probation including, but not limited to, whether school
 44 attendance is a condition of the release; and
- 45 (H) Any other conditions required by the court.

1 (2) An agency supervising a person or anyone employed by or acting on behalf of an agency
 2 supervising a person who sends records under this section is not civilly or criminally liable for
 3 failing to disclose the information under this section.

4 **SECTION 16.** ORS 339.321 is amended to read:

5 339.321. (1) No later than 15 days before the release or discharge of a person committed to the
 6 legal custody of the Department of Corrections or the supervisory authority of a county **under ORS**
 7 **137.707 or** following waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370, the department
 8 or supervisory authority or, in the case of a juvenile department that has agreed to be responsible
 9 for providing the notice required under this section, the juvenile department shall notify the fol-
 10 lowing of the release or discharge if the person is under 21 years of age at the time of the release:

11 (a) Law enforcement agencies in the community in which the person is going to reside; and

12 (b) The school administrator of the school the person will attend or the school administrator of
 13 the school district in which the person will reside.

14 (2) The department, supervisory authority or the juvenile department shall include in the no-
 15 tification:

16 (a) The name and date of birth of the person;

17 (b) The date of release or discharge;

18 (c) The person's address;

19 (d) The names and addresses of the person's parents or guardians;

20 (e) The name and contact information of the attorney for the person, if known;

21 (f) The name and contact information of the individual to contact for further information about
 22 the notice;

23 (g) Any conditions of release or terms of probation including, but not limited to, the type of
 24 supervision under which the person is released and whether school attendance is a condition of re-
 25 lease; and

26 (h) Any other conditions required by the court.

27 (3) The department, supervisory authority or anyone employed by or acting on behalf of the
 28 department or supervisory authority who sends records under this section is not civilly or criminally
 29 liable for failing to disclose the information under this section.

30 (4) As used in this section, "school administrator" has the meaning given that term in ORS
 31 419A.305.

32 **SECTION 17.** ORS 419C.005 is amended to read:

33 419C.005. (1) **Except as otherwise provided in ORS 137.705 and 137.707**, the juvenile court
 34 has exclusive original jurisdiction in any case involving a person who is under 18 years of age and
 35 who has committed an act that is a violation, or that if done by an adult would constitute a vio-
 36 lation, of a law or ordinance of the United States or a state, county or city.

37 (2) The provisions of subsection (1) of this section do not prevent a court of competent juris-
 38 diction from entertaining a civil action or suit involving a youth.

39 (3) The court does not have jurisdiction as provided in subsection (1) of this section after a mi-
 40 nor has been emancipated pursuant to ORS 419B.550 to 419B.558.

41 (4) The court's jurisdiction over a person under this section or ORS 419C.067 continues until
 42 one of the following occurs:

43 (a) The court dismisses a petition filed under this chapter or waives the case under ORS
 44 419C.340. If jurisdiction is based on a previous adjudication, then dismissal or waiver of a later case
 45 does not terminate jurisdiction under the previous case unless the court so orders.

1 (b) The court transfers jurisdiction of the case as provided in ORS 419C.053, 419C.056 and
2 419C.059.

3 (c) The court enters an order terminating jurisdiction.

4 (d) The person becomes 25 years of age.

5 (e) The court places the person under the jurisdiction of the Psychiatric Security Review Board
6 as provided in ORS 419C.529. If the court also has jurisdiction over the person based on a previous
7 adjudication under this chapter or ORS chapter 419B, placing a person under the jurisdiction of the
8 board in a later case does not terminate wardship under the previous case unless the court so or-
9 ders.

10 **SECTION 18.** ORS 419C.050 is amended to read:

11 419C.050. **Except as otherwise provided in ORS 137.707**, if during the pendency of a proceed-
12 ing involving an allegation of a crime in any court other than a juvenile court it is ascertained that
13 the age of the person who is the subject of the proceeding is such that the matter is within the
14 exclusive jurisdiction of the juvenile court, it is the duty of the court in which the proceeding is
15 pending to transfer the proceeding to the juvenile court of the county in which the proceeding is
16 pending. The clerk of the court transferring the proceeding shall notify the clerk of the juvenile
17 court of the transfer.

18
19 **CAPTIONS**

20
21 **SECTION 19.** **The unit captions used in this 2025 Act are provided only for the conven-**
22 **ience of the reader and do not become part of the statutory law of this state or express any**
23 **legislative intent in the enactment of this 2025 Act.**

24
25 **APPLICABILITY**

26
27 **SECTION 20.** **The amendments to ORS 137.705, 137.707, 161.740, 163.105, 163.107, 163.115,**
28 **163.150, 163.155, 163A.130, 163A.135, 339.317, 339.319, 339.321, 419C.005, 419C.050, 419C.349 and**
29 **420A.203 by sections 1 to 18 of this 2025 Act apply to conduct constituting or alleged to con-**
30 **stitute an offense occurring on or after the effective date of this 2025 Act.**