

SENATE AMENDMENTS TO SENATE BILL 133

By COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

April 22

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

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3 **“PAROLE**

4
5 **“SECTION 6.** ORS 420A.115 is amended to read:

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

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

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

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

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

18 **“(b) When making a disclosure permitted under paragraph (a) of this subsection, the**
19 **youth authority may disclose:**

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

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

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

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

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

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

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

29 **“[(2)] (3)** The Director of the Oregon Youth Authority shall determine whether violations of
30 conditions of parole have occurred.

31
32 **“WAIVER DECISIONS**

33
34 **“SECTION 7.** ORS 419C.349 is amended to read:

35 **“419C.349. (1)** Except as otherwise provided in ORS 419C.364 or 419C.370, the juvenile court

1 shall conduct a waiver hearing when:

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

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

9 “(A) A Class A or Class B felony;

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

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

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

13 “(iii) Coercion under ORS 163.275 (1)(a);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 “(b) **Notwithstanding ORS 419A.255, the district attorney may provide to the victim, at**
42 **the request of the victim and pursuant to a protective order, a copy of the court’s written**
43 **waiver findings and determination, if any, regardless of whether the victim appeared at the**
44 **hearing or presented information to the court.**

45 “(4) The right to counsel, and the appointment of counsel under ORS 419C.200, applies to a

1 hearing under this section.

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

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

6 “419C.352. (1) The juvenile court, after a hearing, except as provided in ORS 419C.364 or
7 419C.370, may waive a youth under 15 years of age at the time the act was committed to circuit
8 court for prosecution as an adult if:

9 “[1] (a) The youth is represented by counsel during the waiver proceedings;

10 “[2] (b) The juvenile court makes the findings required under ORS 419C.349 (2); and

11 “[3] (c) The youth is alleged to have committed an act or acts that if committed by an adult
12 would constitute one or more of the following crimes:

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

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

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

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

17 “(2) **Notwithstanding ORS 419A.255, the district attorney may provide to the victim, at**
18 **the request of the victim and pursuant to a protective order, a copy of the court’s written**
19 **waiver findings and determination, if any, regardless of whether the victim appeared at the**
20 **hearing or presented information to the court.**

21
22 “UNIT CAPTIONS

23
24 “**SECTION 9.** **The unit captions used in this 2021 Act are provided only for the conven-**
25 **ience of the reader and do not become part of the statutory law of this state or express any**
26 **legislative intent in the enactment of this 2021 Act.”.**