

# House Bill 3338

Sponsored by Representative GREENLICK

## 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**.

Requires Director of Oregon Youth Authority to request hearing before transferring or returning to Department of Corrections physical custody of person or youth whose physical custody had been transferred to Oregon Youth Authority. Specifies requirements for notice and hearing procedure.

## A BILL FOR AN ACT

1  
2 Relating to youth transferred to physical custody of the Department of Corrections; creating new  
3 provisions; and amending ORS 137.124, 183.315, 420.011, 420A.010, 420A.200 and 420A.203.

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

5 **SECTION 1.** ORS 137.124, as amended by section 1, chapter 31, Oregon Laws 2014, is amended  
6 to read:

7 137.124. (1) If the court imposes a sentence upon conviction of a felony that includes a term of  
8 incarceration that exceeds 12 months:

9 (a) The court shall not designate the correctional facility in which the defendant is to be con-  
10 fined but shall commit the defendant to the legal and physical custody of the Department of Cor-  
11 rections; and

12 (b) If the judgment provides that the term of incarceration be served consecutively to a term  
13 of incarceration of 12 months or less that was imposed in a previous proceeding by a court of this  
14 state upon conviction of a felony, the defendant shall serve any remaining part of the previously  
15 imposed term of incarceration in the legal and physical custody of the Department of Corrections.

16 (2)(a) If the court imposes a sentence upon conviction of a felony that includes a term of  
17 incarceration that is 12 months or less, the court shall commit the defendant to the legal and  
18 physical custody of the supervisory authority of the county in which the crime of conviction oc-  
19 curred.

20 (b) Notwithstanding paragraph (a) of this subsection, when the court imposes a sentence upon  
21 conviction of a felony that includes a term of incarceration that is 12 months or less, the court shall  
22 commit the defendant to the legal and physical custody of the Department of Corrections if the court  
23 orders that the term of incarceration be served consecutively to a term of incarceration that ex-  
24 ceeds 12 months that was imposed in a previous proceeding or in the same proceeding by a court  
25 of this state upon conviction of a felony.

26 (3) After assuming custody of the convicted person the Department of Corrections may transfer  
27 inmates from one correctional facility to another such facility for the purposes of diagnosis and  
28 study, rehabilitation and treatment, as best seems to fit the needs of the inmate and for the pro-  
29 tection and welfare of the community and the inmate.

30 (4) If the court imposes a sentence of imprisonment upon conviction of a misdemeanor, it shall

**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 commit the defendant to the custody of the supervisory authority of the county in which the crime  
2 of conviction occurred.

3 (5)(a) When a person under 18 years of age at the time of committing the offense and under 20  
4 years of age at the time of sentencing is committed to the Department of Corrections under ORS  
5 137.707, the Department of Corrections shall transfer the physical custody of the person to the  
6 Oregon Youth Authority as provided in ORS 420.011 if:

7 (A) The person will complete the sentence imposed before the person attains 25 years of age;  
8 or

9 (B) The Department of Corrections and the Oregon Youth Authority determine that, because of  
10 the person's age, immaturity, mental or emotional condition or risk of physical harm to the person,  
11 the person should not be incarcerated initially in a Department of Corrections institution.

12 (b) A person placed in the custody of the Oregon Youth Authority under this subsection [*shall*]  
13 **may** be returned to the physical custody of the Department of Corrections [*whenever the Director*  
14 *of the Oregon Youth Authority, after consultation with the Department of Corrections, determines that*  
15 *the conditions or circumstances that warranted the transfer of custody under this subsection are no*  
16 *longer present*] **under the circumstances described in and in accordance with the provisions**  
17 **of section 2 of this 2015 Act.**

18 (c) Notwithstanding ORS 137.320, the sheriff may by agreement with the Department of Cor-  
19 rections transfer the person described in this subsection directly to a youth correction facility for  
20 physical custody without first delivering the person to the Department of Corrections. As part of the  
21 agreement with the Department of Corrections, the sheriff may designate the county juvenile de-  
22 partment or the Oregon Youth Authority to conduct the direct transfer described in this paragraph  
23 if the sheriff has entered into a written agreement with the county juvenile department, the Oregon  
24 Youth Authority, or both, to provide the direct transfer.

25 (6)(a) When a person under 18 years of age at the time of committing the offense and under 20  
26 years of age at the time of sentencing is committed to the legal and physical custody of the De-  
27 partment of Corrections or the supervisory authority of a county following waiver under ORS  
28 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or  
29 137.712, the Department of Corrections or the supervisory authority of a county shall transfer the  
30 person to the physical custody of the Oregon Youth Authority for placement as provided in ORS  
31 420.011 (3). The terms and conditions of the person's incarceration and custody are governed by ORS  
32 420A.200 to 420A.206. Notwithstanding ORS 137.320, the sheriff may by agreement with the Depart-  
33 ment of Corrections or the supervisory authority of a county transfer the person described in this  
34 subsection directly to a youth correction facility for physical custody without first delivering the  
35 person to the Department of Corrections or supervisory authority of the county. As part of the  
36 agreement with the Department of Corrections or supervisory authority of the county, the sheriff  
37 may designate the county juvenile department or the Oregon Youth Authority to conduct the direct  
38 transfer described in this paragraph if the sheriff has entered into a written agreement with the  
39 county juvenile department, the Oregon Youth Authority, or both, to provide the direct transfer.

40 (b) Notwithstanding ORS 137.320, when a person under 16 years of age is waived under ORS  
41 419C.349, 419C.352, 419C.364 or 419C.370 and subsequently is sentenced to a term of imprisonment  
42 in the county jail, the sheriff shall transfer the person to a youth correction facility for physical  
43 custody as provided in ORS 420.011 (3).

44 (7) If the Director of the Oregon Youth Authority concurs in the decision, the Department of  
45 Corrections or the supervisory authority of a county shall transfer the physical custody of a person

1 committed to the Department of Corrections or the supervisory authority of the county under sub-  
 2 section (1) or (2) of this section to the Oregon Youth Authority as provided in ORS 420.011 (2) if:

3 (a) The person was at least 18 years of age but under 20 years of age at the time of committing  
 4 the felony for which the person is being sentenced to a term of incarceration;

5 (b) The person is under 20 years of age at the time of commitment to the Department of Cor-  
 6 rections or the supervisory authority of the county;

7 (c) The person has not been committed previously to the legal and physical custody of the De-  
 8 partment of Corrections or the supervisory authority of a county;

9 (d) The person has not been convicted and sentenced to a term of incarceration for the com-  
 10 mission of a felony in any other state;

11 (e) The person will complete the term of incarceration imposed before the person attains 25  
 12 years of age;

13 (f) The person is likely in the foreseeable future to benefit from the rehabilitative and treatment  
 14 programs administered by the Oregon Youth Authority;

15 (g) The person does not pose a substantial danger to Oregon Youth Authority staff or persons  
 16 in the custody of the Oregon Youth Authority; and

17 (h) At the time of the proposed transfer, no more than 50 persons are in the physical custody  
 18 of the Oregon Youth Authority under this subsection.

19 (8) Notwithstanding the provisions of subsections (5)(a)(A) or (7) of this section, the department  
 20 or the supervisory authority of a county may not transfer the physical custody of the person under  
 21 subsection (5)(a)(A) or (7) of this section if the Director of the Oregon Youth Authority, after con-  
 22 sultation with the Department of Corrections or the supervisory authority of a county, determines  
 23 that, because of the person's age, mental or emotional condition or risk of physical harm to other  
 24 persons, the person should not be incarcerated in a youth correction facility.

25 **SECTION 2. (1) As used in this section, "youth authority" and "youth correction**  
 26 **facility" have the meanings given those terms in ORS 420.005.**

27 **(2) The Director of the Oregon Youth Authority, after consultation with the Department**  
 28 **of Corrections, may request the sentencing court to order the physical custody of a person**  
 29 **whose physical custody was transferred to the Oregon Youth Authority under ORS 137.124**  
 30 **(5), (7) or 420.011 (2) to be transferred to the physical custody of the Department of Cor-**  
 31 **rections in accordance with this section when the director determines that:**

32 **(a) The conditions or circumstances that warranted the transfer of physical custody of**  
 33 **the person to the youth authority are no longer present;**

34 **(b) The person's age, mental or emotional condition or risk of physical harm to other**  
 35 **persons requires that the person not be incarcerated in a youth correction facility;**

36 **(c) The person poses a substantial danger to youth authority staff or persons in the**  
 37 **custody of the youth authority; or**

38 **(d) The person is not likely, in the foreseeable future, to benefit from the rehabilitation**  
 39 **and treatment programs administered by the youth authority and it is appropriate for the**  
 40 **person to be placed in a Department of Corrections institution.**

41 **(3) Not less than 120 days before the proposed date for transfer of a person to the phys-**  
 42 **ical custody of the Department of Corrections under this section, the Director of the Oregon**  
 43 **Youth Authority shall file in the sentencing court a notice and request that the court set a**  
 44 **time and place for the hearing required under subsection (4) of this section. The youth au-**  
 45 **thority shall serve the person with a copy of the notice and request for hearing on or before**

1 the date of filing.

2 (4)(a) Upon receiving the notice and request for hearing, the sentencing court shall  
 3 schedule a hearing for a date not less than 60 days before the proposed date of transfer or  
 4 such later date as is agreed upon by the parties. The court shall notify the following of the  
 5 time and place of the hearing:

6 (A) The person and the person's parents, if the person is a minor;

7 (B) The records supervisor of the correctional institution in which the person is  
 8 incarcerated, if applicable; and

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

10 (b) The court shall make reasonable efforts to notify the following of the time and place  
 11 of the hearing:

12 (A) The victim and the victim's parents or legal guardian when the victim is a minor;  
 13 and

14 (B) Any other person who has filed a written request with the court to be notified of any  
 15 hearing concerning the transfer, discharge or release of the person.

16 (5) In a hearing under this section:

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

18 (b) The person has the right to appear with counsel. If the person requests that the court  
 19 appoint counsel and the court determines that the person is financially eligible for appointed  
 20 counsel at state expense, the court shall order that counsel be appointed.

21 (c) The district attorney represents the state.

22 (d) The court shall determine admissibility of evidence as if the hearing were a sentenc-  
 23 ing proceeding.

24 (e) The court may consider, when relevant, written reports of the Oregon Youth Au-  
 25 thority, the Department of Corrections and qualified experts, in addition to the testimony  
 26 of witnesses. Within a reasonable time before the hearing, as determined by the court, the  
 27 person must be given the opportunity to examine all reports and other documents concerning  
 28 the person that the state, the youth authority or the department intends to submit for  
 29 consideration by the court at the hearing.

30 (f) Except as otherwise provided by law or by order of the court based on good cause, the  
 31 person must be given access to the records maintained in the person's case by the youth  
 32 authority and the department.

33 (g) The person may examine all of the witnesses called by the state, may subpoena and  
 34 call witnesses to testify on the person's behalf and may present evidence and argument. The  
 35 court may permit witnesses to appear by telephone or other two-way electronic communi-  
 36 cation device.

37 (h) The hearing must be recorded.

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

39 (j) The question to be decided is whether to transfer physical custody of the person from  
 40 the youth authority to the department.

41 (k) The person has the burden of proving by clear and convincing evidence that the  
 42 physical custody of the person should not be transferred from the youth authority to the  
 43 department.

44 (6) In making the determination under this section, the court shall consider:

45 (a) The experiences and character of the person before and after physical custody of the

1 person was transferred to the Oregon Youth Authority;

2 (b) The person's juvenile and criminal records;

3 (c) The person's mental, emotional and physical health;

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

6 (e) The manner in which the person committed the criminal act for which the person  
7 was convicted and sentenced;

8 (f) The person's efforts, participation and progress in rehabilitation and treatment pro-  
9 grams since the person's conviction and the likelihood that, in the foreseeable future, the  
10 person would benefit from the rehabilitation and treatment programs administered by the  
11 youth authority;

12 (g) The results of any mental health or substance abuse treatment;

13 (h) Whether the person demonstrates accountability and responsibility for past and fu-  
14 ture conduct;

15 (i) Whether the person has made and will continue to make restitution to the victim and  
16 the community;

17 (j) Whether the person will comply with and benefit from all conditions that will be im-  
18 posed by the court;

19 (k) The safety of youth authority staff, persons in the custody of the youth authority and  
20 the risk of physical harm to others should physical custody of the person not be transferred  
21 to the Department of Corrections;

22 (L) Whether the person is appropriate for placement in a department institution;

23 (m) The recommendations of the district attorney, the youth authority and the depart-  
24 ment; and

25 (n) Any other relevant factors or circumstances raised by the state, the youth authority,  
26 the department or the person.

27 (7) The court shall provide copies of its order under this section to the parties, to the  
28 records supervisor of the correctional institution in which the person is incarcerated, and  
29 to the manager of the institution-based records office of the Department of Corrections.

30 (8) The person or the state may appeal an order entered under this section. On appeal,  
31 the appellate court's review is limited to claims that:

32 (a) The order is not authorized under this section;

33 (b) The court failed to comply with the requirements of this section in making its order;  
34 or

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

36 **SECTION 3.** ORS 420A.010 is amended to read:

37 420A.010. (1) The Oregon Youth Authority is established. The youth authority shall:

38 (a) Supervise the management and administration of youth correction facilities, state parole and  
39 probation services, community out-of-home placement for youth offenders committed to its legal  
40 custody and other functions related to state programs for youth corrections;

41 (b) Provide capital improvements and capital construction necessary for the implementation of  
42 all youth correction facilities;

43 (c) Carry out dispositions of youth offenders committed to its legal custody;

44 (d) Exercise custody and supervision over those youth offenders committed to the youth au-  
45 thority by order of the juvenile court and persons placed in the physical custody of the youth au-

1 thority under ORS 137.124 or other statute until the time that a **court or** lawful release authority  
2 authorizes release, **authorizes transfer of physical custody under section 2 of this 2015 Act** or  
3 terminates the commitment or placement;

4 (e) Provide adequate food, clothing, health and medical care, sanitation and security for confined  
5 youth offenders and others in youth authority custody;

6 (f) Provide youth offenders and others in youth authority custody with opportunities for self-  
7 improvement and work; and

8 (g) Conduct investigations and prepare reports for release authorities.

9 (2) To meet the individual circumstances of each person committed to its custody, the youth  
10 authority shall:

11 (a) Develop a flexible fee-for-service provider system that can respond quickly to each person's  
12 identified and changing circumstances; and

13 (b) Develop a process for joint state and county review of contracts entered into under sub-  
14 section (6)(b) of this section and paragraph (a) of this subsection based on:

15 (A) Measurable outcomes, which must include in dominant part the reduction of future criminal  
16 or antisocial conduct and which also must include:

17 (i) Academic progress;

18 (ii) Social adjustments;

19 (iii) Behavioral improvements;

20 (iv) Rearrests; and

21 (v) Other measurements as determined by the youth authority;

22 (B) Performance measurements including:

23 (i) Fiscal accountability;

24 (ii) Compliance with state and federal regulations;

25 (iii) Record keeping, including data collection and management; and

26 (iv) Reporting; and

27 (C) Provision of services identified under the reformation plan.

28 (3) In order to measure performance as required in subsection (2) of this section, the youth au-  
29 thority shall require parties to the contracts to compile, manage and exchange data to the extent  
30 of available information systems resources to facilitate the measurement of outcomes including, but  
31 not limited to, reduction in future criminal or antisocial conduct.

32 (4) The youth authority may administer a program of state assistance to counties for the con-  
33 struction and operation of local youth detention facilities or to purchase detention services.

34 (5) The youth authority shall accept and exercise legal or physical custody of youth offenders  
35 and others 12 years of age and over and under 25 years of age who are committed to, or placed with,  
36 the youth authority pursuant to:

37 (a) A juvenile court adjudication and disposition under ORS chapter 419C; or

38 (b) ORS 137.124.

39 (6)(a) The youth authority shall cooperate with and assist county governments and juvenile de-  
40 partments in carrying out the principles and purposes of the juvenile justice system as provided in  
41 ORS 419C.001.

42 (b) The youth authority is authorized to contract with counties, groups of counties or private  
43 providers to administer juvenile corrections programs and services as provided in ORS 420.017,  
44 420.019, 420A.145 and 420A.155 (1) to (4).

45 (c) The youth authority may provide consultation services related to the juvenile justice system

1 to local or statewide public or private agencies, groups and individuals or may initiate such con-  
 2 sultation services. Consultation services include, but are not limited to, conducting studies and  
 3 surveys, sponsoring or participating in educational programs and providing advice and assistance.  
 4 Nothing in ORS 419C.001 and 420A.005 to 420A.155 is intended to diminish the state's efforts to plan,  
 5 evaluate and deliver effective human services programs to youth offenders, either in a youth cor-  
 6 rection facility or on probation or parole. Therefore, the Oregon Youth Authority and the Depart-  
 7 ment of Human Services shall jointly develop and implement needed social and rehabilitative  
 8 services.

9 (7) The youth authority is the recipient of all federal funds paid or to be paid to the state to  
 10 enable the state to provide youth correction programs and services assigned to the Department of  
 11 Human Services prior to January 1, 1996.

12 (8) The youth authority shall report its progress in implementing the provisions of chapter 422,  
 13 Oregon Laws 1995, to the Legislative Assembly at each odd-numbered year regular session.

14 (9) The equal access provisions of ORS 417.270 apply to the youth authority's development and  
 15 administration of youth correction facilities, programs and services, including the development and  
 16 implementation of the statewide diversion plan described in ORS 420.017.

17 (10) The youth authority shall:

18 (a) Be cognizant of and sensitive to the issue of overrepresentation of minority youth offenders  
 19 in youth correction facilities;

20 (b) Endeavor to develop and operate, and require its subcontractors to develop and operate,  
 21 culturally appropriate programs for youth offenders; and

22 (c) Keep data reflecting the ethnicity and gender of all youth offenders committed to its care.

23 (11) The youth authority is a designated agency as defined in ORS 181.010.

24 **SECTION 4.** ORS 420A.200 is amended to read:

25 420A.200. (1) A person may not continue in the legal or physical custody of the Oregon Youth  
 26 Authority after the person attains 25 years of age.

27 (2) Except as otherwise provided in ORS 137.124 and 420.011 **and section 2 of this 2015 Act**,  
 28 when a person in the physical custody of the Oregon Youth Authority under ORS 137.124 attains  
 29 24 years and 11 months of age and if the person will not complete the term of imprisonment imposed  
 30 before the person attains 25 years of age, the Oregon Youth Authority shall transfer the person to  
 31 the physical custody of the Department of Corrections.

32 **SECTION 5.** ORS 420A.203 is amended to read:

33 420A.203. (1)(a) This section and ORS 420A.206 apply only to persons who were under 18 years  
 34 of age at the time of the commission of the offense for which the persons were sentenced to a term  
 35 of imprisonment, who committed the offense on or after June 30, 1995, and who were:

36 (A) Sentenced to a term of imprisonment of at least 24 months following waiver under ORS  
 37 419C.349, 419C.352, 419C.364 or 419C.370; or

38 (B) Sentenced to a term of imprisonment of at least 24 months under ORS 137.707 (5)(b)(A) or  
 39 (7)(b).

40 (b) When a person described in paragraph (a) of this subsection has served one-half of the sen-  
 41 tence imposed, the sentencing court shall determine what further commitment or disposition is ap-  
 42 propriate as provided in this section. As used in this subsection and subsection (2) of this section,  
 43 "sentence imposed" means the total period of mandatory incarceration imposed for all convictions  
 44 resulting from a single prosecution or criminal proceeding not including any reduction in the sen-  
 45 tence 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, the Oregon Youth Authority or the Department of Cor-  
 3 rections, whichever has physical custody of the person, shall file in the sentencing court a notice  
 4 and request that the court set a time and place for the hearing required under this section. The  
 5 youth authority or department shall serve the person with a copy of the notice and request for  
 6 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 such later date as is agreed  
 10 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 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 the victim's parents or legal guardian; and

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

21 (3) In a hearing under this section:

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

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

26 (c) The district attorney represents the state.

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

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

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

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

41 (h) The hearing must be recorded.

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

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

45 (k) The person has the burden of proving by clear and convincing evidence that the person has

1 been rehabilitated and reformed, and if conditionally released, the person would not be a threat to  
 2 the safety of the victim, the victim's family or the community and that the person would comply with  
 3 the release conditions.

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

7 (A) Order that the person serve the entire remainder of the sentence of imprisonment imposed,  
 8 taking into account any reduction in the sentence under ORS 421.121 or any other statute, with the  
 9 person's physical custody determined under ORS 137.124, 420.011 and 420A.200 **and section 2 of this**  
 10 **2015 Act.**

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

- 13 (i) Has been rehabilitated and reformed;
- 14 (ii) Is not a threat to the safety of the victim, the victim's family or the community; and
- 15 (iii) Will comply with the conditions of release.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (6) The person or the state may appeal an order entered under this section. On appeal, the ap-  
 44 pellate court's review is limited to claims that:

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

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

2 or

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

4 **SECTION 6.** ORS 420.011 is amended to read:

5 420.011. (1) Except as provided in subsections (2) and (3) of this section, admissions to the youth  
6 correction facilities are limited to youth offenders who are at least 12 but less than 19 years of age,  
7 found by the juvenile court to have committed an act that if committed by an adult would constitute  
8 aggravated murder, murder, a felony or a Class A misdemeanor and placed in the legal custody of  
9 the Oregon Youth Authority. A youth offender admitted to a youth correction facility may not be  
10 transferred by administrative process to any penal or correctional institution.

11 (2)(a) In addition to the persons placed in the legal custody of the youth authority under ORS  
12 419C.478 (1) or 419C.481, and with the concurrence of the Director of the Oregon Youth Authority  
13 or the director's designee, persons who are committed to the Department of Corrections under ORS  
14 137.124 and meet the requirements of ORS 137.124 (5) or (7) may be temporarily assigned to a youth  
15 correction facility as provided by ORS 137.124 (5) or (7). A person assigned on such a temporary  
16 basis remains within the legal custody of the Department of Corrections and such reassignment is  
17 subject to termination by the Director of the Oregon Youth Authority by referring the person back  
18 to the Department of Corrections as provided in paragraph (b) of this subsection.

19 (b) After a person is transferred to the physical custody of the youth authority under ORS  
20 137.124 (5) or (7), the Director of the Oregon Youth Authority may refer the person back to the  
21 Department of Corrections for physical custody and placement **under the circumstances described**  
22 **in and in accordance with the provisions of section 2 of this 2015 Act.** [*if the director, after*  
23 *consulting with the Department of Corrections, determines that the person:*]

24 [(A) *Poses a substantial danger to youth authority staff or persons in the custody of the youth*  
25 *authority; or*]

26 [(B) *Is not likely, in the foreseeable future, to benefit from the rehabilitation and treatment pro-*  
27 *grams administered by the youth authority and is appropriate for placement in a Department of Cor-*  
28 *rections institution.*]

29 (3) Any person under 18 years of age at the time of committing the crime and under 20 years  
30 of age at the time of sentencing and commitment who, after waiver under ORS 419C.349, 419C.352,  
31 419C.364 or 419C.370 or sentencing under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712, is sentenced to  
32 a term of imprisonment in the custody of the Department of Corrections, and any person under 16  
33 years of age who after waiver under ORS 419C.349, 419C.352, 419C.364 or 419C.370 or sentencing  
34 under ORS 137.707 (5)(b)(A) or (7)(b) or 137.712 is sentenced to a term of imprisonment in the county  
35 jail, shall be temporarily assigned to a youth correction facility by the Department of Corrections,  
36 or by the sheriff to whose custody the person has been committed, pursuant to ORS 137.124 (6). The  
37 director shall designate the appropriate youth correction facility or schools for such assignment. A  
38 person assigned to a youth correction facility under ORS 137.124 (6) and this subsection remains  
39 within the legal custody of the Department of Corrections or sheriff to whose custody the person  
40 was committed. The assignment of such a person to the youth correction facility is subject, when  
41 the person is 16 years of age or older, to termination [*by the director by referring the person back*  
42 *to the Department of Corrections or the sheriff to serve the balance of the person's sentence*] **under the**  
43 **circumstances described in and in accordance with the provisions of section 2 of this 2015**  
44 **Act.** Assignment to a youth correction facility pursuant to ORS 137.124 (6) and this subsection, if  
45 not terminated earlier by the director, shall terminate upon the person's attaining the age specified

1 in ORS 420A.010 (5) setting the age limits for which the Oregon Youth Authority may retain legal  
 2 and physical custody of the person, and the person shall be referred to the Department of Cor-  
 3 rections or the sheriff having legal custody of the person to serve the balance of the person's sen-  
 4 tence.

5 (4) Whenever a person committed to the custody of the Department of Corrections is temporarily  
 6 assigned to a youth correction facility pursuant to this section, the youth authority may provide  
 7 programs and treatment for the person, and may adopt rules relating to conditions of confinement  
 8 at the youth correction facility, as the youth authority determines are appropriate. However, the  
 9 person remains subject to laws and rules of the State Board of Parole and Post-Prison Supervision  
 10 relating to parole.

11 **SECTION 7.** ORS 183.315 is amended to read:

12 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,  
 13 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created  
 14 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,  
 15 Department of Consumer and Business Services with respect to its functions under ORS chapters  
 16 654 and 656, State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board  
 17 or Oregon Health Authority with respect to its functions under ORS 161.315 to 161.351.

18 (2) This chapter does not apply with respect to actions of the Governor authorized under ORS  
 19 chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

20 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and  
 21 183.460 do not apply to the Employment Appeals Board or the Employment Department.

22 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-  
 23 tent that a formal finding of the United States Secretary of Labor is made that such provision con-  
 24 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent  
 25 to continued certification by the United States Secretary of Labor of the state's law.

26 (5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490  
 27 to 183.500 do not apply to orders issued to persons who:

28 (a) Have been committed pursuant to ORS 137.124 **or section 2 of this 2015 Act** to the custody  
 29 of the Department of Corrections or are otherwise confined in a Department of Corrections facility;  
 30 or

31 (b) Seek to visit an inmate confined in a Department of Corrections facility.

32 (6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do  
 33 not apply to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in  
 34 ORS 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled  
 35 to seek judicial review of an order of the commission.

36 (7) The provisions of this chapter do not apply to the suspension, cancellation or termination  
 37 of an apprenticeship or training agreement under ORS 660.060.

38 (8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings con-  
 39 ducted under rules adopted by the Secretary of State under ORS 246.190.

40 **SECTION 8. Section 2 of this 2015 Act and the amendments to ORS 137.124, 183.315,**  
 41 **420.011, 420A.010, 420A.200 and 420A.203 by sections 1 and 3 to 7 of this 2015 Act apply to**  
 42 **transfers or returns of physical custody of youth and persons from the Oregon Youth Au-**  
 43 **thority to the Department of Corrections occurring on or after the effective date of this 2015**  
 44 **Act.**