Chapter 419

1989 EDITION

Juvenile Court Proceedings; County Juvenile Departments; Local Citizen Review Boards

JUVENILE COURT PROCEEDINGS

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(Temporary Alternatives to ORS 419.472, 419.505 and 419.576)

(Temporary provisions relating to juvenile placement are compiled as notes following ORS 419.472.)

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JUVENILE COURT PROCEEDINGS

419.472 Definitions for ORS 419.472 to 419.597, 419.800 to 419.839. As used in ORS 419.472 to 419.597, 419.800 to 419.839, unless the context requires otherwise:

(1) "Child" means a person within the jurisdiction of the juvenile court as provided in ORS 419.476 (1).

(2) "Counselor" means a juvenile department counselor.

(3) "Court" means the juvenile court.

(4) "Detention" or "detention facility" means a facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child must be kept in secure custody.

(5) "Guardian" means guardian of the person and not guardian of the estate.

(6) "Resides" or "residence," when used in reference to the residence of a child, means the place where the child is actually liv-

ing and not the legal residence or domicile of the parent or guardian.

(7) "Shelter care" means a home or other facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child does not need to be kept in secure custody.

(8) "Surrogate" means a person appointed by the court to protect the right of the child to receive procedural safeguards with respect to the provision of free appropriate public education. [1959 c.432 §1, 1979 c 836 §8, 1987 c.809 §4]

(Temporary Alternatives to ORS 419.472, 419.505 and 419.576)

Note: Section 10, chapter 809, Oregon Laws 1987, provides that sections 7 to 9, chapter 809, Oregon Laws 1987, apply as follows

Sec. 10. Notwithstanding ORS 419 472, 419.505 and 419.576, until June 30, 1989, ORS 419 472, 419 505 and 419 576 shall not be operative, but sections 7 to 9 of this Act shall operate in lieu thereof [1987 c 809 §10]

Sec. 7. As used in ORS 419.472 to 419 597, 419 800 to 419 839, unless the context requires otherwise:

(1) "Child" means a person within the jurisdiction of the juvenile court as provided in ORS 419 476 (1)

(2) "Conflict of interest" means a person appointed to a local citizen review board has a personal or pecuniary interest in a case being reviewed by that board

(3) "Counselor" means a juvenile department counselor

(4) "Court" means the juvenile court.

(5) "Court appointed special advocate" means the attorney or other person specified by subsection (3), section 15, chapter 721, Oregon Laws 1985.

(6) "Detention" or "detention facility" means a facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child must be kept in secure custody

(7) "Division" means the Children's Services Division.

(8) "Guardian" means guardian of the person and not guardian of the estate

(9) "Local citizen review board" means the board specified by section 5, chapter 721, Oregon Laws 1985

(10) "Mature child" means a child who is able to understand and participate in the decision making process without excessive anxiety or fear. A child 14 years old or over shall be rebuttably presumed a mature child.

(11) "Records" means any information in written form, pictures, photographs, charts, graphs, recordings or documents pertaining to a case.

(12) "Resides" or "residence," when used in reference to the residence of a child, means the place where the child is actually living and not the legal residence or domicile of the parent or guardian

(13) "Shelter care" means a home or other facility suitable for the safekeeping of a child who is taken into temporary custody pending investigation and disposition where the circumstances are such that the child does not need to be kept in secure custody.

(14) "Substitute care" means an out-of-home placement directly supervised by the division or other agency, including placement in a foster family home, group home or other child caring institution or facility "Substitute care" does not include care in:

(a) A detention facility, forestry camp or training school,

(b) A family home which the court has approved as a child's permanent placement, where a private child caring agency has been appointed guardian of the child and where the child's care is entirely privately financed, or

(c) In-home placement subject to conditions or limitations

(15) "Surrogate" means a person appointed by the court to protect the right of the child to receive procedural safeguards with respect to the provision of free appropriate public education [1987 c 809 §7]

Sec. 8. (1) At the termination of the hearing or hearings in the proceeding, the court shall enter an appropriate order directing the disposition to be made of the case.

(2) If the court awards custody to the division, the disposition order shall include a determination whether the division has made reasonable efforts to prevent or eliminate the need for removal of the child from home If the child has been removed prior to the entry of the order, the order shall also include a determination whether the division has made reasonable efforts to reunify the family after the removal.

(3) In support of its determination whether reasonable efforts have been made by the division, the court shall enter a brief description of what preventive and reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family.

(4) Where the first contact with the family has occurred during an emergency in which the child could not remain without jeopardy at home even with reasonable services being provided, the division shall be considered to have made reasonable efforts to prevent or eliminate the need for removal

(5) Where the court finds that preventive or reunification efforts have not been reasonable, but further preventive or reunification efforts could not permit the child to remain without jeopardy at home, the court may authorize or continue the removal of the child. [1987 c 809 §8]

Sec. 9. (1) Any public or private agency having guardianship or legal custody of a child pursuant to court order shall file reports on the child with the juvenile court which entered the original order concerning the child or, where no such order exists, with the juvenile court of the county of the child's residence in the following circumstances

(a) Where the child has been placed with the agency as a result of a court order and prior to, or as soon as practicable after the agency places the child in any placement including, but not limited to, the child's home, shelter care, substitute care or a child care center, unless the court has previously received a report or treatment plan indicating the actual physical placement of the child;

(b) Where the child has been placed with the agency as the result of a court order and remains under agency care for six consecutive months from date of initial placement except for a child who has been committed to a state juvenile training school; or

(c) Where the child has been surrendered for adoption or the parents' rights have been terminated and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child

(2) The reports required by paragraphs (b) and (c) of subsection (1) of this section shall be filed by the agency at the end of the initial six-month period and no less frequently than each six months thereafter. The

agency shall file reports more frequently if the court so orders The reports shall include, but not be limited to:

(a) A description of the problems or offenses which necessitated the placement of the child with the agency;

(b) A description of the type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the child, together with a list of all placements made since the child has been in the guardianship or legal custody of an agency and the length of time the child has spent in each placement,

(c) A description of agency efforts to return the child to the parental home or find permanent placement for the child, including, where applicable, efforts to assist the parents in remedying factors which contributed to the removal of the child from the home,

(d) A proposed treatment plan or proposed continuation or modification of an existing treatment plan, including, where applicable, terms of visitation to be allowed and expected of parents and a description of efforts expected of the child and the parents to remedy factors which have prevented the return of the child to the parental home, and

(e) If continued substitute care is recommended, a proposed timetable for the child's return home or other permanent placement or a justification of why extended substitute care is necessary.

(3) The following apply to reports required under this section:

(a) Notwithstanding the requirements of subsection (2) of this section, reports following the initial report need not contain information contained in prior reports

(b) Notwithstanding the requirements under subsection (1) of this section that reports be filed with the court, any report after the initial report that is required by subsection (2) of this section on a child whose case is being regularly reviewed by a local citizen review board shall be filed with that local citizen review board rather than the court

(4) Upon receiving any report required by this section, the court may hold a hearing to review the child's condition and circumstances and to determine if the court should continue jurisdiction over the child or order modifications in the care, placement and supervision of the child. The court shall hold a hearing:

(a) In all cases under paragraph (c) of subsection (1) of this section where the parents' rights have been terminated; or

(b) If requested by the child, the attorney for the child, if any, the parents or the public or private agency having guardianship or legal custody of the child within 30 days of receipt of the notice provided in subsection (6) of this section.

(5) The hearing provided in subsection (4) of this section shall be conducted in the manner provided in ORS 419.498, except that the court may receive testimony and reports as provided in ORS 419 500 (2) At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the child in substitute care. Such findings shall specifically state:

(a) Why continued care is necessary as opposed to returning the child to the child's home or prompt action to secure another permanent placement, or

(b) The expected timetable for return or other permanent placement

(6) Except where a child has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of the report required by this section to the parents of the child and shall notify the parents either that a hearing will be held or that the parents may request a hearing at which time they may ask for modifications in the care, treatment and supervision of the child. If the court finds that informing the parents of the identity and location of the foster parents of the child is not in the child's best interest, the court may order such information deleted from the report before sending the report to the parents.

(7) Where a child has been surrendered for adoption and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child, the agency shall file a petition alleging that the child comes within the jurisdiction of the court.

(8) Any decision of the court made pursuant to the hearing provided in subsection (4) of this section shall be a final order for the purposes of ORS 419 561 and 419 563 [1987 c.809 §9]

419.474 Court of general and equitable jurisdiction; official name of juvenile court; liberal construction to achieve child's welfare.

(1) The juvenile court is a court of record and exercises jurisdiction as a court of general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. It is called "The _____ Court of _____ County, Juvenile Department."

(2) The provisions of ORS 419.472 to 419.597, 419.800 to 419.839 shall be liberally construed to the end that a child coming within the jurisdiction of the court may receive such care, guidance and control, preferably in the child's own home, as will lead to the child's welfare and the best interest of the public, and that when a child is removed from the control of the parents of the child the court may secure for the child care that best meets the needs of the child. [Subsection (1) enacted as 1959 c.432 §3(1); subsection (2) enacted as 1959 c 432 §57]

419.476 Children within jurisdiction of juvenile court. (1) The juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who has committed an act which is a violation, or which if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city; or

(b) Who is beyond the control of the person's parents, guardian or other person having custody of the person; or

(c) Whose behavior, condition or circumstances are such as to endanger the welfare of the person or the welfare of others; or

(d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person; or

(e) Either the person's parents or any other person having custody of the person have abandoned the person, failed to provide the person with the support or education required by law, subjected the person to cruelty or depravity or to unexplained physical

injury or failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person; or

(f) Who has run away from the home of the person; or

(g) Who has filed a petition for emancipation pursuant to ORS 109.550 to 109.565, 419.710 and this section.

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court shall have no further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 109.550 to 109.565. [Subsection (1) enacted as 1959 c.432 §2; subsection (3) enacted as 1959 c 432 §3 (2); 1963 c.496 §1, 1971 c 451 §17; 1977 c 525 §6, 1983 c 338 §926]

419.477 Inapplicability of juvenile proceedings to certain individuals. (1) ORS 419.472 to 419.591 shall not apply to a child who, while under the age of 18 years:

(a) Commits an act which is a violation, or which if done by an adult would constitute a violation, of a law or ordinance of this state or any of its political subdivisions, punishable by imprisonment; and

(b) Thereafter flees from this state.

(2) The child described in subsection (1) of this section may be proceeded against in the manner provided in ORS 133.743 to 133.857.

(3) Upon the return of the child described in subsection (1) of this section to this state by extradition or otherwise, any proceedings against the child shall be commenced in the same manner as provided in ORS 419.472 to 419.591.

(4) If a child described in subsection (1) of this section has fled to a state which has adopted the Rendition Amendment to the Interstate Compact on Juveniles, the return of the child shall be sought in accordance with the provisions of that compact. [1979 c.288 §2]

419.478 Transfer of proceeding to juvenile court. If during the pendency of a proceeding in any court other than a juvenile court it is ascertained that the age of the person who is the subject of the proceeding is such that the matter is within the exclusive jurisdiction of the juvenile court, it is the duty of the court in which the proceeding is pending forthwith to transfer the proceeding, together with all the papers, documents and testimony connected therewith, to the juvenile court of the county in which the proceeding is pending. [1959 c.432 §4]

419.479 Venue for proceeding. (1) Subject to the provisions of subsections (2), (3), (5) and (6) of this section, a juvenile proceeding shall commence in the county where the child resides.

(2) If the proceeding is based on allegations of jurisdiction under ORS 419.476 (1)(a), (b) or (c), the proceeding may also commence in the county in which the alleged act or behavior took place.

(3) If the proceeding is based on allegations of jurisdiction under ORS 419.476 (1)(d), (e), (f) or (g), the proceedings may also commence in the county where the child is present when the proceeding begins.

(4)(a) If a proceeding is initiated in a court of a county other than the county in which the child resides, that court, on its own motion or on the motion of a party made at any time prior to disposition, shall transfer the proceeding to the court of the county of the child's residence for such further proceeding as the receiving court finds proper. A like transfer may be made if the residence of the child changes during the proceeding, or if the child has been adjudicated within the jurisdiction of the court where the proceeding is initiated on grounds specified in ORS 419.476 (1)(a) or (c) and other proceedings involving the child are pending in the county of the child's residence. Certified copies of the court records pertaining to the immediate proceeding shall accompany the case on transfer.

(b) Notwithstanding paragraph (a) of this subsection, if a child has no ascertainable residence in any county in this state, the court of the county wherein a proceeding is initiated may adjudicate any petition under ORS 419.476 (1)(a).

(5) Notwithstanding the provisions of ORS 34.320, an application for a writ of habeas corpus brought by or on behalf of a person who has been committed or placed in a juvenile training school which attacks the validity of the order of commitment shall be brought in the county in which the court that entered the order of commitment is located.

(6) A termination of parent-child relationship proceeding may be commenced in the county where the child has been held previously to be within the jurisdiction of the court or where the child resides or is found. [1979 c.275 §2, 1983 c.815 §12]

419.480 [1959 c 432 §5; repealed by 1979 c.275 §6]

419.482 Petition or information that child is in juvenile court jurisdiction; preliminary inquiry concerning action to

be taken by court; court action. (1) Any person may file a petition in the juvenile court alleging that a child named therein is within the jurisdiction of the court as provided in ORS 419.476 (1).

(2) If any person informs the court that a child is or appears to be within its jurisdiction, as provided in ORS 419.476 (1), a preliminary inquiry shall be made to determine whether the interests of the child or the public require that further action be taken. Upon the basis of the preliminary inquiry, the court may:

(a) Make such informal recommendations to the child and the parent of this child or person having custody of the child as are appropriate in the circumstances;

(b) Direct that a petition be filed; or

(c) Direct that a juvenile motor vehicle offense be handled as provided in ORS 809.370 or that boating or game offenses be handled as provided in ORS 419.535 to 419.541.

(3) At any time after a petition is filed, the court may make an order providing for temporary custody of the child.

(4) At any time after a petition is filed, the court in the circumstances set forth in ORS 419.533 may remand the case to the appropriate court handling criminal actions, or to municipal court.

(5) The court may dismiss the petition at any stage of the proceedings. [1959 c 432 §6; 1983 c.507 §3, 1985 c 16 §462]

419.484 Title of petition; contents; service.
(1) The petition and all subsequent court documents in the proceeding shall be entitled, "In the matter of _____, a child." The petition shall be in writing and verified. When the petition is filed by a peace officer, counselor or employee of the Adult and Family Services Division or the Children's Services Division, it may be verified upon the information and belief of the petitioner and may be filed without prior direction or authorization of the court. When the petition is filed pursuant to direction of the court as provided in ORS 419.482 (2), it may be upon information and belief. In other cases, the petition shall be on the personal knowledge of the petitioner.

(2) The petition shall set forth in ordinary and concise language such of the following facts as are known and indicate any which are not known:

(a) The name, age and residence of the child.

(b) The facts which bring the child within the jurisdiction of the court as provided in ORS 419.476 (1).

(c) The name and residence of the child's parents; if the child has no parents or the names and residences of both parents are unknown, then the name and address of the child's guardian, if the child has a guardian.

(d) The name and residence of the person having physical custody of the child.

(3) A petition alleging jurisdiction under ORS 419.476 (1)(a) shall set forth in addition the name and city of residence if known of any person who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged.

(4) A certified copy of the petition shall be served, together with the summons, upon all persons upon whom summons are served under ORS 419.486. [1959 c.432 §7, 1969 c 274 §3; 1971 c 151 §1, 1983 c.740 §143, 1983 c.815 §17]

419.486 Issuance of summons; contents; to whom issued. (1) Promptly after the petition is filed, there shall be an investigation of the circumstances concerning the child. No later than 60 days after the petition is filed, summons may be issued.

(2) The summons shall be signed by a counselor or some other person acting under the direction of the court and shall contain the name of the court, the title of the proceeding and, except for a published summons, a brief statement of the substance of the facts required by ORS 419.484 (2)(b). The summons shall also include a notice that the parent or other person legally obligated to support the child may be required to pay, at some future date, for all or a portion of the support of the child, including the cost of out-of-home placement, depending upon the ability of the parent to pay support. Summons published as provided in ORS 419.488 (2)(c) shall contain the name of the court, the title of the proceeding and the statement mentioned in that paragraph.

(3) The summons shall require the person or persons who have physical custody of the child to appear personally and bring the child before the court at the time and place stated in the summons. The time for the hearing on the petition shall be fixed at a reasonable time, not less than 24 hours, after the issuance of the summons. If it appears to the court that the welfare of the child or of the public requires that the child immediately be taken into custody, the court may indorse an order on the summons directing the officer serving it to take the child into custody.

(4) If the child is not in the physical custody of both parents, or the child's only living parent, or, if both parents are dead,

the child's guardian, then summons shall also be issued to the parent or parents or guardian, as the case may be, notifying that such person or persons may appear personally before the court at the time and place stated in the summons, to the end that both parents or the guardian, or both, may be brought before the court.

(5) If the child is 12 years of age or older, a certified copy of the summons shall be served upon the child.

(6) Summons may be issued requiring the appearance of any person whose presence the court deems necessary. When a summons is issued to a child pursuant to a petition alleging jurisdiction under ORS 419.476 (1)(a), a copy of the summons shall be mailed to all victims whose names appear on the petition pursuant to ORS 419.484 (3). The copy of the summons shall be accompanied by a notice that the victim may be present for the child's appearance before the court and is entitled to request and receive notification of future hearings before the court in regard to the particular case. The copy of the summons shall also be accompanied by a notice informing the victim of the provisions of ORS 30.765. [1959 c 432 §8; 1969 c 274 §4; 1983 c 815 §18, 1985 c 515 §1]

419.488 Service of summons and process; travel expenses of party summoned. (1) Summons or other process issuing from the juvenile court may be served without further indorsement in any county of the state by an officer of the county in which the proceeding is pending, by an officer of the county in which the person to be served is found or by any person authorized by the court to serve the process. Except as otherwise provided in ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2), the provisions of law or the Oregon Rules of Civil Procedure applicable to summons in civil cases apply to summons issued from juvenile court.

(2) If any parent or guardian required to be summoned as provided in ORS 419.486 (4) cannot be found within the state, summons may be served on the parent or guardian in any of the following ways:

(a) If the address of the parent or guardian is known, by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only.

(b) By personal service outside the state.

(c) If, after reasonable inquiry, the whereabouts of the parent or guardian cannot be ascertained, by publishing a summons in a newspaper having general circulation in the county in which the proceeding is pending. In lieu of the brief statement of facts required by ORS 419.486 (2), the published summons shall simply state that a proceeding concerning the child is pending in the court and an order making an adjudication will be entered therein. The summons shall be published once a week for a period of three weeks, making three publications in all. If the names of one or both parents or the guardian are unknown, they may be summoned as "The parent(s) or guardian of (naming or describing the child), found (stating the address or place where the child was found)."

(3) Service as provided in this section shall vest the court with jurisdiction over the parents or guardian in the same manner and to the same extent as if the person served were served personally within this state.

(4) The court may authorize payment of travel expenses of any party summoned. Except as provided in this subsection, responsibility for the payment of the cost of service of summons or other process on any party, and for payment of travel expenses so authorized, shall be borne by the party issuing the summons or requesting the court to issue the summons. When the Children's Services Division issues the summons or requests the court to issue the summons, responsibility for such payment shall be borne by the county. [1959 c 432 §9, 1969 c 591 §298; 1979 c 284 §141, 1987 c 606 §7]

419.490 Compliance with summons; issuance of warrant of arrest. (1) No person required to appear as provided in ORS 419.486 shall without reasonable cause fail to appear or, where directed in the summons, to bring the child before the court.

(2) If the summons cannot be served, if the person to whom the summons is directed fails to obey it or if it appears to the court that the summons will be ineffectual, the court may direct issuance of a warrant of arrest against the person summoned or against the child. [1959 c.432 §10]

419.492 Power of court to proceed when child is before court; exceptions. If the child is before the court, the court has jurisdiction to proceed with the case notwithstanding the failure to serve summons upon any person required to be served by ORS 419.486, except that:

(1) No order entered pursuant to ORS 419.523 may be entered unless ORS 419.525 is complied with.

(2) No order for support as provided in ORS 419.513 may be entered against a person unless that person is served as provided in ORS 419.488 (1).

(3) If it appears to the court that a parent or guardian required to be served by ORS

419.486 was not served as provided in ORS 419.488, or was served on such short notice that the parent or guardian did not have a reasonable opportunity to appear at the time fixed, the court shall, upon petition by the parent or guardian, reopen the case for full consideration. [1959 c 432 §11]

419.494 Appointment of person to appear in behalf of child. In any proceeding the court may appoint some suitable person to appear in behalf of the child. [1959 c 432 §12]

419.496 Hearing on each case separately at special session of court; exceptions. Juvenile court hearings shall be held at a special session of the court for that purpose and each case shall be heard separately, except that two or more cases may be heard together in the following instances:

(1) Proceedings consolidated as provided in ORS 419.559.

(2) Cases involving violations of motor vehicle laws or ordinances where none of the cases involves death or serious injury to persons.

(3) Cases arising in whole or in part out of a single transaction or series of related transactions. [1959 c 432 §13]

419.498 Conduct of hearing; court-appointed counsel; witnesses; payment of costs. (1) The hearing shall be held informally by the court without a jury and may be continued from time to time. During the hearing of a case filed pursuant to ORS 419.476 (1)(b) to (e), the court, on its own motion or upon the motion of a party, may take testimony from or confer with any child appearing as a witness and may exclude from the conference the child's parents and other persons if the court finds such action would be likely to be in the best interests of the child. However, the court shall permit an attorney for each party to attend the conference, and the conference shall be reported.

(2)(a) If the child, the parent or guardian requests counsel but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child. Whenever requested to do so, the court shall appoint counsel to represent the child in every case filed pursuant to ORS 419.476 (1)(b) to (g). Whenever requested to do so, the court shall appoint counsel to represent the child in every case filed pursuant to ORS 419.476 (1)(a) in which the child would be entitled to court appointed counsel if the child were an adult charged with the same offense.

(b) Where the court appoints counsel to represent the child, it may require the parent, if able, or guardian of the estate, if the estate is able, to pay compensation for counsel and reasonable expenses of investigation, preparation and presentation. The test of the parent's or estate's ability to pay such compensation and expenses shall be the same test as applied to appointment of counsel for defendants under ORS 135.050. The court's order of payment shall be enforceable in the same manner as an order of support under ORS 419.515.

(c) Where the court appoints counsel for the child and the child, parent or guardian is without sufficient financial means to employ counsel, the compensation for counsel and reasonable expenses of investigation, preparation and presentation paid or incurred shall be allowed and paid as provided in ORS 135.055.

(d) Counsel shall be appointed for the parent or legal guardian whenever the nature of the proceedings and due process so require, and when the parent or legal guardian has been determined by the court eligible to receive court-appointed counsel under the standard in ORS 135.050. In deciding whether to appoint counsel under this section, the court shall consider the following factors:

(A) The duration and degree of invasiveness of the interference with the parent-child relationship that possibly could result from the proceeding;

(B) The complexity of the issues and evidence;

(C) The nature of allegations and evidence contested by the parent or legal guardian; and

(D) The effect the facts found or the disposition in the proceeding may have on later proceedings or events, including but not limited to, termination of parental rights or criminal proceedings.

(e) Appointment of counsel for the child or parent is subject to ORS 135.055, 151.430 to 151.480 and applicable contracts entered into by the State Court Administrator under ORS 151.460.

(3) Witnesses or other persons necessary for the conduct of the hearing may be subpoenaed. The child, parents, guardian or any person appearing in the child's behalf may have compulsory attendance of witnesses in the child's or their behalf in the same manner as provided in ORS 136.567 to 136.603. The form of the subpoena shall be substantially as provided in ORS 136.575 (4) or (6), but shall describe the action as a "juvenile court proceeding" and the appearance as on behalf of "the court," "the child," and so on, as the case may be.

(4) In addition to the subpoena available under subsection (3) of this section, when the petition alleges that the child is within the jurisdiction of the court by reason of a ground set forth in ORS 419.476 (1)(a), the child or any person appearing in behalf of the child or the state may secure the attendance of out-of-state witnesses in the same manner as provided in ORS 136.623 to 136.637.

(5) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases. Except as provided by this subsection, responsibility for the per diem and mileage fees of any witness, and travel expenses if so ordered by the court, shall be borne by the party who subpoenas the witness or requests the court to subpoena the witness. If the witness was subpoenaed to appear on behalf of the Children's Services Division, responsibility for per diem, mileage fees and travel expenses shall be borne by the county. If the witness was subpoenaed by more than one party, the witness shall be paid by the party who first subpoenas the witness. The court may then, thereafter, order that the costs be distributed equally among all parties who subpoenaed the witness and that the original payor of the costs be reimbursed accordingly. When the witness has been subpoenaed on behalf of an indigent party who is represented by court-appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055.

(6) Stenographic notes or other report of the hearings shall be taken only when required by the court. [1959 c.432 §14, 1973 c.455 §1, 1979 c 583 §1; 1979 c.867 §8; 1981 c 174 §3, 1981 s s c 3 §65, 1983 c 369 §4, 1983 c 401 §3; 1983 c.815 §19; 1987 c 606 §8, 1987 c 803 §22, 1987 c 892 §7; 1989 c.171 §49]

419.500 Proof of court jurisdiction over child; amendment of petition; admissibility of certain evidence. (1) The facts alleged in the petition showing the child to be within the jurisdiction of the court as provided in ORS 419.476 (1), unless admitted, must be established by a preponderance of competent evidence. However, in the adjudicative phase of a hearing where a finding of jurisdiction may result in institutionalization under ORS 419.509 (1), the facts must be established beyond a reasonable doubt. The practice of a parent who chooses for the parent or the child of the parent treatment by prayer or spiritual means alone shall not be construed as a failure to provide physical care within the meaning of ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2) but shall not prevent a court of competent jurisdiction from exercising that jurisdiction under ORS 419.476 (1)(c). The court, on motion of an interested party or on its own motion, may at any time direct that the petition be amended. If the amendment results in a substantial departure from the facts originally alleged, the court shall grant such continuance as the interests of justice may require.

(2) For the purpose of determining proper disposition of the child, testimony, reports or other material relating to the child's mental, physical and social history and prognosis may be received by the court without regard to their competency or relevancy under the rules of evidence. [1959 c.432 §§15, 80, 1965 c.524 §1, 1971 c 31 §1]

419.502 [Repealed by 1959 c 432 §59]

419.503 [Repealed by 1959 c 432 §59]

419.504 [Amended by 1955 c 3 §1, repealed by 1959 c 432 §59]

419.505 Order directing disposition of case. At the termination of the hearing or hearings in the proceeding, the court shall enter an appropriate order directing the disposition to be made of the case. [1959 c 432 §16, 1987 c 809 §5]

Note: See note under 419.472.

419.506 [Repealed by 1959 c 432 §59]

419.507 Authority over child; plan for medical care or special treatment; authority to place child in detention. (1) A child found to be within the jurisdiction of the court as provided in ORS 419.476 (1), may be made a ward of the court. Where a child has been found to be within its jurisdiction, and when the court determines it would be in the best interest and welfare of the child, the court may:

(a) Place the child on probation or under protective supervision. The court may direct that the child remain in the legal custody of the child's parents or other person with whom the child is living, or the court may direct that the child be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the child. The court may specify particular requirements to be observed during the probation or protective supervision consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the child's parents, restrictions on the child's associates, occupation and activities, restrictions on and requirements to be observed by the person having the child's legal custody, requirements that the child pay any penalty assessed under ORS 147.259 (8), and requirements for visitation by and consultation with a juvenile counselor or other suitable counselor. Restitution for physical injury inflicted upon a person by the child and for property taken, damaged or destroyed by the child may be required as a condition of probation. Restitution does not limit or

impair the right of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the victim be admissible in such civil action to prove consent or agreement by the victim. However, the court shall credit any restitution paid by the child to a victim against any judgment in favor of the victim in such civil action. Before setting the amount of such restitution, the court shall notify the person upon whom the physical injury was inflicted or the owner of the property taken, damaged or destroyed and give such person an opportunity to be heard on the issue of restitution. In determining whether or not to order restitution or a penalty assessed under ORS 147.259 (8), the court shall take into account:

(A) The financial resources of the child and the burden that payment of restitution will impose, with due regard to the other obligations of the child;

(B) The present and future ability of the child to pay restitution on an instalment basis or on other conditions to be fixed by the court; and

(C) The rehabilitative effect on the child of the payment of restitution and the method of payment.

(b) Place the child in the legal custody of the Children's Services Division for care, placement and supervision. The court may specify the particular type of care, supervision or services to be provided by Children's Services Division to children placed in the division's custody and to the parents or guardians of such children, but the actual planning and provision of such care, supervision or services shall be the responsibility of Children's Services Division. The following provisions shall apply:

(A) The division may place the child in a child care center authorized to accept the child.

(B) If the child has been placed in the custody of the Children's Services Division, the court shall make no commitment directly to any residential facility, but shall cause the child to be delivered into the custody of the Children's Services Division at the time and place fixed by rules of the division. No child so committed shall be placed in a Department of Corrections institution.

(C) Uniform commitment blanks, in a form approved by the Assistant Director for Children's Services, shall be used by all courts for placing children in the legal custody of the Children's Services Division.

(D) To insure effective planning for children, the Children's Services Division shall take into consideration recommendations and information provided by the committing court before placement in any facility.

(E) Whenever a child who is in need of medical care or other special treatment by reason of physical or mental condition is placed in the custody of the Children's Services Division by the juvenile court, the division shall prepare a plan for care or treatment within 14 days after assuming custody of the child. The court may indicate in general terms the type of care which it regards as initially appropriate. A copy of the plan, including a time schedule for its implementation, shall be sent to the juvenile court which committed the child to the division. The court may at any time request regular progress reports on implementation of the plan. The division shall notify the court when the plan is implemented, and shall report to the court concerning the progress of the child annually thereafter. If the plan is subsequently revised, the division shall notify the court of the revisions and the reasons therefor.

(F) Commitment of a child to the Children's Services Division does not terminate the court's continuing jurisdiction to protect the rights of the child or the child's parents or guardians. Notwithstanding subparagraph (B) of this paragraph, if upon review of a placement of a child made by Children's Services Division, the court determines that the placement is so inappropriate as to violate the rights of the child or the child's parents or guardians the court may direct Children's Services Division to place the child in a specific type of residential placement, but the actual planning and placement of the child shall be the responsibility of Children's Services Division. Nothing in this subparagraph affects any contractual right of a private agency to refuse or terminate a placement.

(G) If the child has been placed in custody of the Children's Services Division on probation or for placement at a juvenile training school, the court may order that the child pay restitution, as provided in paragraph (a) of this subsection, and any penalty assessed under ORS 147.259 (8). In determining whether or not to order restitution or payment of a penalty assessed under ORS 147.259 (8) and, if so, the conditions of payment, the court shall take into consideration the availability to the child of paid employment during such time as the child may be committed to a juvenile training school.

(c) If there is an interstate compact or agreement or an informal arrangement with another state permitting the child to reside in another state while on probation or under protective supervision, or to be placed in an institution or with an agency in another state, place the child on probation or under protective supervision in such other state, or, subject to ORS 419.509, place the child in an

institution in such other state in accordance with the compact, agreement or arrangement.

(d) In the circumstances set forth in ORS 419.533, remand the child to the appropriate court handling criminal actions, or to municipal court.

(2) As used in subsection (1) of this section:

(a) "Child care center" means a residential facility for the care and supervision of children that is licensed under the provisions of ORS 418.240.

(b) "Community service" has the meaning given it in ORS 137.126.

(c) "Restitution" has the meaning given it in ORS 137.103.

(d) "Youth care center" has the meaning given it in ORS 420.855.

(3) The juvenile court shall retain wardship and the Children's Services Division shall retain legal custody of the child committed to it regardless of the physical placement of the child by the Children's Services Division.

(4)(a) Pursuant to hearing, the juvenile court may order a child 12 years of age or older placed in a detention facility for children for a specific period of time not to exceed eight days, in addition to time already spent in the facility, unless a program plan that is in conformance with standards established by the state's Oregon Community Children and Youth Services Commission has been filed with and approved by the commission, in which case the child may be held in detention for a maximum of 30 days in addition to time already spent in the facility, when:

(A) The child has been found to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult; or

(B) The child has been placed on formal probation for an act which would be a crime if committed by an adult, and has been found to have violated a condition of that probation.

(b) Pursuant to hearing, the juvenile court may order a child 12 years of age or older placed in a detention facility for children for a specific period of time not to exceed eight days, in addition to time already spent in the facility, when the child has been found to be within the jurisdiction of the juvenile court by reason of having escaped from a juvenile detention facility as defined in ORS 419.472 or 419.602, after having been placed in the facility pursuant to the filing of a petition alleging that the child has committed an act which would be a crime if committed by an adult or the offense described in ORS 419.580.

(c) The juvenile court shall not place a child in a detention facility for children under paragraph (a) of this subsection unless the facility:

(A) Houses children in a room or ward screened from the sight and sound of adults who may be detained in the facility; and

(B) Is staffed by juvenile department employees.

(d) In no case may the court order, pursuant to this section, that a child under 14 years of age be placed in any detention facility in which adults are detained or imprisoned.

(5) In circumstances under which, if the child were an adult, a fine not exceeding a certain amount could be imposed under the Oregon Criminal Code, the court may impose such a fine upon the child. In determining whether to impose a fine and, if so, then in what amount, the court shall consider whether the child will be able to pay a fine and whether payment of a fine is likely to have a rehabilitative effect on the child. Fines ordered paid under this subsection shall be collected by the clerk of the court.

(6) The court may order a child to perform appropriate community service for a number of hours not to exceed that which could be required under ORS 137.129 if the child were an adult.

(7) Upon agreement of the child, the child's parent or guardian and the victim of the child's conduct, the court may order a child within the court's jurisdiction under ORS 419.476 (1)(a) to perform personal service for the victim as a condition of probation. Contact with a victim to determine whether the victim is willing to agree to such personal service shall be by a person to be designated by the court and shall not be by the child. The victim shall be advised by such person of any prior findings of juvenile court jurisdiction of the child under ORS 419.476 (1)(a). The court shall specify the nature and length of the service as the court finds appropriate. Personal service performed pursuant to the order shall constitute full or partial satisfaction of any restitution ordered by the court, as provided by agreement prior to the making of the order. However, in no case shall the child, pursuant to this subsection, perform more hours of personal service than would be indicated by dividing the victim's monetary loss by the legal minimum wage.

(8)(a) A parent or legal guardian of any child found to be within the jurisdiction of the court as provided in ORS 419.476 (1), if such parent or guardian was served with

summons under ORS 419.486 prior to the adjudication, shall be subject to the jurisdiction of the court for purposes of this subsection. The court may order the parent or guardian to assist the court in any reasonable manner in providing appropriate education or counseling for the child.

(b) If the court finds that a deficiency in parenting skills has significantly contributed to the circumstances bringing the child within the jurisdiction of the court, the court may order the parent or guardian to participate in educational or counseling programs, if it finds such participation would be consistent with the best interests of the child, as are reasonably directed toward improvement of parenting skills. The court may order such participation either with the child or separately.

(c) If the court finds that the parent's or guardian's addiction to or habitual use of alcohol or controlled substances has significantly contributed to the circumstances bringing the child within the jurisdiction of the court in a proceeding under ORS 419.476 (1)(c) or (e), the court may order the parent or guardian to participate in alcohol or drug treatment programs, if it finds that participation would be consistent with the best interests of the child.

(d) If the court finds that the parent's or guardian's addiction to or habitual use of alcohol or controlled substances has significantly contributed to the circumstances bringing the child within the jurisdiction of the court in a proceeding under ORS 419.476 (1)(a), the court may conduct a special hearing to determine if the court should order the parent or guardian to participate in treatment and pay the costs thereof. Notice of this hearing shall be by special petition and summons to be filed by the court and served upon the parent or guardian. If, at this hearing, the court finds it is in the best interest of the juvenile for the parent or guardian to be directly involved in treatment, the judge may order the parent or guardian to participate in treatment. The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The judge shall state with particularity, both orally and in the written order of the disposition, the precise terms of the disposition.

(9) If the juvenile court remands a child to another court under ORS 419.533 (1), (2) and (5) for disposition as an adult, the juvenile court nevertheless may retain jurisdiction over the child's parents or guardians under subsection (8) of this section. However, if the court enters an order of remand under ORS 419.533 (6), jurisdiction over the parents or guardians under subsection (8) of this section shall terminate.

(10)(a) When a child is found to be within the jurisdiction of the court under ORS 419.476 (1)(a) for having violated a provision of ORS 475.992, the court shall order an evaluation and designate agencies or organizations to perform diagnostic assessment, education and treatment. The designated agencies or organizations must meet the standards set by the Mental Health and Developmental Disability Services Division. Whenever possible, the court shall designate agencies or organizations to perform the diagnostic assessment that are separate from those that may be designated to carry out a program of education or treatment. The parent of the child shall pay the cost of the child's participation in the program. The petition shall be dismissed by the court upon written certification of the child's successful completion of the program from the designated agency or organization providing the education and treatment.

(b) Monitoring the child's progress in the program shall be the responsibility of the diagnostic assessment agency or organization. It shall make a report to the court stating the child's successful completion or failure to complete all or any part of the program specified by the diagnostic assessment. The form of the report shall be determined by agreement between the court and the diagnostic assessment agency or organization. The court shall make the report a part of the record of the case. [1959 c.432 §17, 1963 c.81 §1, 1965 c.616 §88, 1969 c.679 §1, 1971 c.401 §91, 1971 c.698 §2; 1973 c.495 §1, 1975 c.662 §7, subsection (4) enacted as 1981 c.648 §2, 1983 c.510 §17, 1983 c.815 §5; 1985 c.824 §1, 1987 c.94 §135, 1987 c.320 §158, 1987 c.665 §1a; 1987 c.778 §1; 1987 c.892 §5, 1989 c.171 §50, 1989 c.462 §1; 1989 c.814 §1; 1989 c.844 §3, 1989 c.1075 §4]

419.508 [Repealed by 1959 c.432 §59]

419.509 Limitation on division authority to place child in certain institutions. (1) A child placed in the legal custody of the Children's Services Division shall be placed in a juvenile training school or in a private institution operated as a training school for children requiring secure custody in the following cases and no other:

(a) The child is found to be within the jurisdiction of the juvenile court by reason of a ground set forth in ORS 419.476 (1)(a); and

(b) The juvenile court having jurisdiction so orders.

(2) No child under 12 years of age shall be placed in a juvenile training school.

(3) No child shall be transferred or returned after discharge to a facility described in subsection (1) of this section, except upon

court order under ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2).

(4) Nothing in subsection (3) of this section shall be deemed to prohibit return of a child to a facility described in subsection (1) of this section, in the discretion of the Children's Services Division, if the child has been released from the facility on temporary or indefinite parole, or to prohibit transfer of a child from one such facility to another. [1959 c.432 §18; 1963 c 344 §1; 1969 c.679 §2, 1971 c.105 §1; 1971 c 401 §92, 1971 c.698 §3; 1975 c.718 §3; 1983 c.815 §3]

419.510 [Repealed by 1959 c.432 §59]

419.511 Probation, protective supervision or institutionalization; special care or treatment; guardianship of child. (1) The duration of any disposition made pursuant to ORS 419.507 (1)(a) to (c) shall be fixed by the court and may be for an indefinite period. Any placement in the legal custody of the Children's Services Division shall be for an indefinite period. However, in cases under ORS 419.476 (1)(a), the period of any disposition made pursuant to ORS 419.507 (1)(a) to (c) shall not exceed the maximum period of institutionalization or commitment authorized if the act had been committed by an adult. The period of any disposition shall not extend beyond the date on which the child becomes 21 years of age.

(2) In any case under ORS 419.476 (1)(a) the court, notwithstanding subsection (1) of this section, may place the child on probation to the court for a period not to exceed five years. However, the period of probation shall not extend beyond the date on which the child becomes 21 years of age.

(3) The court may, in lieu of or in addition to any disposition under ORS 419.507 (1)(a) to (c), direct that the child be examined or treated by a physician, psychiatrist or psychologist, or receive other special care or treatment and for that purpose may place the child in a hospital or other suitable facility.

(4) When the court grants legal custody to the Children's Services Division, it shall also grant guardianship of the child to the division, to remain in effect solely while the child remains in the legal custody of the division. However, the assistant director of the division may authorize the superintendent of the juvenile training school, as defined in ORS 420.005, in which the child is placed, if any, to exercise the duties and authority of a guardian of the child under ORS 419.521 and to determine parole and final release under ORS 420.045. In all other cases the court may grant guardianship of the child to some suitable person if it appears necessary to do so in the interests of the child or to a private institution or agency to which the child is committed.

(5) Unless guardianship is granted as provided in subsection (4) of this section, the court as an incident of its wardship over the child shall have the duties and authority of the guardian as provided in ORS 419.521 (1). [1959 c.432 §19; 1963 c.344 §2, 1965 c 616 §89; 1969 c.679 §3; 1971 c.401 §93; 1971 c.571 §1; 1973 c.823 §135; 1983 c.815 §4]

419.512 [Repealed by 1959 c.432 §59]

419.513 Obligation to support child within court jurisdiction. (1) The court may, after a hearing on the matter, require the parents or other person legally obligated to support a child found to be within the jurisdiction of the court to pay toward the child's support such amounts at such intervals as the court may direct, while the child is within the jurisdiction of the court even though the child is over 18 years of age as long as the child is attending school. The court, in determining the amount to be paid, shall use the scale and formula provided for in ORS 25.275 and 25.280. Unless otherwise ordered, the amounts so required to be paid shall be paid to the Department of Human Resources or the county clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the child.

(2) Any order for support entered pursuant to subsection (1) of this section is a final judgment as to any instalment or payment of money which has accrued up to the time either party makes a motion to set aside, alter or modify the order, and the court does not have the power to set aside, alter or modify such order, or any portion thereof, which provides for any payment of money, either for minor children or the support of a party, which has accrued prior to the filing of such motion.

(3) Any order for support entered pursuant to subsection (1) of this section for a child in the care and custody of the Children's Services Division may be made contingent upon the child residing in a state financed or supported residence, shelter or other facility or institution. A certificate signed by the Assistant Director for Children's Services, the Administrator of the Support Enforcement Division or the administrator's authorized representative shall be sufficient to establish such periods of residence and to satisfy the order for periods of nonresidence.

(4) When a child is in the legal custody of the Children's Services Division pursuant to ORS 419.507 (1) to (3) and such child is the beneficiary of an existing order of support in a decree of dissolution or other order and the division is required to provide financial assistance for the care and support of such child, the Children's Services Division

shall be assignee of and subrogated to such child's proportionate share of any such support obligation including sums which have accrued whether or not the support order or decree provides for separate monthly amounts for the support of each of two or more children or a single monthly gross payment for the benefit of two or more children, up to the amount of assistance provided by the division. [1959 c.432 §20; 1979 c 343 §5; 1983 c 761 §14, 1985 c.610 §9, 1989 c 519 §5, 1989 c 811 §9]

419.514 [Repealed by 1959 c 432 §59]

419.515 Enforcement of order of support. (1) An order of support entered pursuant to ORS 419.513 may be enforced by execution or in the manner provided by law for the enforcement of a judgment granting an equitable remedy or by an order to withhold pursuant to ORS 25.050 or 25.310.

(2) No property of the child's parents, or either of them, or other person legally obligated to support the child is exempt from levy and sale or other process to enforce collection of the amounts ordered by the court to be paid toward the support of the child. [1959 c.432 §21, 1979 c 284 §142, 1989 c.726 §9]

419.516 [Repealed by 1959 c 432 §59]

419.517 Contempt proceeding upon failure to comply with any juvenile court order. In case of failure to comply with any order of the juvenile court, the court may proceed for contempt of court against the person failing to comply. [1959 c 432 §22]

419.518 [Repealed by 1959 c.432 §59]

419.519 Duties and powers of person having legal custody of child within court jurisdiction. A person, agency or institution having legal custody of a child has the following duties and authority:

(1) To have physical custody and control of the child.

(2) To supply the child with food, clothing, shelter and incidental necessaries.

(3) To provide the child with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the child, and, in an emergency where the child's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(5) To make such reports and to supply such information to the court as the court may from time to time require. [1959 c.432 §23]

419.520 [Repealed by 1959 c 432 §59]

419.521 Duties and powers of guardians appointed by court. (1) A person, agency or institution having guardianship of a child by reason of appointment by the court has the duties and authority of a guardian of the child, including but not limited to the following:

(a) To authorize surgery for the child, but this authority does not prevent the person having legal custody of the child from acting under ORS 419.519 (4).

(b) To authorize the child to enlist in the Armed Forces.

(c) To consent to the child's marriage.

(d) When the child has been committed under ORS 419.527 (1)(a), to consent to the adoption of the child.

(e) To make other decisions concerning the child of substantial legal significance.

(f) To make such reports and to supply such information to the court as the court may from time to time require.

(2) A person appointed guardian of the child by the court is guardian only and not a conservator of the estate of the child, unless that person is appointed conservator of the child's estate in a protective proceeding as provided in ORS 126.003 to 126.403, 127.005 and 127.015. [1959 c 432 §§24, 25, 1961 c.344 §105; 1973 c 823 §136]

419.522 [Repealed by 1959 c 432 §59]

419.523 Termination of parental rights; grounds. (1) The parental rights of the parents of a child within the jurisdiction of the juvenile court as provided in ORS 419.476 (1) may be terminated as provided in this section and ORS 419.525, if it is in the best interest of the child. The rights of one parent may be terminated without affecting the rights of the other parent.

(2) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents are unfit by reason of a single or recurrent incident of extreme conduct toward the child or another child and that continuing the parent and child relationship is likely to result in serious abuse or neglect. In such case, no efforts need to be made by available social agencies to help the parent adjust the conduct in order to make the return of the child possible. In determining extreme conduct, the court shall consider the following:

(a) Rape or sodomy of the child by the parent.

(b) Intentional starvation or torture of the child by the parent.

(c) Parental abuse or neglect of the child resulting in serious physical injury, as defined in ORS 161.015.

(d) Parental abuse or neglect resulting in death or serious physical injury, as defined in ORS 161.015, of a sibling or another child.

(3) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents are unfit by reason of conduct or condition seriously detrimental to the child and integration of the child into the home of the parent or parents is improbable in the foreseeable future due to conduct or conditions not likely to change. In determining such conduct and conditions, the court shall consider but is not limited to the following:

(a) Emotional illness, mental illness or mental deficiency of the parent of such nature and duration as to render the parent incapable of providing proper care for the child for extended periods of time.

(b) Conduct toward any child of an abusive, cruel or sexual nature.

(c) Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired.

(d) Physical neglect of the child.

(e) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make the return of the child possible or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected.

(4) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents have failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child for six months prior to the filing of a petition. In determining such failure or neglect, the court shall consider but is not limited to one or more of the following:

(a) Failure to provide care or pay a reasonable portion of substitute physical care and maintenance if custody is lodged with others.

(b) Failure to maintain regular visitation or other contact with the child which was designed and implemented in a plan to reunite the child with the parent.

(c) Failure to contact or communicate with the child or with the custodian of the child. In making this determination, the court may disregard incidental visitations, communications or contributions.

(5) The rights of the parent or parents may be terminated as provided in subsection (1) of this section if the court finds that the parent or parents have abandoned the child or the child was left under circumstances such that the identity of the parent or parents of the child was unknown and could not be ascertained, despite diligent searching, and the parent or parents have not come forward to claim the child within three months following the finding of the child. [1959 c.432 §26; 1963 c.152 §1; 1973 c.804 §1; 1979 c.744 §21; 1989 c.907 §2]

419.524 [Repealed by 1959 c.432 §59]

419.525 Procedure for termination; appointment of counsel for parent. (1) An order pursuant to ORS 419.523 may be made only after service of summons, as provided in ORS 419.488 on the parent or parents. The summons shall contain a statement to the effect that the rights of the parent or parents are proposed to be terminated in the proceeding. The summons shall also contain a statement advising the parents that they have the right to an attorney in the matter and that if they cannot afford an attorney one may be appointed at state expense upon their request and a court determination of indigency. The statements may be made in the summons originally issued in the proceeding or in separate summons issued at any subsequent stage of the proceeding.

(2) If the parents are determined to be indigent by the court, and request the assistance of appointed counsel, the court shall appoint an attorney to represent them at state expense. Appointment of counsel under this section is subject to ORS 135.055 and 151.430 to 151.480 and to applicable contracts entered into under ORS 151.460.

(3) A hearing shall be held by the court on the question of terminating the rights of the parent or parents. No such hearing shall be held any earlier than 10 days after service or final publication of the summons. The facts on the basis of which the rights of the parents are terminated, unless admitted, must be established by clear and convincing evidence and a stenographic or other report authorized by ORS 8.340 shall be taken of the hearing.

(4) Unless there is an appeal from the order terminating the rights of the parent or parents, the order permanently terminates all rights of the parent or parents whose rights are terminated and the parent or parents have no standing to appear as such in any legal proceeding concerning the child. [1959 c.432 §27; 1985 c.820 §1, 1987 c.803 §21, 1989 c.171 §51]

419.526 [Repealed by 1959 c.432 §59]

419.527 Court powers after termination of parental rights; consent to child's adoption. (1) After the entry of an order terminating the rights of the parent or parents of the child, the court may:

(a) Place the child in the legal custody and guardianship of a public or private insti-

tution or agency authorized to consent in loco parentis to the adoption of children. An order pursuant to this paragraph is a "permanent commitment" for the purposes of ORS 109.305, 109.310, 109.312 to 109.330 and 109.345 to 109.390; or

(b) Make any order directing disposition of the child which it is empowered to make under ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2).

(2) If the rights of only one parent have been terminated, the authority to consent to the adoption of the child as provided in paragraph (a) of subsection (1) of this section is effective only with respect to the parent whose rights have been terminated. [1959 c 432 §28]

419.528 [Repealed by 1959 c 432 §59]

419.529 Court power to modify or set aside its orders; hearing. (1) Except as provided in this section, the court may modify or set aside any order made by it upon such notice and with such hearing as the court may direct.

(2) Except as provided in subsection (3) of this section, notice and a hearing as provided in ORS 419.486 to 419.505 shall be granted in any case where the effect of modifying or setting aside the order will or may be to deprive a parent of the legal custody of the child, to place the child in an institution or agency or to transfer the child from one institution or agency to another. However, the provisions of this subsection shall not apply to a parent whose rights have been terminated under ORS 419.523 and 419.525 or whose child has been permanently committed by order of the court unless an appeal from such order is pending.

(3) Notice and a hearing as provided in subsection (2) of this section are not required where the effect of modifying or setting aside the order will be to transfer the child from one foster home to another.

(4) No order pursuant to ORS 419.527 (1)(a) may be set aside or modified during the pendency of a proceeding for the adoption of the child, nor after a petition for adoption has been granted. [1959 c.432 §29, 1963 c 496 §2]

419.530 [Renumbered 419.308 and then 418 570]

419.531 Termination of court wardship over child. The court's wardship over a child brought before it continues until whichever of the following occurs first:

(1) The court dismisses the petition concerning the child or remands the case to the appropriate court handling criminal actions, or to municipal court. If the court has wardship of a child based upon a prior petition, remanding the child to the court handling criminal actions, or to municipal court in connection with a subsequent violation of a law or ordinance relating to the use or operation of a motor vehicle does not terminate the wardship, unless the court so orders.

(2) The court transfers jurisdiction over the child as provided in ORS 419.479, 419.547 or 419.549.

(3) The court by order terminates its wardship.

(4) A decree of adoption of the child is entered by a court of competent jurisdiction.

(5) The child becomes 21 years of age. [1959 c 432 §30, 1979 c 275 §3]

419.532 [Repealed by 1959 c.432 §59]

419.533 Remanding of child to another court. (1) The juvenile court, after a hearing except as otherwise provided in subsection (5) or (6) of this section, may remand a child to a circuit, district, justice or municipal court of competent jurisdiction for prosecution as an adult if:

(a) The child is 15 years of age or older at the time of the commission of the alleged offense;

(b) The child, except as otherwise provided in subsections (5) and (6) of this section, is alleged to have committed a criminal offense constituting murder under ORS 163.115 or any aggravated form thereof, a Class A or Class B felony or any of the following Class C felonies:

(A) Escape in the second degree under ORS 162.155.

(B) Assault in the third degree under ORS 163.165.

(C) Coercion under ORS 163.275 (1)(a).

(D) Arson in the second degree under ORS 164.315.

(E) Robbery in the third degree under ORS 164.395;

(c) The child at the time of the alleged offense was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct involved; and

(d) The juvenile court, after considering the following criteria, determines by a preponderance of the evidence that retaining jurisdiction will not serve the best interests of the child and of society and therefore is not justified:

(A) The amenability of the child to treatment and rehabilitation given the techniques, facilities and personnel for rehabilitation available to the juvenile court and to the criminal court which would have jurisdiction after transfer;

(B) The protection required by the community, given the seriousness of the offense alleged;

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

(D) The previous history of the child, including:

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

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

(E) The child's prior record of acts which would be crimes if committed by an adult;

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

(G) The prosecutive merit of the case against the child: and

(H) The desirability of disposing of all cases in one trial if there were adult coffenders.

(2) The juvenile court shall make a specific, detailed, written finding of fact to support any determination under paragraphs (c) and (d) of subsection (1) of this section.

(3) A person under 16 years of age shall not be remanded for disposition as an adult under subsection (1) of this section unless the child is represented by counsel during the remand proceedings and is alleged to have committed an act or acts that if committed by an adult would constitute one or more of the following crimes:

(a) Murder or any aggravated form thereof under ORS 163.095 or 163.115, or an attempt to commit murder or aggravated murder;

(b) Manslaughter in the first degree under ORS 163.118;

(c) Assault in the first degree under ORS 163.185;

(d) Rape in the first degree under ORS 163.375 (1)(a);

(e) Sodomy in the first degree under ORS 163.405 (1)(a); or

(f) Robbery in the first degree under ORS 164.415.

(4)(a) When a person is remanded for prosecution as an adult, the person shall be remanded only on the actual charges justifying the remand under paragraph (b) of subsection (1) of this section or subsection (3) of this section, as the case may be. Any charges not remandable shall remain within the jurisdiction of the juvenile court, even if they arise out of the same act or transaction.

(b) Notwithstanding that the juvenile court has remanded the case under this section, the court of remand shall return the case to the juvenile court unless an accusatory instrument is filed in the court of remand alleging, in the case of a person under 16 years of age, a crime listed in subsection (3) of this section or, in the case of any other person, a crime listed in paragraph (b) of subsection (1) of this section. Also in the case of a remanded person, when a trial has been held in the court of remand upon an accusatory instrument alleging a crime listed in paragraph (b) of subsection (1) of this section or subsection (3) of this section, as the case may be, and the person is found guilty of any lesser included offense that is not itself a remandable offense, the trial court shall not sentence the defendant therein, but the trial court shall order a presentence report to be made in the case, shall set forth in a memorandum such observations as the court may make regarding the case, and shall then return the case to the juvenile court in order that the juvenile court make disposition in the case based upon the guilty finding in the court of remand. Disposition shall be as if the juvenile court itself had found the child to be in its jurisdiction pursuant to ORS 419.476 (1)(a). The records and consequences of the case shall, in all respects, be as if the juvenile court itself had found the child to be in its jurisdiction pursuant to ORS 419.476 (1)(a).

(c) Nothing in this section applies to a remand under subsection (5) or (6) of this section.

(5) The juvenile court may enter an order directing that all cases involving violation of law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws be remanded to criminal or municipal court, subject to the following conditions:

(a) That the criminal or municipal court prior to hearing a case, other than a case involving a parking violation, in which the defendant is or appears to be under 18 years of age notify the juvenile court of that fact; and

(b) That the juvenile court may direct that any such case be remanded to the juvenile court for further proceedings.

(6) After the juvenile court has entered an order remanding a child to an adult court under subsection (1) of this section, the court may, if the child is 16 years of age or older, enter a subsequent order providing that in all future cases involving the same child, the child shall be remanded to the appropriate court without further proceedings under subsections (1) and (5) of this section except that a finding under subsection (2) of this section must be reviewed and renewed before the case can be remanded.

(7) The juvenile court may at any time direct that the subsequent order entered un-

der subsection (6) of this section shall be vacated or that a pending case be remanded to the juvenile court for further proceedings. The court may make such a direction on any case but shall do so and require a pending case to be remanded to the juvenile court if it cannot support the finding required under subsection (2) of this section. [1959 c.432 §31; 1971 c.199 §3; subsections (3) and (4) enacted as 1971 c.199 §2; 1975 c.596 §1; 1985 c.631 §1]

419.534 [Repealed by 1959 c.432 §59]

419.535 Handling of motor vehicle, boating or game offenses. If the preliminary inquiry pursuant to ORS 419.482 discloses that the child's conduct consists, or is alleged to consist, of a violation of a law or ordinance relating to the use or operation of a motor vehicle, boating laws or game laws and it appears to the court that the nature of the offense and the child's background are such that a proceeding as provided in ORS 419.484 to 419.527 is not warranted, the court may handle:

(1) Cases involving boating laws or game laws as provided in ORS 419.537 to 419.541.

(2) Cases involving the use or operation of a motor vehicle as provided under ORS 809.370. [1959 c.432 §32; 1971 c.199 §4; 1983 c.507 §4; 1985 c.16 §463]

419.536 [Repealed by 1959 c.432 §59]

419.537 Petition and summons. (1) A petition relating to boating or game offenses shall be filed as provided in ORS 419.482 and 419.484. Motor vehicle offenses are subject to ORS 809.370.

(2) Summons as provided in ORS 419.486 (1) shall be issued to the parent or other person having physical custody of the child, requiring the parent or other person to appear with the child before the court at the time and place stated in the summons.

(3) The summons may be served as provided in ORS 419.488 or by mailing a copy thereof to the parent or other person having physical custody of the child. If the summons is served personally, a warrant may be issued as provided in ORS 419.490. [1959 c.432 §33; 1971 c.199 §5, 1983 c.507 §5; 1985 c.16 §464]

419.538 [Repealed by 1959 c.432 §59]

419.539 Hearing and finding. A hearing shall be held as provided in ORS 419.496 to 419.500. At the termination of the hearing, if the court finds the matters alleged in the petition to be true, it may enter an order finding the child to be a juvenile:

(1) Motor vehicle offender and dispose of the case as provided in ORS 809.370; or

(2) Boating law offender or a game law offender and may dispose of the case as provided in ORS 419.541. [1959 c.432 §34; 1971 c.199 §6, 1983 c.507 §6, 1985 c.16 §465]

419.540 [Repealed by 1959 c 432 §59]

419.541 Disposition of case. In a proceeding under ORS 419.484 to 419.527, the juvenile court may suspend a hunting or fishing license or permit where a game violation is involved and may make such other recommendations where a boating violation is involved. [1959 c.432 §35; 1971 c.199 §7; 1983 c.507 §7]

419.542 [Amended by 1957 c.414 §1; repealed by 1959 c 432 §59]

419.543 Judgment that child is in juvenile court's jurisdiction is not a criminal conviction. An adjudication by a juvenile court that a child is within its jurisdiction is not a conviction of a crime or offense. [1959 c 432 §36]

419.544 [Repealed by 1959 c.432 §59]

419.545 [1959 c 432 §37; repealed by 1979 c.275 §6]

419.546 [Repealed by 1959 c.432 §59]

419.547 Disposition of transferable case. Where a juvenile court proceeding is pending in a county other than the county in which the child resides and the case is transferable under ORS 419.479 or 419.549, the juvenile court of the county in which the child resides may authorize the court in which the case is pending to proceed with the case in either of the following ways where it will facilitate disposition of the case without adverse effect on the interests of the child:

(1) To hear, determine and dispose of the case in its entirety; or

(2) Prior to transferring the case, to conduct a hearing into the facts alleged to bring the child within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the juvenile court of the county in which the child resides. [1959 c.432 §38, 1979 c.275 §4]

419.548 [Repealed by 1959 c.432 §59]

419.549 Power of juvenile court where case pending to authorize action by another juvenile court; costs. Where a proceeding is pending in the juvenile court of any county, the juvenile court of that county may authorize the juvenile court of any other county to do one or both of the following, where it will facilitate the disposition of the case without adverse effect on the interests of the child:

(1) To conduct a hearing into the facts alleged to bring the child within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the court in which the case is pending.

(2) To assume jurisdiction over the case and administer probation or protection supervision of the child, where the court in which the proceeding is pending:

(a) Finds that the child has moved to the other county or orders as part of its disposition of the proceeding that legal custody of the child be given to a person residing in the other county; and

(b) Is advised that the court of the other county will accept jurisdiction of the case. The cost of administering probation or protective supervision of the child shall be paid by the county accepting jurisdiction, unless the transferring and receiving counties otherwise agree. The cost of transporting the child shall be paid by the county transferring jurisdiction, unless the transferring and receiving counties otherwise agree. [1959 c.432 §39]

419.550 [Repealed by 1957 c 413 §2]

419.551 [1957 c 413 §1, repealed by 1959 c.432 §59]

419.552 [Repealed by 1959 c.432 §59]

419.553 Effect of actions by other authorized court. Where the juvenile court of one county is authorized by the juvenile court of another county to conduct a hearing into facts as provided in ORS 419.547 (2) or 419.549 (1), the facts so found and certified may be taken as established by the court of the county authorizing the hearing and, if adopted by written order of the latter court, form a part of its record in the case. [1959 c 432 §40]

419.554 [Repealed by 1955 c 491 §9]

419.555 [1959 c 432 §41, repealed by 1979 c 275 §6]

419.556 [Repealed by 1955 c 491 §9]

419.557 Transportation and safekeeping of child. If the child who is the subject of the proceeding is, at the time of a transfer or temporary transfer provided for in ORS 419.479, 419.547 or 419.549, in detention or shelter care or for other reason needs transportation to the other county, the county in which the child resides shall make such order or provision for the transportation and safekeeping of the child as is appropriate in the circumstances, including an order directing any peace officer of the county in which the child resides to transfer the child in the manner directed. [1959 c 432 §42, 1965 c 151 §1; 1979 c.275 §5]

419.558 [Repealed by 1959 c.432 §59]

419.559 Consolidation of proceedings in juvenile court. All proceedings in a county in which the juvenile court has jurisdiction under ORS 419.476 (1)(b) to (e), 419.523 or 419.525 that involve separate children under the court's jurisdiction who are members of the same family shall be consolidated where:

(1) Each of the proceedings to be consolidated relate, in whole or in part, to the same child or other person under 18 years of age, or to children or other persons under 18 years of age who have at least one parent in common;

(2) The proceedings involve the same or related issues of fact;

(3) The consolidation will not impair any constitutional right of a party to any of the proceedings: and

(4) As determined by the court, the best interests of any child who is a party will not be adversely affected by consolidation. [1959 c.432 §43; 1963 c.82 §1, 1989 c.445 §1]

419.560 [Repealed by 1955 c.491 §9]

419.561 Appeal; effect. (1) Except as provided in ORS 419.578, any person whose right or duties are adversely affected by a final order of the juvenile court may appeal therefrom. An appeal from a circuit court shall be taken to the Court of Appeals, and an appeal from a county court shall be taken to the circuit court.

(2) Where the proceeding is in the circuit court, including juvenile court, and no stenographic transcript of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's order, shall grant a rehearing and shall direct that a stenographic transcript of the proceedings be kept. However, the court shall not grant a rehearing in a case barred by ORS 419.578 without the consent of the child affected by such case. The time for taking an appeal shall run from the date of the court's order entered after the rehearing.

(3) The appeal may be taken by filing an informal notice of appeal with the clerk of the juvenile court. The notice shall be filed not later than 30 days after the entry of the court's order. On appeal from the county court, the circuit court shall hear the matter de novo and its order shall be appealable to the Court of Appeals in the same manner as if the proceeding had been commenced in the circuit court.

(4) An appeal to the Court of Appeals shall be conducted in the same manner as an appeal in an equity suit and shall be advanced on the court's docket in the same manner as appeals in criminal cases.

(5) Except as provided in subsection (7) of this section or when otherwise ordered by the appellate court, the filing or pendency of an appeal does not suspend the order of the juvenile court nor shall it discharge the child from the custody of the person, institution or agency in whose custody the child may have been placed; nor shall it preclude the trial court after notice and hearing from entering such further temporary order relating to the child's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order appealed from. Certified

copies of any such order shall be filed by the clerk of the juvenile court forthwith with the clerk of the Court of Appeals.

(6) The state may take an appeal from the order of a juvenile court judge or referee from:

(a) An order made prior to an adjudicatory hearing dismissing or setting aside a delinquency petition;

(b) An order made after an adjudicatory hearing in which the juvenile is found to be within the jurisdiction of the court, setting aside the petition for delinquency;

(c) An order made prior to an adjudicatory hearing suppressing or limiting evidence or refusing to suppress or limit evidence; or

(d) An order made prior to an adjudicatory hearing for the return or restoration of things seized.

(7) If the state pursuant to subsection (6) of this section appeals a preadjudicatory order, and the child is in detention in the same proceeding pursuant to ORS 419.577, the juvenile court may release the child, and shall consider release of the child from detention during the pendency of the appeal in accordance with the following provisions:

(a) When the child is charged with an act which would be murder if committed by an adult, release shall be denied when the proof is evident or the presumption strong that the child committed the act.

(b) The child shall be released upon the child's personal recognizance unless release criteria show to the satisfaction of the juvenile court that the child would not be likely to appear before the court as ordered upon later appearance dates and that such a release is therefore unwarranted. Release criteria shall include the following:

(A) The child's education and employment status and history and financial condition;

(B) The nature and extent of the child's family relationships;

(C) The child's past and present residences;

(D) Names of persons who agree to assist the child in attending court at the proper time;

(E) The nature of the current petition;

(F) The child's prior juvenile court record, if any, and, if the child has previously been released pending trial, whether the child appeared as required;

(G) Any facts indicating the possibility of violations of law if the child is released without regulations;

(H) Any facts tending to indicate that the child has strong ties to the community; and

(I) Any other facts tending to indicate the likelihood of the child's appearing before the court as ordered upon later appearance dates.

(c) Upon a finding that release of the child on the child's personal recognizance is unwarranted, the juvenile court shall impose conditional release. The court may impose upon the released child one or more of the following conditions, but shall impose the least onerous condition reasonably likely to assure the child's later appearance:

(A) Release of the child into the care of a parent or other responsible person or organization for supervising the child and assisting the child in appearing in court. The supervisor shall notify the court immediately in the event that the child breaches the conditional release.

(B) Reasonable regulations on the activities, movements, associations and residences of the child.

(C) Any other reasonable restriction designed to assure the child's appearance. [1959 c.432 §44; 1969 c.198 §80, 1973 c.649 §1; 1979 c.588 §3, 1983 c.815 §14]

419.562 [Repealed by 1959 c.432 §59]

419.563 Court-appointed counsel on appeal; district attorney or Attorney General to represent state. (1) If the child, parent or guardian is shown to be without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature and complexity of the case to represent the person in an appeal as provided in ORS 419.561, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the appellate court as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court.

(2) Where the court appoints counsel to represent the child, it may require the parent, if able, or guardian of the estate, if the estate is able, to pay compensation for counsel and costs and expenses necessary to the appeal. The test of the parent's or estate's ability to pay such compensation, costs and expenses shall be the same test as applied to appointment of counsel for defendants under ORS 135.050. The court's order of payment shall be enforceable in the same manner as an order of support under ORS 419.515.

(3) Where the court appoints counsel and the child, parent or guardian is without sufficient financial means to employ counsel,

the compensation for counsel and costs and expenses necessary to the appeal shall be allowed and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court.

(4) The district attorney or Attorney General shall represent the state in the appeal. [1959 c.432 §45, 1969 c 409 §1; 1977 c 335 §1; 1979 c.867 §9, 1985 c 502 §24]

419.564 [Repealed by 1959 c 432 §59]

419.565 [1957 c.276 §1, repealed by 1959 c.652 §24]

419.566 [Amended by 1959 c 432 §71, renumbered 419 224 and then 418 460]

419.567 Status of records and reports; confidentiality; exceptions. (1) The clerk of the court shall keep a record of each case, including therein the summons and other process, the petition and all other papers in the nature of pleadings, motions, orders of the court and other papers filed with the court, but excluding reports and other material relating to the child's history and prognosis. The record of the case shall be withheld from public inspection but shall be open to inspection by the child, parent, guardian or surrogate and their attorneys. The attorneys are entitled to copies of the record of the case.

(2) Reports and other material relating to the child's history and prognosis are privileged and, except at the request of the child, shall not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under the judge's direction and to the attorneys of record for the child or the child's parent, guardian or surrogate. The attorneys are entitled to examine and obtain copies of any reports or other material relating to the child's history and prognosis. Any attorney who examines or obtains copies of such reports or materials shall be responsible for preserving their confidentiality and shall return the copies to the court upon the conclusion of the attorney's involvement in the case.

(3) No information appearing in the record of the case or in reports or other material relating to the child's history or prognosis may be disclosed to any person not described in subsection (2) of this section without the consent of the court, except for purposes of evaluating the child's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, whether such proceeding occurs after the child has reached 18 years of age or otherwise, except for the following purposes:

(a) In connection with a presentence investigation after the guilt of the child has been admitted or established in a criminal court.

(b) In connection with a proceeding in another juvenile court concerning the child or an appeal from the juvenile court.

(4) If the court finds that the child or parent is without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings, the court shall order upon motion the transcript or part thereof to be furnished. The transcript or part thereof furnished under this subsection shall be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(5) Notwithstanding any other provision of law, the name of the juvenile, the basis for the juvenile court's jurisdiction over the juvenile, the date, time and place of any juvenile court proceeding in which the juvenile is involved and that portion of the juvenile court order providing for the legal disposition of the juvenile where jurisdiction is based on ORS 419.476 (1)(a) or (g) shall not be confidential. [1959 c.432 §46; subsection (4) enacted as 1969 c.274 §2, 1971 c 24 §1, 1979 c 836 §13; 1981 c 524 §1]

419.568 [Renumbered 419 618]

419.569 Causes for taking temporary custody of child; citation in lieu of custody. (1) A child may be taken into temporary custody by a peace officer, counselor, employee of the Children's Services Division or by any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:

(a) Where, if the child were an adult, the child could be arrested without a warrant; or

(b) Where the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare; or

(c) Where the juvenile court, by order indorsed on the summons as provided in ORS 419.486 (3) or otherwise, has ordered that the child be taken into temporary custody.

(2) In lieu of taking a child into custody, a peace officer may issue a citation to a child for the same offenses and under the same circumstances that a citation may be issued to an adult. Unless the citation is issued for violation of law or ordinance for which an order has been entered pursuant to ORS 419.533 (5), the citation is returnable to the juvenile court of the county in which the citation is issued. Law enforcement agencies in a county, in consultation with the juvenile court of the county, may develop a form for citations issued pursuant to this subsection.

(3) A private person may take a child into temporary custody in circumstances where, if the child were an adult, the person could arrest the child. [1959 c.432 §47; 1971 c 401 §94, 1985 c.618 §1]

419.570 [Repealed by 1959 c.432 §59]

419.571 Temporary custody not arrest; record; notice to court or counselor; peace officer's privileges and immunities. (1) Temporary custody shall not be deemed an arrest so far as the child is concerned. All peace officers shall keep a record of children taken into temporary custody and shall promptly notify the juvenile court or counselor of all children taken into temporary custody.

(2) A peace officer taking a child into temporary custody has all the privileges and immunities of a peace officer making an arrest. [1959 c.432 §48]

419.572 [Repealed by 1959 c 432 §59]

419.573 Procedure for temporary custody; release of child to parent. This section establishes procedures that a person must follow who takes a child into temporary custody under ORS 419.569. The person must comply with the following:

(1) As soon as practicable after the child is taken into custody, the person taking the child into custody shall notify the child's parent, guardian or other person responsible for the child.

(2) The person taking the child into custody shall release the child to the custody of the child's parent or other responsible person in this state, except in the following cases:

(a) Where the court has issued a warrant of arrest against the child.

(b) Where the person taking the child into custody has probable cause to believe that the welfare of the child or others may be immediately endangered by the release of the child.

(3) If a child taken into temporary custody is not released as provided in subsection (2) of this section and the juvenile court for the county has not established the alternative procedure authorized in subsection (4) of this section, the person taking the child into custody shall, without unnecessary delay, do one of the following:

(a) Take the child before the court or a person appointed by the court to effect disposition under ORS 419.577.

(b) Take the child to a place of detention or shelter care or a public or private agency designated by the court and shall as soon as possible thereafter notify the court that the child has been taken into custody.

(c) Deliver the child to the county in which the child resides as provided in ORS 419.579.

(4) The juvenile court may establish, as an alternative to the provisions of subsection (3) of this section, that if a child taken into temporary custody is not released as provided in subsection (2) of this section, procedures shall be followed that comply with the following:

(a) The person taking the child into custody may communicate, by telecommunications or otherwise, with the person appointed by the court to effect disposition under ORS 419.577.

(b) After interviewing the person taking the child into custody and obtaining such other information as is considered necessary, the person appointed by the court under ORS 419.577 to effect disposition may exercise the authority granted under that section and shall, in such case, direct that the person taking the child into custody release the child or deliver the child in accordance with such direction.

(c) The person taking the child into custody shall comply with the direction of the person appointed by the court to effect disposition.

(5) Except where the child is taken into custody pursuant to an order of the court, the person taking the child into custody shall promptly file with the court or a counselor a brief written report stating all of the following:

(a) The child's name, age and address.

(b) The name and address of the person having legal or physical custody of the child.

(c) Efforts to notify the person having legal or physical custody of the child and the results of those efforts.

(d) Reasons for and circumstances under which the child was taken into temporary custody.

(e) If the child is not taken to court, the placement of the child.

(f) If the child was not released, the reason why the child was not released.

(g) If the child is not taken to court, why the type of placement was chosen. [1959 c 432 §49, 1985 c.618 §2]

419.574 [Repealed by 1959 c 432 §59]

419.575 Place of detention or shelter care while child in temporary custody. (1) The juvenile court of each county shall designate the place or places in which children are to be placed in detention or shelter care when taken into temporary custody. If the county is adjacent to another state, the court may designate a place or places in the ad-

joining state where children, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention when taken into custody. A county juvenile department shall not enter into an agreement with an out-of-state place for detention of juveniles, as provided in this section, unless the place or places conform to standards of this state for such a place and unless the agreement includes a provision that the place be subject to inspection by officers of this state under subsection (4) of this section.

(2) No child shall be detained at any time in a police station, jail, prison or other place where adults are detained, except as follows:

(a) A child may be detained in a police station for up to five hours when necessary to obtain the child's name, age, residence and other identifying information.

(b) A child remanded under ORS 419.533 (1) or (6) to the court handling criminal actions or to municipal court may be detained in a jail or other place where adults are detained, except that any such person under 16 years of age shall, prior to conviction or after conviction but prior to execution of sentence, be detained, if at all, in a facility used by the county for the detention of children.

(3) No child remanded to the court handling criminal actions or to municipal court pursuant to a standing order of the juvenile court under ORS 419.533 (5), including a child accused of nonpayment of fines, shall be detained in a jail or other place where adults are detained.

(4) No child under 12 years of age shall be placed in detention except pursuant to judicial review. Such review may be ex parte, and the child does not need to be present. However, a juvenile court judge or referee must determine that the child is eligible for detention under ORS 419.601 and that appropriate alternative methods of controlling the child's behavior are unavailable. A child detained under this subsection shall have the right to a hearing as provided in ORS 419.601.

(5) Inspection of juvenile detention facilities, including jails or lockups where juveniles are detained, and enforcement of those juvenile detention standards contained in this section or otherwise established by statute, shall be conducted in the same manner as provided in ORS 169.070 and 169.080. [1959 c.432 §50; 1975 c.718 §1, 1979 c.338 §1; 1981 c.648 §3; 1985 c.500 §13; 1985 c.618 §3a, 1985 c.631 §4, 1989 c.1033 §2]

419.576 Reports by agencies having guardianship or legal custody of child; hearing to review condition and circumstances of child. (1) Any public or private agency having guardianship or legal custody of a child pursuant to court order shall file reports on the child with the juvenile court which entered the original order concerning the child or, where no such order exists, with the juvenile court of the county of the child's residence in the following circumstances:

(a) Where the child has been placed with the agency as a result of a court order and prior to, or as soon as practicable after the agency places the child in any placement including, but not limited to, the child's home, shelter care, foster care or a child care center, unless the court has previously received a report or treatment plan indicating the actual physical placement of the child;

(b) Where the child has been placed with the agency as the result of a court order and remains under agency care for six consecutive months from date of initial placement, except for a child who has been committed to a state juvenile training school; or

(c) Where the child has been surrendered for adoption or the parents' rights have been terminated and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child.

(2) The reports required by paragraphs (b) and (c) of subsection (1) of this section shall be filed by the agency at the end of the initial six-month period and annually thereafter. The agency shall file reports more frequently if the court so orders. The reports shall include, but not be limited to:

(a) A description of the problems or offenses which necessitated the placement of the child with the agency;

(b) A description of the type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the child, together with a list of all placements made since the child has been in the guardianship or legal custody of an agency and the length of time the child has spent in each placement;

(c) A description of agency efforts to return the child to the parental home or find permanent placement for the child, including, where applicable, efforts to assist the parents in remedying factors which contributed to the removal of the child from the home;

(d) A proposed treatment plan or proposed continuation or modification of an existing treatment plan, including, where applicable, terms of visitation to be allowed and expected of parents and a description of efforts expected of the child and the parents to remedy factors which have prevented the return of the child to the parental home; and

(e) If continued foster care is recommended, a proposed timetable for the child's return home or other permanent placement or a justification of why extended foster care is necessary.

(3) Notwithstanding the requirements of subsection (2) of this section, annual reports need not contain information contained in prior reports.

(4) Upon receiving any report required by this section, the court may hold a hearing to review the child's condition and circumstances and to determine if the court should continue jurisdiction over the child or order modifications in the care, placement and supervision of the child. The court shall hold a hearing:

(a) In all cases under paragraph (c) of subsection (1) of this section where the parents' rights have been terminated; or

(b) If requested by the child, the attorney for the child, if any, the parents or the public or private agency having guardianship or legal custody of the child within 30 days of receipt of the notice provided in subsection (6) of this section.

(5) The hearing provided in subsection (4) of this section shall be conducted in the manner provided in ORS 419.498, except that the court may receive testimony and reports as provided in ORS 419.500 (2). At the conclusion of the hearing, the court shall enter findings of fact if the decision is to continue the child in foster care. Such findings shall specifically state:

(a) Why continued care is necessary as opposed to returning the child to the child's home or prompt action to secure another permanent placement; or

(b) The expected timetable for return or other permanent placement.

(6) Except where a child has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of the report required by this section to the parents of the child and shall notify the parents either that a hearing will be held or that the parents may request a hearing at which time they may ask for modifications in the care, treatment and supervision of the child. If the court finds that informing the parents of the identity and location of the foster parents of the child is not in the child's best interest, the court may order such information deleted from the report before sending the report to the parents.

(7) Where a child has been surrendered for adoption and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child, the agency shall file a petition alleging that the child comes within the jurisdiction of the court.

(8) Any decision of the court made pursuant to the hearing provided in subsection (4) of this section shall be a final order for the purposes of ORS 419.561 and 419.563. [1979 c.502 §2; 1981 c.777 §1; 1983 c.815 §6; 1987 c.809 §6]

Note: See note under 419.472.

419.577 Disposition of child taken into temporary custody; report to court; release or detention of child by court. This section establishes the authority and procedures that apply to a person designated by a court to effect disposition of a child taken into temporary custody or brought before the court under ORS 419.573. The person shall comply with the following:

(1) The person may do any of the following when the person has taken custody of a child or has authority to effect disposition of a child taken into custody:

(a) Release the child to the custody of a parent or other responsible person.

(b) Release the child on the child's own recognizance when appropriate.

(c) Upon a finding that release of the child on the child's own recognizance is unwarranted, or upon order of the court or if probable cause exists to believe the child may be detained under ORS 419.507 (4) or ORS 419.601, place the child on conditional release.

(d) Subject to ORS 419.575, place the child in shelter care or detention. The child shall be placed in shelter care rather than detention, unless the person has probable cause to believe that the court will be able to detain the child under ORS 419.507 (4) or ORS 419.601.

(e) Pursuant to order of the court, hold, retain or place the child in detention or shelter care subject to further order.

(f) Exercise authority to detain the child as provided in paragraph (c) of subsection (3) of this section.

(2) If the child is released under subsection (1) of this section, the person releasing the child shall inform the juvenile court, which may review the release as provided in ORS 419.601.

(3) The following provisions apply to this section:

(a) No child shall be held in detention or shelter care more than 24 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing under ORS 419.601.

(b) When the child is taken into temporary custody pursuant to ORS 419.569 and placed in shelter care, a parent or child shall

be given the opportunity to present evidence to the court at the hearings specified in paragraph (a) of this subsection, and at any subsequent review hearing, that the child can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication. At the hearing:

(A) The court shall determine, where applicable, whether the division has made reasonable efforts to prevent or eliminate the need for removal of the child from the home; and

(B) In determining whether a child shall be removed or continued out of home, the court shall consider whether the provision of reasonable and available services can prevent or eliminate the need to separate the family.

(c) If a parent, guardian or other person responsible for the child cannot be found or will not take responsibility for the child, no appropriate shelter care space is available and the child cannot be released safely on recognizance or conditionally, a child who is accused of an act which would be a crime if committed by an adult may be detained for a period of time not exceeding 24 hours from the time the child first is taken into custody to allow the juvenile department counselor or other person designated by the juvenile court to develop a release plan to insure the child's safety and appearance in court. Such detention shall conform to the limitations of ORS 419.575 (2). [1959 c.432 §51; 1969 c.274 §5; 1975 c.718 §2, 1981 c.887 §1, 1983 c.815 §15, 1985 c.618 §§4, 4a; 1987 c.892 §6, 1989 c.1033 §3]

419.578 Adult court proceedings and collateral juvenile proceedings barred upon taking of evidence at juvenile adjudicatory hearing. Except as provided in ORS 153.585 (1), proceedings in adult criminal court and other juvenile court adjudicatory proceedings based on an act alleged in a petition or citation to have been committed by a child or allegations arising out of the same conduct are barred when the juvenile court judge or referee has begun taking evidence in an adjudicatory hearing or has accepted a child's admission or answer of no contest to the allegations of the petition or citation. This section shall not prevent appeal of any preadjudicatory order of the court which could be appealed in a criminal case, including, but not limited to, an order suppressing evidence. [1979 c.588 §2]

419.579 When jurisdiction acquired; disposition of child residing in another county when taken into temporary custody; time when court of child's residence acquires jurisdiction. (1) Except as otherwise provided in this section, the jurisdiction of the juvenile court of the county in which a child is taken into temporary custody shall attach from the time the child is taken into custody.

(2) Where a child residing in some other county is taken into temporary custody the child may be:

(a) Released to the child's parent or other responsible person in this state as provided in ORS 419.573 (2).

(b) Delivered to a peace officer or juvenile counselor in the county in which the child resides, if such delivery can be made without unnecessary delay. In such event, the person to whom the child is delivered shall assume temporary custody of the child and shall proceed as provided in ORS 419.573 to 419.597 and 419.601.

(3) Where a child is released or delivered as provided in subsection (2) of this section, the jurisdiction of the juvenile court of the county in which the child resides shall attach from the time the child is taken into custody. [1959 c.432 §52; 1985 c.618 §8, 1989 c.1033 §4]

419.580 Confinement in detention facility after escape. Any child 12 years of age or older, alleged to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult, who escapes from a juvenile detention facility as defined in ORS 419.472 or 419.602 after having been placed in the facility pursuant to the filing of a petition alleging that the child has committed an act which would be a crime if committed by an adult commits a violation punishable by placement in a detention facility for children for a specific period of time not to exceed eight days, in addition to time already spent in the facility, when such punishment is ordered by the juvenile court pursuant to ORS 419.507 (4). [1983 c.815 §11]

Note: 419.580 was added to and made a part of ORS chapter 419 but was not added to or made a part of any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.581 Referees; hearings, findings and recommendations; hearing by judge. (1) The judge of the juvenile court may appoint one or more persons as referee of the juvenile court. A referee shall be appointed in every county in which there is no resident juvenile court judge. A person appointed referee shall be qualified by training and experience in the handling of juvenile matters, shall have such further qualifications as may be prescribed by law and shall hold office as such at the pleasure of the judge. The judge may fix reasonable compensation for the referee. The compensation of a referee appointed by the judge of a circuit court shall be paid by the state from funds available for

the purpose. The compensation of a referee appointed by the judge of a county court shall be paid by the county.

(2) The judge may direct that any case, or all cases of a class designated by the judge, shall be processed or heard in the first instance by a referee in the manner provided for the hearing of cases by the court. Upon conclusion of the hearing in each case the referee shall transmit to the judge the findings, recommendations or order in writing of the referee.

(3) Where the referee conducts a hearing, the child, the parent, guardian or other person appearing in behalf of the child and the petitioner, shall be notified of the referee's findings, recommendations or order, together with a notice to the effect that a rehearing shall be had before a judge if requested within 10 days. A rehearing before a judge of the juvenile court may be determined on the same evidence introduced before the referee if a stenographic transcript of the proceedings was kept; but, in any case, additional evidence may be presented.

(4) All orders of a referee shall become immediately effective, subject to the right of review provided in this section, and shall continue in full force and effect until vacated or modified upon rehearing by order of a judge of the juvenile court. Any order entered by a referee shall become a final order of the juvenile court upon expiration of 10 days following its entry, unless a rehearing is ordered or requested.

(5) The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees must be expressly approved by a judge of the juvenile court before becoming effective.

(6) A judge of the juvenile court may, on own motion, order a rehearing of any matter heard before a referee.

(7) At any time prior to the expiration of 10 days after notice of the order and findings of a referee, a child, the parent, guardian or other person appearing in behalf of the child or the petitioner may apply to the juvenile court for a rehearing. The application may be directed to all or to any specified part of the order or findings.

(8) All rehearings of matters heard before a referee shall be before a judge of the juvenile court and shall be conducted de novo. [1959 c.432 §53, 1969 c.274 §6; 1981 s.s. c.3 §4]

419.582 Restitution; penalty assessment; community services. (1) It is the policy of the State of Oregon to encourage and promote the payment of restitution and other obligations by juvenile offenders as well as by adult offenders.

(2) The Children's Services Division and county juvenile departments, respectively, and to the extent practicable, shall create opportunities for juvenile offenders placed in the legal custody of the division or under the supervision of a county juvenile department to pay restitution as ordered by the court and the penalty assessment under ORS 147.259 (3), and to perform any community service ordered by the court, as well as to fulfill any other obligation imposed by the court.

(3) In any case within the jurisdiction of the juvenile court pursuant to ORS 419.476 (1)(a) in which the child caused another person any physical injury or any loss of or damage to property, the court shall consider restitution to the victim to be of high priority. There shall be a rebuttable presumption that the obligation to make such restitution is in the best interest of the child as well as of the victim and society. [1983 c.815 §16; subsections (1) and (2) enacted by 1987 c.665 §2; 1989 c.844 §4]

Note: 419.582 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.583 Provisions regarding bail in criminal cases not applicable. Provisions regarding bail in criminal cases shall not be applicable to children held or taken into custody as provided in ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2). [1959 c.432 §54]

419.584 Photographing and fingerprinting child; conditions; custody of record; confidentiality, use and destruction of records. (1) A child may be photographed or fingerprinted by a law enforcement agency:

(a) Pursuant to a search warrant;

(b) According to laws concerning adults if the child has been transferred to criminal court for prosecution;

(c) If a child is taken into custody for the commission of an act which if committed by an adult would constitute a felony or a Class A misdemeanor and the child's photograph or fingerprints are needed to complete the investigation of a crime;

(d) Upon consent of both the child and the child's parent after advice that they are not required to give such consent;

(e) Upon request or consent of the child's parent alone if the child is less than 10 years of age, and if the law enforcement agency delivers the original photographs or finger-

prints to the parent and does not make or retain any copies thereof;

(f) By order of the juvenile court; or

(g) If a child is taken into custody and a law enforcement agency has probable cause to believe that the child is involved in a conspiracy or a conspiratorial relationship with others to commit acts that if committed by an adult would constitute a felony or a Class A misdemeanor.

(2) A child may be photographed or fingerprinted after the child has been found to be within the jurisdiction of the juvenile court for an act which if committed by an adult would constitute a felony or a Class A misdemeanor.

(3) Fingerprint and photograph files or records of children shall be kept separate from those of adults, and fingerprints and photographs known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository.

(4) Fingerprint and photograph files or records of a child shall be kept separate from the records and files of adults and shall be open to inspection only by, or the contents disclosed only to, the following:

(a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child which if committed by an adult would be an offense, provided that a law enforcement agency may provide information to another agency only when the information is pertinent to a specific investigation by that agency;

(b) The juvenile department and the juvenile court having the child before it in any proceeding;

(c) Caseworkers and counselors taking action or otherwise responsible for planning and care of the child;

(d) The parties to the proceeding and their counsel;

(e) A criminal court to which jurisdiction of the child has been transferred;

(f) A criminal court for the purpose of a presentence report or other dispositional proceeding following conviction of a criminal offense; and

(g) The victim or a witness of an act or behavior described under ORS 419.476 (1)(a), (b), (c) or (f) or the victim's parent, guardian, personal representative or subrogee, when necessary to identify the child committing the act or behavior and identifying the apparent extent of the child's involvement in the act or behavior.

(5) Fingerprint and photograph files and records of a child shall be destroyed when the juvenile court orders expunction of a child's record pursuant to ORS 419.805.

(6)(a) Fingerprint and photograph files of a child who is adjudicated and found not to be within the jurisdiction of the juvenile court for an act, which if committed by an adult would constitute a felony or a misdemeanor, shall be destroyed by the officer charged with the maintenance of those files within 60 days from the date of adjudication.

(b) Fingerprint and photograph files of a child who is not adjudicated and found to be within the jurisdiction of the juvenile court for an act, which if committed by an adult would constitute a felony or a misdemeanor, within two years from the date on which the fingerprints or photograph were obtained, shall be destroyed by the officer charged with the maintenance of those files. [1977 c.577 §1; 1983 c.815 §1; 1989 c.464 §1]

Note: 419.584 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.585 [1959 c.432 §55, 1969 c.679 §4, 1971 c.401 §95, 1973 c.453 §1; repealed by 1977 c.577 §2]

419.586 [1971 c.226 §2; repealed by 1975 c.680 §13]

419.587 County juvenile advisory council. (1) The juvenile court judge or judges of each county having a population of over 10,000, according to the latest federal decennial census, shall, and the juvenile court judge of any other county may, appoint a juvenile advisory council. The council shall consist of not less than seven directors. Not more than two directors shall be representative of agencies with which the juvenile court is involved.

(2) In cooperation with the juvenile court, the council shall:

(a) Study and make recommendations concerning the operation of the juvenile court, including the counselors and other personnel, detention facilities, shelter care, foster homes and other facilities functioning or needed in connection therewith.

(b) Study and make recommendations in connection with community programs and services designed to prevent or correct juvenile delinquency and other children's problems of the type coming before the juvenile court.

(c) Take appropriate action to stimulate community interest in the problems of children and to carry out the recommendations of the council.

(d) Make an annual report concerning its activity. Such report shall be printed, given as wide distribution and publicity as possible and made available to the public on request.

(e) Make a biennial report to the Legislative Assembly.

(3) The county court or board of county commissioners in each county in which there is a juvenile advisory council may expend county funds for the activities of the council. [1959 c.432 §56; 1975 c 795 §4, 1979 c 250 §1]

419.590 Request for services of Attorney General in action to terminate parental rights. Whenever a juvenile court has before it an action to terminate parental rights, the juvenile court or the Children's Services Division may request the services of the Attorney General. [1973 c 202 §3]

419.591 Authority of Attorney General in action to terminate parental rights. Whenever an action to terminate parental rights is before a juvenile court pursuant to ORS 419.523, the Attorney General shall have the same authority to assist the court as is granted to the district attorney under ORS 8.685. [1973 c 202 §1]

419.593 Evaluation of child's eligibility for special education in wardship proceeding. As a part of the investigation, before making a child a ward of the court, a preliminary evaluation shall also be conducted to determine if the child may be eligible for special education as provided in ORS chapter 343. This preliminary evaluation of disabling conditions shall not constitute a final determination of the child's eligibility for special education but shall be used as the basis for appointing a surrogate to protect the child's due process rights pursuant to ORS chapter 343. [1979 c 836 §10, 1989 c 224 §84]

419.595 Appointment of surrogate for child eligible for special education. The court shall appoint a surrogate for a child when that child is made a ward of the court if the court finds that the child may be eligible for special education programs because of a disabling condition as provided in ORS chapter 343. This finding of probable eligibility shall be based on the preliminary evaluation conducted pursuant to ORS 419.593. [1979 c.836 §11; 1989 c.224 §85]

419.597 Duties of surrogate; termination. A person that is appointed surrogate for a dependent child has the duty and authority to protect the due process rights of the child with respect to the provision of free appropriate public education. A surrogate appointed by the court shall immediately apply to the attending school district for an evaluation of the child's eligibility for special education and shall participate in the development of the child's educational plan as provided in ORS chapter 343. The duties and responsibilities of the surrogate shall continue until whichever of the following occurs first:

(1) The child is 21 years of age;

(2) The child is determined to be no longer eligible for special education; or

(3) The juvenile court terminates wardship of the child and determines that the child's parent or guardian is both known and available to protect the special educational rights of the child. [1979 c 836 §12; 1983 c.294 §2]

419.598 [1985 c.612 §3; 1987 c.892 §1; repealed by 1989 c.1033 §8]

419.599 [1985 c 618 §7; repealed by 1989 c 1033 §8]

419.600 [1985 c 618 §6; 1987 c.892 §2, repealed by 1989 c 1033 §8]

419.601 Detention before adjudication. (1) No child may be held or placed in detention before adjudication on the merits unless one or more of the following circumstances exists:

(a) The child is a fugitive from another jurisdiction;

(b) The child is alleged to be within the jurisdiction of the court by reason of ORS 419.476 (1)(a), by having committed or attempted to commit an offense which, if committed by an adult, would be chargeable as:

(A) A crime involving infliction of physical injury to another person;

(B) Any felony crime against persons or property; or

(C) Criminal manufacture or delivery of a controlled substance;

(c) The child has wilfully failed to appear at one or more juvenile court proceedings by having disobeyed a proper summons, citation or subpoena;

(d) The child is currently on probation imposed as a consequence of the child previously having been found to be within the jurisdiction of the court under ORS 419.476 (1)(a), and there is probable cause to believe the child has violated one or more of the conditions of that probation; or

(e) The child is subject to conditions of release pending or following adjudication of a petition alleging that the child is within the jurisdiction of the court pursuant to ORS 419.476 (1)(a) and there is probable cause to believe the child has violated a condition of release.

(2) Upon exercise of the authority of a person authorized by a court to effect disposition of a child taken into temporary custody or brought before the court under ORS 419.573 or at the detention hearing held pursuant to ORS 419.577 (3), the child must be released to the custody of a parent or other responsible person, released upon the child's own recognizance or placed in shelter care

unless the court or its authorized representative finds that there is probable cause to believe that the child may be detained under subsection (1) of this section, and that one or more of the following circumstances is present:

(a) No means less restrictive of the child's liberty gives reasonable assurance that the child will attend the adjudicative hearing; or

(b) The child's behavior endangers the physical welfare of the child or another person, or endangers the community and:

(A) The juvenile has committed or is alleged to have committed an act which if committed by an adult would constitute a felony or a violation of ORS 163.160; and

(B) The juvenile court or its authorized representative has reasonable cause to believe that other available preventive measures, including but not limited to increased security and monitoring of the child's behavior, have been tried, or if tried, would not adequately assure that the child would conform the child's conduct to conditions imposed by the court or its authorized representative to protect the best interests of the child or the community.

(3) Notwithstanding subsection (2) of this section, if a child is subject to detention under paragraph (d) of subsection (1) of this section, the child may be placed in detention if the juvenile court or its authorized representative has reasonable cause to believe that other available preventive measures including but not limited to additional conditions of probation, increased security and monitoring of the child's behavior, community service and alternative community placement have been tried, or if tried, would not adequately assure that the child would conform the child's conduct, pending the probation violation hearing, to conditions imposed by the court to protect the best interests of the child or the community.

(4) In determining whether detention is appropriate under subsections (2) and (3) of this section, the court or its authorized representative shall consider the following:

(a) The nature and extent of the child's family relationships and the child's relationships with other responsible adults in the community;

(b) The child's previous record of adjudicated juvenile court proceedings and recent demonstrable conduct;

(c) The child's past and present residence;

(d) The child's school education status and school attendance record;

(e) The child's past and present employment;

(f) The child's previous record regarding appearance in court;

(g) The nature of the charges against the child and any mitigating or aggravating factors; and

(h) Any other facts relevant to the likelihood of the child's appearance in court or likelihood that the child will comply with the law and other conditions of release.

(5) If the court finds that release of the child on the child's own recognizance is unwarranted and if probable cause exists to believe that the child may be detained under ORS 419.507 (4) or subsections (1) and (2) of this section, the court may make a conditional release of the child subject to such conditions as will protect the safety of the child, other persons and the community and insure the child's appearance in court.

(6) When a child is ordered held or placed in detention, the court or its authorized representative shall state in writing the basis for its detention decision. The child shall have the opportunity to rebut evidence received by the court and to present evidence at the hearing.

(7)(a) A child may be held in detention under this section for a maximum of 28 days except for good cause shown prior to the expiration of the 28-day period. If good cause for continued detention is shown, the period of detention may be extended for no more than an additional 28 days unless the adjudication is continued with the express consent of the child.

(b) Paragraph (a) of this subsection does not apply to a child alleged to be within the jurisdiction of the juvenile court for having committed an act that would be murder, attempted murder, conspiracy to commit murder or treason if committed by an adult and if proof of the act is evident or the presumption strong that the child committed the act. The juvenile court may conduct such hearing as the court considers necessary to determine whether the proof is evident or the presumption strong.

(8) Any child ordered detained under this section shall have a review hearing at least every 10 days, excluding Saturdays, Sundays and judicial holidays. At the review hearing the court shall determine whether sufficient cause exists to require continued detention of the child. In addition, the court may review and may confirm, revoke or modify any order for the detention or release of the child under this section or under ORS 419.577 and, in the event that the child is alleged to have committed an offense which if committed by an adult would be a misdemeanor or Class

C felony, may do so ex parte. Release of a child may not be revoked, however, except upon a finding that the child may be detained under this section, and after a hearing is held in accordance with ORS 419.577 and subsection (9) of this section.

(9) A hearing to consider whether to revoke the release of a child or whether a child should be continued in detention may be held by telephone or closed circuit television as long as all parties having an interest in the proceeding have access to the telephone or television circuit used for the hearing and as long as the hearing is made publicly audible within the court room of the court under whose authority it is held.

(10) Notwithstanding subsections (1) and (2) of this section, the court may order the detention of a child who resides in another state if the court finds probable cause to believe that the child has run away from home or from a placement. If a child is ordered detained under this subsection, the court shall make such orders as are necessary to cause the child to be immediately returned to the child's state of residence. [1989 c 1033 §1]

Note: 419 601 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

COUNTY JUVENILE DEPARTMENT
(Generally)

419.602 Definitions for ORS 419.602 to 419.616. As used in ORS 419.602 to 419.616:

(1) "Counselor" means any probation counselor or officer appointed under ORS 419.602 to 419.616.

(2) "Detention facilities" means any facilities established under ORS 419.602 to 419.616 for the detention of dependent or delinquent children pursuant to a judicial commitment or order.

(3) "Director" means the director of a juvenile department established under ORS 419.602 to 419.616.

(4) "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state. [1955 c.491 §1]

419.604 Appointment of director or counselor for county juvenile department. (1) Subject to subsection (2) of this section, the governing body of any county having a population less than 300,000, after consultation with the judges of the juvenile court in that county, shall appoint or designate one or more persons of good moral character as counselors of the juvenile department of the county, to serve at the pleasure of and at a salary designated by the governing body of the county.

(2) The governing bodies of two or more contiguous counties, each with a population less than 300,000, may, pursuant to an agreement between the counties concerned, and after consultation with the judges of the juvenile courts in those counties, jointly appoint one or more persons of good moral character as counselors of the juvenile departments of the counties, to serve at the pleasure of and at a salary designated by the governing bodies of the counties concerned.

(3) When more than one person is appointed under this section, the appointing authority may designate one as director of the juvenile department or departments and the others to serve as juvenile counselors or staff members.

(4) The governing body of any county having a population of 300,000 or more shall appoint or designate the director of the juvenile department to serve at the pleasure of and at a salary designated by the governing body of the county. Counselors of the juvenile department of the county shall be appointed in accordance with ORS 241.020 to 241.990.

(5) Additional qualifications for a person appointed director of a juvenile department of a county under this section may be established by the governing body of a county, subject to the approval of such qualifications by the judge of the juvenile court in that county.

(6) When the chairperson of the governing body of the county is also the judge of the juvenile court under ORS 5.020, only the judge shall make the decisions described in subsection (1), (2) or (5) of this section. [1955 c.491 §2, 1963 c 186 §1; 1987 c.779 §1]

Note: Section 3, chapter 779, Oregon Laws 1987, provides.

Sec. 3. This Act [ORS 419 604 and 419.616] takes effect January 1, 1988. [1987 c 779 §3]

419.606 Director to be administrator of county juvenile department. The director shall be the administrator of the juvenile department or departments for the county or counties, including any juvenile detention facilities maintained by the county or by the counties jointly, and the supervisor of the staff of the juvenile department or departments and detention facilities, subject to the direction of the appointing authority. [1955 c.491 §3]

419.608 Duties of director or counselor in juvenile court proceedings. The director of a juvenile department or one of the counselors shall:

(1) Make or cause to be made an investigation of every child brought before the court and report fully thereon to the court.

(2) Be present in court to represent the interests of the child when the case is heard.

(3) Furnish such information and assistance as the court requires.

(4) Take charge of any child before and after the hearing as may be directed by the court. [1955 c 491 §4]

419.609 Annual report to Oregon Community Children and Youth Services Commission. The juvenile department of a county shall report annually to the Oregon Community Children and Youth Services Commission the frequency with which juveniles are held in preadjudicative detention and the duration of the detention. [1989 c 1033 §6]

Note: 419.609 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.610 Director or counselor has power of peace officer and may bring child in custody before court at any time. Any director or counselor shall have power of a peace officer as to any child committed to the care of the director or counselor. Any director or counselor may, in the discretion of the director or counselor and at any time, bring a child committed to the custody and care by the juvenile court before such court for any further action the court considers advisable. [1955 c 491 §5]

419.612 Detention facilities for dependent and delinquent children; standards. (1) Any county may acquire in any lawful manner, equip and maintain within the county suitable detention facilities for the detention of dependent and delinquent children confined pursuant to a judicial commitment or order pending final adjudication of the case by the juvenile court. The personnel of any detention facilities are subject to the control and direction of the judge of the juvenile court.

(2) Where two or more counties have entered into an agreement pursuant to ORS 419.604 (2), the counties jointly may acquire in any lawful manner, equip and maintain, at a suitable site or sites in the counties determined by the judges of the juvenile courts of the counties, detention facilities suitable for the detention of dependent and delinquent children confined pursuant to judicial commitment or order pending final adjudication of the case by juvenile court. The personnel of any detention facilities are subject to the joint control of the judges of the juvenile courts of such counties.

(3) Suitable detention facilities shall be of Class-I construction and comply with Oregon Structural Specialty Code and Fire Life Safety Code of the State Fire Marshal. In addition, the facilities shall provide:

(a) Sanitary drinking water in living units and dayrooms;

(b) Toilets and washbasins accessible to juveniles in all housing and activity areas;

(c) At least one shower for every 10 detainees;

(d) A heating system and all equipment required to insure healthful and comfortable living and working conditions for juveniles and staff, and which maintains a temperature no lower than 64 degrees;

(e) Lighting at 20 footcandles density; and

(f) Verbal or mechanical communications from sleeping rooms to staff.

(4) New or major renovated facilities shall conform to the requirements of subsection (3) of this section and shall also provide:

(a) That any single sleeping rooms located therein are at least 70 square feet and that any dormitories located therein are at least 50 square feet per occupant and house no more than five individuals each;

(b) At least one toilet and washbasin for every five detainees;

(c) Corridors of at least six feet in width;

(d) Thirty square feet of dayroom space per child;

(e) Heating units capable of maintaining 68 to 85 degrees temperature;

(f) Tamper-proof lighting with capability of 20 footcandles;

(g) Air circulation of 10 cubic feet of fresh air per minute, per occupant;

(h) Sleeping rooms' water valves accessible for staff control;

(i) Rooms provided for classes, library, arts and crafts; and

(j) Indoor and outdoor recreation and exercise areas. [1955 c.491 §7; 1981 c 869 §8]

419.613 Capacity limits. The county court or board of commissioners of a county may institute an examination of the county's juvenile detention facility and establish the maximum number of juveniles that may be held in accordance with constitutional standards in the facility at any given time. If a county court or board of commissioners adopts a capacity limit on the number of juveniles that may be held in the detention facility and the number of juveniles held in the juvenile facility exceeds the established capacity, the county, through the juvenile department director, shall immediately notify the judge of the juvenile court who shall au-

thorize the release of a sufficient number of juveniles to reduce the population of the detention facility to the established capacity. [1989 c.1033 §7]

Note: 419.613 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.614 Payment of expenses of maintaining detention facilities. (1) All expenses incurred in the maintenance of the facilities for detention and the personnel required therefor, except as otherwise provided in subsection (2) of this section, shall be paid upon order of the board of county commissioners or county court from county funds duly levied and collected in any manner provided by law. When joint detention facilities are maintained as provided in ORS 419.612 (2), each county shall pay its share of the costs and expenses of acquiring, equipping and maintaining the joint detention facilities, to be determined pursuant to an agreement between the counties. Counties may accept gifts or donations of property, including money, for the use of detention facilities to be expended and used as directed by the judge of the juvenile court.

(2) When a county operates a combined facility to provide both care and rehabilitation services, under ORS 420.855 to 420.885, and detention facilities, the county may also receive state support for such care and rehabilitation services as permitted by ORS 420.880.

(3) When a county operates a combined facility as described in subsection (2) of this section, only those juveniles shall be admitted to the youth care center of such facility who:

(a) Are 12 years of age or older;

(b) Have been found to be within the jurisdiction of the juvenile court as a result of an adjudication of a petition filed by reason of ORS 419.476 (1)(a); and

(c) Have had the placement in such combined facility reviewed by the juvenile court. [1955 c.491 §8; 1985 c.500 §9]

419.616 Juvenile department as county agency; payment of expenses of department. (1) Except as provided in ORS 419.604, the juvenile department of a county is and shall be considered a county agency for all purposes.

(2) The cost of maintaining a juvenile department and all expenditures incidental thereto, including traveling expenses, and necessarily incurred in supplying the immediate necessities of dependent or delinquent children while committed to the charge of a director or counselor, and all salaries for the personnel of a juvenile department and of any detention facilities maintained in the county, shall be payable upon the order of the board of county commissioners or county court of the county from county funds budgeted and levied for that purpose in any manner provided by law.

(3) When two or more counties have counselors appointed to serve the counties jointly, each county shall provide funds to pay its share of the costs and expenses of the employment of counselors and maintaining juvenile departments. The method of determining the portion of such costs and expenses each county is to bear shall be provided in the agreement made between the counties pursuant to ORS 419.604 (2). [1955 c.491 §6, 1987 c.779 §2]

Note: See note under 419.604.

419.618 Detention rooms and hospital wards for juvenile cases; payment of expenses. The board of county commissioners or county court of counties having more than 400,000 inhabitants, according to the latest federal decennial census, shall provide proper accommodations for detention rooms and hospital wards, as may be necessary for the care, custody and discipline of minor children. The expense of the same shall be audited and paid in the same manner as other bills in such county are audited and paid. [Formerly 419.568, 1963 c.519 §37]

(Informal Disposition Agreements)

419.630 Conditions for informal disposition agreement. An informal disposition agreement may be entered into when a child has been referred to a county juvenile department, and a juvenile department counselor has probable cause to believe that the child may be found to be within the jurisdiction of the juvenile court for one or more of the acts specified in ORS 419.476 (1)(a), (b) or (f) or 419.476 (1)(c) when the child's own behavior is such as to endanger the child's welfare or the welfare of others. [1979 c.339 §1]

419.635 Nature of agreement; contents; terms. (1) An informal disposition agreement is a voluntary contract between a child described in ORS 419.630 and a juvenile department whereby the child agrees to fulfill certain conditions in exchange for not having a petition filed against the child.

(2) An informal disposition agreement may require participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the counselor would be beneficial to the child.

(3) An informal disposition may require that the child make restitution to any person

who was physically injured or who suffered loss of or damage to property as a result of the conduct alleged. Before setting the amount of restitution, the juvenile department shall consult with the victim concerning the amount of damage. Restitution does not limit or impair the right of a victim to sue in a civil action for damages suffered, nor shall the fact of consultation by the victim be admissible in such civil action to prove consent or agreement by the victim. However, the court shall credit any restitution paid by the child to a victim against any judgment in favor of the victim in such civil action. [1979 c.339 §2, 1983 c 815 §20]

419.640 Scope and limitation of agreements. An informal disposition agreement shall:

(1) Be completed within a period of time not to exceed six months;

(2) Be voluntarily entered into by all parties;

(3) Be revocable by the child at any time by a written revocation;

(4) Be revocable by the juvenile department in the event the department has reasonable cause to believe the child has failed to carry out the terms of the informal disposition agreement or has committed a subsequent offense;

(5) Not be used as evidence against the child at any adjudicatory hearing;

(6) Not require admission of guilt or be used as evidence of guilt;

(7) Be executed in writing and expressed in language understandable to the persons involved;

(8) Be signed by the juvenile department, the child, the child's parent or parents or legal guardian, and the child's counsel, if any; and

(9) Become part of the child's juvenile department record. [1979 c 339 §3, 1983 c 815 §21]

419.645 Revocation of agreement; hearing. If an informal disposition agreement is revoked pursuant to ORS 419.640 (3) or (4), the juvenile department shall either extend the agreement pursuant to ORS 419.650 or file a petition with the juvenile court, and an adjudicatory hearing may be held. [1979 c 339 §4; 1983 c 815 §22]

419.650 Modifying agreement in lieu of revocation. If the juvenile department has reasonable cause to believe that the child has failed to carry out the terms of the informal disposition agreement or has committed a subsequent offense, in lieu of revoking the agreement, the department may modify the terms of the agreement and extend the period of the agreement for an additional six months from the date on which the modification was made with the consent of the child and the child's counsel, if any. [1979 c 339 §5, 1983 c 815 §23]

419.655 Right of child to representation by counsel. The juvenile department counselor shall inform the child and the child's parents or guardian of the child's right to counsel and to court-appointed counsel, if the child is indigent. The right to counsel shall attach prior to the child's entering into an informal disposition agreement. [1979 c.339 §6]

CURFEW HOURS FOR MINORS

419.710 Prohibition of unaccompanied or unemancipated minors from being in public places during certain hours. No minor shall be in or upon any street, highway, park, alley or other public place between the hours of 12 midnight and 4 a.m. of the following morning, unless:

(1) Such minor is accompanied by a parent, guardian or other person 18 years of age or over and authorized by the parent or by law to have care and custody of the minor;

(2) Such minor is then engaged in a lawful pursuit or activity which requires the presence of the minor in such public places during the hours specified in this section; or

(3) The minor is emancipated pursuant to ORS 109.550 to 109.565. [1953 c 576 §1; 1973 c 827 §37, 1977 c 525 §7]

419.720 Prohibition of parents, guardians or custodians from allowing minors to be in public places during curfew hours. No parent, guardian or person having the care and custody of a minor under the age of 18 years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in ORS 419.710, except as otherwise provided in that section. [1953 c 576 §2]

419.730 [1953 c.576 §3, repealed by 1963 c 356 §3]

419.740 Regulations by political subdivisions concerning conduct of minors in public places. ORS 419.710 and 419.720 do not affect the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law; provided, that the local ordinance or law restricts curfew hours at least to the extent required by ORS 419.710 and 419.720. [1953 c 576 §4]

419.750 County ordinance establishing curfew authorized; terms. The county court or board of county commissioners of any county may provide by ordinance for a curfew restriction on minors applicable to areas not within a city, which has the same terms provided in ORS 419.710 except that

the period of curfew may include hours in addition to those specified in ORS 419.710. The ordinance may provide different periods of curfew for different age groups. [1963 c 356 §1]

419.760 Custody of minors violating curfew. Any minor who violates ORS 419.710 or an ordinance established under ORS 419.750 may be taken into custody as provided in ORS 419.569 and may be subjected to further proceedings as provided in ORS 419.472 to 419.597, 419.800 to 419.839 and 419.990 (2). [1963 c 356 §2]

LOCAL CITIZEN REVIEW BOARDS

419.770 Establishment of local citizen review board; membership. Subject to the availability of funds, the Judicial Department shall establish local citizen review boards consistent with the following:

(1) There shall be at least one local citizen review board in each county with a population of 5,000 or more, except that for two or more contiguous counties, each with a population of fewer than 100,000, there may be joint local citizen review boards;

(2) Each such local citizen review board shall be composed of at least three and not more than five members appointed by the Chief Justice of the Oregon Supreme Court. Each member appointed shall be sworn in by a judge of the court to which the member is to be appointed to serve. The Chief Justice shall appoint local citizen review boards according to the following guidelines:

(a) Members of each local citizen review board shall be recruited from groups with special knowledge or interest in foster care and child welfare which may include but shall not be limited to adoptive parents and members of the professions of law, medicine, psychology, social work and education;

(b) As far as practicable, members of each local citizen review board shall represent the various socioeconomic and ethnic groups of the area served;

(c) No person employed by the Children's Services Division, by any private agency regulated, certified, directed or licensed by or contracting with the division or by any juvenile court shall serve on any local citizen review board;

(d) The appointment of any individual member of a local citizen review board shall be made only from a list approved by the presiding judge of the court to which the individual member is to be appointed to serve; and

(e) Members of local citizen review boards must be domiciled within the counties of the court that they are appointed to serve; and

(3) Local citizen review boards shall be added when the number of cases requiring review by existing boards exceeds a number per month established by rule under ORS 419.772, as the maximum number that may be reviewed by a single board.

(4) Prior to reviewing cases, all persons appointed to serve as local citizen review board members shall participate in a training program established and approved by the Supreme Court of the State of Oregon. [1985 c.721 §§5,8, 1987 c 809 §3a, 1989 c 294 §3]

Note: 419.770 to 419.794 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 419 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419.772 Administration; training; rules of Chief Justice. Subject to the availability of funds:

(1) The Judicial Department, in accordance with the direction of the Supreme Court of the State of Oregon, shall:

(a) Establish and approve policies and procedures for the operation of local citizen review boards;

(b) Approve and cause to have conducted training programs for local citizen review board members;

(c) Provide consultation services on request to local citizen review boards;

(d) Establish reporting procedures to be followed by the local citizen review boards to provide data for the evaluation of ORS 419.770 to 419.794; and

(e) Employ staff and provide for support services for the local citizen review boards.

(2) The Supreme Court shall establish requirements and procedures necessary for compliance with subsection (1) of this section and shall direct the State Court Administrator to carry out duties prescribed by the Supreme Court relating to the administration of the local citizen review board program established pursuant to this section and ORS 419.770.

(3) The Judicial Department shall cause to be prepared, in accordance with direction of the Supreme Court, a biennial report to the Governor, the Legislative Assembly and the public regarding:

(a) State laws, policies and practices affecting permanence and appropriate care for children in the custody of the division and other agencies.

(b) The effectiveness or lack thereof of local citizen review boards in bringing about permanence and appropriate care for chil-

dren in the custody of the Children's Services Division and other agencies.

(4) The Chief Justice, in consultation with the Supreme Court, shall adopt rules under ORS 1.002 that may include any procedures for the administration of the local citizen review board program regarding:

(a) Removal of members of local citizen review boards;

(b) The time, content and manner in which case plans and case progress reports shall be provided by the division or other agency or individual directly responsible for the care of the child to the local citizen review board. These rules may require that such information be provided in shorter time periods than those contained in ORS 419.576, and that information in addition to that specified by ORS 419.576 be provided;

(c) Procedures for providing written notice of the review to the division, any other agency directly responsible for the care or placement of the child, the parents or their attorneys, foster parents, surrogate parents, mature children or their attorneys, the court-appointed attorney or special advocate of any child, any district attorney or attorney general actively involved in the case and other interested persons. The notice shall include advice that persons receiving a notice may participate in the hearing and be accompanied by a representative;

(d) Procedures for securing or excusing the presence at the review of caseworkers and other employees of the division or other agencies directly responsible for the care of the child; and

(e) Procedures by which boards can remove cases from review when such review is not required under federal law. [1985 c.721 §4, 1989 c 294 §1]

Note: See note under 419 770.

419.774 Removal of members; grounds. Grounds for removal under subsection (4) of ORS 419.772, may include, but are not limited to the following:

(1) Nonparticipation by a local board member;

(2) A member establishing a domicile in a county other than the county where the court the person was appointed to serve is located;

(3) Violation of the confidentiality of information established under ORS 419.778; or

(4) Other cause or grounds as necessary for the administration of the program. [1989 c 294 §2]

Note: See note under 419.770.

419.776 Terms; officers. (1) All local citizen review board members shall serve at the pleasure of the appointing authority; however, if not otherwise released from service on a board, the following apply:

(a) Each member shall serve a term of two years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term.

(b) The term of each member shall expire on the day of the appropriate year established under ORS 419.772; and

(c) Members may be reappointed and shall continue to serve until a successor is appointed.

(2) Local citizen review board members may be removed pursuant to rules and upon grounds established under ORS 419.772.

(3) Each local citizen review board shall:

(a) Elect annually from its membership a chair and vice-chair to serve in the absence of the chair; and

(b) Meet at the nearest Children's Services Division office or another place mutually agreed to by a majority of the board as often as it considers necessary to carry out the duties of the board. [1985 c.721 §6, 1989 c 294 §4]

Note: See note under 419.770

419.778 Confidentiality of information; penalty. (1) Before beginning to serve on a local citizen review board, each member shall swear or affirm to the court that the member shall keep confidential the information reviewed by the board and its actions and recommendations in individual cases.

(2) A member of a local citizen review board who violates the duty imposed by subsection (1) of this section commits a violation punishable by a fine not exceeding $1,000. [1985 c 721 §9]

Note: See note under 419.770

419.780 Access to records. (1) Notwithstanding the provisions of ORS 40.225 to 40.275, 418.130, 418.770 and 419.576, each local citizen review board shall have access to:

(a) Any records of the court which are pertinent to the case; and

(b) Any records of the Children's Services Division that would be admissible in a dispositional review hearing conducted pursuant to ORS 419.792, including school records and reports of private service providers contained in the records of the division or other agency.

(2) All requested records not already before the local citizen review board shall be submitted by the division within five working days after receipt of the request. The following provisions apply:

(a) Copies may be sent in lieu of originals.

(b) Except as otherwise provided in this paragraph, the local citizen review boards and the staff provided for the boards must return all records and copies received from the division to the division within seven working days after completion of the review. The staff of a local citizen review board may retain a reference copy of case materials used by the local citizen review board to make its recommendation if the following apply:

(A) The material is necessary for the ongoing work of the board with regard to the particular case or to work of the board; and

(B) The confidentiality of the material is continued and protected in the same manner as other materials received from the Children's Services Division. Materials thus retained by the local boards are exempt from disclosure under the public records law.

(3) If a local citizen review board is denied access to requested records, it may request a court hearing. The court may require the organization in possession of the records to show cause why the records should not be made available as provided by this section. [1985 c.721 §11; 1987 c 809 §1; 1989 c.294 §5]

Note: See note under 419.770.

419.782 Assignment of cases for review. Within 10 days of entry of the order of disposition, or 30 days of placement, whichever comes first, the court shall assign the case of each child in substitute care to a local citizen review board and forward to the board a copy of the petition and the order of disposition for each child who has been found to be within the jurisdiction of the court and who has been placed in substitute care. [1985 c 721 §10]

Note: See note under 419.770

419.784 Review; scope; procedures; immunity. (1) Except for cases removed from review under procedures established under ORS 419.772, the local citizen review board shall review the case of each child in substitute care which is assigned by the court. The following provisions apply:

(a) The review shall take place at times set by the board, the first review to be no more than six months after the child is placed in substitute care and subsequent reviews to take place no less frequently than once every six months thereafter until the child is no longer within the jurisdiction of the court, no longer in substitute care or until an adoption proceeding becomes final.

(b) The court, by rule of the court or on an individual case basis, may relieve the local citizen review board of its responsibility to review a case if a complete judicial review has taken place within 60 days prior to the next scheduled board review.

(c) As soon as practical but no later than 45 days after the denial, the board shall review any case where a petition to terminate parental rights has been denied.

(2) After reviewing each case, the local citizen review board shall prepare written findings and recommendations with respect to:

(a) Whether reasonable efforts were made prior to the placement, to prevent or eliminate the need for removal of the child from the home, and to make it possible for the child to be returned home;

(b) The continuing need for and appropriateness of the placement;

(c) Compliance with the case plan;

(d) The progress which has been made toward alleviating the need for placement;

(e) A likely date by which the child may be returned home or placed for adoption;

(f) Other problems, solutions or alternatives the board determines should be explored; and

(g) Whether the court should appoint an attorney or other person as special advocate to represent or appear on behalf of the child pursuant to ORS 419.494 and 419.790.

(3) Whenever a member of a local citizen review board has a potential conflict of interest in a case being reviewed, the member shall declare to the local citizen review board the nature of the potential conflict prior to participating in the case review. The following apply as described:

(a) The declaration of the member shall be recorded in the official records of the board.

(b) If, in the judgment of the majority of the local board, the potential conflict of interest may prevent the member from fairly and objectively reviewing the case, the local board may remove the member from participation in the review.

(4) The local citizen review board shall keep accurate records and retain these records on file. The local citizen review board shall send copies of its written findings and recommendations to the following:

(a) The court;

(b) The Children's Services Division; and

(c) Other participants in the review.

(5) The local citizen review board may hold joint or separate reviews for groups of siblings.

(6) The local citizen review board may disclose to parents and their attorneys, foster parents, mature children and their attorneys and other persons authorized by the local board to participate in the case review, re-

cords disclosed to the local board pursuant to ORS 419.780. Before participating in a local citizen review board case review, each participant, other than parents and children, shall swear or affirm to the board that the participant shall keep confidential the information disclosed by the board in the case review and to disclose it only as authorized by law.

(7) Anyone participating in a case review by a local citizen review board shall have:

(a) Immunity from any liability, civil or criminal, for defamation for statements made in good faith by the participant, orally or in writing, in the course of such case review.

(b) The same immunity with respect to participating in any judicial proceeding resulting from the review or recommendation of a local board to the juvenile court. [1985 c.721 §12; 1987 c 809 §2; 1989 c 294 §6]

Note: See note under 419.770

419.786 Recommendations by board. In addition to reviewing individual cases of children in substitute care, local citizen review boards may make recommendations to the court and the division concerning substitute care services, policies, procedures and laws. [1985 c 721 §14]

Note: See note under 419.770.

419.788 Presence of certain employees at meetings of board. (1) Unless excused from doing so by the local citizen review board, the division and any other agency directly responsible for the care and placement of the child shall require the presence of any employees having knowledge of the case at local board meetings.

(2) The local citizen review board may require the presence of specific employees of the division or agency at local board meetings. If an employee fails to be present at such a meeting, the local review board may request a court hearing. The court may require the employee to be present and show cause why the employee should not be compelled to appear before the local citizen review board.

(3) As used in this section, "presence" includes telephone participation except that the caseworker on the case at the time of the meeting must be physically present if required. [1985 c 721 §13]

Note: See note under 419.770.

419.790 Court review of findings and recommendations of board. (1) Upon receipt of findings and recommendations from the local citizen review board, the court shall:

(a) Review the findings and recommendations of the local citizen review board within 10 days after the findings and recommendations are received by the court. If the court finds it appropriate, the court may on its own motion schedule a review hearing.

(b) Cause the findings and recommendations of the local citizen review board to become part of the juvenile court file.

(c) Give the local citizen review board written notice if the court modifies, alters or takes action on a case as a result of the board's recommendations.

(2) Upon receipt of findings and recommendations from the local citizen review board, the Children's Services Division shall:

(a) Review the findings and recommendations of the local citizen review board within 10 days after the findings and recommendations are received by the division. The recommendations shall be implemented and the case plan modified as the division deems appropriate and resources permit.

(b) Give the local citizen review board written notice of such intent within the 10-day review period or as soon as practicable thereafter, but in no case later than seven days after the end of the review period, if the division does not intend to implement the recommendations.

(c) Cause the findings and recommendations of the local citizen review board to become part of the case file of the division.

(3) Upon its own motion or upon the request of the division, the local citizen review board or any interested party, the court may appoint an attorney or other person as special advocate to represent or appear on behalf of the child. Subject to the direction of the court, the duties of the court-appointed special advocate shall be to:

(a) Investigate all relevant information about the case;

(b) Advocate for the child insuring that all relevant facts are brought before the court;

(c) Facilitate and negotiate to insure that the court, the division and the child's attorney fulfill their obligations to the child in a timely fashion; and

(d) Monitor all court orders to insure compliance and to bring to the court's attention any change in circumstance that may require modification of the court's order.

(4) The hearing shall be conducted in the manner provided in ORS 419.498, except that the court may receive testimony and reports as provided in ORS 419.500 (2). [1985 c 721 §15, 1987 c.809 §3; 1989 c 294 §7]

Note: See note under 419.770

419.792 Dispositional review hearing by court. (1) The court shall conduct a dispositional review hearing no later than 18

months after the original placement and periodically thereafter during the continuation of substitute care. Unless good cause otherwise is shown, the court shall also conduct a dispositional review hearing at any time upon the request of the division, an agency directly responsible for care or placement of the child, parents whose parental rights have not been terminated, an attorney for the child, a court-appointed special advocate, a citizen review board or upon its own motion. The court shall schedule the hearing as soon as possible after receiving a request.

(2) The court may order that the child or any other person be present during the hearing.

(3) The court shall notify the parties listed in subsection (1) of this section and any other interested parties of the hearing. The notice shall state the time and place of the hearing. Upon request of the court, the division or other legal custodian of the child shall provide the court with information concerning the whereabouts and identity of such parties.

(4) The court shall enter an order within 20 days after the review hearing. Where the child is in substitute care, the order shall include a determination of:

(a) Whether or not the child should be returned to the parent;

(b) Whether or not the child should be placed for adoption;

(c) Whether the child should continue in substitute care for a specified period; or

(d) Whether, because of special needs or circumstances, the child should be placed in the permanent custody or guardianship of a responsible relative or other individual or should continue in substitute care on a permanent or long-term basis.

(5) If the court determines that the child shall be placed or continued in substitute care or placed in the custody or guardianship of a relative or other responsible individual, the court shall enter written findings specifying why neither placement with parents nor adoption is appropriate. If the current placement is not expected to be permanent, the court shall specify a projected timetable for return home or another permanent placement. If the timetable set forth by the court is not met, the division shall promptly notify the court and parties.

(6) In the course of the dispositional review hearing, the court may determine the adequacy of and compliance with the case plan and case progress report. In addition to other orders, the court may:

(a) Order the division to develop or expand a case plan or case progress report which must be submitted within 10 days after the hearing;

(b) Set a court hearing at a specific later time;

(c) Direct the local citizen review board to review the status of the child prior to its next review under ORS 419.784;

(d) Order the division or other agency directly responsible for the child to modify the care, placement and supervision of the child; and

(e) Determine whether the division or other agency directly responsible for the child has made reasonable efforts to reunify the family.

(7) The dispositional review hearing shall be conducted in the manner provided in ORS 419.498, except that the court may receive testimony and reports as provided in ORS 419.500 (2).

(8) Any decision of the court made pursuant to the dispositional review hearing shall be a final order for the purposes of ORS 419.561 and 419.563. [1985 c 721 §16]

Note: See note under 419.770

419.794 State Citizen Review Board Operating Account. (1) There is created a State Citizen Review Board Operating Account in the General Fund which is continuously appropriated to the State Court Administrator to pay the expenses incurred under ORS 419.770 to 419.794. Such expenses shall be paid only from funds specifically appropriated for the purposes of ORS 419.770 to 419.794 and no other moneys appropriated to the State Court Administrator shall be used for these purposes.

(2) The State Court Administrator may apply for and receive funds from federal and private sources for carrying out the purposes of ORS 419.770 to 419.794. Such funds shall be credited to the State Citizen Review Board Operating Account. [1985 c.721 §17a]

Note: See note under 419.770.

EXPUNCTION OF JUVENILE COURT RECORDS

419.800 Definitions for ORS 419.800 to 419.839. As used in ORS 419.800 to 419.839:

(1) "Contact" means any instance in which a person's act or behavior, or alleged act or behavior, which could result in a juvenile court's assumption of jurisdiction under ORS 419.476 (1)(a) to (c) and (f) comes to the attention of an agency specified in subsection (4) of this section.

(2) "Expunction" means:

(a) The removal and destruction of a judgment or order related to a contact;

(b) The removal and destruction of all records and all references; and

(c) Where a record is kept by the Children's Services Division, either the sealing of such record by the division, or in a multi-person file, the affixing to the front of the file, by the division, a stamp or statement identifying the name of the individual, the date of expunction and instruction that no further reference shall be made to the material that is subject to the expunction order except upon an order of a court of competent jurisdiction.

(3) "Person" includes a person under 18 years of age.

(4) "Record" includes a report, exhibit or other material which contains information relating to a person's contact with any law enforcement agency or juvenile court or juvenile department and is kept manually, through the use of electronic data processing equipment, or by any other means by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon. "Record" does not include:

(a) A transcript of a student's academic record at MacLaren School for Boys or Hillcrest School of Oregon;

(b) Material on file with a public agency which is necessary for obtaining federal financial participation regarding financial assistance or services on behalf of a person who has had a contact;

(c) Records kept or disseminated by the Motor Vehicles Division, State Marine Board, State Fish and Wildlife Commission pursuant to juvenile or adult order or recommendation;

(d) Police and court records related to an order of remand where the matter is still pending in the adult court or on appeal therefrom, or to any disposition as an adult pursuant to such order;

(e) Records related to a support obligation;

(f) Medical records;

(g) Records of a proposed or adjudicated termination of parent-child relationship and adoptions;

(h) Any law enforcement record of a person who currently does not qualify for expunction or of current investigations or cases remanded to the adult court;

(i) Records and case reports of the Oregon Supreme Court and the Oregon Court of Appeals; or

(j) Any records in cases under ORS 419.476 (1)(a) in which a juvenile court found a person to be within the jurisdiction of the court based upon the person's commission of an act which would constitute child abuse as defined in ORS 418.740 and if done by an adult would constitute one of the following offenses:

(A) Criminal mistreatment in the first degree under ORS 163.205;

(B) Rape in the third degree under ORS 163.355;

(C) Rape in the second degree under ORS 163.365;

(D) Rape in the first degree under ORS 163.375;

(E) Sodomy in the third degree under ORS 163.385;

(F) Sodomy in the second degree under ORS 163.395;

(G) Sodomy in the first degree under ORS 163.405;

(H) Sexual penetration with a foreign object in the second degree under ORS 163.408;

(I) Sexual penetration with a foreign object in the first degree under ORS 163.411;

(J) Sexual abuse in the second degree under ORS 163.415;

(K) Sexual abuse in the first degree under ORS 163.425;

(L) Promoting prostitution under ORS 167.012; and

(M) Compelling prostitution under ORS 167.017.

(5) "Termination" means:

(a) For a person who is the subject of a record kept by a juvenile court or juvenile department, the final disposition of a case by informal means, by a decision not to place the person on probation or make the person a ward of the court after the person has been found to be within the court's jurisdiction, or by a discontinuance of probation or of the court's wardship under ORS 419.531.

(b) For a person who is the subject of a record kept by a law enforcement or public investigative agency, a juvenile court or juvenile department or an agency of the State of Oregon, the final disposition of the person's most recent contact with a law enforcement agency. [1975 c.680 §2; 1977 c 558 §1, 1979 c 841 §1, 1983 c 820 §1; 1989 c 774 §2]

419.802 When notice of procedures of expunction to be given to child. The juvenile court or juvenile department shall make reasonable effort to provide written notice to a child who is within the court's jurisdiction under ORS 419.476 (1)(a) to (c) and (f), and to the child's parent, of the procedures for expunction of a record, the right to counsel

under this chapter, and the legal effect of an expunction order, at the following times:

(1) At any dispositional hearing or at any informal disposition;

(2) At the time of termination;

(3) Upon notice to the subject of an expunction pending pursuant to application of a juvenile department or motion on a juvenile court; and

(4) At the time of notice of execution of an expunction order. [1983 c 820 §5]

419.804 Venue. An expunction proceeding shall be commenced in the county where the subject child resided at the time of the most recent termination. [1983 c 820 §6]

419.805 Expunction of juvenile court records generally; conditions; notice to subject. (1) Upon application of either a person who is the subject of a record or a juvenile department, or upon its own motion, the juvenile court shall order expunction if, after a hearing when the matter is contested, it finds that:

(a) At least two years have elapsed since the date of the person's most recent termination;

(b) Since the date of the most recent termination, the person has not been convicted of a felony or a Class A misdemeanor;

(c) No proceedings seeking a criminal conviction or an adjudication in a juvenile court are pending against the person;

(d) The person is not within the jurisdiction of any juvenile court on the basis of a petition alleging an act or behavior as defined in ORS 419.476 (1)(a) to (c) and (f); and

(e) The juvenile department is not aware of any pending investigation of the conduct of the person by any law enforcement agency.

(2) Notwithstanding paragraphs (a) to (e) of subsection (1) of this section, if a person has been placed in out-of-home care by a public agency including, but not limited to, shelter care, foster care, a child care center, a group home or the state training schools, a period of three years must have elapsed from the person's most recent termination before the record can be expunged.

(3) In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with ORS 419.820 unless the person has reached 21 years of age. [1975 c.680 §3; 1979 c 841 §2, 1983 c.820 §2]

419.810 Expunction of records of persons 18 years of age; conditions. (1) When a person who is the subject of a record kept by a juvenile court or juvenile department reaches 18 years of age, the juvenile court, after a hearing when the matter is contested, shall order expunction if:

(a) The person never has been found to be within the jurisdiction of the court; or

(b) The conditions of ORS 419.805 (1)(a) to (e) and (2) have been met.

(2) Expunction shall not be ordered under this section if actual notice of expunction has not been given to the person in accordance with ORS 419.820 unless the person has reached 21 years of age.

(3) This section shall apply only to cases which result in termination after September 13, 1975. [1975 c.680 §4, 1979 c 841 §3, 1983 c 820 §3]

419.815 Expunction of records in public interest. Notwithstanding ORS 419.805 and 419.810, upon application of a person who is the subject of a record kept by a juvenile court or juvenile department, upon application of the juvenile department, or upon its own motion, the juvenile court, after a hearing when the matter is contested, may order expunction of all or any part of the person's record if it finds that to do so would be in the best interests of the person and the public. In the case of an application by the juvenile department or of the court acting upon its own motion, expunction shall not be ordered if actual notice of expunction has not been given to the person in accordance with ORS 419.820 unless the person has reached 21 years of age. [1975 c 680 §5, 1979 c.841 §4]

419.817 Content of application. (1) When an expunction proceeding is commenced by application of the person whose records are to be expunged, the person shall set forth as part of the application the names of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies which the person has reason to believe possess an expungible record of the person. The juvenile department shall provide the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies which a reasonable search of department files indicates have expungible records.

(2) When an expunction proceeding is commenced by application of the juvenile department or upon the court's own motion, the application or motion shall set forth the names and addresses of the juvenile courts, juvenile departments, institutions and law enforcement and other agencies which a reasonable search of department files indicates have expungible records and those provided by the subject child. [1983 c.820 §7]

419.820 Notice to district attorney and subject person. Notice of an application for

expunction under ORS 419.805 to 419.815 shall be given to:

(1) The district attorney of the county in which the expunction proceeding is commenced and the district attorney of each county in which the record sought to be expunged is kept; and

(2) The person who is the subject of the record if the person has not initiated the expunction proceeding. [1975 c 680 §7, 1983 c 820 §8]

419.823 District Attorney response; hearing. Within 30 days of receiving the notice of application for expunction under ORS 419.820, a district attorney shall give written notice of any objection and the grounds therefor to the person whose records are to be expunged and to the juvenile court. If no objection is filed the court may decide the issue of expunction either without a hearing or after full hearing pursuant to ORS 419.827. [1983 c 820 §9]

419.825 [1975 c 680 §8, repealed by 1983 c 820 §18]

419.827 When hearing required; conduct of hearing. (1) When an expunction is pending pursuant to ORS 419.805 to 419.815, the court may proceed with or without a hearing, except that:

(a) The court may not enter an order of expunction without a hearing if a timely objection to expunction has been filed pursuant to ORS 419.823; and

(b) The court may not deny an expunction without a hearing if the proceeding is based on an application of the subject.

(2) Notice of a hearing on a pending expunction shall be served on the subject and any district attorney filing a timely objection pursuant to ORS 419.823.

(3) The court shall conduct a hearing on a pending expunction in accord with the provisions of ORS 419.498. Rules of evidence shall be as in a hearing to establish juvenile court jurisdiction and as defined in ORS 419.500 (1). The burden of proof shall be with the party contesting expunction.

(4) At the conclusion of a hearing on a pending expunction, the court shall issue an order granting or denying expunction. Such order shall be a final order of the court for purposes of appeal. [1983 c 820 §10]

419.830 Transmitting expunction orders to affected agencies; effect; compliance; notice to subject person. (1) The juvenile court or juvenile department shall send a copy of an expunction order to each agency subject to the order. Upon receipt of a copy of the order, an agency subject thereto shall comply and, within 21 days of the date of receipt, return the copy to the juvenile court or juvenile department with an indorsement indicating compliance.

(2) When all agencies subject to an expunction order have indicated their compliance or in any event no later than six weeks following the date the order was delivered as required by subsection (1) of this section, the juvenile court shall provide the person who is the subject of the record with a copy of the expunction order, a list of complying and noncomplying agencies, and a written notice of rights and effects of expunction. The juvenile court and juvenile department then shall remove and destroy forthwith all records which they possess and which are subject to the order, except the original expunction order and a list of complying and noncomplying agencies which shall be preserved under seal.

(3) In addition to those agencies identified in ORS 419.800 (4), the juvenile, circuit, district, municipal and justice courts, and the district and city attorneys of this state, are bound by an expunction order of any juvenile court of appropriate jurisdiction in this state issuing an order of expunction. [1975 c 680 §9; 1983 c 820 §11]

419.835 Effect of expunction. (1) Upon entry of an expunction order, the contact which is the subject of the expunged record shall not be disclosed by any agency. An agency which is subject to an expunction order shall respond to any inquiry about the contact by indicating that no record or reference concerning the contact exists.

(2) A person who is the subject of a record which has been expunged under ORS 419.800 to 419.839 may assert that the record never existed and that the contact, which was the subject of the record, never occurred without incurring a penalty for perjury or false swearing under the laws of this state. [1975 c.680 §10; 1983 c.820 §12]

419.837 Authority of court to destroy records without expunction proceedings. Juvenile courts, by court rule or by order related to a particular matter, may direct that records concerning a subject child be destroyed. No such records shall be destroyed until at least three years have elapsed after the date of the subject's most recent termination. In the event the record has been expunged, the order of expunction and list of complying agencies shall not be destroyed, but shall be preserved under seal. The destruction herein defined does not constitute expunction. [1983 c.820 §15]

419.838 Confidentiality of expunction order. An order of expunction and list of complying agencies shall be released from confidentiality only on order of the court originating the order of expunction, based on a finding that review of a particular case furthers compliance with the expunction provisions of this chapter. [1983 c 820 §14]

419.839 Remedy for violation of confidentiality requirements. (1) A subject has a right of action against any person who intentionally violates the confidentiality provisions of ORS 419.800 to 419.839. In any such proceeding, punitive damages up to an amount of $1,000 may be sought in addition to any actual damages. The prevailing party shall be entitled to costs and reasonable attorney fees.

(2) Intentional violation of the confidentiality provisions of ORS 419.800 to 419.839 by a public employee is cause for dismissal. [1983 c.820 §13]

419.840 [1975 c 680 §12; 1981 c 897 §50, repealed by 1981 c.820 §18]

PENALTIES

419.990 Penalties. (1) Violation of ORS 419.720 is a misdemeanor.

(2) A person who violates any provision of ORS 419.800 to 419.839 commits a Class C misdemeanor. [Subsection (4) of 1959 Replacement Part enacted as 1953 c.576 §2(2), 1959 c.432 §72; subsections (1), (2) and (3) of 1959 Replacement Part renumbered as part of ORS 418 990; subsection (2) enacted as 1975 c.680 §11]