

Enrolled House Bill 2049

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber, M.D., for Oregon Youth Authority)

CHAPTER

AN ACT

Relating to authority of juvenile community supervision officer with respect to youth offender; amending ORS 420.905, 420.910, 420.915 and 420A.120; and declaring an emergency.

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

SECTION 1. ORS 420.905 is amended to read:

420.905. As used in ORS 420.905 to 420.915[.]:

(1) **“Juvenile community supervision officer” means an employee of the Oregon Youth Authority who is classified as a juvenile parole and probation officer or a juvenile parole and probation assistant.**

(2) “Peace officer” means:

[(1)] (a) A sheriff, constable or marshal, or the deputy of any such officer;

[(2)] (b) A member of the state police;

[(3)] (c) A member of the police force of a city or a university that has established a police department under ORS 352.383; or

[(4)] (d) An authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011.

SECTION 2. ORS 420.905, as amended by section 54, chapter 644, Oregon Laws 2011, is amended to read:

420.905. As used in ORS 420.905 to 420.915[.]:

(1) **“Juvenile community supervision officer” means an employee of the Oregon Youth Authority who is classified as a juvenile parole and probation officer or a juvenile parole and probation assistant.**

(2) “Peace officer” means:

[(1)] (a) A sheriff, constable or marshal, or the deputy of any such officer;

[(2)] (b) A member of the state police; or

[(3)] (c) A member of the police force of a city or a university that has established a police department under ORS 352.383.

SECTION 3. ORS 420.910 is amended to read:

420.910. (1)(a) When a youth offender placed in a youth correction facility has escaped or is absent without authorization from the youth correction facility or from the custody of any person in whose charge the youth offender lawfully has been placed, the superintendent of the youth correction facility concerned, or the superintendent’s authorized representative, may order the arrest and detention of the youth offender.

(b) When a youth offender on parole from a youth correction facility is absent from the custody of a person in whose charge the youth offender lawfully has been placed, or has failed to abide by rules of parole supervision or to respond successfully to prior sanctions imposed by the Oregon Youth Authority pursuant to administrative rule, the superintendent of the youth correction facility from which the youth offender is on parole, or the superintendent's authorized representative, may order the arrest and detention of the youth offender.

(c) The superintendent or authorized representative may issue an order under this subsection based on a reasonable belief that grounds exist for issuing the order. Where reasonable, the superintendent or representative shall investigate to ascertain whether such grounds exist.

(2) *[Any]* **An** order issued by the superintendent of a youth correction facility, or the superintendent's representative, as authorized by subsection (1) of this section constitutes full authority for the arrest and detention **by a peace officer** of the escapee, absentee or parole violator, and all laws applicable to warrants of arrest shall apply to such orders.

(3) An order issued by the superintendent of a youth correction facility, or the superintendent's representative, as authorized by subsection (1)(b) and (c) of this section constitutes full authority for a juvenile community supervision officer to take the parole violator into custody.

[(3)] **(4)** In lieu of the procedure in subsection (1) of this section, the juvenile court of the county from which the youth offender or parolee was committed may direct issuance of a warrant of arrest against the youth offender or parolee when notified by the superintendent *[or authorized representative of the superintendent]* of the youth correction facility concerned, **or the superintendent's authorized representative**, that any youth offender placed in a youth correction facility has escaped or is absent without authorization from the institution to which committed, from parole supervision or from the custody of any person in whose charge the youth offender lawfully has been placed.

SECTION 4. ORS 420.915 is amended to read:

420.915. (1) Upon issuance of an order or warrant of arrest **under ORS 420.910**, *[any]* a peace officer may apprehend and deliver to a juvenile detention facility as described in ORS 419A.050 and 419A.052 the escapee, absentee or parole violator *[described in ORS 420.910]* who is under 18 years of age. If the escapee, absentee or parole violator is 18 years of age or older, *[any]* a peace officer may deliver *[such]* **the** person to an adult detention facility.

(2) Upon issuance of an order for arrest under ORS 420.910 (1)(b), a juvenile community supervision officer may apprehend and deliver to a juvenile detention facility as described in ORS 419A.050 and 419A.052 the parole violator who is under 18 years of age. If the parole violator is 18 years of age or older, a juvenile community supervision officer may deliver the person to an adult detention facility.

[(2)] **(3)** A youth correction facility escapee or absentee described in ORS 420.910 may be held in a juvenile detention facility as described in ORS 419A.050 and 419A.052 or an adult detention facility as provided in subsection (1) of this section for up to 36 hours.

[(3)] **(4)** The parole violator described in ORS 420.910 may be held in a juvenile detention facility as described in ORS 419A.050 and 419A.052 or an adult detention facility as provided in subsection (1) **or (2)** of this section no more than 72 hours, excluding Saturdays, Sundays and judicial holidays, except pursuant to such provisions as the Oregon Youth Authority may adopt by rule to govern the use of detention for parolees and review of revocation of parole.

[(4)] **(5)** The director or authorized representative of the juvenile department in whose juvenile detention facility the escapee or absentee from a youth correction facility is held, or the administrator of the adult detention facility in which the escapee or absentee is held, shall immediately inform the institution to which such escapee or absentee was committed and shall surrender the escapee or absentee to any person authorized by the superintendent or authorized representative of such institution to receive the escapee or absentee.

[(5)] (6) The director or authorized representative of the juvenile department in whose juvenile detention facility the parole violator is held, or the administrator of the adult detention facility in which the violator is held, shall immediately inform the paroling authority.

[(6)] (7) Except as provided in subsection [(3)] (4) of this section, the provisions of ORS 419B.175, 419B.183, 419B.185, 419C.109, 419C.136, 419C.139, 419C.145, 419C.150, 419C.153, 419C.170 and 419C.173 do not apply to the detention of an escapee, absentee or parole violator under this section.

SECTION 5. ORS 420A.120 is amended to read:

420A.120. (1) The Oregon Youth Authority, upon being informed and having reasonable grounds to believe that a youth offender under the youth authority's supervision or control has violated the conditions of parole or other conditional release from custody, may suspend the youth offender's parole or conditional release and order that the youth offender be taken into custody and detained. The written order of the youth authority is sufficient warrant for [any] a law enforcement officer or a juvenile community supervision officer as defined in ORS 420.905 to take custody of the youth offender.

(2) The youth authority shall adopt rules establishing standards and procedures for revocation of parole and conditional release. The rules must be consistent with the requirements of due process and other applicable law.

(3) If the juvenile court has committed a youth offender to the legal custody of the youth authority and has placed the youth offender on probation, and the youth authority has probable cause to believe that the youth offender has violated a condition of probation, the juvenile court, upon request of the youth authority, may order that the youth offender be taken into custody as provided in ORS chapter 419C.

SECTION 6. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House March 19, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 28, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2013

Approved:

.....M.,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2013

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Kate Brown, Secretary of State