

## HOUSE AMENDMENTS TO HOUSE BILL 2616

By COMMITTEE ON JUDICIARY

April 3

1 On page 1 of the printed bill, delete lines 5 through 24 and insert:

2 **“SECTION 1.** ORS 419C.200 is amended to read:

3 *“419C.200. [(1) If the youth, the parent or guardian requests counsel for the youth but is without*  
4 *sufficient financial means to employ suitable counsel possessing skills and experience commensurate*  
5 *with the nature of the petition and the complexity of the case, the court may appoint suitable counsel*  
6 *to represent the youth at state expense if the youth is determined to be financially eligible under the*  
7 *policies, procedures, standards and guidelines of the Public Defense Services Commission. Whenever*  
8 *requested to do so, The court shall appoint counsel to represent the youth in every case filed pursuant*  
9 *to ORS 419C.005 in which the youth would be entitled to appointed counsel if the youth were an adult*  
10 *charged with the same offense.]*

11 **“(1)(a) When a petition is filed under ORS 419C.005, the court:**

12 **“(A) Shall appoint counsel to represent the youth at all stages of the proceeding if the**  
13 **offense alleged in the petition is classified as a crime.**

14 **“(B) Shall appoint counsel for the youth at any proceeding concerning an order of pro-**  
15 **bation.**

16 **“(C) Notwithstanding subparagraph (A) or (B) of this paragraph, shall appoint counsel for**  
17 **the youth in any case in which the youth would be entitled to appointed counsel if the youth**  
18 **were an adult charged with the same offense.**

19 **“(D) May appoint counsel for the youth in any other proceeding under ORS 419C.005.**

20 **“(b) Appointment of counsel under this subsection requires the court’s determination**  
21 **that the youth or the youth’s parents or guardians are without sufficient financial means to**  
22 **employ suitable counsel possessing the skills and experience commensurate with the nature**  
23 **of the petition and the complexity of the case under the policies, procedures, standards and**  
24 **guidelines of the Public Defense Services Commission.**

25 **“(c) The court may not substitute one appointed counsel for another except pursuant to the**  
26 **policies, procedures, standards and guidelines of the Public Defense Services Commission.**

27 **“(2)(a) A court may not accept a waiver of counsel by a youth except under the following**  
28 **circumstances:**

29 **“(A) The youth is at least 12 years of age;**

30 **“(B) The youth has met with and been advised regarding the right to counsel by counsel**  
31 **who has been appointed by the court or retained on behalf of the youth;**

32 **“(C) A written waiver, signed by both the youth and the youth’s counsel, is filed with the**  
33 **court; and**

34 **“(D) A hearing is held on the record where the youth’s counsel appears and the court,**  
35 **after consulting with the youth, finds the waiver was knowingly, intelligently and voluntarily**

1 **made and not unduly influenced by the interests of others, including the interests of the**  
2 **youth's parents or guardians.**

3 **“(b) This subsection does not apply to a youth entering into a formal accountability**  
4 **agreement under ORS 419C.230.**

5 “[2] (3) Upon presentation of the order of appointment under this section by the [attorney]  
6 **counsel** for the youth, any agency, hospital, school organization, division or department of the state,  
7 doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental  
8 health clinic shall permit the [attorney] **counsel** to inspect and copy any records of the youth or  
9 youths involved in the case, without the consent of the youth or youths or parents. This subsection  
10 does not apply to records of a police agency relating to an ongoing investigation prior to  
11 charging.”.

12 In line 26, after “inform” insert “, in writing,”.

13 In line 27, delete “guardian” and insert “guardians”.

14 On page 2, delete lines 2 through 7 and insert:

15 “(2) The youth may waive the right to counsel prior to the youth’s entering into a formal ac-  
16 countability agreement, provided that:

17 “(a) The youth’s juvenile department counselor has advised the youth of the youth’s right to  
18 counsel, in writing; and

19 “(b) The waiver is in writing, signed by the youth and presented to the youth’s juvenile depart-  
20 ment counselor.”.

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