

# House Bill 2616

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires court in juvenile delinquency proceeding to advise youth, and parent or guardian of youth, of youth's right to counsel. Prohibits youth from waiving right to counsel in juvenile delinquency proceedings unless otherwise provided by law.

Delineates requirements for effective waiver of right to counsel by youth prior to entering into formal accountability agreement.

## A BILL FOR AN ACT

1  
2 Relating to right to counsel in juvenile delinquency proceedings; amending ORS 419C.200 and  
3 419C.245.

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

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

6 419C.200. (1) *[If the youth, the parent or guardian requests counsel for the youth but is without*  
7 *sufficient financial means to employ suitable counsel possessing skills and experience commensurate*  
8 *with the nature of the petition and the complexity of the case,]* **Whenever jurisdiction of a youth is**  
9 **assumed under ORS 419C.005, the court shall advise the youth, and the parent or guardian**  
10 **of the youth, of the youth's right to counsel in the juvenile delinquency proceeding. Unless**  
11 **otherwise provided by law, a youth may not waive the right to counsel.** The court *[may]* shall  
12 appoint suitable counsel to represent the youth at state expense if the youth is determined to be  
13 financially eligible under the policies, procedures, standards and guidelines of the Public Defense  
14 Services Commission. *[Whenever requested to do so,]* The court shall appoint counsel to represent the  
15 youth in every case filed pursuant to ORS 419C.005 in which the youth would be entitled to ap-  
16 pointed counsel if the youth were an adult charged with the same offense. The court may not sub-  
17 stitute one appointed counsel for another except pursuant to the policies, procedures, standards and  
18 guidelines of the Public Defense Services Commission.

19 (2) Upon presentation of the order of appointment under this section by the attorney for the  
20 youth, any agency, hospital, school organization, division or department of the state, doctor, nurse  
21 or other health care provider, psychologist, psychiatrist, police department or mental health clinic  
22 shall permit the attorney to inspect and copy any records of the youth or youths involved in the  
23 case, without the consent of the youth or youths or parents. This subsection does not apply to re-  
24 cords of a police agency relating to an ongoing investigation prior to charging.

25 **SECTION 2.** ORS 419C.245 is amended to read:

26 419C.245. (1) The juvenile department counselor shall inform a youth and the youth's parents  
27 or guardian of the youth's right to counsel and to appointed counsel at state expense, if the youth  
28 is determined to be financially eligible under the policies, procedures, standards and guidelines of  
29 the Public Defense Services Commission. The right to counsel shall attach prior to the youth's en-

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 tering into a formal accountability agreement.

2 **(2) The youth may waive the right to counsel prior to the youth's entering into a formal**  
3 **accountability agreement, and the court may order that the youth has effectively waived the**  
4 **right to counsel, provided that:**

5 **(a) The youth has been advised of the youth's right to counsel; and**

6 **(b) The waiver is in writing, signed by the youth and presented to the youth's juvenile**  
7 **department counselor.**

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