

# Senate Bill 981

Sponsored by Senator WINTERS (at the request of Oregon AFSCME)

## 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 that inmate or youth offender transferred from correctional facility for mental health stabilization and evaluation for treatment be returned as soon as practicable if stable and not in need of administrative commitment.

## A BILL FOR AN ACT

1  
2 Relating to transfers of inmates or youth offenders to state mental hospital; amending ORS 179.473.

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

4 **SECTION 1.** ORS 179.473 is amended to read:

5 179.473. (1) Whenever the health and welfare of the person and the efficient administration of  
6 the institution requires the transfer of an inmate of a Department of Corrections institution or a  
7 youth offender in a youth correction facility to another institution:

8 (a) The Department of Corrections or the Oregon Youth Authority, with the consent of the De-  
9 partment of Human Services, may transfer a person at any institution under its jurisdiction to an  
10 institution for the mentally retarded, or, with the consent of the Oregon Health and Science Uni-  
11 versity, to the Oregon Health and Science University.

12 (b) The Department of Corrections may transfer an inmate of a Department of Corrections in-  
13 stitution to a state mental hospital listed in ORS 426.010 for evaluation and treatment pursuant to  
14 rules adopted jointly by the Department of Corrections and the Department of Human Services.

15 (c) The Oregon Youth Authority may transfer a youth offender or other person confined in a  
16 youth correction facility to a hospital or facility designated by the Department of Human Services  
17 for evaluation and treatment pursuant to rules adopted jointly by the Oregon Youth Authority and  
18 the Department of Human Services.

19 (d) Except as provided in subsection (2) of this section, the Department of Corrections or the  
20 Oregon Youth Authority may make a transfer of a person from any institution under the jurisdiction  
21 of the department or authority to any other institution under the jurisdiction of the department or  
22 authority.

23 (2) A youth offender in a youth correction facility may not be transferred to a Department of  
24 Corrections institution under subsection (1) of this section. A youth offender in a youth correction  
25 facility who has been transferred to another institution may not be transferred from such other in-  
26 stitution to a Department of Corrections institution.

27 (3) The rules adopted under subsection (1)(b) and (c) of this section must:

28 (a) Provide the inmate or youth offender with the rights to which persons are entitled under  
29 ORS 179.485.

30 (b)(A) Provide that a transfer of an inmate or a youth offender to the Department of Human  
31 Services for stabilization and evaluation for treatment may not exceed 30 days unless the transfer

**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 is extended pursuant to a hearing required by paragraph (c) of this subsection.

2 **(B) Provide that, if an inmate or a youth offender is transferred for stabilization and**  
3 **evaluation for treatment and is then determined by the Department of Human Services to**  
4 **be stable and not in need of administrative commitment, the inmate or youth offender shall**  
5 **be transferred back to the sending facility. This transfer shall take place as soon as is**  
6 **practicable.**

7 (c) Provide for an administrative commitment hearing if:

8 (A) The Department of Human Services determines that administrative commitment for treat-  
9 ment for a mental illness is necessary or advisable or that the Department of Human Services needs  
10 more than 30 days to stabilize or evaluate the inmate or youth offender for treatment; and

11 (B) The inmate or youth offender does not consent to the administrative commitment or an ex-  
12 tension of the transfer.

13 (d) Provide for, at a minimum, all of the following for the administrative commitment hearing  
14 process:

15 (A) Written notice to the inmate or youth offender that an administrative commitment to a state  
16 mental hospital listed in ORS 426.010 or a hospital or facility designated by the Department of Hu-  
17 man Services or an extension of the transfer is being considered. The notice required by this sub-  
18 paragraph must be provided far enough in advance of the hearing to permit the inmate or youth  
19 offender to prepare for the hearing.

20 (B) Disclosure to the inmate or youth offender, at the hearing, of the evidence that is being re-  
21 lied upon for the administrative commitment or the extension of the transfer.

22 (C) An opportunity, at the hearing, for the inmate or youth offender to be heard in person and  
23 to present documentary evidence.

24 (D) An opportunity, at the hearing, for the inmate or youth offender to present the testimony  
25 of witnesses and to confront and cross-examine witnesses called by the state. The opportunity re-  
26 quired by this subparagraph may be denied upon a finding by the decision maker of good cause for  
27 not permitting the inmate or youth offender to present the testimony of witnesses or confront or  
28 cross-examine witnesses called by the state.

29 (E) An independent decision maker for the hearing.

30 (F) A written statement by the decision maker of the evidence relied upon by the decision maker  
31 and the reasons for administratively committing the inmate or youth offender or extending the  
32 transfer.

33 (G) A qualified and independent assistant for the inmate or youth offender to be provided by the  
34 state if the inmate or youth offender is financially unable to provide one.

35 (H) Effective and timely notice of the procedures required by subparagraphs (A) to (G) of this  
36 paragraph.

37 (e) Provide that an inmate or a youth offender may not be administratively committed involun-  
38 tarily unless the independent decision maker finds by clear and convincing evidence that the inmate  
39 or youth offender is a mentally ill person as defined in ORS 426.005.

40 (f) Provide that the duration of an administrative commitment pursuant to an administrative  
41 commitment hearing be no more than 180 days unless the administrative commitment is renewed in  
42 a subsequent administrative commitment hearing. Notwithstanding this paragraph, an administrative  
43 commitment may not continue beyond the term of incarceration to which the inmate was sentenced  
44 or beyond the period of time that the youth offender may be placed in a youth correction facility.