

House Bill 3526

Sponsored by Representative GELSER

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**.

Codifies Staley settlement agreement pertaining to provision of developmental disability services to eligible adults. Defines developmental disability services. Separates provisions pertaining to developmental disability services from provisions pertaining to services for persons with mental illness. Updates terminology for persons with intellectual disabilities. Repeals obsolete provisions regarding Eastern Oregon Training Center.

A BILL FOR AN ACT

1
2 Relating to individuals with developmental disabilities; creating new provisions; amending ORS
3 3.260, 21.010, 30.262, 40.460, 44.547, 109.322, 113.085, 116.253, 125.005, 127.646, 132.090, 138.694,
4 144.226, 162.135, 169.750, 179.010, 179.040, 179.050, 179.055, 179.065, 179.105, 179.110, 179.140,
5 179.150, 179.210, 179.230, 179.240, 179.321, 179.325, 179.331, 179.360, 179.370, 179.375, 179.380,
6 179.385, 179.390, 179.405, 179.450, 179.460, 179.473, 179.478, 179.479, 179.485, 179.490, 179.492,
7 179.505, 179.610, 179.620, 179.701, 279A.050, 314.840, 316.099, 343.035, 346.015, 346.035, 410.040,
8 410.060, 414.025, 416.350, 419B.504, 419C.533, 420.500, 426.005, 426.330, 427.005, 427.007, 427.061,
9 427.104, 427.215, 427.235, 427.245, 427.255, 427.265, 427.270, 427.275, 427.280, 427.285, 427.290,
10 427.295, 427.300, 427.306, 427.330, 427.335, 428.205, 428.210, 428.220, 428.230, 428.240, 428.260,
11 428.270, 428.310, 428.320, 430.010, 430.021, 430.205, 430.210, 430.212, 430.215, 430.216, 430.610,
12 430.630, 430.632, 430.640, 430.670, 430.672, 430.695, 433.045, 433.285, 433.290, 443.400, 443.830,
13 456.559, 480.225, 547.045, 653.269, 656.033, 680.205, 688.132, 743A.190 and 807.700 and section 15,
14 chapter 736, Oregon Laws 2003, and section 5, chapter 826, Oregon Laws 2009; and repealing
15 ORS 427.010, 427.020, 427.031, 427.041, 427.051, 427.105, 427.108, 427.112, 427.175, 427.180, 427.185,
16 427.190, 427.195 and 427.205.

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

18 **SECTION 1. (1) The Department of Human Services shall be responsible for planning,**
19 **policy development, administration and delivery of services to children with developmental**
20 **disabilities and their families and to adults with developmental disabilities including, but not**
21 **limited to:**

22 **(a)(A) Information and referral;**

23 **(B) Service coordination;**

24 **(C) Technical assistance and consultation;**

25 **(D) Twenty-four-hour residential services;**

26 **(E) Crisis and diversion services; and**

27 **(F) Other services prescribed by rule;**

28 **(b) For children with developmental disabilities and their families:**

29 **(A) Family support services;**

30 **(B) Intensive in-home services;**

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 (C) Long-term support services;
- 2 (D) Long-term supports for children;
- 3 (E) Proctor care; and
- 4 (F) Foster care; and
- 5 (c) For adults with developmental disabilities:
- 6 (A) Support services for adults;
- 7 (B) Comprehensive in-home services;
- 8 (C) Community living and inclusion supports;
- 9 (D) Supported living services;
- 10 (E) Environmental accessibility adaptations;
- 11 (F) Specialized supports;
- 12 (G) Specialized medical equipment and supplies;
- 13 (H) Adult foster care;
- 14 (I) Employment services; and
- 15 (J) Alternatives to employment.

16 (2) Not later than 90 days after receipt of an application, the department or its designee
17 shall determine the eligibility of an individual for developmental disability services.

18 (3) Developmental disability services shall be provided in accordance with an individual-
19 ized written service plan.

20 **SECTION 2.** (1) Support services for adults authorized under an individualized written
21 service plan must be in place not later than 90 days after the Department of Human Services
22 determines that the individual is eligible for developmental disability services, unless the in-
23 dividual receives comprehensive services.

24 (2) The department shall ensure that each individual receiving support services for adults
25 has the opportunity to choose the services, activities and purchases that will best meet the
26 individual's needs and preferences, including but not limited to:

- 27 (a) Supported living services;
- 28 (b) Employment services;
- 29 (c) Environmental accessibility adaptations;
- 30 (d) Specialized supports; and
- 31 (e) Specialized medical equipment and supplies.

32 (3) Support services for adults must complement the existing formal and informal sup-
33 ports, services, activities and purchases available to an adult living in the adult's own home
34 or the home of the adult's family.

35 **SECTION 3.** (1) The Department of Human Services shall enter into contracts with sup-
36 port services brokerages to deliver support services for adults in a manner that features
37 regional consolidation, administrative efficiency, cost-effectiveness and strong consumer and
38 family oversight.

39 (2) The department shall provide to support services brokerages training and technical
40 assistance that focuses on:

- 41 (a) Person-centered planning principles and self-determination;
- 42 (b) Fiscal intermediary services; and
- 43 (c) Recruitment of staff needed to carry out individualized written service plans.

44 (3) Individuals who receive support services for adults and their family members shall
45 have formal, significant, continuing roles in advising the department and support services

1 brokerages regarding the design, implementation and quality assurance of the delivery sys-
2 tem for support services for adults.

3 **SECTION 4.** (1) As used in this section:

4 (a) "Chemical restraint" means the use of any drugs as punishment or to modify behavior
5 in place of a meaningful behavior or treatment plan.

6 (b) "Mechanical restraint" means the use of any mechanical device, material, object or
7 equipment to restrict an individual's movement or a normal function of the individual's body
8 or to limit access to an individual.

9 (c) "Person" means an individual who has a developmental disability.

10 (d) "Services" means developmental disability services described in section 1 of this 2011
11 Act.

12 (2) Every person receiving services has the right to:

13 (a) Exercise choice and self-determination in selecting services and seeking a meaningful
14 life with the benefits of community involvement.

15 (b) Choose from available services those that are appropriate, consistent with the plan
16 developed in accordance with paragraphs (c) and (d) of this subsection and provided in a
17 setting and under conditions that are least restrictive to the person's liberty, that are least
18 intrusive to the person and that provide for the greatest degree of independence, integration
19 and productivity for the person, taking into consideration the person's preferences and age.

20 (c) An individualized written service plan developed using a person-centered planning
21 approach, the receipt of services based upon that plan and periodic review and reassessment
22 of the plan.

23 (d) Ongoing participation, in a manner appropriate to the person's capabilities, in the
24 planning of services including:

25 (A) Participating in the development and periodic revision of the individualized written
26 service plan;

27 (B) Being provided with a reasonable explanation of all service considerations; and

28 (C) Inviting others of the person's choosing to participate in the development of the plan.

29 (e) An opportunity to confirm satisfaction with the support services for adults provided
30 to the person and to make changes in the services as necessary.

31 (f) Consent to or refuse treatment, unless the person is incapable of consenting or re-
32 fusing consent, or, if the person is a minor, have the parent or guardian consent to or refuse
33 treatment on behalf of the minor.

34 (g) Not participate in experimental treatment without giving informed voluntary written
35 consent and having any other appropriate safeguards.

36 (h) Receive medication only for the person's particular clinical needs.

37 (i) Not have services terminated or altered without prior notice and an opportunity to
38 contest the change and notification of available alternative resources or services.

39 (j) A humane service environment that affords reasonable protection from harm, rea-
40 sonable privacy and, unless it would create significant risk of harm to the person or others,
41 daily access to fresh air and the outdoors.

42 (k) Be free from abuse and neglect and to report any incident of abuse or neglect without
43 being subjected to retaliation.

44 (L) Participate regularly in the community and use community resources.

45 (m) Exercise religious freedom.

1 (n) Not be required to perform labor, except personal housekeeping duties, without rea-
2 sonable and lawful compensation.

3 (o) Visit with family members, friends, advocates and legal and medical professionals and
4 engage in private communication by mail, electronic means and telephone.

5 (p) Keep and use personal property and have a reasonable amount of private, secured
6 storage space.

7 (q) Be free from unauthorized chemical restraints and mechanical restraints except as
8 prescribed by a physician as medically necessary for use during a medical or surgical proce-
9 dure or for the protection of the individual's health.

10 (r) Exercise all rights set forth in ORS 427.235 to 427.290 if the person is committed to
11 the Department of Human Services.

12 (s) Be informed at the start of services and periodically thereafter of the rights guaran-
13 teed by this section and the procedures for reporting abuse and neglect, and to have these
14 rights and procedures, including the name, address and telephone number of the system
15 designated to protect and advocate for the rights of individuals with disabilities, prominently
16 posted in a location readily accessible to the person and made available to the person's
17 guardian and any representative designated by the person.

18 (t) Assert grievances with respect to infringement of the rights described in this section,
19 including the right to have such grievances considered in a fair, timely and impartial man-
20 ner.

21 (u) Receive encouragement and assistance in exercising legal rights, including the right
22 to vote.

23 (v) Have access to and communicate privately with any public or private advocate or
24 organization, including the system described in paragraph (s) of this subsection.

25 (w) To be informed and have the person's guardian and any representative designated by
26 the person be informed that a family member has contacted the Department of Human Ser-
27 vices inquiring into the location of the person, and to be informed of the name and contact
28 information, if known, of the family member.

29 (x) Exercise all rights described in this section without any form of reprisal or punish-
30 ment.

31 (3) The rights described in this section are in addition to, and do not limit, all other
32 rights that are afforded all citizens including, but not limited to, the right to vote, marry,
33 have or not have children, own and dispose of property, enter into contracts and execute
34 documents.

35 (4) The rights described in this section may be asserted and exercised by the person, the
36 person's guardian and any representative designated by the person.

37 (5) Nothing in this section may be construed to alter any legal rights and responsibilities
38 between parents and their children.

39 (6) The Department of Human Services shall adopt rules concerning the rights of persons
40 with developmental disabilities that are consistent with the principles set forth in this sec-
41 tion.

42 **SECTION 5.** ORS 427.005 is amended to read:

43 427.005. As used in this chapter:

44 (1) "Adaptive behavior" means the effectiveness or degree [*with*] to which an individual meets
45 the standards of personal independence and social responsibility expected for **the individual's** age

1 and cultural group.

2 **(2) “Adult” means an individual who is 18 years of age or older.**

3 **(3) “Alternative to employment” means an activity occurring away from an individual’s**
 4 **residence that addresses the individual’s academic, recreational, social or therapeutic needs.**

5 [(2)] **(4) “Care” means:**

6 (a) Supportive services **provided to an individual**, including, but not limited to, provision of
 7 room and board;

8 (b) Supervision **of an individual**;

9 (c) Protection **of an individual**; and

10 (d) Assistance **to an individual** in bathing, dressing, grooming, eating, management of money,
 11 transportation or recreation.

12 **(5) “Child with an intellectual disability or another developmental disability” means an**
 13 **individual under 18 years of age who has been found by the Department of Human Services**
 14 **to be provisionally eligible for developmental disability services.**

15 **(6) “Choice” means the active role in decision-making by an individual with respect to the**
 16 **selection of services, service providers, goals and activities. “Choice” may be communicated**
 17 **verbally, through sign language or by other communication methods.**

18 [(3)] **(7) “Community developmental disabilities program director” means the director of an en-**
 19 **tity that provides services described in [ORS 430.630 to persons with mental retardation] section 1**
 20 **of this 2011 Act to individuals with intellectual disabilities or other developmental disabilities.**

21 **(8) “Community living and inclusion supports” means services that may or may not be**
 22 **work-related and are designed to develop or maintain the individual’s skills in the following**
 23 **areas:**

24 (a) **Bathing, dressing, grooming, eating, mobility and other personal needs;**

25 (b) **Self-awareness and self-control, social responsiveness, social amenities, interpersonal**
 26 **skills, interpersonal relationships and social connections;**

27 (c) **Community participation, recreation and the ability to use available community ser-**
 28 **vices, facilities or businesses;**

29 (d) **Expressive and receptive skills in verbal and nonverbal language, the functional ap-**
 30 **plication of acquired reading and writing skills and other communication needs; and**

31 (e) **Planning and preparing meals, budgeting, laundering, housecleaning and other per-**
 32 **sonal environmental needs.**

33 **(9) “Comprehensive in-home services” means a package of services, other than support**
 34 **services for adults, that is provided by or under the direction of a community developmental**
 35 **disabilities program and that includes at least one of the following living arrangements li-**
 36 **icensed or regulated by the department:**

37 (a) **Twenty-four-hour residential services.**

38 (b) **Assistance provided to maintain an individual in the individual’s own home or the**
 39 **home of the individual’s family and that costs more than an amount specified by the de-**
 40 **partment by rule.**

41 **(10) “Crisis and diversion services” means services provided for no more than 90 days**
 42 **that are directly related to resolving a crisis.**

43 **(11) “Developmental disability” means intellectual disability, autism, cerebral palsy,**
 44 **epilepsy or another neurological condition diagnosed by a qualified professional that:**

45 (a) **Originates before an individual is 22 years of age, or 18 years of age for an intellectual**

1 **disability;**

2 **(b) Directly affects the brain and is expected to continue indefinitely;**

3 **(c) Results in a significant impairment in adaptive behavior as measured by a qualified**
 4 **professional; and**

5 **(d) Is not attributed primarily to a mental or emotional disorder, sensory impairment,**
 6 **substance abuse, personality disorder, learning disability or attention deficit hyperactivity**
 7 **disorder.**

8 **(12) “Developmental disability services” means services provided under section 1 of this**
 9 **2011 Act to an individual with a developmental disability.**

10 [(4) *“Developmental period” means the period of time between birth and the 18th birthday.*]

11 [(5)] **(13) “Director of the facility” means the superintendent of a state training center, or the**
 12 **person in charge of care, treatment and training programs at other facilities.**

13 **(14) “Employment services” means services provided to develop or maintain the skills**
 14 **necessary for an individual to obtain and retain employment, including job assessment, job**
 15 **exploration, job development, job training, job coaching, work skills and ongoing supports.**

16 **(15) “Environmental accessibility adaptations” means physical modifications to an**
 17 **individual’s home that are necessary to ensure the health, welfare and safety of the individ-**
 18 **ual in the home or that enable the individual to function with greater independence in the**
 19 **home.**

20 [(6)] **(16) “Facility” means a state training center, community hospital, group home, activity**
 21 **center, intermediate care facility, community mental health clinic, or such other facility or program**
 22 **as the department [of Human Services] approves to provide necessary services to [persons with**
 23 **mental retardation] individuals with intellectual disabilities or other developmental disabilities.**

24 **(17) “Family support services” means the services described in ORS 417.342 and 417.344**
 25 **that are provided to a family with a child with an intellectual disability or another develop-**
 26 **mental disability.**

27 [(7)] **(18) “Incapacitated” means [a person is] unable, without assistance, to properly manage or**
 28 **take care of personal affairs or is incapable, without assistance, of self-care.**

29 [(8)] **(19) “Independence” means the extent to which [persons with mental retardation or] indi-**
 30 **viduals with intellectual disabilities or other developmental disabilities exert control and choice**
 31 **over their own lives.**

32 **(20) “Individualized written service plan” means a plan described in section 4 (2)(a) to (c)**
 33 **of this 2011 Act that identifies the resources, services and purchases necessary for an indi-**
 34 **vidual with an intellectual disability or another developmental disability to achieve identified**
 35 **personal goals and maximize self-determination.**

36 **(21) “Information and referral” means a service provided to an individual or family who**
 37 **requests information about or referrals to community medical and social resources that may**
 38 **be available to meet the individual’s or family’s needs.**

39 [(9)] **(22) “Integration” means:**

40 (a) Use by [persons with mental retardation or] **individuals with intellectual disabilities or**
 41 **other developmental disabilities of the same community resources that are used by and available**
 42 **to other [persons] individuals;**

43 (b) Participation by [persons with mental retardation or] **individuals with intellectu-**
 44 **al disabilities or other developmental disabilities in the same community activities in which [persons] indi-**
 45 **viduals without disabilities participate, together with regular contact with [persons] individuals**

1 without disabilities; and

2 (c) Residence by *[persons with]* **individuals with intellectual disabilities or other** develop-
 3 mental disabilities in homes or in home-like settings that are in proximity to community resources,
 4 together with regular contact with *[persons]* **individuals** without disabilities in their community.

5 **(23) “Intellectual disability” means significantly subaverage general intellectual func-**
 6 **tioning existing concurrently with deficits in adaptive behavior and manifesting before the**
 7 **individual reaches 18 years of age. Individuals with borderline intelligence are considered to**
 8 **have an intellectual disability if there is also serious impairment of adaptive behavior. In-**
 9 **tellectual disability is synonymous with mental retardation.**

10 *[(10)]* **(24) “Intellectual functioning” means functioning as assessed by one or more of the indi-**
 11 **vidually administered general intelligence tests developed for the purpose.**

12 *[(11) “Mental retardation” means significantly subaverage general intellectual functioning existing*
 13 *concurrently with deficits in adaptive behavior and manifested during the developmental period. Per-*
 14 *sons of borderline intelligence may be considered to have mental retardation if there is also serious*
 15 *impairment of adaptive behavior. Definitions and classifications shall be consistent with the “Manual*
 16 *on Terminology and Classification in Mental Retardation” of the American Association on Mental*
 17 *Deficiency. Mental retardation is synonymous with mental deficiency.]*

18 **(25) “Intensive in-home services” means services that are intended to maintain perma-**
 19 **nent and stable family relationships by providing to eligible families flexible and efficient**
 20 **services that support, but do not supplant, a family’s natural supports and services and**
 21 **provide the support necessary to enable the family to meet the needs of caring for a child**
 22 **with intellectual disabilities or other developmental disabilities.**

23 **(26) “Long-term support services” include individualized planning and service coordi-**
 24 **nation, arranging for services to be provided in accordance with the individualized written**
 25 **service plan and the purchase of support services not available through other resources that**
 26 **are necessary for a child with a developmental disability to live in the family home.**

27 **(27) “Long-term supports for children” means services and payments provided to or on**
 28 **behalf of a child with an intellectual disability or another disability who is eligible for crisis**
 29 **and diversion services to:**

- 30 (a) **Prevent an unwanted out-of-home placement of the child;**
- 31 (b) **Maintain family unity; and**
- 32 (c) **If practicable, reunite with the child’s family a child who has been placed out-of-home.**

33 *[(12)]* **(28) “Minor” means an unmarried [person] individual under 18 years of age.**

34 **(29) “Person-centered planning” means an informal or formal process for gathering and**
 35 **organizing information that helps an individual to:**

- 36 (a) **Enhance self-determination by choosing personal goals and lifestyle preferences;**
- 37 (b) **Design strategies and networks of support to achieve personal goals and a preferred**
 38 **lifestyle using individual strengths, relationships and resources; and**
- 39 (c) **Identify, use and strengthen naturally occurring opportunities for support in the**
 40 **home and in the community.**

41 *[(13)]* **(30) “Physician” means a person licensed by the Oregon Medical Board to practice medi-**
 42 **cine and surgery.**

43 **(31) “Proctor care” means a comprehensive residential program certified by the depart-**
 44 **ment to provide intensive, individually focused foster care, training and support to individ-**
 45 **uals with developmental disabilities who are experiencing emotional, medical or behavioral**

1 **difficulties.**

2 [(14)] (32) “Productivity” means **regular** engagement in **competitive, integrated,** income-
 3 producing work **with necessary support and accommodations** by [*a person with mental*
 4 *retardation*] **an individual with an intellectual disability** or [*a*] **another** developmental disability
 5 [*which*] **and** is measured through improvements in income level, employment status or job advance-
 6 ment or engagement by [*a person with mental retardation or a developmental disability*] **the individ-**
 7 **ual** in work contributing to a household or community.

8 [(15)] (33) “Resident” means [*a person*] **an individual** admitted to a state training center either
 9 voluntarily or after commitment to the department.

10 (34) “**Self-determination**” means **empowering individuals to:**

11 (a) **Select and plan, together with freely chosen family members and friends, the support**
 12 **services for adults that are necessary, instead of purchasing a predefined program or pack-**
 13 **age of services;**

14 (b) **Control the expenditure of available financial assistance in order to purchase support**
 15 **services for adults, with the help of a social support network if needed;**

16 (c) **Live an autonomous life in the community, rich in community affiliations, through**
 17 **formal or informal arrangements of resources and personnel; and**

18 (d) **Have a valued role in the community through competitive employment, organizational**
 19 **affiliations, personal development and general caring for others in the community, and to**
 20 **be accountable for spending public dollars in ways that are life-enhancing for the individual.**

21 (35) “**Service coordination**” means using a **person-centered planning approach in procur-**
 22 **ing, coordinating and monitoring services under an individualized written service plan and**
 23 **acting as an advocate for individuals with developmental disabilities to assist such individuals**
 24 **to establish desired outcomes, determine needs and identify resources. “Service**
 25 **coordination” is performed by a service coordinator.**

26 (36) “**Service coordinator**” means an **employee of a community developmental disabilities**
 27 **program, a support services brokerage or other entity that contracts with a county or the**
 28 **department to provide service coordination. The terms “case manager” and “personal**
 29 **agent” as used by the department in administrative rules are synonymous with “service co-**
 30 **ordinator.”**

31 [(16)] (37) “**Significantly subaverage**” means a score on a test of intellectual functioning that is
 32 two or more standard deviations below the mean for the test.

33 (38)(a) “**Specialized medical equipment and supplies**” means:

34 (A) **Devices, aids, controls, supplies or appliances that enable individuals:**

35 (i) **To increase their ability to perform activities of daily living; or**

36 (ii) **To perceive, control or communicate with the environment in which they live;**

37 (B) **Items necessary for life support, including ancillary supplies and equipment necessary**
 38 **for the proper functioning of these items; and**

39 (C) **Medical equipment not provided through the medical assistance program.**

40 (b) “**Specialized medical equipment and supplies**” does not include items that provide no
 41 **direct medical or remedial benefit to an individual.**

42 (39) “**Specialized supports**” means **treatment, training, consultation or other unique ser-**
 43 **vices that are not provided through the medical assistance program but are necessary to**
 44 **achieve the goals identified in the individualized written service plan.**

45 [(17)] (40) “**State training center**” means [*Eastern Oregon Training Center and any other*] a fa-

1 cility operated by the department for the care, treatment and training of [*persons with mental re-*
 2 *tardation*] **individuals with developmental disabilities.**

3 **(41) “Support services brokerage” means an entity that contracts with the department**
 4 **to provide or to arrange for support services for adults.**

5 **(42) “Support services for adults” means the services for adults with developmental dis-**
 6 **abilities provided by a support services brokerage under sections 2 and 3 of this 2011 Act.**

7 **(43) “Supported living services” means services that enable individuals with develop-**
 8 **mental disabilities to live where they want, with whom they want, for as long as they desire**
 9 **subject to changes in needs and desires over time.**

10 **(44) “Technical assistance and consultation” means advice, assistance and training pro-**
 11 **vided to individuals with developmental disabilities, their families and others by persons with**
 12 **specific expertise.**

13 [(18)] **(45) “Training” means:**

14 (a) The systematic, planned maintenance, development or enhancement of self-care, social or
 15 independent living skills; or

16 (b) The planned sequence of systematic interactions, activities, structured learning situations
 17 or education designed to meet each resident’s specified needs in the areas of physical, emotional,
 18 intellectual and social growth.

19 [(19)] **(46) “Treatment” means the provision of specific physical, mental, social interventions and**
 20 **therapies [*which*] that halt, control or reverse processes that cause, aggravate or complicate mal-**
 21 **functions or dysfunctions.**

22 **(47) “Twenty-four-hour residential services” means a residential home or facility licensed**
 23 **by the department under ORS 443.410 to provide comprehensive residential care and training**
 24 **to individuals with developmental disabilities.**

25 **SECTION 6.** ORS 427.007 is amended to read:

26 427.007. [(1)] The Legislative Assembly finds and declares that: [*a significant number of persons*
 27 *with mental retardation or other developmental disabilities currently reside in state-operated hospitals*
 28 *and training centers or lack needed services simply because appropriate community-based services, in-*
 29 *cluding residential facilities, day programs, home care and other support, care and training programs,*
 30 *do not exist. The Legislative Assembly further finds that families are the major providers of support,*
 31 *care, training and other services to their members with mental retardation or other developmental dis-*
 32 *abilities who live at home, and many of these families experience exceptionally high financial outlays*
 33 *and extraordinary physical and emotional challenges due to the unavailability of appropriate family*
 34 *support services. Such services pertain to the needs of the person with a disability, the needs of other*
 35 *family members related to their care-giving and nurturing capacity, and specialized needs for environ-*
 36 *mental accommodation to reduce dependency of the family member with mental retardation or another*
 37 *developmental disability. Therefore, the Department of Human Services is directed to facilitate the de-*
 38 *velopment of appropriate community-based services, including family support, residential facilities, day*
 39 *programs, home care and other necessary support, care and training programs, in an orderly and*
 40 *systematic manner. The role of state-operated hospitals and training centers in Oregon shall be as*
 41 *specialized back-up facilities to a primary system of community-based services for persons with mental*
 42 *retardation or other developmental disabilities.]*

43 [(2) *In carrying out the directive in subsection (1) of this section, the department shall develop a*
 44 *biennial plan in conjunction with the budgeting process for review by each Legislative Assembly. In*
 45 *developing this plan, the department shall meet with and consider the input of representatives from the*

1 following constituencies: Consumer organizations, parent-family organizations, advocacy organizations,
2 unions representing workers in state-operated hospitals and training centers, community provider or-
3 ganizations, state and local education officials and community mental health departments or programs.
4 Such plans shall include, where appropriate:]

5 [(a) Proposals for the decrease in the number of persons with mental retardation or other devel-
6 opmental disabilities to be served in state-operated hospitals and training centers at a steady and
7 planned rate until such time that the Legislative Assembly shall determine that each person served in
8 programs or facilities operated or supported by the department is being served according to the best
9 contemporary professional practices in the least restrictive environment, with preference given to the
10 community-based setting over the institutional. However, no person shall be moved from any facility
11 until a comprehensive assessment of the person's medical, treatment, training and support service needs
12 has been completed, the move determined to be in the person's best interest and appropriate service
13 alternatives procured.]

14 [(b) Proposals for the orderly development of community-based services, including family support,
15 residential facilities, day programs, home care and other necessary support, care and training pro-
16 grams, to accommodate persons coming out of state-operated hospitals and training centers and to serve
17 persons already in the community waiting for services. The proposals shall include services developed
18 for persons in the community waiting for services that are at least equal in number to those services
19 developed for those coming out of state-operated hospitals and training centers, and shall include ser-
20 vices for all persons who are leaving the public education system, in order to further prevent unneces-
21 sary institutionalization of persons with mental retardation or other developmental disabilities.
22 Funding for these services shall be commensurate with individual need. These proposals may include
23 provisions for an array of both publicly and privately operated services and shall include specific im-
24 plementation plans requiring that new services developed are designed to significantly increase the in-
25 dependence, productivity and integration into the community of persons with mental retardation or
26 developmental disabilities.]

27 [(c) Proposals for the location of community-based services for persons with mental retardation or
28 other developmental disabilities in proximity to family, friends, supportive services and home commu-
29 nities whenever possible.]

30 [(3) In further carrying out the directive in subsection (1) of this section, the department shall de-
31 velop monitoring and evaluation systems which ensure competent management, program quality and
32 cost-effectiveness of community-based services. Such systems shall include, where appropriate:]

33 [(a) A comprehensive system of case management which assures an orderly movement of persons
34 with mental retardation or other developmental disabilities from state-operated hospitals and training
35 centers to community-based services, and between community-based service alternatives, and assures an
36 effective system of service delivery to persons with mental retardation or other developmental disabili-
37 ties living in the community, based on individualized planning and close cooperation with consumers,
38 families and guardians.]

39 [(b) An annual progress assessment of every person with mental retardation or another develop-
40 mental disability served in programs or facilities operated or supported by the department. This as-
41 sessment shall measure the degree to which a family with a member with mental retardation or another
42 developmental disability demonstrates enhanced care-giving and nurturing capacities, and the degree
43 to which the independence, productivity and integration into the community of each person with mental
44 retardation or another developmental disability has been increased as a result of receiving such ser-
45 vices. The overall results of these assessments shall annually be aggregated and analyzed for each

1 program or facility operated or supported by the department, and shall be made available for public
 2 inspection and review by the Legislative Assembly.]

3 [(c) The development of specific standards for each component within the array of services, for
 4 persons with mental retardation or other developmental disabilities, either operated or supported by the
 5 department and assure the competent management, program quality and cost-effectiveness of such ser-
 6 vices.]

7 [(4) Subject to available funds, the department shall ensure that each family with a member with
 8 mental retardation or another developmental disability has access to family support services, and that
 9 each person with mental retardation or a developmental disability living in the community, including
 10 those leaving the public education system, has access to community-based services necessary to enable
 11 the person to strive to achieve independence, productivity and integration. Specific services proposed for
 12 the person shall be identified in an individual habilitation plan or in a family support service plan.]

13 [(5) Subject to available funds, the department shall determine the content of individual habilitation
 14 plans and family support service plans, and the process whereby such plans are developed and
 15 updated.]

16 [(6) The department shall establish grievance procedures for mediation of disputes concerning el-
 17 igibility for or appropriateness of services in individual cases.]

18 **(1) Individuals with developmental disabilities and society as a whole benefit when such**
 19 **individuals exercise choice and self-determination, living and working in the most integrated**
 20 **community settings, with services that are designed and implemented consistent with their**
 21 **choices of providers, goals and activities. Individuals with developmental disabilities, together**
 22 **with their families and advocates, must play a major role in the planning, designing, funding,**
 23 **operation and monitoring of community services. These services ultimately should be focused**
 24 **on the outcomes of independence, integration and productivity.**

25 **(2) Services for families with children with developmental disabilities must be based upon**
 26 **the principles of choice and self-determination, with families receiving the assistance they**
 27 **need to maintain their children at home. If a child with a developmental disability cannot**
 28 **remain safely at home even with the services, the child should live in a family-like setting**
 29 **if at all possible, with the ability to remain closely connected to the child's family.**

30 **SECTION 7.** ORS 427.104 is amended to read:

31 427.104. [*The Department of Human Services with funds appropriated for that purpose by the leg-*
 32 *islature, shall establish and operate a Developmental Disability Diagnosis and Evaluation Service for*
 33 *people with mental retardation or developmental disabilities. The Developmental Disability Diagnosis*
 34 *and Evaluation Service shall provide all or part of diagnostic evaluations, as defined in ORS 427.105,*
 35 *when complete evaluations are not available through community developmental disabilities programs,*
 36 *and the Developmental Disability Diagnosis and Evaluation Service shall:.]*

37 [(1) Provide consultation and training to community developmental disabilities programs in the
 38 development of local diagnosis and evaluation services;]

39 [(2) Develop and periodically revise department standards and procedures for diagnosis and eval-
 40 uation services;]

41 [(3) Coordinate diagnostic evaluations statewide to minimize duplication of tests and
 42 examinations;]

43 [(4) Approve applications for admission to the training center;]

44 [(5) Provide necessary information to the State Training Center Review Board when a decision of
 45 the Developmental Disability Diagnosis and Evaluation Service regarding admission to the state

1 *training center is appealed by the person, the parents or legal guardian of the person;]*

2 *[(6) Provide consultation to appropriate agencies and individuals regarding persons evaluated;*
 3 *and]*

4 *[(7) Process and coordinate all placements of residents from the state training center.]*

5 **(1) The Department of Human Services or a community developmental disabilities pro-**
 6 **gram shall determine if an individual is eligible for developmental disability services in ac-**
 7 **cordance with criteria, standards and procedures adopted by the department by rule**
 8 **consistent with this chapter.**

9 **(2) The department shall provide consultation and training to community developmental**
 10 **disability programs in determining eligibility.**

11 **SECTION 8.** ORS 430.630 is amended to read:

12 430.630. (1) In addition to any other *[requirements]* **services** that may be *[established]* **prescribed**
 13 by rule by the Oregon Health Authority, each community mental health program *[and community*
 14 *developmental disabilities program]*, subject to the availability of funds, shall provide the following
 15 basic services to persons with *[mental retardation, developmental disabilities,]* alcoholism or drug
 16 dependence[,] and persons who are alcohol or drug abusers:

17 (a) Outpatient services;

18 (b) Aftercare for persons released from hospitals and training centers;

19 (c) Training, case and program consultation and education for community agencies, related
 20 professions and the public;

21 (d) Guidance and assistance to other human service agencies for joint development of prevention
 22 programs and activities to reduce factors causing *[mental retardation, developmental disabilities,]* al-
 23cohol abuse, alcoholism, drug abuse and drug dependence; and

24 (e) Age-appropriate treatment options for older adults.

25 (2) As alternatives to state hospitalization, it is the responsibility of the community mental
 26 health *[or community developmental disabilities]* program to ensure that, subject to the availability
 27 of funds, the following services for persons with *[mental retardation, developmental disabilities,]*
 28 alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available when
 29 needed and approved by the Oregon Health Authority:

30 (a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention
 31 and prehospital screening examination;

32 (b) Care and treatment for a portion of the day or night, which may include day treatment
 33 centers, work activity centers and preschool programs;

34 (c) Residential care and treatment in facilities such as halfway houses, detoxification centers
 35 and other community living facilities;

36 (d) Continuity of care, such as that provided by service coordinators, community case develop-
 37 ment specialists and core staff of federally assisted community mental health centers;

38 (e) Inpatient treatment in community hospitals; and

39 (f) Other alternative services to state hospitalization as defined by the *[Department of Human*
 40 *Services or the]* Oregon Health Authority.

41 (3) In addition to any other requirements that may be established by rule of the Oregon Health
 42 Authority, each community mental health program, subject to the availability of funds, shall provide
 43 or ensure the provision of the following services to persons with mental or emotional disturbances:

44 (a) Screening and evaluation to determine the client's service needs;

45 (b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances,

1 including the costs of investigations and prehearing detention in community hospitals or other fa-
 2 cilities approved by the authority for persons involved in involuntary commitment procedures;

3 (c) Vocational and social services that are appropriate for the client’s age, designed to improve
 4 the client’s vocational, social, educational and recreational functioning;

5 (d) Continuity of care to link the client to housing and appropriate and available health and
 6 social service needs;

7 (e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4)
 8 of this section;

9 (f) Residential services;

10 (g) Medication monitoring;

11 (h) Individual, family and group counseling and therapy;

12 (i) Public education and information;

13 (j) Prevention of mental or emotional disturbances and promotion of mental health;

14 (k) Consultation with other community agencies;

15 (L) Preventive mental health services for children and adolescents, including primary prevention
 16 efforts, early identification and early intervention services. Preventive services should be patterned
 17 after service models that have demonstrated effectiveness in reducing the incidence of emotional,
 18 behavioral and cognitive disorders in children. As used in this paragraph:

19 (A) “Early identification” means detecting emotional disturbance in its initial developmental
 20 stage;

21 (B) “Early intervention services” for children at risk of later development of emotional disturb-
 22 ances means programs and activities for children and their families that promote conditions, oppor-
 23 tunities and experiences that encourage and develop emotional stability, self-sufficiency and
 24 increased personal competence; and

25 (C) “Primary prevention efforts” means efforts that prevent emotional problems from occurring
 26 by addressing issues early so that disturbances do not have an opportunity to develop; and

27 (m) Preventive mental health services for older adults, including primary prevention efforts,
 28 early identification and early intervention services. Preventive services should be patterned after
 29 service models that have demonstrated effectiveness in reducing the incidence of emotional and be-
 30 havioral disorders and suicide attempts in older adults. As used in this paragraph:

31 (A) “Early identification” means detecting emotional disturbance in its initial developmental
 32 stage;

33 (B) “Early intervention services” for older adults at risk of development of emotional disturb-
 34 ances means programs and activities for older adults and their families that promote conditions,
 35 opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and
 36 increased personal competence and that deter suicide; and

37 (C) “Primary prevention efforts” means efforts that prevent emotional problems from occurring
 38 by addressing issues early so that disturbances do not have an opportunity to develop.

39 (4) A community mental health program shall assume responsibility for psychiatric care in state
 40 and community hospitals, as provided in subsection (3)(e) of this section, in the following circum-
 41 stances:

42 (a) The person receiving care is a resident of the county served by the program. For purposes
 43 of this paragraph, “resident” means the resident of a county in which the person maintains a current
 44 mailing address or, if the person does not maintain a current mailing address within the state, the
 45 county in which the person is found, or the county in which a court-committed person with a mental

1 illness has been conditionally released.

2 (b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or
3 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon
4 State Hospital, or has been hospitalized as the result of a revocation of conditional release.

5 (c) Payment is made for the first 60 consecutive days of hospitalization.

6 (d) The hospital has collected all available patient payments and third-party reimbursements.

7 (e) In the case of a community hospital, the authority has approved the hospital for the care of
8 persons with mental or emotional disturbances, the community mental health program has a con-
9 tract with the hospital for the psychiatric care of residents and a representative of the program
10 approves voluntary or involuntary admissions to the hospital prior to admission.

11 *[(5) Subject to the review and approval of the Department of Human Services, a developmental*
12 *disabilities program may initiate additional services after the services defined in this section are pro-*
13 *vided.]*

14 *[(6)]* (5) Subject to the review and approval of the Oregon Health Authority, a mental health
15 program may initiate additional services after the services defined in this section are provided.

16 *[(7)]* (6) Each community mental health program *[and community developmental disabilities pro-*
17 *gram]* and the state hospital serving the program's geographic area shall enter into a written
18 agreement concerning the policies and procedures to be followed by the program and the hospital
19 when a patient is admitted to, and discharged from, the hospital and during the period of
20 hospitalization.

21 *[(8)]* (7) Each community mental health program shall have a mental health advisory committee,
22 appointed by the board of county commissioners or the county court or, if two or more counties
23 have combined to provide mental health services, the boards or courts of the participating counties
24 or, in the case of a Native American reservation, the tribal council.

25 *[(9)]* (8) A community mental health program may request and the authority may grant a waiver
26 regarding provision of one or more of the services described in subsection (3) of this section upon
27 a showing by the county and a determination by the authority that persons with mental or emotional
28 disturbances in that county would be better served and unnecessary institutionalization avoided.

29 *[(10)]* (9) Each community mental health program shall cooperate fully with the Alcohol and
30 Drug Policy Commission in the performance of its duties.

31 *[(11)(a)]* (10)(a) As used in this subsection, "local mental health authority" means one of the
32 following entities:

33 (A) The board of county commissioners of one or more counties that establishes or operates a
34 community mental health program;

35 (B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects
36 to enter into an agreement to provide mental health services; or

37 (C) A regional local mental health authority comprised of two or more boards of county com-
38 missioners.

39 (b) Each local mental health authority that provides mental health services shall determine the
40 need for local mental health services and adopt a comprehensive local plan for the delivery of
41 mental health services for children, families, adults and older adults that describes the methods by
42 which the local mental health authority shall provide those services. The local mental health au-
43 thority shall review and revise the local plan biennially. The purpose of the local plan is to create
44 a blueprint to provide mental health services that are directed by and responsive to the mental
45 health needs of individuals in the community served by the local plan.

- 1 (c) The local plan shall identify ways to:
- 2 (A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this
- 3 subsection;
- 4 (B) Maximize resources for consumers and minimize administrative expenses;
- 5 (C) Provide supported employment and other vocational opportunities for consumers;
- 6 (D) Determine the most appropriate service provider among a range of qualified providers;
- 7 (E) Ensure that appropriate mental health referrals are made;
- 8 (F) Address local housing needs for persons with mental health disorders;
- 9 (G) Develop a process for discharge from state and local psychiatric hospitals and transition
- 10 planning between levels of care or components of the system of care;
- 11 (H) Provide peer support services, including but not limited to drop-in centers and paid peer
- 12 support;
- 13 (I) Provide transportation supports; and
- 14 (J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile
- 15 corrections systems and local mental health programs to ensure that persons with mental illness
- 16 who come into contact with the justice and corrections systems receive needed care and to ensure
- 17 continuity of services for adults and juveniles leaving the corrections system.
- 18 (d) When developing a local plan, a local mental health authority shall:
- 19 (A) Coordinate with the budgetary cycles of state and local governments that provide the local
- 20 mental health authority with funding for mental health services;
- 21 (B) Involve consumers, advocates, families, service providers, schools and other interested par-
- 22 ties in the planning process;
- 23 (C) Coordinate with the local public safety coordinating council to address the services de-
- 24 scribed in paragraph (c)(J) of this subsection;
- 25 (D) Conduct a population based needs assessment to determine the types of services needed lo-
- 26 cally;
- 27 (E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by
- 28 the local plan;
- 29 (F) Describe the anticipated outcomes of services and the actions to be achieved in the local
- 30 plan;
- 31 (G) Ensure that the local plan coordinates planning, funding and services with:
- 32 (i) The educational needs of children, adults and older adults;
- 33 (ii) Providers of social supports, including but not limited to housing, employment, transportation
- 34 and education; and
- 35 (iii) Providers of physical health and medical services;
- 36 (H) Describe how funds, other than state resources, may be used to support and implement the
- 37 local plan;
- 38 (I) Demonstrate ways to integrate local services and administrative functions in order to support
- 39 integrated service delivery in the local plan; and
- 40 (J) Involve the local mental health advisory committees described in subsection [(8)] (7) of this
- 41 section.
- 42 (e) The local plan must describe how the local mental health authority will ensure the delivery
- 43 of and be accountable for clinically appropriate services in a continuum of care based on consumer
- 44 needs. The local plan shall include, but not be limited to, services providing the following levels of
- 45 care:

- 1 (A) Twenty-four-hour crisis services;
- 2 (B) Secure and nonsecure extended psychiatric care;
- 3 (C) Secure and nonsecure acute psychiatric care;
- 4 (D) Twenty-four-hour supervised structured treatment;
- 5 (E) Psychiatric day treatment;
- 6 (F) Treatments that maximize client independence;
- 7 (G) Family and peer support and self-help services;
- 8 (H) Support services;
- 9 (I) Prevention and early intervention services;
- 10 (J) Transition assistance between levels of care;
- 11 (K) Dual diagnosis services;
- 12 (L) Access to placement in state-funded psychiatric hospital beds;
- 13 (M) Precommitment and civil commitment in accordance with ORS chapter 426; and
- 14 (N) Outreach to older adults at locations appropriate for making contact with older adults, in-
- 15 cluding senior centers, long term care facilities and personal residences.

16 (f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the
 17 local mental health authority shall collaborate with the local public safety coordinating council to
 18 address the following:

19 (A) Training for all law enforcement officers on ways to recognize and interact with persons
 20 with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

21 (B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative
 22 to custodial arrests;

23 (C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and
 24 the identity of persons of concern and offering mental health services to those in custody;

25 (D) Developing a voluntary diversion program to provide an alternative for persons with mental
 26 illness in the criminal and juvenile justice systems; and

27 (E) Developing mental health services, including housing, for persons with mental illness prior
 28 to and upon release from custody.

29 (g) Services described in the local plan shall:

30 (A) Address the vision, values and guiding principles described in the Report to the Governor
 31 from the Mental Health Alignment Workgroup, January 2001;

32 (B) Be provided to children, older adults and families as close to their homes as possible;

33 (C) Be culturally appropriate and competent;

34 (D) Be, for children, older adults and adults with mental health needs, from providers appropri-
 35 ate to deliver those services;

36 (E) Be delivered in an integrated service delivery system with integrated service sites or pro-
 37 cesses, and with the use of integrated service teams;

38 (F) Ensure consumer choice among a range of qualified providers in the community;

39 (G) Be distributed geographically;

40 (H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

41 (I) Maximize early identification and early intervention;

42 (J) Ensure appropriate transition planning between providers and service delivery systems, with
 43 an emphasis on transition between children and adult mental health services;

44 (K) Be based on the ability of a client to pay;

45 (L) Be delivered collaboratively;

1 (M) Use age-appropriate, research-based quality indicators;

2 (N) Use best-practice innovations; and

3 (O) Be delivered using a community-based, multisystem approach.

4 (h) A local mental health authority shall submit to the Oregon Health Authority a copy of the
5 local plan and biennial revisions adopted under paragraph (b) of this subsection at time intervals
6 established by the authority.

7 (i) Each local commission on children and families shall reference the local plan for the delivery
8 of mental health services in the local coordinated comprehensive plan created pursuant to ORS
9 417.775.

10 **(11) In addition to any other services that may be prescribed by the Department of Hu-**
11 **man Services by rule, each community developmental disabilities program, subject to the**
12 **availability of funds, shall provide the following basic services to persons with developmental**
13 **disabilities:**

14 (a) **Eligibility determinations for developmental disability services;**

15 (b) **Ensuring access to developmental disability services in homes, work sites or other**
16 **locations that promote independence, productivity and integration into the community;**

17 (c) **Providing or arranging for the provision of case management services;**

18 (d) **Providing or arranging for the provision of abuse investigation and protective ser-**
19 **vices;**

20 (e) **Planning and coordinating the program's activities with other agencies or organiza-**
21 **tions to promote the effective and efficient delivery of services and use of resources;**

22 (f) **Establishing and implementing services to respond to complaints and grievances; and**

23 (g) **Monitoring the quality of services.**

24 **(12) Subject to review and approval by the department, a community developmental dis-**
25 **abilities program may offer services in addition to the services described in subsection (11)**
26 **of this section.**

27 **(13) Each community developmental disabilities program shall have a:**

28 (a) **Written management plan that governs its operating structure, goals and activities;**
29 **and**

30 (b) **Developmental disabilities advisory committee.**

31 **SECTION 9.** ORS 430.630, as amended by section 23, chapter 856, Oregon Laws 2009, is
32 amended to read:

33 430.630. (1) In addition to any other [*requirements*] **services** that may be [*established*] **prescribed**
34 by rule by the Oregon Health Authority, each community mental health program [*and community*
35 *developmental disabilities program*], subject to the availability of funds, shall provide the following
36 basic services to persons with [*mental retardation, developmental disabilities,*] alcoholism or drug
37 dependence[,] and persons who are alcohol or drug abusers:

38 (a) Outpatient services;

39 (b) Aftercare for persons released from hospitals and training centers;

40 (c) Training, case and program consultation and education for community agencies, related
41 professions and the public;

42 (d) Guidance and assistance to other human service agencies for joint development of prevention
43 programs and activities to reduce factors causing [*mental retardation, developmental disabilities,*] al-
44cohol abuse, alcoholism, drug abuse and drug dependence; and

45 (e) Age-appropriate treatment options for older adults.

1 (2) As alternatives to state hospitalization, it is the responsibility of the community mental
 2 health [*or community developmental disabilities*] program to ensure that, subject to the availability
 3 of funds, the following services for persons with [*mental retardation, developmental disabilities,*]
 4 alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available when
 5 needed and approved by the Oregon Health Authority:

6 (a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention
 7 and prehospital screening examination;

8 (b) Care and treatment for a portion of the day or night, which may include day treatment
 9 centers, work activity centers and preschool programs;

10 (c) Residential care and treatment in facilities such as halfway houses, detoxification centers
 11 and other community living facilities;

12 (d) Continuity of care, such as that provided by service coordinators, community case develop-
 13 ment specialists and core staff of federally assisted community mental health centers;

14 (e) Inpatient treatment in community hospitals; and

15 (f) Other alternative services to state hospitalization as defined by the [*Department of Human*
 16 *Services or the*] Oregon Health Authority.

17 (3) In addition to any other requirements that may be established by rule of the Oregon Health
 18 Authority, each community mental health program, subject to the availability of funds, shall provide
 19 or ensure the provision of the following services to persons with mental or emotional disturbances:

20 (a) Screening and evaluation to determine the client's service needs;

21 (b) Crisis stabilization to meet the needs of persons with acute mental or emotional disturbances,
 22 including the costs of investigations and prehearing detention in community hospitals or other fa-
 23 cilities approved by the authority for persons involved in involuntary commitment procedures;

24 (c) Vocational and social services that are appropriate for the client's age, designed to improve
 25 the client's vocational, social, educational and recreational functioning;

26 (d) Continuity of care to link the client to housing and appropriate and available health and
 27 social service needs;

28 (e) Psychiatric care in state and community hospitals, subject to the provisions of subsection (4)
 29 of this section;

30 (f) Residential services;

31 (g) Medication monitoring;

32 (h) Individual, family and group counseling and therapy;

33 (i) Public education and information;

34 (j) Prevention of mental or emotional disturbances and promotion of mental health;

35 (k) Consultation with other community agencies;

36 (L) Preventive mental health services for children and adolescents, including primary prevention
 37 efforts, early identification and early intervention services. Preventive services should be patterned
 38 after service models that have demonstrated effectiveness in reducing the incidence of emotional,
 39 behavioral and cognitive disorders in children. As used in this paragraph:

40 (A) "Early identification" means detecting emotional disturbance in its initial developmental
 41 stage;

42 (B) "Early intervention services" for children at risk of later development of emotional disturb-
 43 ances means programs and activities for children and their families that promote conditions, oppor-
 44 tunities and experiences that encourage and develop emotional stability, self-sufficiency and
 45 increased personal competence; and

1 (C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring
 2 by addressing issues early so that disturbances do not have an opportunity to develop; and

3 (m) Preventive mental health services for older adults, including primary prevention efforts,
 4 early identification and early intervention services. Preventive services should be patterned after
 5 service models that have demonstrated effectiveness in reducing the incidence of emotional and be-
 6 havioral disorders and suicide attempts in older adults. As used in this paragraph:

7 (A) "Early identification" means detecting emotional disturbance in its initial developmental
 8 stage;

9 (B) "Early intervention services" for older adults at risk of development of emotional disturb-
 10 ances means programs and activities for older adults and their families that promote conditions,
 11 opportunities and experiences that encourage and maintain emotional stability, self-sufficiency and
 12 increased personal competence and that deter suicide; and

13 (C) "Primary prevention efforts" means efforts that prevent emotional problems from occurring
 14 by addressing issues early so that disturbances do not have an opportunity to develop.

15 (4) A community mental health program shall assume responsibility for psychiatric care in state
 16 and community hospitals, as provided in subsection (3)(e) of this section, in the following circum-
 17 stances:

18 (a) The person receiving care is a resident of the county served by the program. For purposes
 19 of this paragraph, "resident" means the resident of a county in which the person maintains a current
 20 mailing address or, if the person does not maintain a current mailing address within the state, the
 21 county in which the person is found, or the county in which a court-committed person with a mental
 22 illness has been conditionally released.

23 (b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or
 24 426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon
 25 State Hospital, or has been hospitalized as the result of a revocation of conditional release.

26 (c) Payment is made for the first 60 consecutive days of hospitalization.

27 (d) The hospital has collected all available patient payments and third-party reimbursements.

28 (e) In the case of a community hospital, the authority has approved the hospital for the care of
 29 persons with mental or emotional disturbances, the community mental health program has a con-
 30 tract with the hospital for the psychiatric care of residents and a representative of the program
 31 approves voluntary or involuntary admissions to the hospital prior to admission.

32 *[(5) Subject to the review and approval of the Department of Human Services, a developmental*
 33 *disabilities program may initiate additional services after the services defined in this section are pro-*
 34 *vided.]*

35 *[(6)] (5)* Subject to the review and approval of the Oregon Health Authority, a mental health
 36 program may initiate additional services after the services defined in this section are provided.

37 *[(7)] (6)* Each community mental health program *[and community developmental disabilities pro-*
 38 *gram]* and the state hospital serving the program's geographic area shall enter into a written
 39 agreement concerning the policies and procedures to be followed by the program and the hospital
 40 when a patient is admitted to, and discharged from, the hospital and during the period of
 41 hospitalization.

42 *[(8)] (7)* Each community mental health program shall have a mental health advisory committee,
 43 appointed by the board of county commissioners or the county court or, if two or more counties
 44 have combined to provide mental health services, the boards or courts of the participating counties
 45 or, in the case of a Native American reservation, the tribal council.

1 [(9)] (8) A community mental health program may request and the authority may grant a waiver
 2 regarding provision of one or more of the services described in subsection (3) of this section upon
 3 a showing by the county and a determination by the authority that persons with mental or emotional
 4 disturbances in that county would be better served and unnecessary institutionalization avoided.

5 [(10)(a)] (9)(a) As used in this subsection, “local mental health authority” means one of the fol-
 6 lowing entities:

7 (A) The board of county commissioners of one or more counties that establishes or operates a
 8 community mental health program;

9 (B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects
 10 to enter into an agreement to provide mental health services; or

11 (C) A regional local mental health authority comprised of two or more boards of county com-
 12 missioners.

13 (b) Each local mental health authority that provides mental health services shall determine the
 14 need for local mental health services and adopt a comprehensive local plan for the delivery of
 15 mental health services for children, families, adults and older adults that describes the methods by
 16 which the local mental health authority shall provide those services. The local mental health au-
 17 thority shall review and revise the local plan biennially. The purpose of the local plan is to create
 18 a blueprint to provide mental health services that are directed by and responsive to the mental
 19 health needs of individuals in the community served by the local plan.

20 (c) The local plan shall identify ways to:

21 (A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this
 22 subsection;

23 (B) Maximize resources for consumers and minimize administrative expenses;

24 (C) Provide supported employment and other vocational opportunities for consumers;

25 (D) Determine the most appropriate service provider among a range of qualified providers;

26 (E) Ensure that appropriate mental health referrals are made;

27 (F) Address local housing needs for persons with mental health disorders;

28 (G) Develop a process for discharge from state and local psychiatric hospitals and transition
 29 planning between levels of care or components of the system of care;

30 (H) Provide peer support services, including but not limited to drop-in centers and paid peer
 31 support;

32 (I) Provide transportation supports; and

33 (J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile
 34 corrections systems and local mental health programs to ensure that persons with mental illness
 35 who come into contact with the justice and corrections systems receive needed care and to ensure
 36 continuity of services for adults and juveniles leaving the corrections system.

37 (d) When developing a local plan, a local mental health authority shall:

38 (A) Coordinate with the budgetary cycles of state and local governments that provide the local
 39 mental health authority with funding for mental health services;

40 (B) Involve consumers, advocates, families, service providers, schools and other interested par-
 41 ties in the planning process;

42 (C) Coordinate with the local public safety coordinating council to address the services de-
 43 scribed in paragraph (c)(J) of this subsection;

44 (D) Conduct a population based needs assessment to determine the types of services needed lo-
 45 cally;

1 (E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by
2 the local plan;

3 (F) Describe the anticipated outcomes of services and the actions to be achieved in the local
4 plan;

5 (G) Ensure that the local plan coordinates planning, funding and services with:

6 (i) The educational needs of children, adults and older adults;

7 (ii) Providers of social supports, including but not limited to housing, employment, transportation
8 and education; and

9 (iii) Providers of physical health and medical services;

10 (H) Describe how funds, other than state resources, may be used to support and implement the
11 local plan;

12 (I) Demonstrate ways to integrate local services and administrative functions in order to support
13 integrated service delivery in the local plan; and

14 (J) Involve the local mental health advisory committees described in subsection [(8)] (7) of this
15 section.

16 (e) The local plan must describe how the local mental health authority will ensure the delivery
17 of and be accountable for clinically appropriate services in a continuum of care based on consumer
18 needs. The local plan shall include, but not be limited to, services providing the following levels of
19 care:

20 (A) Twenty-four-hour crisis services;

21 (B) Secure and nonsecure extended psychiatric care;

22 (C) Secure and nonsecure acute psychiatric care;

23 (D) Twenty-four-hour supervised structured treatment;

24 (E) Psychiatric day treatment;

25 (F) Treatments that maximize client independence;

26 (G) Family and peer support and self-help services;

27 (H) Support services;

28 (I) Prevention and early intervention services;

29 (J) Transition assistance between levels of care;

30 (K) Dual diagnosis services;

31 (L) Access to placement in state-funded psychiatric hospital beds;

32 (M) Precommitment and civil commitment in accordance with ORS chapter 426; and

33 (N) Outreach to older adults at locations appropriate for making contact with older adults, in-
34 cluding senior centers, long term care facilities and personal residences.

35 (f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the
36 local mental health authority shall collaborate with the local public safety coordinating council to
37 address the following:

38 (A) Training for all law enforcement officers on ways to recognize and interact with persons
39 with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

40 (B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative
41 to custodial arrests;

42 (C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and
43 the identity of persons of concern and offering mental health services to those in custody;

44 (D) Developing a voluntary diversion program to provide an alternative for persons with mental
45 illness in the criminal and juvenile justice systems; and

1 (E) Developing mental health services, including housing, for persons with mental illness prior
 2 to and upon release from custody.

3 (g) Services described in the local plan shall:

4 (A) Address the vision, values and guiding principles described in the Report to the Governor
 5 from the Mental Health Alignment Workgroup, January 2001;

6 (B) Be provided to children, older adults and families as close to their homes as possible;

7 (C) Be culturally appropriate and competent;

8 (D) Be, for children, older adults and adults with mental health needs, from providers appropri-
 9 ate to deliver those services;

10 (E) Be delivered in an integrated service delivery system with integrated service sites or pro-
 11 cesses, and with the use of integrated service teams;

12 (F) Ensure consumer choice among a range of qualified providers in the community;

13 (G) Be distributed geographically;

14 (H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

15 (I) Maximize early identification and early intervention;

16 (J) Ensure appropriate transition planning between providers and service delivery systems, with
 17 an emphasis on transition between children and adult mental health services;

18 (K) Be based on the ability of a client to pay;

19 (L) Be delivered collaboratively;

20 (M) Use age-appropriate, research-based quality indicators;

21 (N) Use best-practice innovations; and

22 (O) Be delivered using a community-based, multisystem approach.

23 (h) A local mental health authority shall submit to the Oregon Health Authority a copy of the
 24 local plan and biennial revisions adopted under paragraph (b) of this subsection at time intervals
 25 established by the authority.

26 (i) Each local commission on children and families shall reference the local plan for the delivery
 27 of mental health services in the local coordinated comprehensive plan created pursuant to ORS
 28 417.775.

29 **(10) In addition to any other services that may be prescribed by the Department of Hu-**
 30 **man Services by rule, each community developmental disabilities program, subject to the**
 31 **availability of funds, shall provide the following basic services to persons with developmental**
 32 **disabilities:**

33 **(a) Eligibility determinations for developmental disability services;**

34 **(b) Ensuring access to developmental disability services in homes, work sites or other**
 35 **locations that promote independence, productivity and integration into the community;**

36 **(c) Providing or arranging for the provision of case management services;**

37 **(d) Providing or arranging for the provision of abuse investigation and protective ser-**
 38 **vices;**

39 **(e) Planning and coordinating the program's activities with other agencies or organiza-**
 40 **tions to promote the effective and efficient delivery of services and use of resources;**

41 **(f) Establishing and implementing services to respond to complaints and grievances; and**

42 **(g) Monitoring the quality of services.**

43 **(11) Subject to review and approval by the department, a community developmental dis-**
 44 **abilities program may offer services in addition to the services described in subsection (10)**
 45 **of this section.**

1 (12) Each community developmental disabilities program shall have a:

2 (a) Written management plan that governs its operating structure, goals and activities;
3 and

4 (b) Developmental disabilities advisory committee.

5 **SECTION 10.** ORS 3.260 is amended to read:

6 3.260. (1) The circuit courts and the judges thereof shall exercise all juvenile court jurisdiction,
7 authority, powers, functions and duties.

8 (2) Pursuant to ORS 3.275, in addition to any other jurisdiction vested in it by law, the circuit
9 court shall exercise exclusive and original judicial jurisdiction, authority, powers, functions, and
10 duties in the judicial district in any or all of the following matters that on the date specified in the
11 order entered under ORS 3.275 are not within the jurisdiction of the circuit court:

12 (a) Adoption.

13 (b) Change of name under ORS 33.410.

14 (c) Filiation.

15 (d) Commitment of persons with mental illness or [*mental retardation*] **intellectual disabilities**.

16 (e) Any suit or civil proceeding involving custody or other disposition of a child or the support
17 thereof or the support of a spouse, including enforcement of the Uniform Reciprocal Enforcement
18 of Support Act and enforcement of out-of-state or foreign judgments and decrees on domestic re-
19 lations.

20 (f) Waivers of the three-day waiting period before a marriage license becomes effective under
21 ORS 106.077.

22 (g) Issuance of delayed birth certificate.

23 **SECTION 11.** ORS 21.010 is amended to read:

24 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a
25 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the
26 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in
27 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State
28 Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal
29 shall recover from the opponent the amount so paid.

30 (2) Except as provided in this section, the appellant in an appeal or the petitioner in a judicial
31 review in the Supreme Court or the Court of Appeals shall pay \$154 for each additional person
32 named as an appellant or petitioner. The respondent in such case, and any other person appearing
33 in the appeal, shall pay \$154 to the State Court Administrator for each additional person named as
34 a respondent. The party entitled to costs and disbursements on such appeal shall recover from the
35 opponent the amount so paid. The Chief Justice by order may provide for exemptions from the fees
36 established by this subsection if exemptions are needed for the equitable imposition of those fees.

37 (3) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings
38 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
39 419A.200 and the involuntary commitment of persons determined to be mentally ill under ORS
40 426.135 or persons determined to [*be mentally retarded*] **have an intellectual disability** under ORS
41 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385
42 (9) or orders of the State Board of Parole and Post-Prison Supervision.

43 (4) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court
44 from a justice court or municipal court in an action alleging commission of a state offense desig-
45 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an

1 action alleging commission of a state crime.

2 (5) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding
 3 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

4 **SECTION 12.** ORS 21.010, as amended by section 30, chapter 659, Oregon Laws 2009, and sec-
 5 tion 37f, chapter 885, Oregon Laws 2009, is amended to read:

6 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a
 7 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the
 8 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in
 9 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State
 10 Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal
 11 shall recover from the opponent the amount so paid.

12 (2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings
 13 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
 14 419A.200 and the involuntary commitment of persons determined to be mentally ill under ORS
 15 426.135 or persons determined to [*be mentally retarded*] **have an intellectual disability** under ORS
 16 427.295, or on judicial review of orders of the Psychiatric Security Review Board under ORS 161.385
 17 (9) or orders of the State Board of Parole and Post-Prison Supervision.

18 (3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court
 19 from a justice court or municipal court in an action alleging commission of a state offense desig-
 20 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an
 21 action alleging commission of a state crime.

22 (4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding
 23 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

24 **SECTION 13.** ORS 30.262 is amended to read:

25 30.262. (1) The following facilities and training homes are public bodies for the purposes of ORS
 26 30.260 to 30.300:

27 (a) A nonprofit residential training facility as defined in ORS 443.400, nonprofit residential
 28 training home as defined in ORS 443.400 or nonprofit facility as defined in ORS 427.005, organized
 29 and existing under ORS chapter 65, that receives more than 50 percent of its funding from the state
 30 or a political subdivision of the state for the purpose of providing residential or vocational services
 31 to individuals with [*mental retardation or*] **intellectual disabilities or other** developmental disabili-
 32 ties.

33 (b) A nonprofit residential training facility as defined in ORS 443.400, nonprofit residential
 34 training home as defined in ORS 443.400 or nonprofit facility as defined in ORS 427.005, organized
 35 and existing under ORS chapter 65, that receives less than 50 percent of its funding from the state
 36 or a political subdivision of the state but that provides residential or vocational services to indi-
 37 viduals with [*mental retardation or*] **intellectual disabilities or other** developmental disabilities,
 38 more than half of whom are eligible for funding for services by the Department of Human Services
 39 under criteria established by the department.

40 (2) The provisions of this section apply only to a nonprofit residential training facility, nonprofit
 41 residential training home or nonprofit facility that provides services to individuals with [*mental re-*
 42 *tardation or*] **intellectual disabilities or other** developmental disabilities under a contract with:

43 (a) The Department of Human Services; or

44 (b) A community [*mental health and*] developmental disabilities program established pursuant to
 45 ORS 430.620.

SECTION 14. ORS 40.460 is amended to read:

40.460. The following are not excluded by ORS 40.455, even though the declarant is available as a witness:

(1) (Reserved.)

(2) A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

(3) A statement of the declarant's then existing state of mind, emotion, sensation or physical condition, such as intent, plan, motive, design, mental feeling, pain or bodily health, but not including a statement of memory or belief to prove the fact remembered or believed unless it relates to the execution, revocation, identification, or terms of the declarant's will.

(4) Statements made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment.

(5) A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made or adopted by the witness when the matter was fresh in the memory of the witness and to reflect that knowledge correctly. If admitted, the memorandum or record may be read into evidence but may not itself be received as an exhibit unless offered by an adverse party.

(6) A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity, and if it was the regular practice of that business activity to make the memorandum, report, record, or data compilation, all as shown by the testimony of the custodian or other qualified witness, unless the source of information or the method of circumstances of preparation indicate lack of trustworthiness. The term "business" as used in this subsection includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

(7) Evidence that a matter is not included in the memoranda, reports, records, or data compilations, and in any form, kept in accordance with the provisions of subsection (6) of this section, to prove the nonoccurrence or nonexistence of the matter, if the matter was of a kind of which a memorandum, report, record, or data compilation was regularly made and preserved, unless the sources of information or other circumstances indicate lack of trustworthiness.

(8) Records, reports, statements or data compilations, in any form, of public offices or agencies, including federally recognized American Indian tribal governments, setting forth:

(a) The activities of the office or agency;

(b) Matters observed pursuant to duty imposed by law as to which matters there was a duty to report, excluding, in criminal cases, matters observed by police officers and other law enforcement personnel; or

(c) In civil actions and proceedings and against the government in criminal cases, factual findings, resulting from an investigation made pursuant to authority granted by law, unless the sources of information or other circumstances indicate lack of trustworthiness.

(9) Records or data compilations, in any form, of births, fetal deaths, deaths or marriages, if the report thereof was made to a public office, including a federally recognized American Indian tribal government, pursuant to requirements of law.

(10) To prove the absence of a record, report, statement or data compilation, in any form, or the nonoccurrence or nonexistence of a matter of which a record, report, statement or data compilation,

1 in any form, was regularly made and preserved by a public office or agency, including a federally
2 recognized American Indian tribal government, evidence in the form of a certification in accordance
3 with ORS 40.510, or testimony, that diligent search failed to disclose the record, report, statement
4 or data compilation, or entry.

5 (11) Statements of births, marriages, divorces, deaths, legitimacy, ancestry, relationship by blood
6 or marriage, or other similar facts of personal or family history, contained in a regularly kept record
7 of a religious organization.

8 (12) A statement of fact contained in a certificate that the maker performed a marriage or other
9 ceremony or administered a sacrament, made by a member of the clergy, a public official, an official
10 of a federally recognized American Indian tribal government or any other person authorized by the
11 rules or practices of a religious organization or by law to perform the act certified, and purporting
12 to have been issued at the time of the act or within a reasonable time thereafter.

13 (13) Statements of facts concerning personal or family history contained in family bibles,
14 genealogies, charts, engravings on rings, inscriptions on family portraits, engravings on urns, crypts,
15 or tombstones, or the like.

16 (14) The record of a document purporting to establish or affect an interest in property, as proof
17 of content of the original recorded document and its execution and delivery by each person by whom
18 it purports to have been executed, if the record is a record of a public office, including a federally
19 recognized American Indian tribal government, and an applicable statute authorizes the recording
20 of documents of that kind in that office.

21 (15) A statement contained in a document purporting to establish or affect an interest in prop-
22 erty if the matter stated was relevant to the purpose of the document, unless dealings with the
23 property since the document was made have been inconsistent with the truth of the statement or
24 the purport of the document.

25 (16) Statements in a document in existence 20 years or more the authenticity of which is es-
26 tablished.

27 (17) Market quotations, tabulations, lists, directories, or other published compilations, generally
28 used and relied upon by the public or by persons in particular occupations.

29 (18) (Reserved.)

30 (18a)(a) A complaint of sexual misconduct, complaint of abuse as defined in ORS 107.705 or
31 419B.005, complaint of abuse of an elderly person, as those terms are defined in ORS 124.050, or a
32 complaint relating to a violation of ORS 163.205 or 164.015 in which a person 65 years of age or
33 older is the victim, made by the witness after the commission of the alleged misconduct or abuse
34 at issue. Except as provided in paragraph (b) of this subsection, such evidence must be confined to
35 the fact that the complaint was made.

36 (b) A statement made by a person concerning an act of abuse as defined in ORS 107.705 or
37 419B.005, a statement made by a person concerning an act of abuse of an elderly person, as those
38 terms are defined in ORS 124.050, or a statement made by a person concerning a violation of ORS
39 163.205 or 164.015 in which a person 65 years of age or older is the victim, is not excluded by ORS
40 40.455 if the declarant either testifies at the proceeding and is subject to cross-examination, or is
41 unavailable as a witness but was chronologically or mentally under 12 years of age when the
42 statement was made or was 65 years of age or older when the statement was made. However, if a
43 declarant is unavailable, the statement may be admitted in evidence only if the proponent estab-
44 lishes that the time, content and circumstances of the statement provide indicia of reliability, and
45 in a criminal trial that there is corroborative evidence of the act of abuse and of the alleged

1 perpetrator’s opportunity to participate in the conduct and that the statement possesses indicia of
 2 reliability as is constitutionally required to be admitted. No statement may be admitted under this
 3 paragraph unless the proponent of the statement makes known to the adverse party the proponent’s
 4 intention to offer the statement and the particulars of the statement no later than 15 days before
 5 trial, except for good cause shown. For purposes of this paragraph, in addition to those situations
 6 described in ORS 40.465 (1), the declarant shall be considered “unavailable” if the declarant has a
 7 substantial lack of memory of the subject matter of the statement, is presently incompetent to tes-
 8 tify, is unable to communicate about the abuse or sexual conduct because of fear or other similar
 9 reason or is substantially likely, as established by expert testimony, to suffer lasting severe emo-
 10 tional trauma from testifying. Unless otherwise agreed by the parties, the court shall examine the
 11 declarant in chambers and on the record or outside the presence of the jury and on the record. The
 12 examination shall be conducted immediately prior to the commencement of the trial in the presence
 13 of the attorney and the legal guardian or other suitable person as designated by the court. If the
 14 declarant is found to be unavailable, the court shall then determine the admissibility of the evidence.
 15 The determinations shall be appealable under ORS 138.060 (1)(c) or (2)(a). The purpose of the ex-
 16 amination shall be to aid the court in making its findings regarding the availability of the declarant
 17 as a witness and the reliability of the statement of the declarant. In determining whether a state-
 18 ment possesses indicia of reliability under this paragraph, the court may consider, but is not limited
 19 to, the following factors:

- 20 (A) The personal knowledge of the declarant of the event;
- 21 (B) The age and maturity of the declarant or extent of disability if the declarant is a person
 22 with a developmental disability;
- 23 (C) Certainty that the statement was made, including the credibility of the person testifying
 24 about the statement and any motive the person may have to falsify or distort the statement;
- 25 (D) Any apparent motive the declarant may have to falsify or distort the event, including bias,
 26 corruption or coercion;
- 27 (E) The timing of the statement of the declarant;
- 28 (F) Whether more than one person heard the statement;
- 29 (G) Whether the declarant was suffering pain or distress when making the statement;
- 30 (H) Whether the declarant’s young age or disability makes it unlikely that the declarant fabri-
 31 cated a statement that represents a graphic, detailed account beyond the knowledge and experience
 32 of the declarant;
- 33 (I) Whether the statement has internal consistency or coherence and uses terminology appro-
 34 priate to the declarant’s age or to the extent of the declarant’s disability if the declarant is a person
 35 with a developmental disability;
- 36 (J) Whether the statement is spontaneous or directly responsive to questions; and
- 37 (K) Whether the statement was elicited by leading questions.

38 (c) This subsection applies to all civil, criminal and juvenile proceedings.

39 (d) This subsection applies to a child declarant, a declarant who is an elderly person as defined
 40 in ORS 124.050 or an adult declarant with a developmental disability. For the purposes of this sub-
 41 section, “developmental disability” means any disability attributable to [*mental retardation*] **an in-**
 42 **tellectual disability**, autism, cerebral palsy, epilepsy or other disabling neurological condition that
 43 requires training or support similar to that required by persons with [*mental retardation*] **intellec-**
 44 **tual disabilities**, if either of the following apply:

- 45 (A) The disability originates before the person attains 22 years of age, or if the disability is at-

1 tributable to [*mental retardation*] **an intellectual disability** the condition is manifested before the
2 person attains 18 years of age, the disability can be expected to continue indefinitely, and the disa-
3 bility constitutes a substantial handicap to the ability of the person to function in society.

4 (B) The disability results in a significant subaverage general intellectual functioning with con-
5 current deficits in adaptive behavior that are manifested during the developmental period.

6 (19) Reputation among members of a person's family by blood, adoption or marriage, or among
7 a person's associates, or in the community, concerning a person's birth, adoption, marriage, divorce,
8 death, legitimacy, relationship by blood or adoption or marriage, ancestry, or other similar fact of
9 a person's personal or family history.

10 (20) Reputation in a community, arising before the controversy, as to boundaries of or customs
11 affecting lands in the community, and reputation as to events of general history important to the
12 community or state or nation in which located.

13 (21) Reputation of a person's character among associates of the person or in the community.

14 (22) Evidence of a final judgment, entered after a trial or upon a plea of guilty, but not upon a
15 plea of no contest, adjudging a person guilty of a crime other than a traffic offense, to prove any
16 fact essential to sustain the judgment, but not including, when offered by the government in a
17 criminal prosecution for purposes other than impeachment, judgments against persons other than the
18 accused. The pendency of an appeal may be shown but does not affect admissibility.

19 (23) Judgments as proof of matters of personal, family or general history, or boundaries, essen-
20 tial to the judgment, if the same would be provable by evidence of reputation.

21 (24) Notwithstanding the limits contained in subsection (18a) of this section, in any proceeding
22 in which a child under 12 years of age at the time of trial, or a person with a developmental disa-
23 bility as described in subsection (18a)(d) of this section, may be called as a witness to testify con-
24 cerning an act of abuse, as defined in ORS 419B.005, or sexual conduct performed with or on the
25 child or person with a developmental disability by another, the testimony of the child or person with
26 a developmental disability taken by contemporaneous examination and cross-examination in another
27 place under the supervision of the trial judge and communicated to the courtroom by closed-circuit
28 television or other audiovisual means. Testimony will be allowed as provided in this subsection only
29 if the court finds that there is a substantial likelihood, established by expert testimony, that the
30 child or person with a developmental disability will suffer severe emotional or psychological harm
31 if required to testify in open court. If the court makes such a finding, the court, on motion of a
32 party, the child, the person with a developmental disability or the court in a civil proceeding, or on
33 motion of the district attorney, the child or the person with a developmental disability in a criminal
34 or juvenile proceeding, may order that the testimony of the child or the person with a developmental
35 disability be taken as described in this subsection. Only the judge, the attorneys for the parties, the
36 parties, individuals necessary to operate the equipment and any individual the court finds would
37 contribute to the welfare and well-being of the child or person with a developmental disability may
38 be present during the testimony of the child or person with a developmental disability.

39 (25)(a) Any document containing data prepared or recorded by the Oregon State Police pursuant
40 to ORS 813.160 (1)(b)(C) or (E), or pursuant to ORS 475.235 (4), if the document is produced by data
41 retrieval from the Law Enforcement Data System or other computer system maintained and operated
42 by the Oregon State Police, and the person retrieving the data attests that the information was re-
43 trieved directly from the system and that the document accurately reflects the data retrieved.

44 (b) Any document containing data prepared or recorded by the Oregon State Police that is
45 produced by data retrieval from the Law Enforcement Data System or other computer system

1 maintained and operated by the Oregon State Police and that is electronically transmitted through
 2 public or private computer networks under an electronic signature adopted by the Oregon State
 3 Police if the person receiving the data attests that the document accurately reflects the data re-
 4 ceived.

5 (c) Notwithstanding any statute or rule to the contrary, in any criminal case in which docu-
 6 ments are introduced under the provisions of this subsection, the defendant may subpoena the ana-
 7 lyst, as defined in ORS 475.235 (6), or other person that generated or keeps the original document
 8 for the purpose of testifying at the preliminary hearing and trial of the issue. Except as provided
 9 in ORS 44.550 to 44.566, no charge shall be made to the defendant for the appearance of the analyst
 10 or other person.

11 (26)(a) A statement that purports to narrate, describe, report or explain an incident of domestic
 12 violence, as defined in ORS 135.230, made by a victim of the domestic violence within 24 hours after
 13 the incident occurred, if the statement:

14 (A) Was recorded, either electronically or in writing, or was made to a peace officer as defined
 15 in ORS 161.015, corrections officer, youth correction officer, parole and probation officer, emergency
 16 medical technician or firefighter; and

17 (B) Has sufficient indicia of reliability.

18 (b) In determining whether a statement has sufficient indicia of reliability under paragraph (a)
 19 of this subsection, the court shall consider all circumstances surrounding the statement. The court
 20 may consider, but is not limited to, the following factors in determining whether a statement has
 21 sufficient indicia of reliability:

22 (A) The personal knowledge of the declarant.

23 (B) Whether the statement is corroborated by evidence other than statements that are subject
 24 to admission only pursuant to this subsection.

25 (C) The timing of the statement.

26 (D) Whether the statement was elicited by leading questions.

27 (E) Subsequent statements made by the declarant. Recantation by a declarant is not sufficient
 28 reason for denying admission of a statement under this subsection in the absence of other factors
 29 indicating unreliability.

30 (27) A report prepared by a forensic scientist that contains the results of a presumptive test
 31 conducted by the forensic scientist as described in ORS 475.235, if the forensic scientist attests that
 32 the report accurately reflects the results of the presumptive test.

33 (28)(a) A statement not specifically covered by any of the foregoing exceptions but having
 34 equivalent circumstantial guarantees of trustworthiness, if the court determines that:

35 (A) The statement is relevant;

36 (B) The statement is more probative on the point for which it is offered than any other evidence
 37 that the proponent can procure through reasonable efforts; and

38 (C) The general purposes of the Oregon Evidence Code and the interests of justice will best be
 39 served by admission of the statement into evidence.

40 (b) A statement may not be admitted under this subsection unless the proponent of it makes
 41 known to the adverse party the intention to offer the statement and the particulars of it, including
 42 the name and address of the declarant, sufficiently in advance of the trial or hearing, or as soon as
 43 practicable after it becomes apparent that such statement is probative of the issues at hand, to
 44 provide the adverse party with a fair opportunity to prepare to meet it.

45 **SECTION 15.** ORS 44.547 is amended to read:

1 44.547. (1) In any case in which a child under 12 years of age or a person with a developmental
 2 disability described in subsection (2) of this section is called to give testimony, the attorney or party
 3 who plans to call the witness must notify the court at least seven days before the trial or proceeding
 4 of any special accommodations needed by the witness. Upon receiving the notice, the court shall
 5 order such accommodations as are appropriate under the circumstances considering the age or dis-
 6 ability of the witness. Accommodations ordered by the court may include:

- 7 (a) Break periods during the proceedings for the benefit of the witness.
- 8 (b) Designation of a waiting area appropriate to the special needs of the witness.
- 9 (c) Conducting proceedings in clothing other than judicial robes.
- 10 (d) Relaxing the formalities of the proceedings.
- 11 (e) Adjusting the layout of the courtroom for the comfort of the witness.
- 12 (f) Conducting the proceedings outside of the normal courtroom.

13 (2) For the purposes of this section, “developmental disability” means a disability attributable
 14 to [*mental retardation*] **an intellectual disability**, autism, cerebral palsy, epilepsy or other disabling
 15 neurological condition that requires training or support similar to that required by persons with
 16 [*mental retardation*] **intellectual disabilities**, if either of the following apply:

17 (a) The disability originates before the person attains 22 years of age, or if the disability is at-
 18 tributable to [*mental retardation*] **an intellectual disability** the condition is manifested before the
 19 person attains 18 years of age, the disability can be expected to continue indefinitely, and the disa-
 20 bility constitutes a substantial handicap to the ability of the person to function in society.

21 (b) The disability results in a significant subaverage general intellectual functioning with con-
 22 current deficits in adaptive behavior that are manifested during the developmental period.

23 **SECTION 16.** ORS 109.322 is amended to read:

24 109.322. (1) If a parent has been adjudged mentally ill or [*mentally retarded*] **intellectually dis-**
 25 **abled** and remains so at the time of the adoption proceedings, or if a parent is imprisoned in a state
 26 or federal prison under a sentence for a term of not less than three years and has actually served
 27 three years, the petitioner, in accordance with ORS 109.330, shall serve on the parent, if the parent
 28 has not consented in writing to the adoption, a summons and a motion and order to show cause why
 29 the adoption of the child should not be ordered without the parent’s consent.

30 (2) In the case of a parent adjudged mentally ill or [*mentally retarded*] **intellectually disabled**,
 31 the petitioner shall also serve the summons and the motion and order to show cause upon the
 32 guardian of the parent. If the parent has no guardian, the court shall appoint a guardian ad litem
 33 to appear for the parent in the adoption proceedings.

34 (3) Upon hearing, if the court finds that the adoption is in the best interests of the child, the
 35 consent of the parent who is imprisoned or adjudged mentally ill or [*mentally retarded*]
 36 **intellectually disabled** is not required, and the court may proceed regardless of the objection of the
 37 parent.

38 (4) This section does not apply when consent is given in loco parentis under ORS 109.316 or
 39 109.318.

40 **SECTION 17.** ORS 113.085 is amended to read:

41 113.085. (1) Except as provided in subsection (2) of this section, upon the filing of the petition,
 42 if there is no will or there is a will and it has been proved, the court shall appoint a qualified person
 43 it finds suitable as personal representative, giving preference in the following order:

- 44 (a) The executor named in the will.
- 45 (b) The surviving spouse of the decedent or the nominee of the surviving spouse of the decedent.

1 (c) The nearest of kin of the decedent or the nominee of the nearest of kin of the decedent.

2 (d) The Director of Human Services, or an attorney approved by the director under ORS 113.086,
 3 if the decedent received public assistance pursuant to ORS chapter 411 or received care at [*an in-*
 4 *stitution described in ORS 179.321 (1)*] **a state training center**, and it appears that the assistance
 5 or the cost of care may be recovered from the estate of the decedent.

6 (e) The Director of the Oregon Health Authority, or an attorney approved by the director under
 7 ORS 113.086, if the decedent received public assistance pursuant to ORS chapter 414 or received
 8 care at an institution described in ORS 179.321 [(2)] (1), and it appears that the assistance or the
 9 cost of care may be recovered from the estate of the decedent.

10 (f) The Department of Veterans' Affairs, if the decedent was a protected person under ORS
 11 406.050 (8), and the department has joined in the petition for such appointment.

12 (g) Any other person.

13 (2) Except as provided in subsection (3) of this section, the court shall appoint the Department
 14 of State Lands as personal representative if it appears that the decedent died wholly intestate and
 15 without known heirs. The Attorney General shall represent the Department of State Lands in the
 16 administration of the estate. Any funds received by the Department of State Lands in the capacity
 17 of personal representative may be deposited in accounts, separate and distinct from the General
 18 Fund, established with the State Treasurer. Interest earned by such account shall be credited to that
 19 account.

20 (3) The court may appoint a person other than the Department of State Lands to administer the
 21 estate of a decedent who died wholly intestate and without known heirs if the person filing a peti-
 22 tion under ORS 113.035 attaches written authorization from an estate administrator of the Depart-
 23 ment of State Lands appointed under ORS 113.235 approving the filing of the petition by the person.
 24 Except as provided by rule adopted by the Director of the Department of State Lands, an estate
 25 administrator may consent to the appointment of another person to act as personal representative
 26 only if it appears after investigation that the estate is insolvent.

27 **SECTION 18.** ORS 116.253 is amended to read:

28 116.253. (1) Within 10 years after the death of a decedent whose estate escheated in whole or
 29 in part to the state, or within eight years after the entry of a judgment or order escheating property
 30 of an estate to the state, a claim may be made for the property escheated, or the proceeds thereof,
 31 by or on behalf of a person not having actual knowledge of the escheat or by or on behalf of a
 32 person who at the time of the escheat was unable to prove entitlement to the escheated property.

33 (2) The claim shall be made by a petition filed with the Director of the Department of State
 34 Lands. The claim is considered a contested case as provided in ORS 183.310 and there is the right
 35 of judicial review as provided in ORS 183.480. The petition must include a declaration under penalty
 36 of perjury in the form required by ORCP 1 E and shall state:

37 (a) The age and place of residence of the claimant by whom or on whose behalf the petition is
 38 filed;

39 (b) That the claimant lawfully is entitled to the property or proceeds, briefly describing the
 40 property or proceeds;

41 (c) That at the time the property escheated to the state the claimant had no knowledge or notice
 42 thereof or was unable to prove entitlement to the escheated property and has subsequently acquired
 43 new evidence of that entitlement;

44 (d) That the claimant claims the property or proceeds as an heir or devisee or as the personal
 45 representative of the estate of an heir or devisee, setting forth the relationship, if any, of the

1 claimant to the decedent who at the time of death was the owner;

2 (e) That 10 years have not elapsed since the death of the decedent, or that eight years have not
3 elapsed since the entry of the judgment or order escheating the property to the state; and

4 (f) If the petition is not filed by the claimant, the status of the petitioner.

5 (3) If it is determined that the claimant is entitled to the property or the proceeds thereof, the
6 Director of the Department of State Lands shall deliver the property to the petitioner, subject to
7 and charged with any tax on the property and the costs and expenses of the state in connection
8 therewith.

9 (4) If the person whose property escheated or reverted to the state was at any time [*an*
10 *inmate*] **a resident** of a state institution in Oregon for persons with mental illness or [*mental retar-*
11 *dation*] **a state training center**, the reasonable unpaid cost of the care and maintenance of the
12 person while a ward of the institution, regardless of when the cost was incurred, may be deducted
13 from, or, if necessary, be offset in full against, the amount of the escheated property. The reasonable
14 unpaid cost of care and maintenance shall be determined by:

15 (a) The Department of Human Services for patients of [*the Eastern Oregon*] **a state** training
16 center; and

17 (b) The Oregon Health Authority for patients of the Blue Mountain Recovery Center and the
18 Oregon State Hospital.

19 (5) For the purposes of this section, the death of the decedent is presumed to have occurred on
20 the date shown in the decedent's death certificate or in any other similar document issued by the
21 jurisdiction in which the death occurred or issued by an agency of the federal government.

22 **SECTION 19.** ORS 125.005 is amended to read:

23 125.005. As used in this chapter:

24 (1) "Conservator" means a person appointed as a conservator under the provisions of this
25 chapter.

26 (2) "Fiduciary" means a guardian or conservator appointed under the provisions of this chapter
27 or any other person appointed by a court to assume duties with respect to a protected person under
28 the provisions of this chapter.

29 (3) "Financially incapable" means a condition in which a person is unable to manage financial
30 resources of the person effectively for reasons including, but not limited to, mental illness, [*mental*
31 *retardation*] **developmental disability**, physical illness or disability, chronic use of drugs or con-
32 trolled substances, chronic intoxication, confinement, detention by a foreign power or disappearance.
33 [*"Manage financial resources" means those actions necessary to obtain, administer and dispose of real*
34 *and personal property, intangible property, business property, benefits and income.*]

35 (4) "Guardian" means a person appointed as a guardian under the provisions of this chapter.

36 (5) "Incapacitated" means a condition in which a person's ability to receive and evaluate infor-
37 mation effectively or to communicate decisions is impaired to such an extent that the person pres-
38 ently lacks the capacity to meet the essential requirements for the person's physical health or
39 safety. [*"Meeting the essential requirements for physical health and safety" means those actions nec-*
40 *essary to provide the health care, food, shelter, clothing, personal hygiene and other care without which*
41 *serious physical injury or illness is likely to occur.*]

42 (6) **"Manage financial resources" means those actions necessary to obtain, administer**
43 **and dispose of real and personal property, intangible property, business property, benefits**
44 **and income.**

45 (7) **"Meet the essential requirements for physical health and safety" means those actions**

1 **necessary to provide the health care, food, shelter, clothing, personal hygiene and other care**
 2 **without which serious physical injury or illness is likely to occur.**

3 [(6)] (8) “Minor” means any person who has not attained 18 years of age.

4 [(7)] (9) “Protected person” means a person for whom a protective order has been entered.

5 [(8)] (10) “Protective order” means an order of a court appointing a fiduciary or any other order
 6 of the court entered for the purpose of protecting the person or estate of a respondent or protected
 7 person.

8 [(9)] (11) “Protective proceeding” means a proceeding under this chapter.

9 [(10)] (12) “Respondent” means a person for whom entry of a protective order is sought in a
 10 petition filed under ORS 125.055.

11 [(11)] (13) “Visitor” means a person appointed by the court under ORS 125.150 for the purpose
 12 of interviewing and evaluating a respondent or protected person.

13 **SECTION 20.** ORS 127.646 is amended to read:

14 127.646. As used in ORS 127.646 to 127.654:

15 (1) “Health care organization” means a home health agency, hospice program, hospital, long
 16 term care facility or health maintenance organization.

17 (2) “Health maintenance organization” has the meaning given that term in ORS 750.005, except
 18 that “health maintenance organization” includes only those organizations that participate in the
 19 federal Medicare or Medicaid programs.

20 (3) “Home health agency” has the meaning given that term in ORS 443.005.

21 (4) “Hospice program” has the meaning given that term in ORS 443.850.

22 (5) “Hospital” has the meaning given that term in ORS 442.015. “Hospital” does not include a
 23 special inpatient care facility.

24 (6) “Long term care facility” has the meaning given that term in ORS 442.015, except that “long
 25 term care facility” does not include an intermediate care facility for individuals with [*mental retar-*
 26 *dation*] **intellectual disabilities.**

27 **SECTION 21.** ORS 132.090 is amended to read:

28 132.090. (1) Except as provided in subsections (2) and (3) of this section, no person other than
 29 the district attorney or a witness actually under examination shall be present during the sittings
 30 of the grand jury.

31 (2) Upon a motion filed by the district attorney in the circuit court, the circuit judge may ap-
 32 point a reporter who shall attend the sittings of the grand jury to take and report the testimony in
 33 any matters pending before the grand jury, and may appoint a parent, guardian or other appropriate
 34 person 18 years of age or older to accompany any child 12 years of age or younger, or any person
 35 with [*mental retardation*] **an intellectual disability**, during an appearance before the grand jury. The
 36 circuit judge, upon the district attorney’s showing to the court that it is necessary for the proper
 37 examination of a witness appearing before the grand jury, may appoint a guard, medical or other
 38 special attendant or nurse, who shall be present in the grand jury room and shall attend such sit-
 39 tings.

40 (3) The district attorney may designate an interpreter who is certified under ORS 45.291 to in-
 41 terpret the testimony of witnesses appearing before the grand jury. The district attorney may des-
 42 ignate a qualified interpreter, as defined in ORS 45.288, if the circuit court determines that a
 43 certified interpreter is not available and that the person designated by the district attorney is a
 44 qualified interpreter as defined in ORS 45.288. An interpreter designated under this subsection may
 45 be present in the grand jury room and attend the sittings of the grand jury.

1 (4) No person other than members of the grand jury shall be present when the grand jury is
 2 deliberating or voting upon a matter before it.

3 (5) As used in this section, [*“mental retardation”* has the meaning given that term in ORS 427.005.
 4 *Mental retardation*] **“intellectual disability” means significantly subaverage general intellectual**
 5 **functioning existing concurrently with deficits in adaptive behavior. Intellectual disability**
 6 may be shown by attaching to the motion of the district attorney:

7 (a) Documentary evidence of intellectual functioning; or

8 (b) The affidavit of a qualified person familiar with the person with [*mental retardation*] **an in-**
 9 **tellectual disability**. “Qualified person” includes, but is not limited to, a teacher, therapist or
 10 physician.

11 **SECTION 22.** ORS 138.694 is amended to read:

12 138.694. (1) A person described in ORS 138.690 (1) may file a petition in the circuit court in
 13 which the judgment of conviction was entered requesting the appointment of counsel at state ex-
 14 pense to assist the person in determining whether to file a motion under ORS 138.690. The petition
 15 must be accompanied by:

16 (a) A completed affidavit of eligibility for appointment of counsel at state expense; and

17 (b) An affidavit stating that:

18 (A) The person meets the criteria in ORS 138.690 (1);

19 (B) The person is innocent of the charge for which the person was convicted or of the conduct
 20 that resulted in a mandatory sentence enhancement;

21 (C) The identity of the perpetrator of the crime or conduct was at issue in the original prose-
 22 cution or, if the person was documented as having [*mental retardation*] **an intellectual disability**
 23 prior to the time the crime was committed, should have been at issue; and

24 (D) The person is without sufficient funds and assets, as shown by the affidavit required by
 25 paragraph (a) of this subsection, to hire an attorney to represent the person in determining whether
 26 to file a motion under ORS 138.690.

27 (2) The court shall grant a petition filed under this section if:

28 (a) The petitioner complies with the requirements of subsection (1) of this section; and

29 (b) It appears to the court that the petitioner is financially unable to employ suitable counsel
 30 possessing skills and experience commensurate with the nature and complexity of the matter.

31 (3) When a court grants a petition under this section, the court shall appoint the attorney ori-
 32 ginally appointed to represent the petitioner in the action that resulted in the conviction unless the
 33 attorney is unavailable.

34 (4) An attorney appointed under this section:

35 (a) If other than counsel provided pursuant to ORS 151.460, is entitled to compensation and ex-
 36 penses as provided in ORS 135.055; or

37 (b) If counsel provided pursuant to ORS 151.460, is entitled to expenses as provided in ORS
 38 135.055.

39 **SECTION 23.** ORS 144.226 is amended to read:

40 144.226. (1) Any person sentenced under ORS 161.725 and 161.735 as a dangerous offender shall
 41 within 120 days prior to the parole consideration hearing under ORS 144.228 or the last day of the
 42 required incarceration term established under ORS 161.737 and at least every two years thereafter
 43 be given a complete mental and psychiatric or psychological examination by a psychiatrist or psy-
 44 chologist appointed by the State Board of Parole and Post-Prison Supervision. Within 60 days after
 45 the examination, the examining psychiatrist or psychologist shall file a written report of findings

1 and conclusions relative to the examination with the Director of the Department of Corrections and
 2 chairperson of the State Board of Parole and Post-Prison Supervision.

3 (2) The examining psychiatrist or psychologist shall include in the report a statement as to
 4 whether or not in the psychiatrist's or psychologist's opinion the convicted person has [*mental re-*
 5 *tardation*] **an intellectual disability** or any mental or emotional disturbance, condition or disorder
 6 predisposing the person to the commission of any crime to a degree rendering the examined person
 7 a danger to the health or safety of others. The report shall also contain any other information which
 8 the examining psychiatrist or psychologist believes will aid the State Board of Parole and Post-
 9 Prison Supervision in determining whether the examined person is eligible for release. The report
 10 shall also state the progress or changes in the condition of the examined person as well as any
 11 recommendations for treatment. A certified copy of the report shall be sent to the convicted person,
 12 to the convicted person's attorney and to the executive officer of the Department of Corrections
 13 institution in which the convicted person is confined.

14 **SECTION 24.** ORS 162.135 is amended to read:

15 162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

16 (1)(a) "Contraband" means:

17 (A) Controlled substances as defined in ORS 475.005;

18 (B) Drug paraphernalia as defined in ORS 475.525;

19 (C) Except as otherwise provided in paragraph (b) of this subsection, currency possessed by or
 20 in the control of an inmate confined in a correctional facility; or

21 (D) Any article or thing which a person confined in a correctional facility, youth correction fa-
 22 cility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and
 23 whose use would endanger the safety or security of such institution or any person therein.

24 (b) "Contraband" does not include authorized currency possessed by an inmate in a work release
 25 facility.

26 (2) "Correctional facility" means any place used for the confinement of persons charged with
 27 or convicted of a crime or otherwise confined under a court order and includes but is not limited
 28 to a youth correction facility. "Correctional facility" applies to a state hospital or a secure intensive
 29 community inpatient facility only as to persons detained therein charged with or convicted of a
 30 crime, or detained therein after having been found guilty except for insanity of a crime under ORS
 31 161.290 to 161.370.

32 (3) "Currency" means paper money and coins [*that are within the correctional institution*].

33 (4) "Custody" means the imposition of actual or constructive restraint by a peace officer pur-
 34 suant to an arrest or court order, but does not include detention in a correctional facility, youth
 35 correction facility or a state hospital.

36 (5) "Escape" means the unlawful departure of a person from custody or a correctional facility.
 37 "Escape" includes the unauthorized departure or absence from this state or failure to return to this
 38 state by a person who is under the jurisdiction of the Psychiatric Security Review Board.
 39 "Escape" does not include failure to comply with provisions of a conditional release in ORS 135.245.

40 (6) "Youth correction facility" means:

41 (a) A youth correction facility as defined in ORS 420.005; and

42 (b) A detention facility as defined in ORS 419A.004.

43 (7) "State hospital" means the Oregon State Hospital, Blue Mountain Recovery Center[, *Eastern*
 44 *Oregon Training Center*] and any other hospital established by law for similar purposes.

45 (8) "Unauthorized departure" means the unauthorized departure of a person confined by court

1 order in a youth correction facility or a state hospital that, because of the nature of the court order,
 2 is not a correctional facility as defined in this section, or the failure to return to custody after any
 3 form of temporary release or transitional leave from a correctional facility.

4 **SECTION 25.** ORS 169.750 is amended to read:

5 169.750. A juvenile detention facility may not:

6 (1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of
 7 or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals,
 8 or isolation, or detention under conditions that violate the provisions of subsections (2) to (8) of this
 9 section or ORS 169.076 (7) to (11), (13) or (14) or 169.740;

10 (2) Use any physical force, other means of physical control or isolation upon a detained juvenile
 11 except as reasonably necessary and justified to prevent escape from the facility, physical injury to
 12 another person, to protect a detained juvenile from physical self-injury or to prevent destruction of
 13 property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for
 14 in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that
 15 the danger exists. A use of force or other physical means of control may not employ:

16 (a) The use of restraining devices for a purpose other than to prevent physical injury or escape,
 17 or, in any case, for a period in excess of six hours. However, the time during which a detained ju-
 18 venile is being transported to another facility pursuant to court order shall not be counted within
 19 the six hours; or

20 (b) Isolation for a period in excess of six hours;

21 (3) Use roomlock except for the discipline and punishment of a detained juvenile for violation
 22 of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct
 23 that constitutes a crime under the laws of this state or that would justify physical force, control or
 24 isolation under subsection (2) of this section;

25 (4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except
 26 upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such exam-
 27 ination and then only by a licensed physician or a nurse;

28 (5)(a) Administer to any detained juvenile medication, except upon the informed consent of the
 29 juvenile or in the case of an imminent threat to the life of the juvenile or where the juvenile has
 30 a contagious or communicable disease that poses an imminent threat to the health of other persons
 31 in the facility. However, prescription medication may not be administered except upon a written
 32 prescription or written order by a licensed physician or licensed dentist and administered by a li-
 33 censed physician, licensed dentist or other medical personnel authorized by the State of Oregon
 34 under ORS chapter 677, 678 or 679 to administer medication. Facility staff not otherwise authorized
 35 by law to administer medications may administer noninjectable medications in accordance with rules
 36 adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 (8);

37 (b) Nonmedical personnel shall receive training for administering medications, including recog-
 38 nition of and response to drug reactions and unanticipated side effects, from the responsible physi-
 39 cian or nurse and the official responsible for the facility. All personnel shall be responsible for
 40 administering the dosage medications according to orders and for recording the administrations of
 41 the dosage in a manner and on a form approved by the responsible physician; and

42 (c) Notwithstanding any other provision of law, medication may not be administered unless a
 43 registered nurse or physician is either physically on the premises or readily available by telephone
 44 and within 30 minutes travel time of the patient;

45 (6) Administer to any detained juvenile any medication or medical procedure for purposes of

1 experimentation;

2 (7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess
 3 of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for
 4 more than one day, except after:

5 (a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

6 (b) Providing the juvenile the opportunity to a hearing before a staff member who was not a
 7 witness to the alleged offensive conduct or behavior;

8 (c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-
 9 examine witnesses;

10 (d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile;
 11 and

12 (e) A finding that the alleged conduct or behavior was proven by a preponderance of the evi-
 13 dence and that it violated a rule of conduct or behavior of the facility as provided for in ORS
 14 169.076 (12) or constituted a crime under the laws of this state; and

15 (8) Detain juveniles with emotional disturbances, [*mental retardation*] **developmental disabili-**
 16 **ties** or physical disabilities on the same charges and circumstances for which other juveniles would
 17 have been released or provided with another alternative.

18 **SECTION 26.** ORS 179.010 is amended to read:

19 179.010. As used in this chapter, unless the context requires otherwise:

20 (1) "Institution" means the institutions designated in ORS 179.321.

21 (2) "Agency" means:

22 (a) The Department of Corrections when the institution is a Department of Corrections institu-
 23 tion, as defined in ORS 421.005; **or**

24 [(b) *The Department of Human Services when the institution is the Eastern Oregon Training Cen-*
 25 *ter; or]*

26 [(c)] (b) The Oregon Health Authority when the institution is the Blue Mountain Recovery
 27 Center or an Oregon State Hospital campus.

28 **SECTION 27.** ORS 179.040 is amended to read:

29 179.040. (1) The Department of Corrections[, *the Department of Human Services*] and the Oregon
 30 Health Authority shall:

31 (a) Govern, manage and administer the affairs of the public institutions and works within their
 32 respective jurisdictions.

33 (b) Enter into contracts for the planning, erection, completion and furnishings of all new
 34 buildings or additions at their respective institutions.

35 (c) Subject to any applicable provisions of ORS 279A.125, 279A.255, 279A.275, 279A.280,
 36 279A.285, 279A.290, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280 and 283.110 to 283.395, enter
 37 into contracts for the purchase of supplies for their respective institutions.

38 (d) Make and adopt rules for the guidance of the agencies and for the government of their re-
 39 spective institutions.

40 (2) The agencies, respectively, may:

41 (a) Sue and plead in all courts of law and equity.

42 (b) Subject to ORS 279A.050 (7), procure, contract for or enter into agreements for goods and
 43 services of all kinds, including personal services contracts designated under ORS 279A.055, and
 44 perform all legal acts requisite and necessary for the successful management and maintenance of the
 45 institutions within their respective jurisdictions.

1 **SECTION 28.** ORS 179.050 is amended to read:

2 179.050. The Department of Corrections[, *the Department of Human Services*] and the Oregon
3 Health Authority may receive, take and hold property, both real and personal, for any institution
4 within their respective jurisdictions. Title shall be taken in the name of the state.

5 **SECTION 29.** ORS 179.055 is amended to read:

6 179.055. (1) The revenue from the rental or lease of property administered by an institution
7 governed or managed by the Department of Corrections[, *the Department of Human Services*] or the
8 Oregon Health Authority, except dormitory and housing rentals at institutions governed by the
9 agencies, shall be deposited in the account of the respective agency for use by the respective agency
10 to pay for the cost of administration, taxes, repairs and improvements on the property.

11 (2) The agencies may request the Oregon Department of Administrative Services to make nec-
12 essary repairs and improvements on the property described in subsection (1) of this section to be
13 paid for by the agencies from the proceeds derived from such rental or lease of the property or from
14 appropriations otherwise available.

15 **SECTION 30.** ORS 179.065 is amended to read:

16 179.065. The Department of Corrections[, *the Department of Human Services*] and the Oregon
17 Health Authority shall have the same powers with respect to furnishing heat, light, power, sewage,
18 fire protection and communications facilities to institutions under their respective jurisdictions as
19 is granted to the Oregon Department of Administrative Services under ORS 276.210 to 276.228,
20 276.234 to 276.244, 276.250 and 276.252. The powers shall be exercised in accordance with and sub-
21 ject to the provisions of such sections.

22 **SECTION 31.** ORS 179.105 is amended to read:

23 179.105. (1) For a purpose of ORS 179.040, including aid and support of research in any of the
24 institutions, the Department of Corrections[, *the Department of Human Services*] and the Oregon
25 Health Authority may in their respective discretions accept from the United States or any of its
26 agencies financial assistance and grants in the form of money or labor, or from any other source
27 any donation or grant of land or gift of money or any other thing. Funds accepted in accordance
28 with the provisions of this section and ORS 179.110 shall be deposited with the State Treasurer and,
29 subject to subsection (2) of this section, are continuously appropriated to the department [*of Cor-*
30 *rections, the Department of Human Services*] or the [*Oregon Health*] authority, as appropriate, and
31 may be expended by the department [*of Corrections, the Department of Human Services*] or the
32 [*Oregon Health*] authority according to the conditions and terms of the grant or donation.

33 (2) Funds received under subsection (1) of this section or ORS 179.110 shall be expended subject
34 to expenditure limitations imposed on the department [*of Corrections, the Department of Human*
35 *Services or the Oregon Health*] **or the** authority by the Legislative Assembly or, in the absence of
36 such limitations, only after approval of the Legislative Assembly or of the Emergency Board, if ap-
37 proval is required during the interim between sessions of the Legislative Assembly.

38 (3) In any case where prior approval of the authority to expend any funds available under sub-
39 section (1) of this section or ORS 179.110 is imposed as a term or condition of receipt of such funds,
40 the Legislative Assembly or the Emergency Board may approve expenditures of such funds prior to
41 their receipt.

42 **SECTION 32.** ORS 179.110 is amended to read:

43 179.110. Subject to the approval of the Director of the Oregon Department of Administrative
44 Services, the Department of Corrections[, *the Department of Human Services*] and the Oregon Health
45 Authority, respectively, may accept and receive grants of funds from the United States or any of its

1 agencies for the construction, equipment and betterment of any of the institutions under its juris-
 2 diction and may cooperate with the United States or its agencies in such construction, equipment
 3 and betterment. Any balances of appropriations for capital outlay for any institution resulting from
 4 the use of funds so received shall be placed in a common fund. The Department of Corrections[, *the*
 5 *Department of Human Services*] and the Oregon Health Authority are authorized and empowered in
 6 their discretion to expend such common fund or any portion thereof in the construction, equipment
 7 or betterment of any institution under its jurisdiction.

8 **SECTION 33.** ORS 179.140 is amended to read:

9 179.140. Subject to any applicable provision of ORS 279A.125, 279A.255, 279A.275, 279A.280,
 10 279A.285, 279A.290, 279B.025, 279B.240, 279B.270, 279B.275, 279B.280, 283.110 to 283.395 and 291.232
 11 to 291.260, all claims for supplies or materials furnished or services rendered to institutions shall
 12 be audited and approved as provided by law, upon the presentation of duly verified vouchers there-
 13 for, approved in writing by the Director of the Department of Corrections[, *the Director of Human*
 14 *Services*] or the Director of the Oregon Health Authority, or by their designees.

15 **SECTION 34.** ORS 179.150 is amended to read:

16 179.150. [No] **An** officer of the Department of Corrections[, *the Department of Human Services*]
 17 or the Oregon Health Authority or officer, employee or other person connected with an institution
 18 [shall] **may not** be pecuniarily interested in any contract for supplies or services furnished or ren-
 19 dered to an institution, other than the services of regular employment.

20 **SECTION 35.** ORS 179.210 is amended to read:

21 179.210. (1) [*The Department of Human Services,*] The Department of Corrections, the Oregon
 22 Health Authority and the Superintendent of Public Instruction may audit, allow and pay a claim for
 23 damage to property made by an employee of one of those agencies if:

24 (a) The damage to property arises out of the claimant's employment at one of the institutions
 25 or facilities operated by the agencies, or the school operated by the Superintendent of Public In-
 26 struction under ORS 346.010; and

27 (b) The employee files a written claim with the employee's employer within 180 days after the
 28 employee discovers or should have discovered the damage.

29 (2) No claim under subsection (1) of this section shall be paid:

30 (a) That exceeds, in the aggregate with payments of other claims, the moneys appropriated for
 31 such purpose.

32 (b) To the extent that the person incurring damage has been or may be compensated by liability
 33 insurance or otherwise.

34 (c) If the agencies or the Superintendent of Public Instruction determines the cause or occasion
 35 of the accident resulting in damage is chargeable to the conduct or negligence of the party damaged.

36 **SECTION 36.** ORS 179.230 is amended to read:

37 179.230. The decision of the [*Department of Human Services, the*] Department of Corrections, the
 38 Oregon Health Authority or the Superintendent of Public Instruction to reject any claim filed under
 39 ORS 179.210 is final, and is not subject to review under ORS chapter 183, or by any other agency
 40 or court. The provisions of this section do not affect any other remedy that may be available to the
 41 claimant under law.

42 **SECTION 37.** ORS 179.240 is amended to read:

43 179.240. (1) If any person owes a debt to this state or a state agency, and the debt has been fixed
 44 by final judgment of a court of competent jurisdiction or is no longer subject to judicial review, the
 45 Department of Corrections[, *the Department of Human Services*] or the Oregon Health Authority

1 shall deduct the amount of the debt from any award made to that person under ORS 179.210.

2 (2) The agencies shall request the State Treasurer to transfer to the appropriate fund or account
3 to which the debt is owed, an amount equal to the amount deducted from the award under sub-
4 section (1) of this section, for use during that biennium in accordance with law by the state agency
5 administering the fund or account to which the debt is owed. The State Treasurer shall evidence the
6 transfer by proper bookkeeping entries. If the department, [*of Corrections, the Department of Human*
7 *Services,*] the [*Oregon Health*] authority or the State Treasurer cannot determine the appropriate
8 fund or account, the amount shall be transferred to the General Fund for general governmental
9 purposes.

10 (3) Any debt owed by a person to this state or a state agency is satisfied, upon the completion
11 of a transfer made pursuant to subsection (2) of this section, to the extent of the amount so trans-
12 ferred.

13 **SECTION 38.** ORS 179.321 is amended to read:

14 179.321. [(1) *The Department of Human Services shall operate, control, manage and supervise the*
15 *Eastern Oregon Training Center.*]

16 [(2)] (1) The Oregon Health Authority shall operate, control, manage and supervise the Blue
17 Mountain Recovery Center and the Oregon State Hospital campuses.

18 [(3)] (2) The Department of Corrections shall operate, control, manage and supervise those in-
19 stitutions defined as Department of Corrections institutions in ORS 421.005.

20 **SECTION 39.** ORS 179.325 is amended to read:

21 179.325. [(1) *The Department of Human Services may order the change, in all or part, of the pur-*
22 *pose and use of any state institution being used as an institution for the care and treatment of persons*
23 *with mental retardation in order to care for persons committed to its custody whenever the department*
24 *determines that a change in purpose and use will better enable this state to meet its responsibilities to*
25 *persons with mental retardation. In determining whether to order the change, the department shall*
26 *consider changes in the number and source of the admissions of persons with mental retardation.*]

27 [(2)] The Oregon Health Authority may order the change, in all or part, of the purpose and use
28 of any state institution being used as an institution for the care and treatment of persons with
29 mental illness in order to care for persons committed to its custody whenever the authority deter-
30 mines that a change in purpose and use will better enable this state to meet its responsibilities to
31 persons with mental illness. In determining whether to order the change, the authority shall con-
32 sider changes in the number and source of the admissions of persons with mental illness.

33 **SECTION 40.** ORS 179.331 is amended to read:

34 179.331. (1) The superintendents shall be appointed and, whenever the public service requires
35 such action, may be removed, suspended or discharged, as follows:

36 [(a) *The superintendent of the Eastern Oregon Training Center, by the Director of Human*
37 *Services.*]

38 [(b)] (a) The superintendents of the Blue Mountain Recovery Center and the Oregon State
39 Hospital, by the Director of the Oregon Health Authority.

40 [(c)] (b) The superintendents of Department of Corrections institutions as defined in ORS
41 421.005, by the Director of the Department of Corrections.

42 (2) For purposes of the State Personnel Relations Law, the superintendents are assigned to the
43 unclassified service.

44 **SECTION 41.** ORS 179.360 is amended to read:

45 179.360. (1) Each superintendent shall:

1 (a) Have custody of the residents of the institution under jurisdiction of the superintendent.

2 (b) Direct the care, custody and training of the residents unless otherwise directed by law or
3 by rule.

4 (c) Adopt sanitary measures for the health and comfort of the residents.

5 (d) Promote the mental, moral and physical welfare and development of the residents.

6 (e) Enjoy the other powers and privileges and perform the other duties that are prescribed by
7 law or by rule or that naturally attach themselves to the position of superintendent.

8 (f) Designate a physician licensed by the Oregon Medical Board to serve as chief medical officer
9 as provided in ORS [427.010] **426.020**, who will be directly responsible to the superintendent for ad-
10 ministration of the medical treatment programs at the institution and assume such other responsi-
11 bilities as are assigned by the superintendent.

12 (2) The Director of the Department of Corrections[, *the Director of Human Services*] and the
13 Director of the Oregon Health Authority shall prescribe for their respective institutions:

14 (a) The duties of the superintendents where the duties are not prescribed by law.

15 (b) The additional duties, beyond those prescribed by law, that each agency director considers
16 necessary for the good of the public service.

17 **SECTION 42.** ORS 179.370 is amended to read:

18 179.370. The Director of the Department of Corrections[, *the Director of Human Services*] or the
19 Director of the Oregon Health Authority may require that a superintendent reside in state-provided
20 housing at the institution under the jurisdiction of the superintendent. The rental shall be deter-
21 mined pursuant to ORS 182.425.

22 **SECTION 43.** ORS 179.375 is amended to read:

23 179.375. (1) The Department of Corrections[, *the Department of Human Services*] and the Oregon
24 Health Authority shall ensure that adequate chaplaincy services, including but not limited to
25 Protestant and Roman Catholic, are available at their respective institutions.

26 (2) Chaplains serving the various institutions shall, with respect to the inmates or patients at
27 such institutions:

28 (a) Provide for and attend to their spiritual needs.

29 (b) Visit them for the purpose of giving religious and moral instruction.

30 (c) Participate in the rehabilitation programs affecting them.

31 **SECTION 44.** ORS 179.380 is amended to read:

32 179.380. (1) The Department of Corrections[, *the Department of Human Services*] and the Oregon
33 Health Authority shall authorize the employment of all necessary physicians, attendants, nurses,
34 engineers, messengers, clerks, guards, cooks, waiters and other officers and employees not specifi-
35 cally authorized by law and necessary to the successful maintenance of their respective institutions.
36 The amounts expended for the services of such officers and employees shall not exceed the amounts
37 provided therefor in the biennial appropriations for the institution.

38 (2) The agencies shall designate in their respective rules which employees shall be officers, and
39 shall require all officers to take and subscribe to an oath of office and, if the circumstances require
40 it, to furnish bonds.

41 **SECTION 45.** ORS 179.385 is amended to read:

42 179.385. The Department of Corrections[, *the Department of Human Services*] and the Oregon
43 Health Authority, respectively, may establish scholarship programs to provide assistance in securing
44 qualified personnel at state institutions governed by them. Scholarships authorized by this section
45 shall be granted in accordance with rules and regulations adopted respectively by the agencies.

SECTION 46. ORS 179.390 is amended to read:

179.390. (1) The superintendent of an institution within the jurisdiction of the Department of Corrections shall, subject to the approval of the Director of the Department of Corrections, appoint in the manner provided by law all assistants, officers and other employees at the institution under the jurisdiction of the superintendent. The superintendent may suspend or remove an assistant, officer or other employee in the manner provided by law, reporting all acts of suspension or removal to the Director of the Department of Corrections for approval or disapproval.

(2) The Director of the Department of Corrections[, *the Director of Human Services*] and the Director of the Oregon Health Authority shall:

(a) Fix the salaries of assistants, officers and employees where their salary is not fixed by law.

(b) Suspend or discharge any subordinate of a superintendent when public service requires such action, except when suspending or discharging the subordinate violates the State Personnel Relations Law.

[(3) The Director of Human Services or a designee at a facility under jurisdiction of the Department of Human Services shall, as provided by law, appoint, suspend or discharge an employee of the department. The Director of Human Services may designate up to three employees at each facility to act in the name of the director in accordance with ORS 240.400.]

[(4)] (3) The Director of the Oregon Health Authority or a designee at a facility under jurisdiction of the Oregon Health Authority shall, as provided by law, appoint, suspend or discharge an employee of the authority. The director may designate up to three employees at each facility to act in the name of the director in accordance with ORS 240.400.

[(5)] (4) In addition to or in lieu of employing physicians, the Director of the Department of Corrections or the designee thereof may contract for the personal services of physicians licensed to practice medicine by the Oregon Medical Board to serve as medical advisors for the [*Oregon Health Authority*] **department**. Advisors under such contracts shall be directly responsible for administration of medical treatment programs at penal and correctional institutions, as defined in ORS 421.005.

SECTION 47. ORS 179.405 is amended to read:

179.405. [*No*] **A** Department of Corrections [*institutions,*] **institution or a** youth correction [*facilities*] **facility** as defined in ORS 420.005 [*and institutions listed in ORS 427.010 shall*] **may not** employ persons regularly as teachers who are not licensed.

SECTION 48. ORS 179.450 is amended to read:

179.450. The Department of Corrections[, *the Department of Human Services*] and the Oregon Health Authority may direct the employment of able-bodied persons at the agencies' respective institutions, in the performance of useful work upon land owned by the state if it does not compete with free labor. Work may not be performed upon any such land except by consent and approval of the agency of the state having management of the land.

SECTION 49. ORS 179.460 is amended to read:

179.460. (1) In order to encourage industry and thereby increase productiveness in the institutions, the Department of Corrections[, *the Department of Human Services*] and the Oregon Health Authority shall prescribe rules and regulations for the sale and exchange of surplus products of each.

(2) The funds derived from the sale of the surplus products shall be paid into the State Treasury and become a part of a fund to be known as the State Institutional Betterment Fund, which fund shall be expended by the agencies, respectively, for the benefit of the institutions in proportion to

1 the amount earned by each.

2 (3) The provisions of this section apply to the school operated under ORS 346.010.

3 **SECTION 50.** ORS 179.473 is amended to read:

4 179.473. (1) Whenever the health and welfare of the person and the efficient administration of
5 the institution require the transfer of an inmate of a Department of Corrections institution or a
6 youth offender in a youth correction facility to another institution:

7 (a) The Department of Corrections or the Oregon Youth Authority, with the consent of the De-
8 partment of Human Services, may transfer a person at any institution under its jurisdiction to [*an*
9 *institution for persons with mental retardation*] **a state training center in accordance with ORS**
10 **427.235 to 427.290**, or, with the consent of the Oregon Health and Science University, to the Oregon
11 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 Oregon Health Authority.

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 Oregon Health Authority for
17 evaluation and treatment pursuant to rules adopted jointly by the Oregon Youth Authority and the
18 Oregon Health Authority.

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 the Oregon Youth Authority to any other institution under the jurisdiction of
22 the department or 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 **Department of Correction shall adopt** rules [*adopted under*] **to carry out** subsection
28 (1)(b) and (c) of this section must:

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

31 (b) Provide that a transfer of an inmate or a youth offender to the Oregon Health Authority for
32 stabilization and evaluation for treatment may not exceed 30 days unless the transfer is extended
33 pursuant to a hearing required by paragraph (c) of this subsection.

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

35 (A) The Oregon Health Authority determines that administrative commitment for treatment for
36 a mental illness is necessary or advisable or that the authority needs more than 30 days to stabilize
37 or evaluate the inmate or youth offender for treatment; and

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

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

42 (A) Written notice to the inmate or youth offender that an administrative commitment to a state
43 [*mental*] hospital listed in ORS 426.010 or a hospital or facility designated by the Oregon Health
44 Authority or an extension of the transfer is being considered. The notice required by this subpara-
45 graph must be provided far enough in advance of the hearing to permit the inmate or youth offender

1 to prepare for the hearing.

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

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

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

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

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

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

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

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

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

27 **SECTION 51.** ORS 179.478 is amended to read:

28 179.478. (1) If the person, a relative, guardian or friend, or institution staff have probable cause
29 to believe that an inmate or youth offender is a person with [*mental retardation*] **an intellectual**
30 **disability** to such a degree that the inmate or youth offender cannot adjust to or benefit from the
31 Department of Corrections institution or youth correction facility, the superintendent of the insti-
32 tution shall request that a diagnostic assessment be performed by the Department of Human Ser-
33 vices or its designee. If there is probable cause to believe that the inmate or youth offender is a
34 person with [*mental retardation*] **an intellectual disability** and otherwise eligible for admission to
35 a state training center pursuant to [*ORS 427.010*] **ORS 427.235 to 427.290** and other applicable
36 statutes and rules of the Department of Human Services, the person shall be entitled to a commit-
37 ment hearing.

38 (2) If the inmate or youth offender is by clear and convincing evidence determined by the court
39 to be a person with [*mental retardation*] **an intellectual disability**, the person shall be committed
40 and transferred to a training center designated by the Department of Human Services as soon as
41 space in an appropriate unit is available, and any sentence to a Department of Corrections institu-
42 tion or commitment to the youth correction facility shall be terminated.

43 **SECTION 52.** ORS 179.479 is amended to read:

44 179.479. (1) The superintendent or other chief executive officer of an institution described in
45 ORS 179.321 may, when authorized by regulation or direction of the Department of Corrections[, *the*

1 *Department of Human Services*] or the Oregon Health Authority, convey an inmate to a physician,
 2 clinic or hospital, including the Oregon Health and Science University, for medical, surgical or
 3 dental treatment when such treatment cannot satisfactorily be provided at the institution. An inmate
 4 conveyed for treatment pursuant to this section shall be kept in the custody of the institution from
 5 which the inmate is conveyed.

6 (2) The Department of Corrections[, *the Department of Human Services*] and the Oregon Health
 7 Authority shall prescribe rules and regulations governing conveyances authorized by this section.

8 **SECTION 53.** ORS 179.485 is amended to read:

9 179.485. Persons transferred to a state institution for persons with mental illness [*or mental re-*
 10 *tardation*] **or to a state training center** under ORS 179.473, 179.478 and 420.505 shall be entitled
 11 to the same legal rights as any other persons admitted to [*those*] **the institutions or training**
 12 **center.**

13 **SECTION 54.** ORS 179.490 is amended to read:

14 179.490. [*In the case of*] **If a person in the custody of an institution described in ORS 179.321**
 15 **requires** a necessary or emergency operation, requiring the services of a specialist, and [*where*] **if**
 16 the relatives or guardians, in the judgment of the Department of Corrections[, *the Department of*
 17 *Human Services*] or the Oregon Health Authority, are unable to pay a part or the whole cost of the
 18 operation, the agencies may have the operation performed, the cost of the operation to be payable
 19 from the funds of the institution concerned.

20 **SECTION 55.** ORS 179.492 is amended to read:

21 179.492. (1) The Department of Corrections[, *the Department of Human Services*] or the Oregon
 22 Health Authority shall dispense as written a prescription for a brand-name mental health drug pre-
 23 scribed for a person while the person is in the custody of an institution described in ORS 179.321
 24 if the prescription specifies “dispense as written” or contains the notation “D.A.W.” or other words
 25 of similar meaning.

26 (2) If, at the time of commitment to the custody of an institution described in ORS 179.321, a
 27 person has a prescription for a specified brand-name mental health drug and the prescription speci-
 28 fies “dispense as written” or contains the notation “D.A.W.” or other words of similar meaning, the
 29 Department of Corrections[, *the Department of Human Services*] or the Oregon Health Authority
 30 shall ensure that the person is prescribed the specified brand-name drug until a licensed health
 31 professional with prescriptive privileges evaluates the person and becomes responsible for the
 32 treatment of the person.

33 **SECTION 56.** ORS 179.505 is amended to read:

34 179.505. (1) As used in this section:

35 (a) “Disclosure” means the release of, transfer of, provision of access to or divulgence in any
 36 other manner of information outside the health care services provider holding the information.

37 (b) “Health care services provider” means:

38 (A) Medical personnel or other staff employed by or under contract with a public provider to
 39 provide health care or maintain written accounts of health care provided to individuals; or

40 (B) Units, programs or services designated, operated or maintained by a public provider to pro-
 41 vide health care or maintain written accounts of health care provided to individuals.

42 (c) “Individually identifiable health information” means any health information that is:

43 (A) Created or received by a health care services provider; and

44 (B) Identifiable to an individual, including demographic information that identifies the individual,
 45 or for which there is a reasonable basis to believe the information can be used to identify an indi-

1 vidual, and that relates to:

2 (i) The past, present or future physical or mental health or condition of an individual;

3 (ii) The provision of health care to an individual; or

4 (iii) The past, present or future payment for the provision of health care to an individual.

5 (d) "Personal representative" includes but is not limited to:

6 (A) A person appointed as a guardian under ORS 125.305, 419B.370, 419C.481 or 419C.555 with
7 authority to make medical and health care decisions;

8 (B) A person appointed as a health care representative under ORS 127.505 to 127.660 or a rep-
9 resentative under ORS 127.700 to 127.737 to make health care decisions or mental health treatment
10 decisions; and

11 (C) A person appointed as a personal representative under ORS chapter 113.

12 (e) "Psychotherapy notes" means notes recorded in any medium:

13 (A) By a mental health professional, in the performance of the official duties of the mental
14 health professional;

15 (B) Documenting or analyzing the contents of conversation during a counseling session; and

16 (C) That are maintained separately from the rest of the individual's record.

17 (f) "Psychotherapy notes" does not mean notes documenting:

18 (A) Medication prescription and monitoring;

19 (B) Counseling session start and stop times;

20 (C) Modalities and frequencies of treatment furnished;

21 (D) Results of clinical tests; or

22 (E) Any summary of the following items:

23 (i) Diagnosis;

24 (ii) Functional status;

25 (iii) Treatment plan;

26 (iv) Symptoms;

27 (v) Prognosis; or

28 (vi) Progress to date.

29 (g) "Public provider" means:

30 (A) The Blue Mountain Recovery Center[, *the Eastern Oregon Training Center*] and the Oregon
31 State Hospital campuses;

32 (B) Department of Corrections institutions as defined in ORS 421.005;

33 (C) A contractor of the Department of Corrections[, *the Department of Human Services*] or the
34 Oregon Health Authority that provides health care to individuals residing in a state institution op-
35 erated by the agencies;

36 (D) A community mental health program or community developmental disabilities program as
37 described in ORS 430.610 to 430.695 and the public and private entities with which it contracts to
38 provide mental health or developmental disabilities programs or services;

39 (E) A program or service provided under ORS 431.250, 431.375 to 431.385 or 431.416;

40 (F) A program or service established or maintained under ORS 430.630 **or section 1 of this 2011**
41 **Act**;

42 (G) A program or facility providing an organized full-day or part-day program of treatment that
43 is licensed, approved, established, maintained or operated by or contracted with the Oregon Health
44 Authority for alcoholism, drug addiction or mental or emotional disturbance;

45 (H) A program or service providing treatment by appointment that is licensed, approved, estab-

1 lished, maintained or operated by or contracted with the authority for alcoholism, drug addiction
2 or mental or emotional disturbance; or

3 (I) The impaired health professional program established under ORS 676.190.

4 (h) "Written account" means records containing only individually identifiable health information.

5 (2) Except as provided in subsections (3), (4), (6), (7), (8), (9), (11), (12), (14), (15), (16) and (17) of
6 this section or unless otherwise permitted or required by state or federal law or by order of the
7 court, written accounts of the individuals served by any health care services provider maintained
8 in or by the health care services provider by the officers or employees thereof who are authorized
9 to maintain written accounts within the official scope of their duties are not subject to access and
10 may not be disclosed. This subsection applies to written accounts maintained in or by facilities of
11 the Department of Corrections only to the extent that the written accounts concern the medical,
12 dental or psychiatric treatment as patients of those under the jurisdiction of the Department of
13 Corrections.

14 (3) If the individual or a personal representative of the individual provides an authorization, the
15 content of any written account referred to in subsection (2) of this section must be disclosed ac-
16 cordingly, if the authorization is in writing and is signed and dated by the individual or the personal
17 representative of the individual and sets forth with specificity the following:

18 (a) Name of the health care services provider authorized to make the disclosure, except when
19 the authorization is provided by recipients of or applicants for public assistance to a governmental
20 entity for purposes of determining eligibility for benefits or investigating for fraud;

21 (b) Name or title of the persons or organizations to which the information is to be disclosed or
22 that information may be disclosed to the public;

23 (c) Name of the individual;

24 (d) Extent or nature of the information to be disclosed; and

25 (e) Statement that the authorization is subject to revocation at any time except to the extent
26 that action has been taken in reliance thereon, and a specification of the date, event or condition
27 upon which it expires without express revocation. However, a revocation of an authorization is not
28 valid with respect to inspection or records necessary to validate expenditures by or on behalf of
29 governmental entities.

30 (4) The content of any written account referred to in subsection (2) of this section may be dis-
31 closed without an authorization:

32 (a) To any person to the extent necessary to meet a medical emergency.

33 (b) At the discretion of the responsible officer of the health care services provider, which in the
34 case of any Oregon Health Authority facility or community mental health program is the Director
35 of the Oregon Health Authority, to persons engaged in scientific research, program evaluation, peer
36 review and fiscal audits. However, individual identities may not be disclosed to such persons, except
37 when the disclosure is essential to the research, evaluation, review or audit and is consistent with
38 state and federal law.

39 (c) To governmental agencies when necessary to secure compensation for services rendered in
40 the treatment of the individual.

41 (5) When an individual's identity is disclosed under subsection (4) of this section, a health care
42 services provider shall prepare, and include in the permanent records of the health care services
43 provider, a written statement indicating the reasons for the disclosure, the written accounts dis-
44 closed and the recipients of the disclosure.

45 (6) The content of any written account referred to in subsection (2) of this section and held by

1 a health care services provider currently engaged in the treatment of an individual may be disclosed
2 to officers or employees of that provider, its agents or cooperating health care services providers
3 who are currently acting within the official scope of their duties to evaluate treatment programs,
4 to diagnose or treat or to assist in diagnosing or treating an individual when the written account
5 is to be used in the course of diagnosing or treating the individual. Nothing in this subsection
6 prevents the transfer of written accounts referred to in subsection (2) of this section among health
7 care services providers, the Department of Human Services, the Department of Corrections, the
8 Oregon Health Authority or a local correctional facility when the transfer is necessary or beneficial
9 to the treatment of an individual.

10 (7) When an action, suit, claim, arbitration or proceeding is brought under ORS 34.105 to 34.240
11 or 34.310 to 34.730 and involves a claim of constitutionally inadequate medical care, diagnosis or
12 treatment, or is brought under ORS 30.260 to 30.300 and involves the Department of Corrections or
13 an institution operated by the department, nothing in this section prohibits the disclosure of any
14 written account referred to in subsection (2) of this section to the Department of Justice, Oregon
15 Department of Administrative Services, or their agents, upon request, or the subsequent disclosure
16 to a court, administrative hearings officer, arbitrator or other administrative decision maker.

17 (8)(a) When an action, suit, claim, arbitration or proceeding involves the Department of Human
18 Services, the Oregon Health Authority or an institution operated by the department or authority,
19 nothing in this section prohibits the disclosure of any written account referred to in subsection (2)
20 of this section to the Department of Justice, Oregon Department of Administrative Services, or their
21 agents.

22 (b) Disclosure of information in an action, suit, claim, nonlabor arbitration or proceeding is
23 limited by the relevancy restrictions of ORS 40.010 to 40.585, 183.710 to 183.725, 183.745 and 183.750
24 and ORS chapter 183. Only written accounts of a plaintiff, claimant or petitioner shall be disclosed
25 under this paragraph.

26 (c) Disclosure of information as part of a labor arbitration or proceeding to support a personnel
27 action taken against staff is limited to written accounts directly relating to alleged action or in-
28 action by staff for which the personnel action was imposed.

29 (9)(a) The copy of any written account referred to in subsection (2) of this section, upon written
30 request of the individual or a personal representative of the individual, shall be disclosed to the
31 individual or the personal representative of the individual within a reasonable time not to exceed
32 five working days. The individual or the personal representative of the individual shall have the
33 right to timely access to any written accounts.

34 (b) If the disclosure of psychiatric or psychological information contained in the written account
35 would constitute an immediate and grave detriment to the treatment of the individual, disclosure
36 may be denied, if medically contraindicated by the treating physician or a licensed health care
37 professional in the written account of the individual.

38 (c) The Department of Corrections may withhold psychiatric or psychological information if:

39 (A) The information relates to an individual other than the individual seeking it.

40 (B) Disclosure of the information would constitute a danger to another individual.

41 (C) Disclosure of the information would compromise the privacy of a confidential source.

42 (d) However, a written statement of the denial under paragraph (c) of this subsection and the
43 reasons therefor must be entered in the written account.

44 (10) A health care services provider may require a person requesting disclosure of the contents
45 of a written account under this section to reimburse the provider for the reasonable costs incurred

1 in searching files, abstracting if requested and copying if requested. However, an individual or a
2 personal representative of the individual may not be denied access to written accounts concerning
3 the individual because of inability to pay.

4 (11) A written account referred to in subsection (2) of this section may not be used to initiate
5 or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by
6 federal, state or local authorities against the individual or to conduct any investigations of the in-
7 dividual. If the individual, as a party to an action, suit or other judicial proceeding, voluntarily
8 produces evidence regarding an issue to which a written account referred to in subsection (2) of this
9 section would be relevant, the contents of that written account may be disclosed for use in the
10 proceeding.

11 (12) Information obtained in the course of diagnosis, evaluation or treatment of an individual
12 that, in the professional judgment of the health care services provider, indicates a clear and imme-
13 diate danger to others or to society may be reported to the appropriate authority. A decision not
14 to disclose information under this subsection does not subject the provider to any civil liability.
15 Nothing in this subsection may be construed to alter the provisions of ORS 146.750, 146.760,
16 419B.010, 419B.015, 419B.020, 419B.025, 419B.030, 419B.035, 419B.040 and 419B.045.

17 (13) The prohibitions of this section apply to written accounts concerning any individual who
18 has been treated by any health care services provider irrespective of whether or when the individual
19 ceases to receive treatment.

20 (14) Persons other than the individual or the personal representative of the individual who are
21 granted access under this section to the contents of a written account referred to in subsection (2)
22 of this section may not disclose the contents of the written account to any other person except in
23 accordance with the provisions of this section.

24 (15) Nothing in this section prevents the Department of Human Services or the Oregon Health
25 Authority from disclosing the contents of written accounts in its possession to individuals or agen-
26 cies with whom children in its custody are placed.

27 (16) The system described in ORS 192.517 (1) shall have access to records, as defined in ORS
28 192.515, as provided in ORS 192.517.

29 (17)(a) Except as provided in paragraph (b) of this subsection, a health care services provider
30 must obtain an authorization from an individual or a personal representative of the individual to
31 disclose psychotherapy notes.

32 (b) A health care services provider may use or disclose psychotherapy notes without obtaining
33 an authorization from the individual or a personal representative of the individual to carry out the
34 following treatment, payment and health care operations:

35 (A) Use by the originator of the psychotherapy notes for treatment;

36 (B) Disclosure by the health care services provider for its own training program in which stu-
37 dents, trainees or practitioners in mental health learn under supervision to practice or improve their
38 skills in group, joint, family or individual counseling; or

39 (C) Disclosure by the health care services provider to defend itself in a legal action or other
40 proceeding brought by the individual or a personal representative of the individual.

41 (c) An authorization for the disclosure of psychotherapy notes may not be combined with an
42 authorization for a disclosure of any other individually identifiable health information, but may be
43 combined with another authorization for a disclosure of psychotherapy notes.

44 **SECTION 57.** ORS 179.610 is amended to read:

45 179.610. As used in ORS 179.610 to 179.770, unless the context requires otherwise:

1 (1) "Authorized representative" means an individual or entity appointed under authority of ORS
 2 chapter 125, as guardian or conservator of a person, who has the ability to control the person's fi-
 3 nances, and any other individual or entity holding funds or receiving benefits or income on behalf
 4 of any person.

5 (2) "Care" means all services rendered by the state institutions as described in ORS 179.321,
 6 **by a state training center** or by the Department of Corrections, Department of Human Services
 7 or Oregon Health Authority on behalf of [*those*] **the institutions or center**. These services include,
 8 but are not limited to, such items as medical care, room, board, administrative costs and other costs
 9 not otherwise excluded by law.

10 (3) "Decedent's estate" has the meaning given "estate" in ORS 111.005 (15).

11 (4) "Person," "person in a state institution" or "person at a state institution," or any similar
 12 phrase, means an individual who is or has been at a state institution described in ORS 179.321 **or**
 13 **state training center**.

14 (5) "Personal estate" means all income and benefits as well as all assets, including all personal
 15 and real property of a living person, and includes assets held by the person's authorized represen-
 16 tative and all other assets held by any other individual or entity holding funds or receiving benefits
 17 or income on behalf of any person.

18 **SECTION 58.** ORS 179.620 is amended to read:

19 179.620. (1) A person and the personal estate of the person, or a decedent's estate, is liable for
 20 the full cost of care. Full cost of care is established according to ORS 179.701.

21 (2) While the person is liable for the full cost of care, the maximum amount a person is required
 22 to pay toward the full cost of care shall be determined according to the person's ability to pay.
 23 Ability to pay is determined as provided in ORS 179.640.

24 (3) Upon the death of a person, the decedent's estate shall be liable for any unpaid cost of care.
 25 The liability of the decedent's estate is limited to the cost of care incurred on or after July 24, 1979.
 26 The decedent's estate shall not include assets placed in trust for the person by other persons. Col-
 27 lection of any amount from a decedent's estate shall be pursuant to ORS 179.740.

28 (4) Regardless of subsection (1) of this section and ORS 179.610 (5), assets held in trust by a
 29 trustee for a person are subject to laws generally applicable to trusts.

30 (5) Notwithstanding subsections (1) and (3) of this section, the Department of Corrections, the
 31 Department of Human Services and the Oregon Health Authority may not collect the cost of care
 32 from:

33 (a) Any assets received by or owing to a person and the personal estate of the person, or the
 34 decedent's estate, as compensation from the state for injury, death or, if the collection is being made
 35 by the Department of Corrections, the false imprisonment of the person that occurred when the
 36 person was in a state institution listed in ORS 179.321 **or a state training center** and for which
 37 the state admits liability or is found liable through adjudication; and

38 (b) Any real or personal property of the personal estate of the person, or the decedent's estate,
 39 that the person or an authorized representative of the person can demonstrate was purchased solely
 40 with assets referred to in paragraph (a) of this subsection or partially with such assets, to the extent
 41 such assets were used in the purchase.

42 **SECTION 59.** ORS 179.701 is amended to read:

43 179.701. The cost-of-care rates for a person shall be determined by the Department of
 44 Corrections[, *the Department of Human Services*] or the Oregon Health Authority, as appropriate.
 45 The rates established shall be reasonably related to current costs of the institutions as described in

1 ORS 179.321. Current costs shall exclude costs of outpatient services as defined in ORS 430.010
 2 [(5)] and any other costs not directly related to the care for a person at a state institution.

3 **SECTION 60.** ORS 279A.050 is amended to read:

4 279A.050. (1)(a) Except as otherwise provided in the Public Contracting Code, a contracting
 5 agency shall exercise all procurement authority in accordance with the provisions of the Public
 6 Contracting Code.

7 (b) When a contracting agency has authority under this section to carry out functions described
 8 in this section, or has authority to make procurements under a provision of law other than the
 9 Public Contracting Code, the contracting agency is not required to exercise that authority in ac-
 10 cordance with the provisions of the code if, under ORS 279A.025, the code does not apply to the
 11 contract or contracting authority.

12 (2) Except as otherwise provided in the Public Contracting Code, for state agencies the Director
 13 of the Oregon Department of Administrative Services has all the authority to carry out the pro-
 14 visions of the Public Contracting Code.

15 (3) Except as otherwise provided in the Public Contracting Code, the Director of Transportation
 16 has all the authority to:

17 (a) Procure or supervise the procurement of all services and personal services to construct, ac-
 18 quire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking
 19 facilities in connection with any public transportation system in accordance with ORS 184.689 (5);

20 (b) Procure or supervise the procurement of all goods, services, public improvements and per-
 21 sonal services relating to the operation, maintenance or construction of highways, bridges and other
 22 transportation facilities that are subject to the authority of the Department of Transportation; and

23 (c) Establish standards for, prescribe forms for and conduct the prequalification of prospective
 24 bidders on public improvement contracts related to the operation, maintenance or construction of
 25 highways, bridges and other transportation facilities that are subject to the authority of the De-
 26 partment of Transportation.

27 (4) Except as otherwise provided in the Public Contracting Code, the Secretary of State has all
 28 the authority to procure or supervise the procurement of goods, services and personal services re-
 29 lated to programs under the authority of the Secretary of State.

30 (5) Except as otherwise provided in the Public Contracting Code, the State Treasurer has all the
 31 authority to procure or supervise the procurement of goods, services and personal services related
 32 to programs under the authority of the State Treasurer.

33 (6) The state agencies listed in this subsection have all the authority to do the following in ac-
 34 cordance with the Public Contracting Code:

35 (a) The Department of Human Services to procure or supervise the [*procurement of goods, ser-*
 36 *VICES and personal services under ORS 179.040 for the department's institutions and the*] procurement
 37 of goods, services and personal services for the construction, demolition, exchange, maintenance,
 38 operation and equipping of housing for the purpose of providing care to individuals with [*mental*
 39 *retardation*] **intellectual disabilities** or other developmental disabilities, subject to applicable pro-
 40 visions of ORS 427.335;

41 (b) The Oregon Health Authority to procure or supervise the procurement of goods, services and
 42 personal services under ORS 179.040 for the authority's institutions and the procurement of goods,
 43 services and personal services for the construction, demolition, exchange, maintenance, operation
 44 and equipping of housing for persons with chronic mental illness, subject to applicable provisions
 45 of ORS 426.504;

1 (c) The State Department of Fish and Wildlife to procure or supervise the procurement of con-
 2 struction materials, equipment, supplies, services and personal services for public improvements,
 3 public works or ordinary construction described in ORS 279C.320 that is subject to the authority
 4 of the State Department of Fish and Wildlife;

5 (d) The State Parks and Recreation Department to procure or supervise the procurement of all
 6 goods, services, public improvements and personal services relating to state parks;

7 (e) The Oregon Department of Aviation to procure or supervise the procurement of construction
 8 materials, equipment, supplies, services and personal services for public improvements, public works
 9 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
 10 Department of Aviation;

11 (f) The Oregon Business Development Department to procure or supervise the procurement of
 12 all goods, services, personal services and public improvements related to its foreign trade offices
 13 operating outside the state;

14 (g) The Housing and Community Services Department to procure or supervise the procurement
 15 of goods, services and personal services as provided in ORS 279A.025 (2)(o);

16 (h) The Department of Corrections to procure or supervise the procurement of construction
 17 materials, equipment, supplies, services and personal services for public improvements, public works
 18 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Depart-
 19 ment of Corrections;

20 (i) The Department of Corrections, subject to any applicable provisions of ORS 279A.120,
 21 279A.125, 279A.145 and 283.110 to 283.395, to procure or supervise the procurement of goods, ser-
 22 vices and personal services under ORS 179.040 for its institutions;

23 (j) The Department of Veterans' Affairs to procure or supervise the procurement of real estate
 24 broker and principal real estate broker services related to programs under the department's au-
 25 thority;

26 (k) The Oregon Military Department to procure or supervise the procurement of construction
 27 materials, equipment, supplies, services and personal services for public improvements, public works
 28 or ordinary construction described in ORS 279C.320 that is subject to the authority of the Oregon
 29 Military Department;

30 (L) The Department of Education, subject to any applicable provisions of ORS 329.075, 329.085
 31 and 329.485 and the federal No Child Left Behind Act of 2001 (P.L. 107-110, 115 Stat. 1425), to pro-
 32 cure or supervise the procurement of goods, services, personal services and information technology
 33 relating to student assessment; and

34 (m) Any state agency to conduct a procurement when the agency is specifically authorized by
 35 any provision of law other than the Public Contracting Code to enter into a contract.

36 (7) Notwithstanding this section and ORS 279A.140 (1), the Director of the Oregon Department
 37 of Administrative Services has exclusive authority, unless the director delegates this authority, to
 38 procure or supervise the procurement of all price agreements on behalf of the state agencies iden-
 39 tified in subsection (6)(a) to (k) of this section under which more than one state agency may order
 40 goods, services or personal services and all state agency information technology contracts. This
 41 subsection does not apply to contracts under which the contractor delivers to the state agency in-
 42 formation technology products or services incidental to the performance of personal services con-
 43 tracts described in ORS chapter 279C or construction contracts described in ORS chapter 279C. A
 44 state agency identified in subsection (3) or (6)(a) to (k) of this section may not establish a price
 45 agreement or enter into a contract for goods, services or personal services without the approval of

1 the director if the director has established a price agreement for the goods, services or personal
 2 services.

3 **SECTION 61.** ORS 314.840 is amended to read:

4 314.840. (1) The Department of Revenue may:

5 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
 6 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
 7 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
 8 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
 9 any other information the department considers necessary.

10 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

11 (c) Publish statistics so classified as to prevent the identification of income or any particulars
 12 contained in any report or return.

13 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
 14 Security number, employer identification number or other taxpayer identification number to the ex-
 15 tent necessary in connection with collection activities or the processing and mailing of correspond-
 16 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
 17 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
 18 come.

19 (2) The department also may disclose and give access to information described in ORS 314.835
 20 to:

21 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

22 (A) With respect to an individual who is designated as being under consideration for appoint-
 23 ment or reappointment to an office or for employment in the office of the Governor. The information
 24 disclosed shall be confined to whether the individual:

25 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
 26 than the three immediately preceding years for which the individual was required to file an Oregon
 27 individual income tax return.

28 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
 29 otherwise respond to a deficiency notice within 30 days of its mailing.

30 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
 31 of the penalty.

32 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
 33 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
 34 of making the appointment, reappointment or decision to employ or not to employ the individual in
 35 the office of the Governor.

36 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
 37 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
 38 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
 39 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
 40 mission to the Emergency Board, or if the Legislative Assembly is in session, to the Joint Committee
 41 on Ways and Means, and to the Legislative Revenue Officer under ORS 291.342, 291.348 and 291.445.
 42 The Department of Revenue shall disclose and give access to the information described in ORS
 43 314.835 for the purposes of this subparagraph only if:

44 (i) The request for information is made in writing, specifies the purposes for which the request
 45 is made and is signed by an authorized representative of the Oregon Department of Administrative

1 Services. The form for request for information shall be prescribed by the Oregon Department of
2 Administrative Services and approved by the Director of the Department of Revenue.

3 (ii) The officer, employee or person receiving the information does not remove from the premises
4 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
5 rate taxpayer.

6 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
7 and compliance purposes only.

8 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
9 tative of any of the following entities that has or is governed by a provision of law that meets the
10 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

11 (A) A state;

12 (B) A city, county or other political subdivision of a state;

13 (C) The District of Columbia; or

14 (D) An association established exclusively to provide services to federal, state or local taxing
15 authorities.

16 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
17 compliance purposes only. The Multistate Tax Commission may make the information available to
18 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
19 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

20 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
21 representative of the State of Oregon, to the extent the department deems disclosure or access
22 necessary for the performance of the duties of advising or representing the department pursuant to
23 ORS 180.010 to 180.240 and the tax laws of this state.

24 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
25 of Justice, to the extent the department deems disclosure or access necessary for such employees
26 to perform their duties under contracts or agreements between the department and any other de-
27 partment, agency or subdivision of the State of Oregon, in the department's administration of the
28 tax laws.

29 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
30 the extent the department deems disclosure or access necessary for the performance of such others'
31 duties under contracts or agreements between the department and such legal entities, in the
32 department's administration of the tax laws.

33 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
34 173.850. Such officer or representative shall not remove from the premises of the department any
35 materials that would reveal the identity of any taxpayer or any other person.

36 (i) The Department of Consumer and Business Services, to the extent the department requires
37 such information to determine whether it is appropriate to adjust those workers' compensation
38 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
39 earned income received by an individual.

40 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
41 or person to whom disclosure or access is given by state law and not otherwise referred to in this
42 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
43 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
44 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
45 attorney regarding cases for which they are providing support enforcement services under ORS

1 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
 2 Accountancy, pursuant to ORS 673.415.

3 (k) The Director of the Department of Consumer and Business Services to determine that a
 4 person complies with ORS chapter 656 and the Director of the Employment Department to determine
 5 that a person complies with ORS chapter 657, the following employer information:

- 6 (A) Identification numbers.
- 7 (B) Names and addresses.
- 8 (C) Inception date as employer.
- 9 (D) Nature of business.
- 10 (E) Entity changes.
- 11 (F) Date of last payroll.

12 (L) The Director of Human Services to *[determine that a person has the ability to pay for care that*
 13 *includes services provided by the Eastern Oregon Training Center or the Department of Human Ser-*
 14 *vices to]* collect any unpaid cost of care **provided by a state training center** as provided by ORS
 15 *[chapter 179]* **427.061**.

16 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
 17 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
 18 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
 19 ORS chapter 179.

20 (n) Employees of the Employment Department to the extent the Department of Revenue deems
 21 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
 22 to performance of their duties in administering the tax imposed by ORS chapter 657.

23 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
 24 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
 25 standard industrial classification, if available.

26 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
 27 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
 28 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
 29 refund amount.

30 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
 31 agencies to assist in the investigation or prosecution of the following criminal activities:

32 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
 33 to the stolen document, the name, address and taxpayer identification number of the payee, the
 34 amount of the check and the date printed on the check.

35 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
 36 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
 37 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
 38 dress and taxpayer identification number of the payee, the amount of the check, the date printed
 39 on the check and the altered name and address.

40 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
 41 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
 42 lowing criminal activities:

43 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
 44 to the stolen document, the name, address and taxpayer identification number of the payee, the
 45 amount of the check and the date printed on the check.

1 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
2 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
3 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
4 dress and taxpayer identification number of the payee, the amount of the check, the date printed
5 on the check and the altered name and address.

6 (s) The United States Financial Management Service, for purposes of facilitating the reciprocal
7 offsets described in ORS 305.612.

8 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
9 the administration of a tax of the municipal corporation that is imposed on or measured by income,
10 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
11 pursuant to a written agreement between the Department of Revenue and the municipal corporation
12 that ensures the confidentiality of the information disclosed.

13 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
14 314.843.

15 (3)(a) Each officer or employee of the department and each person described or referred to in
16 subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax in-
17 formation is given under subsection (2) of this section or any other provision of state law, prior to
18 beginning employment or the performance of duties involving such disclosure or access, shall be
19 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
20 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
21 certificate for the department, in a form prescribed by the department, stating in substance that the
22 person has read these provisions of law, that the person has had them explained and that the person
23 is aware of the penalties for the violation of ORS 314.835.

24 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
25 written agreement has been entered into between the Department of Revenue and the person de-
26 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
27 given, providing that:

28 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
29 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
30 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
31 this section;

32 (B) The information shall be protected as confidential under applicable federal and state laws;
33 and

34 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
35 give notice to the Department of Revenue of any request received under the federal Freedom of In-
36 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

37 (4) The Department of Revenue may recover the costs of furnishing the information described
38 in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.

39 **SECTION 62.** ORS 316.099 is amended to read:]

40 316.099. (1) As used in this section, unless the context requires otherwise:

41 (a) "Child with a disability" means a qualifying child under section 152 of the Internal Revenue
42 Code who has been determined eligible for early intervention services or is diagnosed for the pur-
43 poses of special education as being [*mentally retarded*] **intellectually disabled**, multidisabled, visu-
44 ally impaired, hard of hearing, deaf-blind, orthopedically impaired or other health impaired or as
45 having autism, emotional disturbance or traumatic brain injury, in accordance with State Board of

1 Education rules.

2 (b) “Early intervention services” means programs of treatment and habilitation designed to ad-
 3 dress a child’s developmental deficits in sensory, motor, communication, self-help and socialization
 4 areas.

5 (c) “Special education” means specially designed instruction to meet the unique needs of a child
 6 with a disability, including regular classroom instruction, instruction in physical education, home
 7 instruction and instruction in hospitals, institutions and special schools.

8 (2) The State Board of Education shall adopt rules further defining “child with a disability” for
 9 purposes of this section. A diagnosis obtained for the purposes of entitlement to special education
 10 or early intervention services shall serve as the basis for a claim for the additional credit allowed
 11 under subsection (3) of this section.

12 (3) In addition to the personal exemption credit allowed by this chapter for state personal in-
 13 come tax purposes for a dependent of the taxpayer, there shall be allowed an additional personal
 14 exemption credit for a child with a disability if the child is a child with a disability at the close of
 15 the tax year. The amount of the credit shall be equal to the amount allowed as the personal ex-
 16 emption credit for the dependent for state personal income tax purposes for the tax year.

17 (4) Each taxpayer qualifying for the additional personal exemption credit allowed by this section
 18 may claim the credit on the personal income tax return. However, the claim shall be substantiated
 19 by any proof of entitlement to the credit as may be required by the state board by rule.

20 **SECTION 63.** ORS 343.035 is amended to read:

21 343.035. As used in this chapter unless the context requires otherwise:

22 (1) “Child with a disability” means a school-age child who is entitled to a free appropriate public
 23 education as specified by ORS 339.115 and who requires special education because the child has
 24 been evaluated as having one of the following conditions as defined by rules established by the State
 25 Board of Education:

- 26 (a) [*Mental retardation*] **Intellectual disability**;
- 27 (b) Hearing impairment, including difficulty in hearing and deafness;
- 28 (c) Speech or language impairment;
- 29 (d) Visual impairment, including blindness;
- 30 (e) Deaf-blindness;
- 31 (f) Emotional disturbance;
- 32 (g) Orthopedic or other health impairment;
- 33 (h) Autism;
- 34 (i) Traumatic brain injury; or
- 35 (j) Specific learning disabilities.

36 (2) “Decision” means the decision of the hearing officer.

37 (3) “Determination” means the determination by the school district concerning the identification,
 38 evaluation or educational placement of a child with a disability or the provision of a free appropri-
 39 ate public education to the child in a program paid for by the district.

40 (4) “Developmental delay” means:

41 (a) Delay, at a level of functioning and in accordance with criteria established by rules of the
 42 State Board of Education, in one or more of the following developmental areas:

- 43 (A) Cognitive development;
- 44 (B) Physical development, including vision and hearing;
- 45 (C) Communication development;

- 1 (D) Social or emotional development; or
 2 (E) Adaptive development; or
 3 (b) A disability, in accordance with criteria established by rules of the State Board of Education,
 4 that can be expected to continue indefinitely and is likely to cause a substantial delay in a child's
 5 development and ability to function in society.
 6 (5) "Early childhood special education" means instruction that is:
 7 (a) Free, appropriate and specially designed to meet the unique needs of a preschool child with
 8 a disability;
 9 (b) Provided from three years of age until the age of eligibility for kindergarten; and
 10 (c) Provided in any of the following settings:
 11 (A) The home, a hospital, an institution, a special school, a classroom or a community child care
 12 setting;
 13 (B) A preschool; or
 14 (C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.
 15 (6) "Early intervention services" means services for preschool children with disabilities from
 16 birth until three years of age that are:
 17 (a) Designed to meet the developmental needs of children with disabilities and the needs of the
 18 family related to enhancing the child's development;
 19 (b) Selected in collaboration with the parents; and
 20 (c) Provided:
 21 (A) Under public supervision;
 22 (B) By personnel qualified in accordance with criteria established by rules of the State Board
 23 of Education; and
 24 (C) In conformity with an individualized family service plan.
 25 (7) "Individualized education program" means a written statement of an educational program for
 26 a child with a disability that is developed, reviewed and revised in a meeting in accordance with
 27 criteria established by rules of the State Board of Education for each child eligible for special edu-
 28 cation and related services under this chapter.
 29 (8) "Individualized family service plan" means a written plan of early childhood special educa-
 30 tion, related services, early intervention services and other services developed in accordance with
 31 criteria established by rules of the State Board of Education for each child eligible for services un-
 32 der this chapter.
 33 (9) "Instruction" means providing families with information and skills that support the achieve-
 34 ment of the goals and outcomes in the child's individualized family service plan and working with
 35 preschool children with disabilities in one or more of the following developmental areas:
 36 (a) Communication development;
 37 (b) Social or emotional development;
 38 (c) Physical development, including vision and hearing;
 39 (d) Adaptive development; and
 40 (e) Cognitive development.
 41 (10) "Mediation" means a voluntary process in which an impartial mediator assists and facili-
 42 tates two or more parties to a controversy in reaching a mutually acceptable resolution of the
 43 controversy and includes all contacts between a mediator and any party or agent of a party, until
 44 such time as a resolution is agreed to by the parties or the mediation process is terminated.
 45 (11) "Order" has the meaning given that term in ORS chapter 183.

1 (12) "Other services" means those services which may be provided to preschool children with
 2 disabilities and to their families that are not early childhood special education or early intervention
 3 services and are not paid for with early childhood special education or early intervention funds.

4 (13) "Parent" means the parent, person acting as a parent or a legal guardian, other than a state
 5 agency, of the child or the surrogate parent. "Parent" may be further defined by rules adopted by
 6 the State Board of Education.

7 (14) "Preschool child with a disability" means a child from:

8 (a) Birth until three years of age who is eligible for early intervention services because the child
 9 is experiencing developmental delay or has a diagnosed mental or physical condition that will result
 10 in developmental delay; or

11 (b) Three years of age to eligibility for entry into kindergarten who needs early childhood spe-
 12 cial education services because the child is experiencing developmental delay or because the child
 13 has been evaluated as having one of the conditions listed for a school-age child under subsection (1)
 14 of this section.

15 (15)(a) "Related services" means transportation and such developmental, corrective and other
 16 supportive services as are required to assist a child with a disability to benefit from special educa-
 17 tion, including:

- 18 (A) Speech-language and audiology services;
- 19 (B) Interpreting services;
- 20 (C) Psychological services;
- 21 (D) Physical and occupational therapy;
- 22 (E) Recreation, including therapeutic recreation;
- 23 (F) Social work services;
- 24 (G) School nurse services designed to enable a child with a disability to receive a free appro-
 25 priate public education as described in the individualized education program of the child;
- 26 (H) Early identification and assessment of disabilities in children;
- 27 (I) Counseling services, including rehabilitation counseling;
- 28 (J) Orientation and mobility services;
- 29 (K) Medical services for diagnostic or evaluation purposes; and
- 30 (L) Parent counseling and training.

31 (b) "Related services" does not include a medical device that is surgically implanted or the re-
 32 placement of a medical device that is surgically implanted.

33 (16) "School district" means a common or union high school district that is charged with the
 34 duty or contracted with by a public agency to educate children eligible for special education.

35 (17) "Service coordination" means the activities carried out by a service coordinator to assist
 36 and enable a preschool child with a disability and the child's family to receive the rights, procedural
 37 safeguards and services that are authorized under the state's early intervention and early childhood
 38 special education programs and to coordinate access to other services designated on the individ-
 39 ualized family service plan.

40 (18) "Special education" means specially designed instruction that is provided at no cost to
 41 parents to meet the unique needs of a child with a disability. "Special education" includes instruc-
 42 tion that:

43 (a) May be conducted in the classroom, the home, a hospital, an institution, a special school or
 44 another setting; and

45 (b) May involve physical education services, speech-language services, transition services or

1 other related services designated by rule to be services to meet the unique needs of a child with a
2 disability.

3 (19) "Unaccompanied homeless youth" has the meaning given that term in the McKinney-Vento
4 Homeless Assistance Act, 42 U.S.C. 11434a(6).

5 (20) "Ward of the state" means a child who is temporarily or permanently in the custody of, or
6 committed to, a public or private agency through the action of the juvenile court. "Ward of the
7 state" may be further defined by rules adopted by the State Board of Education.

8 **SECTION 64.** ORS 346.015 is amended to read:

9 346.015. (1) Prior to convening a meeting to prepare an individual education plan for a child
10 with [*mental retardation*] **an intellectual disability** or a developmental disability for whom place-
11 ment at the school operated under ORS 346.010 may be considered, the agency that is providing the
12 education for the child shall notify the local community developmental disabilities program. The
13 case manager responsible for programs for children with [*mental retardation*] **intellectual disabili-**
14 **ties** or developmental disabilities, in consultation with the Department of Human Services, shall
15 evaluate whether the child also has needs for alternative residential care or other support services.
16 If the evaluation determines this to be the case, but documents that community resources are not
17 available to meet these needs, the school district may proceed with the meeting to prepare the in-
18 dividual education plan in which placement at the school operated under ORS 346.010 may be con-
19 sidered.

20 (2) An agency providing education under subsection (1) of this section may initiate the proce-
21 dure in subsection (1) of this section for any child who does not have [*mental retardation*] **an in-**
22 **tellectual disability** or a developmental disability when in the agency's judgment a treatment or
23 residential issue is prompting proposed placement under ORS 346.010.

24 (3) A child may not be placed in the school operated under ORS 346.010 unless the district su-
25 perintendent or the superintendent's designee has signed a statement declaring that the district
26 cannot provide a free appropriate public education for the child commensurate with the needs of the
27 child as identified by the individual education plan of the child and that the school is the least re-
28 strictive environment in which the child can be educated.

29 (4) By rule, the State Board of Education shall determine procedures to be followed by local
30 education agencies in carrying out this section.

31 **SECTION 65.** ORS 346.035 is amended to read:

32 346.035. For a child who is enrolled under ORS 346.010 and who has [*mental retardation*] **an**
33 **intellectual disability** or a developmental disability, the Department of Education shall notify the
34 community developmental disabilities program of the date of the annual review of the individual
35 education plan of the child for the purpose of including in the review the assigned case manager's
36 assessment of community resources that are available for treatment or residential needs the child
37 might have.

38 **SECTION 66.** ORS 410.040 is amended to read:

39 410.040. As used in ORS 409.010, 410.040 to 410.320, 411.159 and 441.630:

40 (1) "Appropriate living arrangement" means any arrangement for an elderly person or a person
41 with a disability in a residential setting which is appropriate for the person considering, in order
42 of priority, the following criteria:

43 (a) The desires and goals of the person;

44 (b) The right of the person to live as independently as possible, in the least restrictive envi-
45 ronment; and

1 (c) The cost of the living arrangement compared to other types of living arrangements, based
 2 on the criteria in paragraphs (a) and (b) of this subsection.

3 (2) "Area agency" means:

4 (a) An established or proposed type A or type B Area Agency on Aging within a planning and
 5 service area designated under Section 305 of the Older Americans Act; or

6 (b) Any public or nonprofit private agency which is designated as a type A or type B Area
 7 Agency on Aging under Section 305 of the Older Americans Act.

8 (3) "Area agency board" means the local policy-making board which directs the actions of the
 9 area agency within state and federal laws and regulations.

10 (4) "Department" means the Department of Human Services.

11 (5) "Elderly person" means a person who is served by a type A area agency or type B area
 12 agency or by the department and who is 60 years of age or older.

13 (6) "Local government" means a political subdivision of the state whose authority is general or
 14 a combination of units of general purpose local governments.

15 (7) "Person with a disability" means a person with a physical or mental disability:

16 (a) Who is eligible for Supplemental Security Income or for general assistance; and

17 (b) Who meets one of the following criteria:

18 (A) Has [*mental retardation*] **an intellectual disability** or a developmental disability or is men-
 19 tally or emotionally disturbed[,] and resides in or needs placement in a residential program admin-
 20 istered by the department.

21 (B) Is an alcohol or drug abuser and resides in or needs placement in a residential program
 22 administered by the department.

23 (C) Has a physical or mental disability other than those described in subparagraphs (A) and (B)
 24 of this paragraph.

25 (8) "Preadmission screening" means a professional program within the department or type B
 26 area agencies, with staff that includes registered nurses and social workers, that assesses the needs
 27 of clients and recommends appropriate placements in residential programs administered by the de-
 28 partment or type B area agencies.

29 (9) "Protective services" means a service to be provided by the department directly or through
 30 type B area agencies, in response to the need for protection from harm or neglect to elderly persons
 31 and persons with disabilities.

32 (10) "Title XIX" means long term care and health services programs in Title XIX of the Social
 33 Security Act available to elderly persons and persons with disabilities.

34 (11) "Type A area agency" means an area agency:

35 (a) For which either the local government or the area agency board does not agree to accept
 36 local administrative responsibility for Title XIX; and

37 (b) That provides a service to elderly persons.

38 (12) "Type B area agency" means an area agency:

39 (a) For which the local government agrees to accept local administrative responsibility for Title
 40 XIX;

41 (b) That provides a service to elderly persons or to elderly persons and persons with disabilities
 42 who require services similar to those required by elderly persons; and

43 (c) That uses the term "disabled services" or "disability services" in its title to communicate the
 44 fact that it provides services to both populations described in paragraph (b) of this subsection.

45 **SECTION 67.** ORS 410.060 is amended to read:

1 410.060. (1) It is the policy of the State of Oregon that persons with disabilities served by the
 2 Department of Human Services shall also receive necessary services, as appropriate for their needs,
 3 from other state agencies.

4 (2) In carrying out the provisions in subsection (1) of this section, the Department of Human
 5 Services shall negotiate interagency agreements and coordinate services with the Employment De-
 6 partment and the Department of Education for the provision of appropriate services to clients of the
 7 Department of Human Services who have disabilities.

8 (3)(a) Prior to approval of an appropriate living arrangement, as defined in ORS 410.040, ad-
 9 ministered by the Department of Human Services, all persons with disabilities shall be assessed by
 10 preadmission screening to ensure the appropriateness of the living arrangement.

11 (b) If a person with a disability is diagnosed as, or is reasonably believed to be, a person with
 12 [*mental retardation or*] a developmental disability, preadmission screening shall include an assess-
 13 ment by the [*Developmental Disability Diagnosis and Evaluation Service established*] **department or**
 14 **a community developmental disabilities program** under ORS 427.104.

15 (4) The Department of Human Services in coordination with the Department of Education shall
 16 work with nursing homes that have one or more residents under 18 years of age to develop a pro-
 17 gram appropriate to the needs of those residents.

18 **SECTION 68.** ORS 414.025, as amended by section 1, chapter 73, Oregon Laws 2010, is amended
 19 to read:

20 414.025. As used in this chapter, unless the context or a specially applicable statutory definition
 21 requires otherwise:

22 (1) “Category of aid” means assistance provided by the Oregon Supplemental Income Program,
 23 aid granted under ORS 412.001 to 412.069 and 418.647 or federal Supplemental Security Income
 24 payments.

25 (2) “Categorically needy” means, insofar as funds are available for the category, a person who
 26 is a resident of this state and who:

27 (a) Is receiving a category of aid.

28 (b) Would be eligible for a category of aid but is not receiving a category of aid.

29 (c) Is in a medical facility and, if the person left such facility, would be eligible for a category
 30 of aid.

31 (d) Is under the age of 21 years and would be a dependent child as defined in ORS 412.001 except
 32 for age and regular attendance in school or in a course of professional or technical training.

33 (e)(A) Is a caretaker relative, as defined in ORS 412.001, who cares for a child who would be a
 34 dependent child except for age and regular attendance in school or in a course of professional or
 35 technical training; or

36 (B) Is the spouse of the caretaker relative.

37 (f) Is under the age of 21 years and:

38 (A) Is in a foster family home or licensed child-caring agency or institution and is one for whom
 39 a public agency of this state is assuming financial responsibility, in whole or in part; or

40 (B) Is 18 years of age or older, is one for whom federal financial participation is available under
 41 Title XIX or XXI of the federal Social Security Act and who met the criteria in subparagraph (A)
 42 of this paragraph immediately prior to the person’s 18th birthday.

43 (g) Is a spouse of an individual receiving a category of aid and who is living with the recipient
 44 of a category of aid, whose needs and income are taken into account in determining the cash needs
 45 of the recipient of a category of aid, and who is determined by the Department of Human Services

1 to be essential to the well-being of the recipient of a category of aid.

2 (h) Is a caretaker relative as defined in ORS 412.001 who cares for a dependent child receiving
3 aid granted under ORS 412.001 to 412.069 and 418.647 or is the spouse of the caretaker relative.

4 (i) Is under the age of 21 years, is in a youth care center and is one for whom a public agency
5 of this state is assuming financial responsibility, in whole or in part.

6 (j) Is under the age of 21 years and is in an intermediate care facility [*which includes institutions*
7 *for persons with mental retardation*] **or a state training center.**

8 (k) Is under the age of 22 years and is in a psychiatric hospital.

9 (L) Is under the age of 21 years and is in an independent living situation with all or part of the
10 maintenance cost paid by the Department of Human Services.

11 (m) Is a member of a family that received aid in the preceding month under ORS 412.006 or
12 412.014 and became ineligible for aid due to increased hours of or increased income from employ-
13 ment. As long as the member of the family is employed, such families will continue to be eligible for
14 medical assistance for a period of at least six calendar months beginning with the month in which
15 such family became ineligible for assistance due to increased hours of employment or increased
16 earnings.

17 (n) Is an adopted person under 21 years of age for whom a public agency is assuming financial
18 responsibility in whole or in part.

19 (o) Is an individual or is a member of a group who is required by federal law to be included in
20 the state's medical assistance program in order for that program to qualify for federal funds.

21 (p) Is an individual or member of a group who, subject to the rules of the department, may op-
22 tionally be included in the state's medical assistance program under federal law and regulations
23 concerning the availability of federal funds for the expenses of that individual or group.

24 (q) Is a pregnant woman who would be eligible for aid granted under ORS 412.001 to 412.069 and
25 418.647, whether or not the woman is eligible for cash assistance.

26 (r) Except as otherwise provided in this section, is a pregnant woman or child for whom federal
27 financial participation is available under Title XIX or XXI of the federal Social Security Act.

28 (s) Is not otherwise categorically needy and is not eligible for care under Title XVIII of the
29 federal Social Security Act or is not a full-time student in a post-secondary education program as
30 defined by the Department of Human Services by rule, but whose family income is less than the
31 federal poverty level and whose family investments and savings equal less than the investments and
32 savings limit established by the department by rule.

33 (t) Would be eligible for a category of aid but for the receipt of qualified long term care insur-
34 ance benefits under a policy or certificate issued on or after January 1, 2008. As used in this para-
35 graph, "qualified long term care insurance" means a policy or certificate of insurance as defined in
36 ORS 743.652 (6).

37 (u) Is eligible for the Health Care for All Oregon Children program established in ORS 414.231.

38 (3) "Income" has the meaning given that term in ORS 411.704.

39 (4) "Investments and savings" means cash, securities as defined in ORS 59.015, negotiable in-
40 struments as defined in ORS 73.0104 and such similar investments or savings as the Department of
41 Human Services may establish by rule that are available to the applicant or recipient to contribute
42 toward meeting the needs of the applicant or recipient.

43 (5) "Medical assistance" means so much of the following medical and remedial care and services
44 as may be prescribed by the Oregon Health Authority according to the standards established pur-
45 suant to ORS 413.032, including payments made for services provided under an insurance or other

1 contractual arrangement and money paid directly to the recipient for the purchase of medical care:

2 (a) Inpatient hospital services, other than services in an institution for mental diseases;

3 (b) Outpatient hospital services;

4 (c) Other laboratory and X-ray services;

5 (d) Skilled nursing facility services, other than services in an institution for mental diseases;

6 (e) Physicians' services, whether furnished in the office, the patient's home, a hospital, a skilled
7 nursing facility or elsewhere;

8 (f) Medical care, or any other type of remedial care recognized under state law, furnished by
9 licensed practitioners within the scope of their practice as defined by state law;

10 (g) Home health care services;

11 (h) Private duty nursing services;

12 (i) Clinic services;

13 (j) Dental services;

14 (k) Physical therapy and related services;

15 (L) Prescribed drugs, including those dispensed and administered as provided under ORS chapter
16 689;

17 (m) Dentures and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases
18 of the eye or by an optometrist, whichever the individual may select;

19 (n) Other diagnostic, screening, preventive and rehabilitative services;

20 (o) Inpatient hospital services, skilled nursing facility services and intermediate care facility
21 services for individuals 65 years of age or over in an institution for mental diseases;

22 (p) Any other medical care, and any other type of remedial care recognized under state law;

23 (q) Periodic screening and diagnosis of individuals under the age of 21 years to ascertain their
24 physical or mental impairments, and such health care, treatment and other measures to correct or
25 ameliorate impairments and chronic conditions discovered thereby;

26 (r) Inpatient hospital services for individuals under 22 years of age in an institution for mental
27 diseases; and

28 (s) Hospice services.

29 (6) "Medical assistance" includes any care or services for any individual who is a patient in a
30 medical institution or any care or services for any individual who has attained 65 years of age or
31 is under 22 years of age, and who is a patient in a private or public institution for mental diseases.
32 "Medical assistance" includes "health services" as defined in ORS 414.705. "Medical assistance"
33 does not include care or services for an inmate in a nonmedical public institution.

34 (7) "Medically needy" means a person who is a resident of this state and who is considered el-
35 igible under federal law for medically needy assistance.

36 (8) "Resources" has the meaning given that term in ORS 411.704. For eligibility purposes, "re-
37 sources" does not include charitable contributions raised by a community to assist with medical
38 expenses.

39 **SECTION 69.** ORS 416.350 is amended to read:

40 416.350. (1) The Oregon Health Authority may recover from any person the amounts of medical
41 assistance incorrectly paid on behalf of such person.

42 (2) Medical assistance pursuant to this chapter paid on behalf of an individual who was 55 years
43 of age or older when the individual received such assistance, or paid on behalf of a person of any
44 age who was a permanently institutionalized inpatient in a nursing facility, [*intermediate care facility*
45 *for persons with mental retardation*] **state training center** or other medical institution, may be re-

1 covered from the estate of the individual or from any recipient of property or other assets held by
 2 the individual at the time of death including the estate of the surviving spouse. Claim for such
 3 medical assistance correctly paid to the individual may be established against the estate, but there
 4 shall be no adjustment or recovery thereof until after the death of the surviving spouse, if any, and
 5 only at a time when the individual has no surviving child who is under 21 years of age or who is
 6 blind or permanently and totally disabled. Transfers of real or personal property by recipients of
 7 such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

8 (3) [Nothing in] This section [authorizes] **does not authorize** the recovery of the amount of any
 9 aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted
 10 from a crime committed against the recipient.

11 (4) In any action or proceeding under this section to recover medical assistance paid, it shall
 12 be the legal burden of the person who receives the property or other assets from a Medicaid recip-
 13 ient to establish the extent and value of the Medicaid recipient's legal title or interest in the prop-
 14 erty or assets in accordance with rules established by the authority.

15 (5) As used in this section, "estate" includes all real and personal property and other assets in
 16 which the deceased individual had any legal title or interest at the time of death including assets
 17 conveyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in
 18 common, survivorship, life estate, living trust or other similar arrangement.

19 **SECTION 70.** ORS 419B.504 is amended to read:

20 419B.504. The rights of the parent or parents may be terminated as provided in ORS 419B.500
 21 if the court finds that the parent or parents are unfit by reason of conduct or condition seriously
 22 detrimental to the child or ward and integration of the child or ward into the home of the parent
 23 or parents is improbable within a reasonable time due to conduct or conditions not likely to change.
 24 In determining such conduct and conditions, the court shall consider but is not limited to the fol-
 25 lowing:

26 (1) Emotional illness, mental illness or [*mental retardation*] **developmental disability** of the
 27 parent of such nature and duration as to render the parent incapable of providing proper care for
 28 the child or ward for extended periods of time.

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

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

32 (4) Physical neglect of the child or ward.

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

37 (6) Criminal conduct that impairs the parent's ability to provide adequate care for the child or
 38 ward.

39 **SECTION 71.** ORS 419C.533 is amended to read:

40 419C.533. (1) The juvenile panel of the Psychiatric Security Review Board, by rule pursuant to
 41 ORS 183.325 to 183.410 and not inconsistent with law, may implement its policies and set out its
 42 procedure and practice requirements and may promulgate such interpretive rules as the panel deems
 43 necessary or appropriate to carry out its statutory responsibilities.

44 (2) The juvenile panel of the Psychiatric Security Review Board shall adopt rules defining the
 45 type of dangerous behavior that requires the temporary placement of a young person with [*mental*

1 *retardation]* a **developmental disability** in a secure hospital or facility.

2 (3) The juvenile panel of the Psychiatric Security Review Board shall consult with the Depart-
3 ment of Human Services about proposed rules relating to developmental disabilities and the Oregon
4 Health Authority about proposed rules relating to mental illness before issuing proposed rules for
5 public comment and before adopting rules under this section.

6 **SECTION 72.** ORS 420.500 is amended to read:

7 420.500. A youth offender in a youth correction facility may not be transferred to an institution
8 for persons with mental illness [*or mental retardation*] for a period of more than 14 days unless the
9 youth offender has been committed to an institution for persons with mental illness [*or mental re-*
10 *ardation*] in the manner specified in ORS 420.505 [*and 420.525*].

11 **SECTION 73.** ORS 426.005 is amended to read:

12 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

13 (a) "Authority" means the Oregon Health Authority.

14 (b) "Community mental health program director" means the director of an entity that provides
15 the services described in ORS 430.630 (3), (4) and [(6)] (5).

16 (c) "Director of the facility" means a superintendent of a state [*mental*] hospital, the chief of
17 psychiatric services in a community hospital or the person in charge of treatment and rehabilitation
18 programs at other treatment facilities.

19 (d) "Facility" means a state [*mental*] hospital, community hospital, residential facility,
20 detoxification center, day treatment facility or such other facility as the authority determines suit-
21 able, any of which may provide diagnosis and evaluation, medical care, detoxification, social services
22 or rehabilitation for committed mentally ill persons.

23 (e) "Mentally ill person" means a person who, because of a mental disorder, is one or more of
24 the following:

25 (A) Dangerous to self or others.

26 (B) Unable to provide for basic personal needs and is not receiving such care as is necessary
27 for health or safety.

28 (C) A person:

29 (i) With a chronic mental illness, as defined in ORS 426.495;

30 (ii) Who, within the previous three years, has twice been placed in a hospital or approved in-
31 patient facility by the authority under ORS 426.060;

32 (iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led
33 to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii)
34 of this subparagraph; and

35 (iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or
36 mentally deteriorate so that the person will become a person described under either subparagraph
37 (A) or (B) of this paragraph or both.

38 (f) "Nonhospital facility" means any facility, other than a hospital, that is approved by the au-
39 thority to provide adequate security, psychiatric, nursing and other services to persons under ORS
40 426.232 or 426.233.

41 (g) "Prehearing period of detention" means a period of time calculated from the initiation of
42 custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

43 (2) Whenever a community mental health program director, director of the facility, superinten-
44 dent of a state hospital or administrator of a facility is referred to, the reference includes any
45 designee such person has designated to act on the person's behalf in the exercise of duties.

1 **SECTION 74.** ORS 426.330 is amended to read:

2 426.330. (1) The special funds authorized for the use of the superintendents of the Oregon State
3 Hospital[,] **and** the Blue Mountain Recovery Center [*and the Eastern Oregon Training Center*] to
4 better enable them promptly to meet the advances and expenses necessary in the matter of trans-
5 ferring patients to the state hospitals are continued in existence. The superintendents shall present
6 their claims monthly with vouchers that show the expenditures from the special funds during the
7 preceding month. [to:]

8 [(a) *The Oregon Health Authority for the transfer of patients to the Oregon State Hospital or the*
9 *Blue Mountain Recovery Center; and*]

10 [(b) *The Department of Human Services for the transfer of patients to the Eastern Oregon Training*
11 *Center.*]

12 (2) Against the fund appropriated to cover the cost of transporting patients, the State Treasurer
13 shall pay[:]

14 [(a)] the claims of the superintendents of the Oregon State Hospital and the Blue Mountain Re-
15 recovery Center that have been approved by the Oregon Health Authority.[: and]

16 [(b) *The claims of the superintendent of the Eastern Oregon Training Center that have been ap-*
17 *proved by the Department of Human Services.*]

18 **SECTION 75.** ORS 427.061 is amended to read:

19 427.061. (1) If any [*mentally retarded*] person is admitted to and detained in a state training
20 center under ORS 427.255, the Department of Human Services shall charge to and collect from ap-
21 propriate persons the costs in the same manner as it would for other residents of the state training
22 center under the provisions of ORS 179.610 to 179.770.

23 (2) If any person is adjudged [*mentally retarded*] **to have an intellectual disability** as provided
24 by ORS 427.255, and the person receives care, treatment and training in a state training center, the
25 person, or other persons or agencies legally responsible for the support of the person, may be re-
26 quired to pay the cost of the care of the person at the state training center, as provided by ORS
27 179.610 to 179.770.

28 **SECTION 76.** ORS 427.215 is amended to read:

29 427.215. [*As used in*] **For the purposes of** ORS [427.061 and] 427.235 to 427.290, [*unless the*
30 *context requires otherwise, "mentally retarded person" applies only to a person who, because of mental*
31 *retardation, is or is alleged to be*] **a person with an intellectual disability is in need of commit-**
32 **ment for residential care, treatment and training if the person is** either:

33 (1) Dangerous to self or others; or

34 (2) Unable to provide for **the person's** basic personal needs and **is** not receiving care as is
35 necessary for the health, safety or habilitation of the person.

36 **SECTION 77.** ORS 427.235 is amended to read:

37 427.235. (1) Any two persons may notify the [*judge of the*] court having probate jurisdiction for
38 the county or the circuit court, if it is not the probate court but its jurisdiction has been extended
39 to include commitment of [*the mentally retarded*] **a person with an intellectual disability** under
40 ORS 3.275, that a person within the county [*is a mentally retarded person*] **has an intellectual dis-**
41 **ability and is** in need of commitment for residential care, treatment and training. Such notice shall
42 be in writing and sworn to before an officer qualified to administer an oath and shall set forth the
43 facts sufficient to show the need for investigation. The circuit court shall forward notice to the
44 community developmental disabilities program director in the county if it finds the notice sufficient
45 to show the need for investigation. The director or the designee of the director shall immediately

1 investigate to determine whether the person [*is in fact a mentally retarded person*] **has an intellec-**
 2 **tual disability and is in need of commitment for residential care, treatment and training.**
 3 However, if the petition for commitment is from a state training center, the duties of the community
 4 developmental disabilities program director under ORS 427.235 to [*427.270, 427.280 and 427.285*]
 5 **427.290** shall be the responsibility of the superintendent of the state training center or the designee
 6 of the superintendent.

7 (2) Any person who acts in good faith shall not be held civilly liable for making of the notifi-
 8 cation under subsection (1) of this section.

9 (3) Any investigation conducted by the community developmental disabilities program director
 10 or the designee of the director under subsection (1) of this section shall commence with an interview
 11 or examination of the [*allegedly mentally retarded*] person **alleged to have an intellectual**
 12 **disability**, where possible, in the home of the [*allegedly mentally retarded*] person or other place fa-
 13 miliar to the [*allegedly mentally retarded*] person. Further investigation if warranted shall include
 14 a diagnostic evaluation [*as defined in ORS 427.105*] **in accordance with Department of Human**
 15 **Services rules and ORS 427.104** and may also include interviews with the [*allegedly mentally re-*
 16 *tarded*] person's relatives, neighbors, teachers and physician. The investigation shall also determine
 17 if any alternatives to commitment are available. The investigator shall also determine and recom-
 18 mend to the court whether the person is incapacitated and in need of a guardian or conservator.

19 (4) The investigation report shall be submitted to the court within 30 days of receipt of notice
 20 from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also be
 21 made available to the [*Developmental Disability Diagnosis and Evaluation Service and to the allegedly*
 22 *mentally retarded*] person **alleged to have an intellectual disability** and, [*where the allegedly men-*
 23 *tally retarded*] **if the** person is a minor or incapacitated, to the parents **or guardian** of the [*allegedly*
 24 *mentally retarded*] person [*or guardian*] as soon as possible after its completion but in any case prior
 25 to a hearing held under ORS 427.245.

26 (5) Any person conducting [*an*] **a diagnostic** evaluation or **an** investigation under this section
 27 shall in no way be held civilly liable for conducting the investigation or performing the
 28 [*diagnostic*] evaluation.

29 (6) If requested by a person conducting an investigation under this section, a physician who has
 30 examined the [*allegedly mentally retarded*] person **alleged to have an intellectual disability** may,
 31 with patient authorization or in response to a court order, provide any relevant information the
 32 physician has regarding the [*allegedly mentally retarded*] person **alleged to have an intellectual**
 33 **disability**.

34 **SECTION 78.** ORS 427.245 is amended to read:

35 427.245. (1) If the court, following receipt of an investigation report under ORS 427.235, con-
 36 cludes that there is probable cause to believe that the subject of the investigation [*is in fact a*
 37 *mentally retarded person*] **has an intellectual disability and is in need of commitment for resi-**
 38 **dential care, treatment and training**, it shall, through the issuance of a citation as provided in
 39 subsection (2) of this section, cause the person to be brought before it at such time and place as it
 40 may direct for a hearing to determine whether the person [*is mentally retarded*] **has an intellectual**
 41 **disability and is in need of commitment for residential care, treatment and training**. The
 42 person shall be given the opportunity to appear at the hearing. If the person is detained pursuant
 43 to ORS 427.255, the court shall hold the hearing within seven judicial days.

44 (2) Upon a determination under subsection (1) of this section that probable cause exists to be-
 45 lieve that the person [*is in fact a mentally retarded person*] **has an intellectual disability and is in**

1 **need of commitment for residential care, treatment and training**, the *[judge]* court shall cause
 2 a citation to issue to the person or, if the person is a minor or incapacitated, to the parent or legal
 3 guardian of the person. The citation shall state the specific reasons the person is believed to be
 4 *[mentally retarded]* **in need of commitment for residential care, treatment and training**. The
 5 citation shall also contain a notice of the time and place of the commitment hearing, the right to
 6 legal counsel, the right to have legal counsel appointed if the person is unable to afford legal
 7 counsel, the right to have legal counsel appointed immediately if so requested, the right to subpoena
 8 witnesses in behalf of the person to testify at the hearing, the right to cross-examine all witnesses
 9 and such other information as the court may direct. The citation shall be served on the person by
 10 the community developmental disabilities program director or the designee of the director delivering
 11 a duly certified copy of the original to the person prior to the hearing. The person, the parents of
 12 the person or the legal guardian of the person shall have the opportunity to consult with legal
 13 counsel prior to being brought before the court. The community developmental disabilities program
 14 director or the designee of the director shall advise the person of the purpose of the citation and
 15 the possible consequences of the proceeding.

16 **SECTION 79.** ORS 427.255 is amended to read:

17 427.255. (1) If the court finds that there is probable cause to believe that **the** failure to take
 18 *[an allegedly mentally retarded]* **into custody pending an investigation or hearing** a person *[into*
 19 *custody pending an investigation or hearing]* **alleged to have an intellectual disability and be in**
 20 **need of commitment for residential care, treatment and training** would pose an imminent and
 21 serious danger to the person or to others, the *[judge]* court may issue a warrant of detention to
 22 either the community developmental disabilities program director or the sheriff of the county di-
 23 recting that the *[person]* **director, the sheriff** or the designee of the *[person]* **director or sheriff**
 24 take the *[allegedly mentally retarded]* person into custody and produce the *[mentally retarded]* person
 25 at the time and place stated in the warrant. At the time the person is taken into custody, the *[person*
 26 *taking the person into custody]* **custodian** shall advise the *[allegedly mentally retarded]* person or, if
 27 the *[allegedly mentally retarded]* person is incapacitated or a minor, the parents or guardian of the
 28 *[allegedly mentally retarded]* person of the person's right to counsel, to have legal counsel appointed
 29 if the *[allegedly mentally retarded]* person is unable to afford legal counsel, and, if requested, to have
 30 legal counsel appointed immediately.

31 (2) A person taken into custody under subsection (1) of this section shall be provided all care,
 32 custody, evaluation and treatment required for the mental and physical health and safety of the
 33 person and the director of the facility retaining custody shall report any care, custody, evaluation
 34 or treatment provided the person to the court as required by ORS 427.280. Any diagnostic evaluation
 35 performed on such person shall be consistent with Department of Human Services rules and ORS
 36 *[427.105]* **427.104**. Any prescription or administration of drugs shall be the sole responsibility of the
 37 treating physician. The *[allegedly mentally retarded]* person shall have the right to the least haz-
 38 ardous treatment procedures while in custody, and the treating physician shall be notified imme-
 39 diately of the use of any mechanical restraints on the person. A note of each use of mechanical
 40 restraint and the reasons therefor shall be made a part of the person's clinical record over the sig-
 41 nature of the treating physician.

42 **SECTION 80.** ORS 427.265 is amended to read:

43 427.265. (1) At the time *[the allegedly mentally retarded]* **that a person who is alleged to have**
 44 **an intellectual disability and to be in need of commitment for residential care, treatment and**
 45 **training** is brought before the court, the court shall advise the person of the reason for being

1 brought before the court, the nature of the proceedings and the possible results of the proceedings.
 2 The court shall also advise the [*allegedly mentally retarded*] person of the right to subpoena wit-
 3 nesses and to suitable legal counsel possessing skills and experience commensurate with the nature
 4 of the allegations and complexity of the case during the proceedings, and that if the person does not
 5 have funds with which to retain suitable legal counsel, the court shall appoint such legal counsel
 6 to represent the person. If the [*allegedly mentally retarded*] person does not request legal counsel,
 7 the legal guardian, relative or friend may request the assistance of legal counsel on behalf of the
 8 person.

9 (2) If no request for legal counsel is made, the court shall appoint suitable legal counsel.

10 (3) If the person is unable to afford legal counsel, the court, if the matter is before a county or
 11 justice court, or the public defense services executive director, if the matter is before the circuit
 12 court, shall determine and allow, as provided in ORS 135.055, the reasonable expenses of the person
 13 and compensation for legal counsel. The expenses and compensation so allowed by a county court
 14 shall be paid by the county of residence of the [*allegedly mentally retarded*] person. The expenses
 15 and compensation determined by the public defense services executive director shall be paid by the
 16 public defense services executive director from funds available for the purpose. In all cases legal
 17 counsel shall be present at the hearing and may examine all witnesses offering testimony, and oth-
 18 erwise represent the person.

19 (4) [*If the allegedly mentally retarded person, the legal counsel, parent, guardian, an examiner or*
 20 *the court requests,*] The court may, for good cause, postpone the hearing for not more than 72 hours
 21 [*in order*] to allow preparation for the hearing[. *The court may, for good cause,*] **and** order the con-
 22 tinuation of detention authorized under ORS 427.255[,] during a postponement, **if requested by the**
 23 **person, the legal counsel, parent or guardian of the person or an examiner or on the court's**
 24 **own motion.**

25 **SECTION 81.** ORS 427.270 is amended to read:

26 427.270. (1) The examining facility conducting the diagnostic evaluation shall make its report in
 27 writing to the court. Where components of the diagnostic evaluation have been performed within the
 28 previous year according to Department of Human Services rules and ORS [*427.105*] **427.104**, and the
 29 records of the evaluation are available to the examining facility pursuant to ORS 179.505 and de-
 30 partment rules, the results of such evaluation may be introduced in court in lieu of repetition of
 31 those components by the examining facility. If the facility finds, and shows by its report, that the
 32 person examined [*is a mentally retarded person*] **has an intellectual disability and is in need of**
 33 **commitment for residential care, treatment and training**, the report shall include a recommen-
 34 dation as to the type of treatment or training facility [*best calculated to habilitate*] **most suitable**
 35 **for** the person. The report shall also advise the court whether in the opinion of the examining fa-
 36 cility the [*mentally retarded*] person and, if the [*mentally retarded*] person is a minor or incapaci-
 37 tated, the parents or legal guardian of the [*mentally retarded*] person would cooperate with voluntary
 38 treatment or training and whether the person would benefit either from voluntary treatment or
 39 training or from appointment of a legal guardian or conservator.

40 (2) [*If the allegedly mentally retarded*] **Upon request by the** person or the parent, legal guardian
 41 or legal counsel of the [*allegedly mentally retarded*] person [*requests*], the [*judge*] **court** shall appoint
 42 an additional physician or psychologist, or both, to examine the person and make separate reports
 43 in writing to the court. However, the court shall not appoint more than one additional physician and
 44 one additional psychologist to examine the person.

45 **SECTION 82.** ORS 427.275 is amended to read:

1 427.275. (1) Any physician or psychologist employed by the *[judge]* **court** to make a diagnostic
 2 evaluation of a person alleged to *[be mentally retarded]* **have an intellectual disability and to be**
 3 **in need of commitment for residential care, treatment and training** shall be allowed a fee as
 4 the court in its discretion determines reasonable for the evaluation. The costs of the evaluation shall
 5 be paid by the county of residence of the person or, if the person has no residence within the state,
 6 by the county in which the person is taken into custody. The county shall not be held responsible
 7 for the costs of prior examinations or tests reported to the court, or of diagnostic evaluations per-
 8 formed or arranged by the community developmental disabilities program or Department of Human
 9 Services.

10 (2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal
 11 cases and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to
 12 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in
 13 ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the
 14 witness is responsible for payment of the cost of the subpoena and payment for the attendance of
 15 the witness at a hearing. When the witness has been subpoenaed on behalf of *[an allegedly mentally*
 16 *retarded]* a person who is represented by appointed counsel, the fees and costs allowed for that
 17 witness shall be paid pursuant to ORS 135.055.

18 **SECTION 83.** ORS 427.280 is amended to read:

19 427.280. The *[court shall be fully advised by the]* community developmental disabilities program
 20 director or, *[when the]* **if a** person has been detained under ORS 427.255, *[by]* the director of the
 21 facility retaining custody of **a person alleged to have an intellectual disability and to be in need**
 22 **of commitment for residential care, treatment and training shall fully advise the court of all**
 23 treatment known to have been administered to the *[allegedly mentally retarded]* person after a cita-
 24 tion has been issued to the person.

25 **SECTION 84.** ORS 427.285 is amended to read:

26 427.285. The investigator and other appropriate persons or professionals as necessary shall ap-
 27 pear at the hearing and present the evidence. The *[allegedly mentally retarded]* person **alleged to**
 28 **have an intellectual disability and to be in need of commitment for residential care, treat-**
 29 **ment and training** shall have the right to cross-examine all witnesses, the investigator and the
 30 representative.

31 **SECTION 85.** ORS 427.290 is amended to read:

32 427.290. After hearing all of the evidence, and reviewing the findings of the investigation and
 33 other examiners, the court shall determine whether the person *[is mentally retarded]* **has an intel-**
 34 **lectual disability** and because of *[mental retardation]* **the intellectual disability** is either dangerous
 35 to self or others or is unable to provide for the personal needs of the person and is not receiving
 36 care as is necessary for the health, safety or habilitation of the person. If in the opinion of the court
 37 the person *[is not mentally retarded]* **in not in need of commitment for residential care, treat-**
 38 **ment and training**, the person shall be discharged *[forthwith]*. If in the opinion of the court the
 39 person *[is]* **has**, by clear and convincing evidence, *[mentally retarded]* **an intellectual disability and**
 40 **is in need of commitment for residential care, treatment and training**, the court may order as
 41 follows:

42 (1) If the *[mentally retarded]* person can give informed consent and is willing and able to partic-
 43 ipate in treatment and training on a voluntary basis, and the court finds that the person will do
 44 so, the court shall order release of the person and dismiss the case.

45 (2) If a relative, a friend or legal guardian of the *[mentally retarded]* person requests that the

1 relative, friend or legal guardian be allowed to care for the *[mentally retarded]* person for a period
 2 of one year in a place satisfactory to the *[judge]* **court** and shows that the relative, friend or legal
 3 guardian is able to care for the *[mentally retarded]* person and that there are adequate financial
 4 resources available for the care of the *[mentally retarded]* person, the court may commit the *[men-*
 5 *tally retarded]* person and order that the *[mentally retarded]* person be conditionally released and
 6 placed in the care and custody of the relative, friend or legal guardian. The order may be revoked
 7 and the *[mentally retarded]* person committed to the Department of Human Services for the balance
 8 of the year whenever, in the opinion of the court, it is in the best interest of the *[mentally*
 9 *retarded]* person.

10 (3) If in the opinion of the court voluntary treatment and training or conditional release is not
 11 in the best interest of the *[mentally retarded]* person, the court may order the commitment of the
 12 person to the department for care, treatment or training. The commitment shall be for a period not
 13 to exceed one year *[with provisions for continuing commitment pursuant to ORS 427.020]*.

14 (4) If in the opinion of the court the *[mentally retarded]* person may be incapacitated, the court
 15 may appoint a legal guardian or conservator pursuant to ORS chapter 125. The appointment of a
 16 guardian or conservator shall be a separate order from the order of commitment.

17 **SECTION 86.** ORS 427.295 is amended to read:

18 427.295. If a person *[determined by a court to be mentally retarded appeals the determination or*
 19 *disposition based thereon, and is determined to be financially eligible for appointed counsel at state*
 20 *expense]* **appeals a commitment order issued under ORS 427.290**, the court, upon request of the
 21 person or upon its own motion, shall appoint suitable legal counsel to represent the person **if it**
 22 **finds that the person is financially eligible for appointed counsel at state expense.** The com-
 23 pensation for legal counsel and costs and expenses necessary to the appeal shall be determined and
 24 paid by the public defense services executive director as provided in ORS 135.055 if the circuit court
 25 is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is
 26 the appellate court. The compensation, costs and expenses so allowed shall be paid as provided in
 27 ORS 138.500.

28 **SECTION 87.** ORS 427.300 is amended to read:

29 427.300. (1) The Department of Human Services may, at its discretion, direct any *[court-*
 30 *committed mentally retarded]* person **with an intellectual disability who has been committed un-**
 31 **der ORS 427.290** to the facility best able to treat and train the person. The authority of the
 32 department on such matters shall be final.

33 (2) At any time, for good cause and in the best interest of the *[mentally retarded]* person, the
 34 department may decide to transfer a resident from one facility to another or discharge a resident
 35 as no longer in need of residential care, treatment or training in a state training center. Fifteen days
 36 prior to department action, the department shall notify the resident and the parent, guardian or
 37 person entitled to custody of the resident by certified mail of its decision. The notice shall indicate
 38 the right of the aforementioned parties to appeal this decision to the *[State Training Center Review*
 39 *Board]* **department** in writing within 10 days after receipt of notice. Within 30 days from the date
 40 the appeal is received by the department, the *[State Training Center Review Board]* **department**
 41 shall hold a hearing at which the *[department and the]* person having filed the appeal shall present
 42 *[their]* **the person's** case. *[and shall communicate its recommendation to the Director of Human Ser-*
 43 *vices pursuant to ORS 427.205 (4)(b); and]* The director shall communicate the decision of the di-
 44 rector by certified mail to the appealing party.

45 (3) The department, pursuant to its rules, may delegate to a community developmental disabili-

1 ties program director the responsibility for assignment of [*mentally retarded*] persons **with intel-**
 2 **lectual disabilities** to suitable facilities or transfer between such facilities under conditions
 3 [*which*] **that** the department may define. Any voluntary client or resident shall be released from the
 4 treating or training facility within 15 business days of the request of the client or resident for re-
 5 lease, unless commitment procedures are initiated under ORS 427.235.

6 **SECTION 88.** ORS 427.306 is amended to read:

7 427.306. (1) [*No*] **A** person[, *not incarcerated upon a criminal charge,*] who has been alleged or
 8 adjudged [*a mentally retarded person shall*] **to have an intellectual disability and to be in need**
 9 **of commitment for residential care, treatment and training, but who is not incarcerated on**
 10 **a criminal charge, may not** be confined in any prison, jail or other enclosure where those charged
 11 with a crime or a violation of a municipal ordinance are incarcerated.

12 (2) [*No*] **A person who has been** alleged or adjudged [*a mentally retarded person,*] **to have an**
 13 **intellectual disability and to be in need of commitment for residential care, treatment and**
 14 **training, but who is** not incarcerated on a criminal charge, [*shall*] **may not** be confined without
 15 an attendant in charge of the person. If **the person is** not confined in a community hospital, the
 16 community developmental disabilities program director or sheriff having the person in custody shall
 17 select some suitable person to act as attendant in quarters suitable for the comfortable, safe and
 18 humane confinement of the person. The person shall be detained in the least restrictive setting
 19 consistent with the person's emotional and physical needs and the protection of others.

20 **SECTION 89.** ORS 427.330 is amended to read:

21 427.330. As used in ORS 427.330 to 427.345:

22 (1) "Care provider" means an individual, family member or entity that provides care.

23 (2)[*a*] "Community housing" includes:

24 [(*A*)] (**a**) Real property, including but not limited to buildings, structures, improvements to real
 25 property and related equipment, that is used or could be used to house and provide care for indi-
 26 viduals with [*mental retardation*] **intellectual disabilities** or other developmental disabilities; and

27 [(*B*)] (**b**) A single-family home or multiple-unit residential housing that an individual with [*mental*
 28 *retardation or other*] **an intellectual disability or another** developmental disability shares with
 29 other inhabitants, including but not limited to family members, care providers or friends.

30 [(*b*) "Community housing" does not include the Eastern Oregon Training Center.]

31 (3) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate.
 32 "Construct" includes to install equipment and to prepare a site.

33 [(4) "*Developmental disability*" means a disability attributable to mental retardation, cerebral palsy,
 34 *epilepsy or other neurological handicapping condition or severe physical impairment that requires*
 35 *training similar to that required by persons with mental retardation, and the disability:*]

36 [(*a*) *Originates before the person attains the age of 22 years;*]

37 [(*b*) *Has continued or can be expected to continue indefinitely; and*]

38 [(*c*) *Constitutes a substantial handicap to the ability of the person to function in society.*]

39 [(5)] (4) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or
 40 supplies that are used or could be used to provide care in community housing.

41 [(6)] (5) "Family member" means an individual who is related by blood or marriage to an indi-
 42 vidual with [*mental retardation or other*] **an intellectual disability or another** developmental disa-
 43 bility.

44 [(7)] (6) "Financial assistance" means a grant or loan to pay expenses incurred to provide com-
 45 munity housing.

1 [(8)] (7) "Housing provider" means an individual or entity that provides community housing.

2 **SECTION 90.** ORS 427.335 is amended to read:

3 427.335. (1) The Department of Human Services may, through contract or otherwise, acquire,
4 purchase, receive, hold, exchange, operate, demolish, construct, lease, maintain, repair, replace, im-
5 prove and equip community housing for the purpose of providing care to individuals with [*mental*
6 *retardation*] **intellectual disabilities** or other developmental disabilities.

7 (2) The department may dispose of community housing acquired under subsection (1) of this
8 section in a public or private sale, upon such terms and conditions as the department considers ad-
9 visable to increase the quality and quantity of community housing for individuals with [*mental re-*
10 *tardation*] **intellectual disabilities** or other developmental disabilities. The department may include
11 in any instrument conveying fee title to community housing language that restricts the use of the
12 community housing to provide care for individuals with [*mental retardation*] **intellectual disabilities**
13 or other developmental disabilities. Such restriction is not a violation of ORS 93.270. Any instru-
14 ment conveying fee title to community housing under this subsection shall provide that equipment
15 in the community housing is a part of and shall remain with the real property unless such equipment
16 was modified or designed specifically for an individual's use, in which case such equipment shall
17 follow the individual.

18 (3) The department may provide financial assistance to a housing provider or a care provider
19 that wishes to provide community housing for individuals with [*mental retardation*] **intellectual**
20 **disabilities** or other developmental disabilities under rules promulgated by the department.

21 (4) The department may transfer its ownership of equipment to care providers.

22 (5) When exercising the authority granted to the department under this section, the department
23 is not subject to ORS 276.900 to 276.915 or 279A.250 to 279A.290 or ORS chapters 270 and 273.

24 **SECTION 91.** ORS 428.205 is amended to read:

25 428.205. It is declared to be the policy and intent of the Legislative Assembly that whenever a
26 person physically present in the State of Oregon is in need of institutionalization by reason of
27 mental illness [*or mental retardation*], the person [*shall be*] **is** eligible for care and treatment in an
28 institution of the State of Oregon irrespective of the residence of the person, settlement or citizen-
29 ship qualifications.

30 **SECTION 92.** ORS 428.210 is amended to read:

31 428.210. As used in ORS 428.210 to 428.270:

32 [(1) "*Authority*" means the Oregon Health Authority.]

33 [(2) "*Department*" means the Department of Human Services.]

34 [(3)] (1) "Foreign hospital" means an institution in any other state which corresponds to the
35 institutions defined in subsection [(8)] (6) of this section.

36 [(4)] (2) "Nonresident" means any person who is not a resident of this state as defined in sub-
37 section [(7)] (5) of this section.

38 [(5)] (3) "Other state" includes all the states, territories, possessions, commonwealths and
39 agencies of the United States and the District of Columbia, with the exception of the State of
40 Oregon.

41 [(6)] (4) "Patient" means any person who has been committed by a court of competent jurisdic-
42 tion to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150 (1969
43 Replacement Part), 136.160 (1969 Replacement Part), 161.341 or 161.370.

44 [(7)] (5) "Resident of this state" means a person who has lived in this state continuously for a
45 period of one year and who has not acquired legal residence in any other state by living contin-

1 uously therein for at least one year subsequent to the residence of the person in this state. However,
 2 a service man or woman on active duty in the Armed Forces of the United States who was domiciled
 3 in Oregon upon entry into active duty and who has acquired no other domicile shall be entitled to
 4 have his or her [*children*] **child** considered a resident of this state so long as no other domicile is
 5 acquired by the service man or woman.

6 [(8)] (6) "State hospital" means any institution listed in ORS 426.010 [*or 427.010*].

7 **SECTION 93.** ORS 428.220 is amended to read:

8 428.220. (1) In determining whether or not any person committed by a court of competent juris-
 9 diction to a state hospital or foreign hospital is a resident of this state:

10 (a) The time spent in a state hospital or foreign hospital or on parole therefrom shall not be
 11 counted in determining the residence of such person in this or any other state.

12 (b) The residence of such person at the time of commitment shall remain the residence of the
 13 person for the duration of the commitment of the person.

14 [(2) *The Department of Human Services may give written authorization for the admission to the*
 15 *Eastern Oregon Training Center whenever:*]

16 [(a) *The residence of any person cannot be established after reasonable and diligent investigation*
 17 *and effort.*]

18 [(b) *The peculiar circumstances of a case, in the judgment of the department, provide a sufficient*
 19 *reason for the suspension of the residence requirement provided by ORS 428.210 (7).*]

20 [(3)] (2) The Oregon Health Authority may give written authorization for the admission to the
 21 Blue Mountain Recovery Center or the Oregon State Hospital whenever:

22 (a) The residence of any person cannot be established after reasonable and diligent investigation
 23 and effort.

24 (b) The peculiar circumstances of a case, in the judgment of the authority, provide a sufficient
 25 reason for the suspension of the residence requirement provided by ORS 428.210 [(7)] (5).

26 **SECTION 94.** ORS 428.230 is amended to read:

27 428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the [*Department of Human*
 28 *Services and the*] Oregon Health Authority shall return nonresident patients to any other state in
 29 which they may have legal residence.

30 [(2) *The department may give written authorization for the return to the Eastern Oregon Training*
 31 *Center of a resident of Oregon who has been committed by a court of competent jurisdiction to a foreign*
 32 *hospital.*]

33 [(3) *The superintendent of the Eastern Oregon Training Center shall admit and care for any person*
 34 *eligible for admission pursuant to subsection (2) of this section or ORS 428.220 (2) upon receipt of a*
 35 *certified copy of the commitment papers and the written authorization of the department.*]

36 [(4)] (2) The authority may give written authorization for the return to the Blue Mountain Re-
 37 recovery Center or the Oregon State Hospital of a resident of Oregon who has been committed by a
 38 court of competent jurisdiction to a foreign hospital.

39 [(5)] (3) The superintendent of the Blue Mountain Recovery Center or the Oregon State Hospital
 40 shall admit and care for any person eligible for admission pursuant to subsection [(4)] (2) of this
 41 section or ORS 428.220 [(3)] upon receipt of a certified copy of the commitment papers and the
 42 written authorization of the authority.

43 **SECTION 95.** ORS 428.240 is amended to read:

44 428.240. [(1) *For the purpose of facilitating the return of nonresident patients, the Department of*
 45 *Human Services may enter into a reciprocal agreement with any other state for the mutual exchange*

1 of persons committed by a court of competent jurisdiction to the Eastern Oregon Training Center or a
 2 foreign hospital, whose legal residence is in the other's jurisdiction.]

3 [(2)] (1) For the purpose of facilitating the return of nonresident patients, the Oregon Health
 4 Authority may enter into a reciprocal agreement with any other state for the mutual exchange of
 5 persons committed by a court of competent jurisdiction to the Blue Mountain Recovery Center, the
 6 Oregon State Hospital or a foreign hospital, whose legal residence is in the other's jurisdiction.

7 [(3)] (2) In such agreements, the [department or] authority may:

8 (a) Only for purposes of mutual exchange with the other state, vary the period of residence re-
 9 quired by ORS 428.210 [(7)] (5).

10 (b) Provide for the arbitration of disputes arising out of the mutual exchange of such persons
 11 between this state and any other state.

12 **SECTION 96.** ORS 428.260 is amended to read:

13 428.260. (1) For the purpose of carrying out the provisions of ORS 428.210 to 428.270, [the De-
 14 partment of Human Services or] the Oregon Health Authority may employ all help necessary in ar-
 15 ranging for and transporting nonresident patients.

16 (2) The cost and expense of providing such assistance and all expenses incurred in effecting the
 17 transportation of such patients shall be paid from funds appropriated for that purpose upon vouchers
 18 approved by [the department,] the authority or the superintendent of the [Eastern Oregon Training
 19 Center, the] Blue Mountain Recovery Center or the Oregon State Hospital.

20 **SECTION 97.** ORS 428.270 is amended to read:

21 428.270. (1) Any person, except an officer, agent or employee of a common carrier acting in the
 22 line of duty, who brings or in any way aids in bringing into this state any patient without the
 23 written authorization of the [Department of Human Services or the] Oregon Health Authority, shall
 24 be liable to this state for all expenses incurred in the care of such patient and in the transportation
 25 of such patient to the other state where the patient legally resides.

26 (2) Hospitals and sanitariums, other than state hospitals, that care for and treat persons with
 27 mental illness [or mental retardation] shall be responsible for the return of those persons to their
 28 places of residence or domicile outside the state if they are brought into this state for treatment
 29 and care and are discharged from such institutions without being fully recovered.

30 (3) Failure to comply with the provisions of subsection (2) of this section shall render the person
 31 operating the hospital or sanitarium liable to reimburse the state for all expenses incurred in the
 32 care, maintenance and return of the persons with mental illness [or mental retardation] to their
 33 places of residence or domicile outside the state.

34 **SECTION 98.** ORS 428.310 is amended to read:

35 428.310. The [Department of Human Services or the] Oregon Health Authority may execute and
 36 terminate a compact on behalf of the State of Oregon with any state, territory or possession of the
 37 United States, the District of Columbia and the Commonwealth of Puerto Rico joining therein, in the
 38 form substantially as follows:

41 The contracting states solemnly agree that:

42 **ARTICLE I**

43 The party states find that the proper and expeditious treatment of the mentally ill and mentally
 44 deficient can be facilitated by cooperative action, to the benefit of the patients, their families, and
 45 society as a whole. Further, the party states find that the necessity of and desirability for furnishing

1 such care and treatment bears no primary relation to the residence or citizenship of the patient but
 2 that, on the contrary, the controlling factors of community safety and humanitarianism require that
 3 facilities and services be made available for all who are in need of them. Consequently, it is the
 4 purpose of this compact and of the party states to provide the necessary legal basis for the
 5 institutionalization or other appropriate care and treatment of the mentally ill and mentally defi-
 6 cient under a system that recognizes the paramount importance of patient welfare and to establish
 7 the responsibilities of the party states in terms of such welfare.

8 ARTICLE II

9 As used in this compact:

10 (a) "Sending state" shall mean a party state from which a patient is transported pursuant to the
 11 provisions of the compact or from which it is contemplated that a patient may be so sent.

12 (b) "Receiving state" shall mean a party state to which a patient is transported pursuant to the
 13 provisions of the compact or to which it is contemplated that a patient may be so sent.

14 (c) "Institution" shall mean any hospital or other facility maintained by a party state or political
 15 subdivision thereof for the care and treatment of mental illness or mental deficiency.

16 (d) "Patient" shall mean any person subject to or eligible as determined by the laws of the
 17 sending state, for institutionalization or other care, treatment or supervision pursuant to the pro-
 18 visions of this compact.

19 (e) "After-care" shall mean care, treatment and services provided a patient, as defined herein,
 20 on convalescent status or conditional release.

21 (f) "Mental illness" shall mean mental disease to such extent that a person so afflicted requires
 22 care and treatment for his own welfare, or the welfare of others, or of the community.

23 (g) "Mental deficiency" shall mean mental deficiency as defined by appropriate clinical author-
 24 ities to such extent that a person so afflicted is incapable of managing himself and his affairs, but
 25 shall not include mental illness as defined herein.

26 (h) "State" shall mean any state, territory or possession of the United States, the District of
 27 Columbia and the Commonwealth of Puerto Rico.

28 ARTICLE III

29 (a) Whenever a person physically present in any party state shall be in need of
 30 institutionalization by reason of mental illness or mental deficiency, the person shall be eligible for
 31 care and treatment in an institution in that state irrespective of the residence, settlement or citi-
 32 zenship qualifications of the person.

33 (b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient
 34 may be transferred to an institution in another state whenever there are factors based upon clinical
 35 determinations indicating that the care and treatment of said patient would be facilitated or im-
 36 proved thereby. Any such institutionalization may be for the entire period of care and treatment or
 37 for any portion or portions thereof. The factors referred to in this paragraph shall include the
 38 patient's full record with due regard for the location of the patient's family, character of the illness
 39 and probable duration thereof, and such other factors as shall be considered appropriate.

40 (c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b)
 41 of this article unless the sending state has given advance notice of its intention to send the patient;
 42 furnished all available medical and other pertinent records concerning the patient; given the quali-
 43 fied medical or other appropriate clinical authorities of the receiving state an opportunity to ex-
 44 amine the patient if said authorities so wish; and unless the receiving state shall agree to accept
 45 the patient.

1 (d) In the event that the laws of the receiving state establish a system of priorities for the ad-
 2 mission of patients, an interstate patient under this compact shall receive the same priority as a
 3 local patient and shall be taken in the same order and at the same time that the patient would be
 4 taken if the patient were a local patient.

5 (e) Pursuant to this compact, the determination as to the suitable place of institutionalization
 6 for a patient may be reviewed at any time and such further transfer of the patient may be made as
 7 seems likely to be in the best interest of the patient.

8 ARTICLE IV

9 (a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall
 10 be determined that the patient should receive after-care or supervision, such care or supervision
 11 may be provided in a receiving state. If the medical or other appropriate clinical authorities having
 12 responsibility for the care and treatment of the patient in the sending state shall have reason to
 13 believe that after-care in another state would be in the best interest of the patient and would not
 14 jeopardize the public safety, they shall request the appropriate authorities in the receiving state to
 15 investigate the desirability of affording the patient such after-care in said receiving state, and such
 16 investigation shall be made with all reasonable speed. The request for investigation shall be ac-
 17 companied by complete information concerning the patient's intended place of residence and the
 18 identity of the person in whose charge it is proposed to place the patient, the complete medical
 19 history of the patient, and such other documents as may be pertinent.

20 (b) If the medical or other appropriate clinical authorities having responsibility for the care and
 21 treatment of the patient in the sending state and the appropriate authorities in the receiving state
 22 find that the best interest of the patient would be served thereby, and if the public safety would not
 23 be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

24 (c) In supervising, treating or caring for a patient on after-care pursuant to the terms of this
 25 article, a receiving state shall employ the same standards of visitation, examination, care and
 26 treatment that it employs for similar local patients.

27 ARTICLE V

28 Whenever a dangerous or potentially dangerous patient escapes from an institution in any party
 29 state, that state shall promptly notify all appropriate authorities within and without the jurisdiction
 30 of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee.
 31 Immediately upon the apprehension and identification of any such dangerous or potentially danger-
 32 ous patient, the patient shall be detained in the state where found pending disposition in accordance
 33 with law.

34 ARTICLE VI

35 The duly accredited officers of any state party to this compact, upon the establishment of their
 36 authority and the identity of the patient, shall be permitted to transport any patient being moved
 37 pursuant to this compact through any and all states party to this compact, without interference.

38 ARTICLE VII

39 (a) No person shall be deemed a patient of more than one institution at any given time. Com-
 40 pletion of transfer of any patient to an institution in a receiving state shall have the effect of mak-
 41 ing the person a patient of the institution in the receiving state.

42 (b) The sending state shall pay all costs of and incidental to the transportation of any patient
 43 pursuant to this compact, but any two or more party states may, by making a specific agreement for
 44 that purpose, arrange for a different allocation of costs as among themselves.

45 (c) No provision of this compact shall be construed to alter or affect any internal relationships

1 among the departments, agencies and officers of and in the government of a party state, or between
 2 a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

3 (d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof
 4 from asserting any right against any person, agency or other entity in regard to costs for which
 5 such party state or subdivision thereof may be responsible pursuant to any provision of this com-
 6 pact.

7 (e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between
 8 a party state and a nonparty state relating to institutionalization, care or treatment of the mentally
 9 ill or mentally deficient, or any statutory authority pursuant to which such agreements may be
 10 made.

11 ARTICLE VIII

12 (a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the
 13 rights, duties and responsibilities of any patient’s guardian on the guardian’s own behalf or in re-
 14 spect of any patient for whom the guardian may serve, except that where the transfer of any patient
 15 to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian,
 16 any court of competent jurisdiction in the receiving state may make such supplemental or substitute
 17 appointment and the court which appointed the previous guardian shall upon being duly advised of
 18 the new appointment, and upon the satisfactory completion of such accounting and other acts as
 19 such court may by law require, relieve the previous guardian of power and responsibility to what-
 20 ever extent shall be appropriate in the circumstances; provided, however, that in the case of any
 21 patient having settlement in the sending state, the court of competent jurisdiction in the sending
 22 state shall have the sole discretion to relieve a guardian appointed by it or continue the power and
 23 responsibility of the guardian, whichever it shall deem advisable. The court in the receiving state
 24 may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in
 25 the sending state in lieu of making a supplemental or substitute appointment.

26 (b) The term “guardian” as used in paragraph (a) of this article shall include any guardian,
 27 trustee, legal committee, conservator or other person or agency however denominated who is
 28 charged by law with responsibility for the property of a patient.

29 ARTICLE IX

30 (a) No provision of this compact except Article V shall apply to any person institutionalized
 31 while under sentence in a penal or correctional institution or while subject to trial on a criminal
 32 charge, or whose institutionalization is due to the commission of an offense for which, in the absence
 33 of mental illness or mental deficiency, said person would be subject to incarceration in a penal or
 34 correctional institution.

35 (b) To every extent possible, it shall be the policy of states party to this compact that no patient
 36 shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition,
 37 be taken to a suitable institutional facility for mental illness or mental deficiency.

38 ARTICLE X

39 (a) Each party state shall appoint a “compact administrator” who, on behalf of the state of the
 40 compact administrator, shall act as general coordinator of activities under the compact in the state
 41 of the compact administrator and who shall receive copies of all reports, correspondence, and other
 42 documents relating to any patient processed under the compact by the state of the compact admin-
 43 istrator either in the capacity of sending or receiving state. The compact administrator or the duly
 44 designated representative of the compact administrator shall be the official with whom other party
 45 states shall deal in any matter relating to the compact or any patient processed thereunder.

1 (b) The compact administrators of the respective party states shall have power to promulgate
 2 reasonable rules and regulations to carry out more effectively the terms and provisions of this
 3 compact.

4 ARTICLE XI

5 The duly constituted administrative authorities of any two or more party states may enter into
 6 supplementary agreements for the provision of any service or facility or for the maintenance of any
 7 institution on a joint or cooperative basis whenever the states concerned shall find that such
 8 agreements will improve services, facilities, or institutional care and treatment in the fields of
 9 mental illness or mental deficiency. No such supplementary agreement shall be construed so as to
 10 relieve any party state of any obligation which it otherwise would have under other provisions of
 11 this compact.

12 ARTICLE XII

13 This compact shall enter into full force and effect as to any state when entered into according
 14 to law and such state shall thereafter be a party thereto with any and all states legally joining
 15 therein.

16 ARTICLE XIII

17 (a) A state party to this compact may withdraw therefrom as provided by law and such
 18 renunciation shall be by the same authority which executed it. Such withdrawal shall take effect
 19 one year after notice thereof has been communicated officially and in writing to the governors and
 20 compact administrators of all other party states. However, the withdrawal of any state shall not
 21 change the status of any patient who has been sent to said state or sent out of said state pursuant
 22 to the provisions of the compact.

23 (b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any sup-
 24 plementary agreement made pursuant to Article XI shall be in accordance with the terms of such
 25 agreement.

26 ARTICLE XIV

27 This compact shall be liberally construed so as to effectuate the purposes thereof. The pro-
 28 visions of this compact shall be severable and if any phrase, clause, sentence or provision of this
 29 compact is declared to be contrary to the constitution of any party state or of the United States or
 30 the applicability thereof to any government, agency, person or circumstance is held invalid, the va-
 31 lidity of the remainder of this compact and the applicability thereof to any government, agency,
 32 person or circumstance shall not be affected thereby. If this compact shall be held contrary to the
 33 constitution of any state party thereto, the compact shall remain in full force and effect as to the
 34 remaining states and in full force and effect as to the state affected as to all severable matters.

35
 36
 37 **SECTION 99.** ORS 428.320 is amended to read:

38 428.320. *[(1) When the person who is the subject of the compact is being transported to or from the*
 39 *Eastern Oregon Training Center, the Department of Human Services shall carry out the duties of*
 40 *compact administrator, may promulgate rules and regulations to carry out more effectively the terms*
 41 *of the compact, and may enter into supplementary agreements with appropriate officials of other states*
 42 *pursuant to Articles VII and XI of the compact. The power of termination of the compact formerly*
 43 *vested in the Board of Control under ORS 428.310 is vested in the department.]*

44 *[(2)] When the person who is the subject of the compact is being transported to or from the Blue*
 45 *Mountain Recovery Center or the Oregon State Hospital, the Oregon Health Authority shall carry*

1 out the duties of compact administrator, may promulgate rules and regulations to carry out more
 2 effectively the terms of the compact, and may enter into supplementary agreements with appropriate
 3 officials of other states pursuant to Articles VII and XI of the compact. The power of termination
 4 of the compact formerly vested in the Board of Control under ORS 428.310 is vested in the authority.

5 **SECTION 100.** ORS 430.010 is amended to read:

6 430.010. As used in ORS 430.010 to 430.050, 430.140 to 430.170, 430.265, 430.270 and 430.610 to
 7 430.695:

8 [(1) "Authority" means the Oregon Health Authority.]

9 [(2) "Department" means the Department of Human Services.]

10 (1) **"Developmental disability" has the meaning given that term in ORS 427.005.**

11 [(3)] (2) **"Health facility" means a facility licensed as required by ORS 441.015 or a facility ac-**
 12 **credited by the Joint Commission on Accreditation of Hospitals, either of which provides full-day**
 13 **or part-day acute treatment for alcoholism, drug addiction or mental or emotional disturbance, and**
 14 **is licensed to admit persons requiring 24-hour nursing care.**

15 (3) **"Intellectual disability" has the meaning given that term in ORS 427.005.**

16 (4) **"Outpatient service" means:**

17 (a) **A program or service providing treatment by appointment and by:**

18 (A) **Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS**
 19 **677.010 to 677.450;**

20 (B) **Psychologists licensed by the State Board of Psychologist Examiners under ORS**
 21 **675.010 to 675.150;**

22 (C) **Nurse practitioners registered by the Oregon State Board of Nursing under ORS**
 23 **678.010 to 678.410;**

24 (D) **Regulated social workers authorized to practice regulated social work by the State**
 25 **Board of Licensed Social Workers under ORS 675.510 to 675.600; or**

26 (E) **Professional counselors or marriage and family therapists licensed by the Oregon**
 27 **Board of Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or**

28 (b) **A program or service providing treatment by appointment that is licensed, approved,**
 29 **established, maintained, contracted with or operated by the Oregon Health Authority under:**

30 (A) **ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;**

31 (B) **ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or**

32 (C) **ORS 430.610 to 430.880 for mental or emotional disturbances.**

33 [(4)] (5) **"Residential facility" or "day or partial hospitalization program" means a program or**
 34 **facility providing an organized full-day or part-day program of treatment. Such a program or facility**
 35 **shall be licensed, approved, established, maintained, contracted with or operated by the authority**
 36 **under:**

37 (a) **ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;**

38 (b) **ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or**

39 (c) **ORS 430.610 to 430.880 for mental or emotional disturbances.**

40 [(5) "Outpatient service" means:]

41 [(a) A program or service providing treatment by appointment and by:]

42 [(A) **Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS 677.010**
 43 **to 677.450;**]

44 [(B) **Psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to**
 45 **675.150;**]

1 [(C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to
2 678.410;]

3 [(D) Regulated social workers authorized to practice regulated social work by the State Board of
4 Licensed Social Workers under ORS 675.510 to 675.600; or]

5 [(E) Professional counselors or marriage and family therapists licensed by the Oregon Board of
6 Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or]

7 [(b) A program or service providing treatment by appointment that is licensed, approved, estab-
8 lished, maintained, contracted with or operated by the authority under:]

9 [(A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;]

10 [(B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or]

11 [(C) ORS 430.610 to 430.880 for mental or emotional disturbances.]

12 **SECTION 101.** ORS 430.021 is amended to read:

13 430.021. Subject to ORS 417.300 and 417.305:

14 (1) The Department of Human Services shall:

15 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for
16 persons with [*mental retardation*] **intellectual disabilities** or developmental disabilities.

17 (b) Promote, correlate and coordinate the developmental disabilities activities of all govern-
18 mental organizations throughout the state in which there is any direct contact with developmental
19 disabilities programs.

20 (c) Establish, coordinate, assist and direct a community developmental disabilities program in
21 cooperation with local government units and integrate such a program with the state developmental
22 disabilities program.

23 (d) Promote public education in this state concerning developmental disabilities and act as the
24 liaison center for work with all interested public and private groups and agencies in the field of
25 developmental [*disabilities*] **disability** services.

26 (2) The Oregon Health Authority shall:

27 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for
28 persons with mental or emotional disturbances, alcoholism or drug dependence.

29 (b) Promote, correlate and coordinate the mental health activities of all governmental organ-
30 izations throughout the state in which there is any direct contact with mental health programs.

31 (c) Establish, coordinate, assist and direct a community mental health program in cooperation
32 with local government units and integrate such a program with the state mental health program.

33 (d) Promote public education in this state concerning mental health and act as the liaison center
34 for work with all interested public and private groups and agencies in the field of mental health
35 services.

36 (3) The department and the authority shall develop cooperative programs with interested private
37 groups throughout the state to effect better community awareness and action in the fields of mental
38 health and developmental disabilities, and encourage and assist in all necessary ways community
39 general hospitals to establish psychiatric services.

40 (4) To the greatest extent possible, the least costly settings for treatment, outpatient services
41 and residential facilities shall be widely available and utilized except when contraindicated because
42 of individual health care needs. State agencies that purchase treatment for mental or emotional
43 disturbances shall develop criteria consistent with this policy. In reviewing applications for certifi-
44 cates of need, the Director of the Oregon Health Authority shall take this policy into account.

45 (5) The department and the authority shall accept the custody of persons committed to its care

1 by the courts of this state.

2 (6) The authority shall adopt rules to require a facility and a nonhospital facility as those terms
 3 are defined in ORS 426.005, and a provider that employs a person described in ORS 426.415, if sub-
 4 ject to authority rules regarding the use of restraint or seclusion during the course of mental health
 5 treatment of a child or adult, to report to the authority each calendar quarter the number of inci-
 6 dents involving the use of restraint or seclusion. The aggregate data shall be made available to the
 7 public.

8 **SECTION 102.** ORS 430.205 is amended to read:

9 430.205. As used in this section and ORS 430.210:

10 (1) "Facility" means any of the following that are licensed or certified by the Department of
 11 Human Services or the Oregon Health Authority or that contract with the department or authority
 12 for the provision of services:

13 (a) A health care facility as defined in ORS 442.015;

14 (b) A domiciliary care facility as defined in ORS 443.205;

15 (c) A residential facility as defined in ORS 443.400; or

16 (d) An adult foster home as defined in ORS 443.705.

17 (2) "Person" means an individual who has a mental illness [*or developmental disability*] and re-
 18 ceives services from a program or facility.

19 (3) "Program" means a community mental health program [*or a community developmental disa-*
 20 *bilities program*] as described in ORS 430.610 to 430.695 and agencies with which the program con-
 21 tracts to provide services.

22 (4) "Services" means mental health services [*or developmental disabilities services*] provided un-
 23 der ORS 430.630.

24 **SECTION 103.** ORS 430.210 is amended to read:

25 430.210. (1) While receiving services, every person shall have the right to:

26 (a) Choose from available services those which are appropriate, consistent with the plan devel-
 27 oped in accordance with paragraphs (b) and (c) of this subsection and provided in a setting and
 28 under conditions that are least restrictive to the person's liberty, that are least intrusive to the
 29 person and that provide for the greatest degree of independence.

30 (b) An individualized written service plan, services based upon that plan and periodic review
 31 and reassessment of service needs.

32 (c) Ongoing participation in planning of services in a manner appropriate to the person's capa-
 33 bilities, including the right to participate in the development and periodic revision of the plan de-
 34 scribed in paragraph (b) of this subsection, and the right to be provided with a reasonable
 35 explanation of all service considerations.

36 (d) Not receive services without informed voluntary written consent except in a medical emer-
 37 gency or as otherwise permitted by law.

38 (e) Not participate in experimentation without informed voluntary written consent.

39 (f) Receive medication only for the person's individual clinical needs.

40 (g) Not be involuntarily terminated or transferred from services without prior notice, notifica-
 41 tion of available sources of necessary continued services and exercise of a grievance procedure.

42 (h) A humane service environment that affords reasonable protection from harm, reasonable
 43 privacy and daily access to fresh air and the outdoors, except that such access may be limited when
 44 it would create significant risk of harm to the person or others.

45 (i) Be free from abuse or neglect and to report any incident of abuse without being subject to

1 retaliation.

2 (j) Religious freedom.

3 (k) Not be required to perform labor, except personal housekeeping duties, without reasonable
4 and lawful compensation.

5 (L) Visit with family members, friends, advocates and legal and medical professionals.

6 [(m) *Exercise all rights set forth in ORS 427.031 if the individual is committed to the Department*
7 *of Human Services.*]

8 [(n)] (m) Exercise all rights set forth in ORS 426.385 if the individual is committed to the Oregon
9 Health Authority.

10 [(o)] (n) Be informed at the start of services and periodically thereafter of the rights guaranteed
11 by this section and the procedures for reporting abuse, and to have these rights and procedures,
12 including the name, address and telephone number of the system described in ORS 192.517 (1),
13 prominently posted in a location readily accessible to the person and made available to the person's
14 guardian and any representative designated by the person.

15 [(p)] (o) Assert grievances with respect to infringement of the rights described in this section,
16 including the right to have such grievances considered in a fair, timely and impartial grievance
17 procedure.

18 [(q)] (p) Have access to and communicate privately with any public or private rights protection
19 program or rights advocate.

20 [(r)] (q) Exercise all rights described in this section without any form of reprisal or punishment.

21 [(2) *An individual who is receiving developmental disability services under ORS 430.630 has the*
22 *right to be informed and have the individual's guardian and any representative designated by the in-*
23 *dividual be informed that a family member has contacted the Department of Human Services to deter-*
24 *mine the location of the individual, and to be informed of the name and contact information, if known,*
25 *of the family member.*]

26 [(3)] (2) The rights described in this section are in addition to, and do not limit, all other stat-
27 utory and constitutional rights which are afforded all citizens including, but not limited to, the right
28 to vote, marry, have or not have children, own and dispose of property, enter into contracts and
29 execute documents.

30 [(4)] (3) The rights described in this section may be asserted and exercised by the person, the
31 person's guardian and any representative designated by the person.

32 [(5)] (4) Nothing in this section may be construed to alter any legal rights and responsibilities
33 between parent and child.

34 **SECTION 104.** ORS 430.212 is amended to read:

35 430.212. (1) The Department of Human Services shall establish a process by rule that implements
36 the reconnection of family members with an individual with a developmental disability as defined in
37 ORS [427.330] **427.005.**

38 (2) The rules adopted under subsection (1) of this section shall include a process that provides
39 guidance for the release of information about the individual to family members when:

40 (a) The individual is incapable of providing consent for the release of information;

41 (b) The individual does not have a guardian or any representative designated by the individual
42 who is authorized to release information; and

43 (c) The release of information is in the best interests of the individual as determined by the
44 department.

45 **SECTION 105.** ORS 430.215 is amended to read:

1 430.215. (1) The Department of Human Services shall be responsible for planning, policy devel-
 2 opment, administration and delivery of services to children with developmental disabilities and their
 3 families. Services to children with developmental disabilities may include, but are not limited to,
 4 case management, family support **services**, crisis and diversion services, intensive in-home services,
 5 and residential and foster care services.

6 (2) The Oregon Health Authority shall be responsible for psychiatric residential and day treat-
 7 ment services for children with mental or emotional disturbances.

8 **SECTION 106.** ORS 430.216 is amended to read:

9 430.216. (1) The Department of Human Services shall report to each regular session of the Leg-
 10 islative Assembly:

11 (a) On the safety of individuals receiving developmental disability services including, but not
 12 limited to:

13 (A) The average turnover of direct care workers in service settings.

14 (B) A summary of the training provided by the department or its contractors to direct care
 15 workers in service settings.

16 (C) A summary of the core competencies required of direct care workers in service settings by
 17 the state for licensing or certification.

18 (D) A summary of the average wages of direct care workers in service settings, presented by
 19 type of services provided.

20 (E) The number of complaints of abuse filed as required by ORS 430.765 and received by the
 21 department under ORS 430.743, reported by type of allegation.

22 (F) The number of direct care workers in service settings who were subject to criminal or civil
 23 action involving an individual with a developmental disability.

24 (G) The number of deaths, serious injuries, sexual assaults and rapes alleged to have occurred
 25 in service settings.

26 (b) A schedule of all license fees and civil penalties established by the department by rule pur-
 27 suant to ORS 441.995, 443.455 and 443.790.

28 (2) The department shall provide the report described in subsection (1)(a) of this section to the
 29 appropriate legislative committees, the Oregon Developmental Disabilities Council and to the agency
 30 designated to administer the state protection and advocacy system under ORS 192.517.

31 (3) As used in this section, "service settings" means any of the following that provide develop-
 32 mental disability services:

33 (a) An adult foster home as defined in ORS 443.705;

34 (b) A residential facility as defined in ORS 443.400;

35 (c) A location where home health services, as defined in ORS 443.005, are received by a resident;

36 (d) A location where in-home care services, as defined in ORS 443.305, are received by a resi-
 37 dent; **and**

38 *[(e) An institution under the control of the department under ORS 179.321; and]*

39 *[(f)]* (e) A domiciliary care facility as defined in ORS 443.205.

40 **SECTION 107.** ORS 430.610 is amended to read:

41 430.610. It is declared to be the policy and intent of the Legislative Assembly that:

42 (1) Subject to the availability of funds, services should be available to all persons with mental
 43 or emotional disturbances, *[mental retardation]* **intellectual disabilities**, developmental disabilities,
 44 alcoholism or drug dependence, and persons who are alcohol or drug abusers, regardless of age,
 45 county of residence or ability to pay;

1 (2) The Department of Human Services, the Oregon Health Authority and other state agencies
 2 shall conduct their activities in the least costly and most efficient manner so that delivery of ser-
 3 vices to persons with mental or emotional disturbances, [*mental retardation*] **intellectual**
 4 **disabilities**, developmental disabilities, alcoholism or drug dependence, and persons who are alcohol
 5 or drug abusers, shall be effective and coordinated;

6 (3) To the greatest extent possible, mental health and developmental [*disabilities*] **disability**
 7 services shall be delivered in the community where the person lives in order to achieve maximum
 8 coordination of services and minimum disruption in the life of the person; and

9 (4) The State of Oregon shall encourage, aid and financially assist its county governments in the
 10 establishment and development of community mental health programs or community developmental
 11 disabilities programs, including but not limited to, treatment and rehabilitation services for persons
 12 with mental or emotional disturbances, [*mental retardation*] **intellectual disabilities**, developmental
 13 disabilities, alcoholism or drug dependence, and persons who are alcohol or drug abusers, and pre-
 14 ventation of these problems through county administered community mental health programs or com-
 15 munity developmental disabilities programs.

16 **SECTION 108.** ORS 430.632 is amended to read:

17 430.632. A local mental health authority shall submit to the Oregon Health Authority by October
 18 1 of each even-numbered year a report on the implementation of the comprehensive local plan
 19 adopted under ORS 430.630 [(11)] (10).

20 **SECTION 109.** ORS 430.632, as amended by section 24, chapter 856, Oregon Laws 2009, is
 21 amended to read:

22 430.632. A local mental health authority shall submit to the Oregon Health Authority by October
 23 1 of each even-numbered year a report on the implementation of the comprehensive local plan
 24 adopted under ORS 430.630 [(10)] (9).

25 **SECTION 110.** ORS 430.640 is amended to read:

26 430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS
 27 430.610, subject to the availability of funds, shall:

28 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
 29 of community mental health programs operated or contracted for by one or more counties.

30 (b) If a county declines to operate or contract for a community mental health program, contract
 31 with another public agency or private corporation to provide the program. The county must be
 32 provided with an opportunity to review and comment.

33 (c) In an emergency situation when no community mental health program is operating within a
 34 county or when a county is unable to provide a service essential to public health and safety, operate
 35 the program or service on a temporary basis.

36 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
 37 contract with the tribal council for the establishment and operation of a community mental health
 38 program in the same manner in which the authority contracts with a county court or board of
 39 county commissioners.

40 (e) If a county agrees, contract with a public agency or private corporation for all services
 41 within one or more of the following program areas:

42 (A) Mental or emotional disturbances.

43 (B) Drug abuse.

44 (C) Alcohol abuse and alcoholism.

45 (f) Approve or disapprove the biennial plan and budget information for the establishment and

1 operation of each community mental health program. Subsequent amendments to or modifications
2 of an approved plan or budget information involving more than 10 percent of the state funds pro-
3 vided for services under ORS 430.630 may not be placed in effect without prior approval of the au-
4 thority. However, an amendment or modification affecting 10 percent or less of state funds for
5 services under ORS 430.630 within the portion of the program for persons with mental or emotional
6 disturbances or within the portion for persons with alcohol or drug dependence may be made with-
7 out authority approval.

8 (g) Make all necessary and proper rules to govern the establishment and operation of community
9 mental health programs, including adopting rules defining the range and nature of the services
10 which shall or may be provided under ORS 430.630.

11 (h) Collect data and evaluate services in the state hospitals in accordance with the same meth-
12 ods prescribed for community mental health programs under ORS 430.665.

13 (i) Develop guidelines that include, for the development of comprehensive local plans in consul-
14 tation with local mental health authorities:

15 (A) The use of integrated services;

16 (B) The outcomes expected from services and programs provided;

17 (C) Incentives to reduce the use of state hospitals;

18 (D) Mechanisms for local sharing of risk for state hospitalization;

19 (E) The provision of clinically appropriate levels of care based on an assessment of the mental
20 health needs of consumers;

21 (F) The transition of consumers between levels of care; and

22 (G) The development, maintenance and continuation of older adult mental health programs with
23 mental health professionals trained in geriatrics.

24 (j) Work with local mental health authorities to provide incentives for community-based care
25 whenever appropriate while simultaneously ensuring adequate statewide capacity.

26 (k) Provide technical assistance and information regarding state and federal requirements to
27 local mental health authorities throughout the local planning process required under ORS 430.630
28 [(11)] (10).

29 (L) Provide incentives for local mental health authorities to enhance or increase vocational
30 placements for adults with mental health needs.

31 (m) Develop or adopt nationally recognized system-level performance measures, linked to the
32 Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children,
33 adults and older adults, including but not limited to quality and appropriateness of services, out-
34 comes from services, structure and management of local plans, prevention of mental health disorders
35 and integration of mental health services with other needed supports.

36 (n) Develop standardized criteria for each level of care described in ORS 430.630 [(11)] (10), in-
37 cluding protocols for implementation of local plans, strength-based mental health assessment and
38 case planning.

39 (o) Develop a comprehensive long-term plan for providing appropriate and adequate mental
40 health treatment and services to children, adults and older adults that is derived from the needs
41 identified in local plans, is consistent with the vision, values and guiding principles in the Report
42 to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the
43 need for and the role of state hospitals.

44 (p) Report biennially to the Governor and the Legislative Assembly on the progress of the local
45 planning process and the implementation of the local plans adopted under ORS 430.630 [(11)(b)]

1 **(10)(b)** and the state planning process described in paragraph (o) of this subsection, and on the
2 performance measures and performance data available under paragraph (m) of this subsection.

3 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate
4 prevalence and demand for mental health services using the most current nationally recognized
5 models and data.

6 (r) Encourage the development of regional local mental health authorities comprised of two or
7 more boards of county commissioners that establish or operate a community mental health program.

8 (2) The Oregon Health Authority may provide technical assistance and other incentives to assist
9 in the planning, development and implementation of regional local mental health authorities when-
10 ever the Oregon Health Authority determines that a regional approach will optimize the compre-
11 hensive local plan described under ORS 430.630 [(11)] **(10)**.

12 (3) The Department of Human Services in carrying out the legislative policy declared in ORS
13 430.610, subject to the availability of funds, shall:

14 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
15 of community developmental disabilities programs operated or contracted for by one or more coun-
16 ties.

17 (b) If a county declines to operate or contract for a community developmental disabilities pro-
18 gram, contract with another public agency or private corporation to provide the program. The
19 county must be provided with an opportunity to review and comment.

20 (c) In an emergency situation when no community developmental disabilities program is operat-
21 ing within a county, operate the program or service on a temporary basis.

22 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
23 contract with the tribal council for the establishment and operation of a community developmental
24 disabilities program in the same manner in which the department contracts with a county court or
25 board of county commissioners.

26 (e) If a county agrees, contract with a public agency or private corporation for all develop-
27 mental [*disabilities*] **disability** services.

28 [*f) Operate a program or contract with another entity to operate a program to provide mental re-*
29 *tardation and other developmental disabilities services required by ORS 430.630 if a local mental*
30 *health authority, as defined in ORS 430.630, declines to provide or contract for the provision of mental*
31 *retardation and other developmental disabilities services.]*

32 [(g)] **(f)** Approve or disapprove the biennial plan and budget information for the establishment
33 and operation of each community developmental disabilities program. Subsequent amendments to or
34 modifications of an approved plan or budget information involving more than 10 percent of the state
35 funds provided for services under ORS 430.630 may not be placed in effect without prior approval
36 of the department. However, an amendment or modification affecting 10 percent or less of state
37 funds for services under ORS 430.630 within the portion of the program for persons with develop-
38 mental disabilities may be made without department approval.

39 [(h)] **(g)** Make all necessary and proper rules to govern the establishment and operation of
40 community developmental disabilities programs.

41 (4) The enumeration of duties and functions in subsections (1) and (2) of this section shall not
42 be deemed exclusive nor construed as a limitation on the powers and authority vested in the de-
43 partment or the authority by other provisions of law.

44 **SECTION 111.** ORS 430.640, as amended by section 25, chapter 856, Oregon Laws 2009, is
45 amended to read:

1 430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS
2 430.610, subject to the availability of funds, shall:

3 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
4 of community mental health programs operated or contracted for by one or more counties.

5 (b) If a county declines to operate or contract for a community mental health program, contract
6 with another public agency or private corporation to provide the program. The county must be
7 provided with an opportunity to review and comment.

8 (c) In an emergency situation when no community mental health program is operating within a
9 county or when a county is unable to provide a service essential to public health and safety, operate
10 the program or service on a temporary basis.

11 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
12 contract with the tribal council for the establishment and operation of a community mental health
13 program in the same manner in which the authority contracts with a county court or board of
14 county commissioners.

15 (e) If a county agrees, contract with a public agency or private corporation for all services
16 within one or more of the following program areas:

17 (A) Mental or emotional disturbances.

18 (B) Drug abuse.

19 (C) Alcohol abuse and alcoholism.

20 (f) Approve or disapprove the biennial plan and budget information for the establishment and
21 operation of each community mental health program. Subsequent amendments to or modifications
22 of an approved plan or budget information involving more than 10 percent of the state funds pro-
23 vided for services under ORS 430.630 may not be placed in effect without prior approval of the au-
24 thority. However, an amendment or modification affecting 10 percent or less of state funds for
25 services under ORS 430.630 within the portion of the program for persons with mental or emotional
26 disturbances or within the portion for persons with alcohol or drug dependence may be made with-
27 out authority approval.

28 (g) Make all necessary and proper rules to govern the establishment and operation of community
29 mental health programs, including adopting rules defining the range and nature of the services
30 which shall or may be provided under ORS 430.630.

31 (h) Collect data and evaluate services in the state hospitals in accordance with the same meth-
32 ods prescribed for community mental health programs under ORS 430.665.

33 (i) Develop guidelines that include, for the development of comprehensive local plans in consul-
34 tation with local mental health authorities:

35 (A) The use of integrated services;

36 (B) The outcomes expected from services and programs provided;

37 (C) Incentives to reduce the use of state hospitals;

38 (D) Mechanisms for local sharing of risk for state hospitalization;

39 (E) The provision of clinically appropriate levels of care based on an assessment of the mental
40 health needs of consumers;

41 (F) The transition of consumers between levels of care; and

42 (G) The development, maintenance and continuation of older adult mental health programs with
43 mental health professionals trained in geriatrics.

44 (j) Work with local mental health authorities to provide incentives for community-based care
45 whenever appropriate while simultaneously ensuring adequate statewide capacity.

1 (k) Provide technical assistance and information regarding state and federal requirements to
2 local mental health authorities throughout the local planning process required under ORS 430.630
3 [(10)] **(9)**.

4 (L) Provide incentives for local mental health authorities to enhance or increase vocational
5 placements for adults with mental health needs.

6 (m) Develop or adopt nationally recognized system-level performance measures, linked to the
7 Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children,
8 adults and older adults, including but not limited to quality and appropriateness of services, out-
9 comes from services, structure and management of local plans, prevention of mental health disorders
10 and integration of mental health services with other needed supports.

11 (n) Develop standardized criteria for each level of care described in ORS 430.630 [(10)] **(9)**, in-
12 cluding protocols for implementation of local plans, strength-based mental health assessment and
13 case planning.

14 (o) Develop a comprehensive long-term plan for providing appropriate and adequate mental
15 health treatment and services to children, adults and older adults that is derived from the needs
16 identified in local plans, is consistent with the vision, values and guiding principles in the Report
17 to the Governor from the Mental Health Alignment Workgroup, January 2001, and addresses the
18 need for and the role of state hospitals.

19 (p) Report biennially to the Governor and the Legislative Assembly on the progress of the local
20 planning process and the implementation of the local plans adopted under ORS 430.630 [(10)(b)]
21 **(9)(b)** and the state planning process described in paragraph (o) of this subsection, and on the per-
22 formance measures and performance data available under paragraph (m) of this subsection.

23 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate
24 prevalence and demand for mental health services using the most current nationally recognized
25 models and data.

26 (r) Encourage the development of regional local mental health authorities comprised of two or
27 more boards of county commissioners that establish or operate a community mental health program.

28 (2) The Oregon Health Authority may provide technical assistance and other incentives to assist
29 in the planning, development and implementation of regional local mental health authorities when-
30 ever the Oregon Health Authority determines that a regional approach will optimize the compre-
31 hensive local plan described under ORS 430.630 [(10)] **(9)**.

32 (3) The Department of Human Services in carrying out the legislative policy declared in ORS
33 430.610, subject to the availability of funds, shall:

34 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing
35 of community developmental disabilities programs operated or contracted for by one or more coun-
36 ties.

37 (b) If a county declines to operate or contract for a community developmental disabilities pro-
38 gram, contract with another public agency or private corporation to provide the program. The
39 county must be provided with an opportunity to review and comment.

40 (c) In an emergency situation when no community developmental disabilities program is operat-
41 ing within a county, operate the program or service on a temporary basis.

42 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,
43 contract with the tribal council for the establishment and operation of a community developmental
44 disabilities program in the same manner in which the department contracts with a county court or
45 board of county commissioners.

1 (e) If a county agrees, contract with a public agency or private corporation for all develop-
2 mental [*disabilities*] **disability** services.

3 [(f) *Operate a program or contract with another entity to operate a program to provide mental re-*
4 *tardation and other developmental disabilities services required by ORS 430.630 if a local mental*
5 *health authority, as defined in ORS 430.630, declines to provide or contract for the provision of mental*
6 *retardation and other developmental disabilities services.*]

7 [(g)] (f) Approve or disapprove the biennial plan and budget information for the establishment
8 and operation of each community developmental disabilities program. Subsequent amendments to or
9 modifications of an approved plan or budget information involving more than 10 percent of the state
10 funds provided for services under ORS 430.630 may not be placed in effect without prior approval
11 of the department. However, an amendment or modification affecting 10 percent or less of state
12 funds for services under ORS 430.630 within the portion of the program for persons with develop-
13 mental disabilities may be made without department approval.

14 [(h)] (g) Make all necessary and proper rules to govern the establishment and operation of
15 community developmental disabilities programs.

16 (4) The enumeration of duties and functions in subsections (1) and (2) of this section shall not
17 be deemed exclusive nor construed as a limitation on the powers and authority vested in the de-
18 partment or the authority by other provisions of law.

19 **SECTION 112.** ORS 430.670 is amended to read:

20 430.670. (1) A community developmental disabilities program may provide services by contract-
21 ing with a public agency, private corporation or individual. All elements of service provided for in
22 the contract shall be considered as a part of a community developmental disabilities program for
23 all purposes of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules
24 adopted by the Department of Human Services.

25 (2) A community mental health program may provide services by contracting with a public
26 agency, private corporation or individual. All elements of service provided for in the contract shall
27 be considered as a part of a community mental health program for all purposes of ORS 430.610 to
28 430.695. Contracts authorized by this section shall comply with rules adopted by the Oregon Health
29 Authority.

30 (3) A private corporation that contracts with a county, the Department of Human Services or
31 the Oregon Health Authority to operate a community mental health program or community devel-
32 opmental disabilities program shall provide an opportunity for competition among private care pro-
33 viders when awarding subcontracts for provision of services described in ORS 430.630 (1) to (3) **or**
34 **(11).**

35 (4) In keeping with the principles of family support expressed in ORS 417.342 and
36 notwithstanding subsection (3) of this section or ORS 291.047 (3), an entity operating a community
37 mental health program or community developmental disabilities program may purchase services for
38 an individual from a service provider without first providing an opportunity for competition among
39 other service providers if the service provider is selected by the individual, the individual's family
40 or the individual's guardian, as long as the service provider has been approved by the department
41 or the authority to provide such service.

42 **SECTION 113.** ORS 430.670, as amended by section 112 of this 2011 Act, is amended to read:

43 430.670. (1) A community developmental disabilities program may provide services by contract-
44 ing with a public agency, private corporation or individual. All elements of service provided for in
45 the contract shall be considered as a part of a community developmental disabilities program for

1 all purposes of ORS 430.610 to 430.695. Contracts authorized by this section shall comply with rules
2 adopted by the Department of Human Services.

3 (2) A community mental health program may provide services by contracting with a public
4 agency, private corporation or individual. All elements of service provided for in the contract shall
5 be considered as a part of a community mental health program for all purposes of ORS 430.610 to
6 430.695. Contracts authorized by this section shall comply with rules adopted by the Oregon Health
7 Authority.

8 (3) A private corporation that contracts with a county, the Department of Human Services or
9 the Oregon Health Authority to operate a community mental health program or community devel-
10 opmental disabilities program shall provide an opportunity for competition among private care pro-
11 viders when awarding subcontracts for provision of services described in ORS 430.630 (1) to (3) or
12 [(11)] (10).

13 (4) In keeping with the principles of family support expressed in ORS 417.342 and
14 notwithstanding subsection (3) of this section or ORS 291.047 (3), an entity operating a community
15 mental health program or community developmental disabilities program may purchase services for
16 an individual from a service provider without first providing an opportunity for competition among
17 other service providers if the service provider is selected by the individual, the individual's family
18 or the individual's guardian, as long as the service provider has been approved by the department
19 or the authority to provide such service.

20 **SECTION 114.** ORS 430.672 is amended to read:

21 430.672. (1) Except for community mental health programs or community developmental disabil-
22 ities programs operated by the county, a county may impose only standards, requirements and condi-
23 tions for mental health or developmental disabilities programs that are substantially similar to the
24 standards, requirements and conditions established for such programs by the Department of Human
25 Services or the Oregon Health Authority.

26 (2) When a county contracts with a public agency or private corporation for a community men-
27 tal health program or community developmental disabilities program, the county shall include in the
28 contract only terms that are substantially similar to model contract terms developed by the depart-
29 ment under ORS 430.640 [(3)(h)] (3)(g) or the authority under ORS 430.640 (1)(g). The county may
30 not add contractual requirements, including qualifications for contractor selection, that are nones-
31 sential to the services provided under ORS 430.630. The county may add contract requirements that
32 the county considers necessary to ensure the siting and maintenance of facilities of the community
33 mental health program or community developmental disabilities program.

34 (3) The provisions of subsections (1) and (2) of this section apply only insofar as funds are pro-
35 vided by the department to the county for community developmental disabilities programs or by the
36 authority to the county for community mental health programs.

37 **SECTION 115.** ORS 430.695 is amended to read:

38 430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any
39 source, except client resources applied toward the cost of care in group homes for persons with
40 [mental retardation or] mental illness and client resources and third-party payments for community
41 psychiatric inpatient care, received by a community mental health program are not an offset to the
42 costs of the services and may not be applied to reduce the program's eligibility for state funds,
43 providing the funds are expended for mental health services approved by the Oregon Health Au-
44 thority.

45 (2) Within the limits of available funds, the authority may contract for specialized, statewide and

1 regional services including but not limited to group homes for persons with [*mental retardation*] **in-**
 2 **tellectual disabilities** or mental or emotional disturbances, day and residential treatment programs
 3 for children and adolescents with mental or emotional disturbances and community services for cli-
 4 ents of the Psychiatric Security Review Board.

5 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the
 6 Social Security Act by the Department of Human Services or the Oregon Health Authority, for
 7 mental health services or developmental [*disabilities*] **disability** services and interest earned on
 8 those fees and reimbursements shall be retained by the community mental health program or com-
 9 munity developmental disabilities program and expended for any service that meets the standards
 10 of ORS 430.630.

11 **SECTION 116.** ORS 433.045 is amended to read:

12 433.045. (1) Except as provided in subsection (6) of this section and ORS 433.017, 433.055 (3) and
 13 433.080, no person shall subject the blood of an individual to an HIV test without first obtaining
 14 informed consent as described in subsection (2) or (7) of this section.

15 (2) A physician licensed under ORS chapter 677 shall comply with the requirement of subsection
 16 (1) of this section through the procedure in ORS 677.097. Any other licensed health care provider
 17 or facility shall comply with the requirement of subsection (1) of this section through a procedure
 18 substantially similar to that specified in ORS 677.097. Any other person shall comply with this re-
 19 quirement through use of such forms, procedures and educational materials as the Oregon Health
 20 Authority shall specify.

21 (3) Regardless of the manner of receipt or the source of the information, including information
 22 received from the tested individual, no person shall disclose or be compelled to disclose the identity
 23 of any individual upon whom an HIV-related test is performed, or the results of such a test in a
 24 manner which permits identification of the subject of the test, except as required or permitted by
 25 federal law, the law of this state or any rule, including any authority rule considered necessary for
 26 public health or health care purposes, or as authorized by the individual whose blood is tested.

27 (4) Any person who complies with the requirements of this section shall not be subject to an
 28 action for civil damages.

29 (5) An HIV test shall be considered diagnosis of venereal disease for purposes of ORS 109.610.

30 (6) The authority shall prescribe by rule a procedure whereby an individual who is housed in a
 31 state institution and is incapable of granting informed consent for an HIV test may be tested.

32 (7) Whenever an insurer, insurance producer or insurance-support organization asks an appli-
 33 cant for insurance to take an HIV test in connection with an application for insurance, the use of
 34 such a test must be revealed to the applicant and the written consent thereof obtained. The consent
 35 form shall disclose the purpose of the test and the persons to whom the results may be disclosed.

36 (8) As used in this section:

37 (a) "HIV test" means a test of an individual for the presence of human immunodeficiency virus
 38 (HIV), or for antibodies or antigens that result from HIV infection, or for any other substance spe-
 39 cifically indicating infection with HIV.

40 (b) "Person" includes but is not limited to any health care provider, health care facility, clinical
 41 laboratory, blood or sperm bank, insurer, insurance producer, insurance-support organization, as
 42 defined in ORS 746.600, government agency, employer, research organization or agent of any of
 43 them. For purposes of subsection (3) of this section, "person" does not include an individual acting
 44 in a private capacity and not in an employment, occupational or professional capacity.

45 (c) "State institution" means all campuses of the Oregon State Hospital[,] **and** the Blue Moun-

tain Recovery Center [*and the Eastern Oregon Training Center*].

SECTION 117. ORS 433.285 is amended to read:

433.285. (1) It hereby is declared to be a matter of public policy of the State of Oregon that in the interest of public health and the prevention of [*mental retardation*] **developmental disabilities**, every infant, shall be given tests approved by the Oregon Health Authority for the detection of the disease of phenylketonuria and other metabolic diseases.

(2) The authority by rule shall specify the diseases for which infants shall be tested under subsection (1) of this section, the appropriate time following delivery for collecting specimens, the manner in which the specimens are to be submitted, the persons responsible for submitting the specimens, the methods of testing and the manner of payment of the fees.

(3) The testing required by subsection (1) of this section [*shall*] **may** not be required if the infant is being reared as an adherent to a religion the teachings of which are opposed to such testing. The person responsible for submitting specimens under the rules of the authority shall be responsible for submitting a statement signed by the infant's parent that the infant is being so reared. The authority by rule shall prescribe the form of the statement.

(4) The authority shall adopt by rule a procedure whereby the fees established under subsection (2) of this section shall be waived and no infant refused service because of the parent's inability to pay the fee.

(5) The authority by rule shall prescribe the procedure to be followed in cases where initial testing for metabolic diseases is administered too early to detect these diseases, where the sample submitted for testing is improperly collected and where a sample shows an abnormal result. The authority, within the limits of funds available from fees collected under this section, shall institute a pilot program for follow-up on abnormal test results.

SECTION 118. ORS 433.290 is amended to read:

433.290. (1) The Legislative Assembly finds that many newborn children are given their first tests for metabolic diseases too early for the detection of these diseases because parents remove these newborn infants from the hospital before the optimum testing period commences. To [*assure*] **ensure** proper first testing and follow-up testing and increase knowledge about the nature and results of these diseases, the Oregon Health Authority shall institute and carry on an intensive educational program among physicians, hospitals, public health nurses, the parents of newborn children and the public concerning the disease of phenylketonuria and other metabolic diseases. This educational program shall include information concerning:

(a) The nature of these diseases; and

(b) Examinations for the detection of these diseases in infancy in order that measures may be taken to prevent [*the mental retardation*] **developmental disabilities** resulting from these diseases.

(2) The authority shall make a special effort specifically to inform expectant parents and parents of newborn children of the necessity of newborn infants receiving appropriate tests within the optimum time range after birth to prevent [*the mental retardation*] **developmental disabilities** or other serious complications resulting from these diseases.

SECTION 119. ORS 443.400 is amended to read:

443.400. As used in ORS 443.400 to 443.455 and 443.991, unless the context requires otherwise:

(1) "Director" means the director of the licensing agency for the residential facility.

(2) "Licensing agency" means:

(a) The Department of Human Services, if the residential facility that is licensed, or that the Director of Human Services determines should be licensed, is a residential care facility, residential

1 training facility or residential training home; or

2 (b) The Oregon Health Authority, if the residential facility that is licensed, or that the Director
3 of the Oregon Health Authority determines should be licensed, is a residential treatment facility or
4 residential treatment home.

5 (3) "Resident" means any individual residing in a facility who receives residential care, treat-
6 ment or training. For purposes of ORS 443.400 to 443.455, an individual is not considered to be a
7 resident if the individual is related by blood or marriage within the fourth degree as determined by
8 civil law to the person licensed to operate or maintain the facility.

9 (4) "Residential care" means services such as supervision; protection; assistance while bathing,
10 dressing, grooming or eating; management of money; transportation; recreation; and the providing
11 of room and board.

12 (5) "Residential care facility" means a facility that provides, for six or more socially dependent
13 individuals or individuals with physical disabilities, residential care in one or more buildings on
14 contiguous properties.

15 (6) "Residential facility" means a residential care facility, residential training facility, residen-
16 tial treatment facility, residential training home or residential treatment home.

17 (7) "Residential training facility" means a facility that provides, for six or more individuals with
18 [*mental retardation*] **intellectual disabilities** or other developmental disabilities, residential care and
19 training in one or more buildings on contiguous properties.

20 (8) "Residential training home" means a facility that provides, for five or fewer individuals with
21 [*mental retardation*] **intellectual disabilities** or other developmental disabilities, residential care and
22 training in one or more buildings on contiguous properties, when so certified and funded by the
23 Department of Human Services.

24 (9) "Residential treatment facility" means a facility that provides, for six or more individuals
25 with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care
26 and treatment in one or more buildings on contiguous properties.

27 (10) "Residential treatment home" means a facility that provides for five or fewer individuals
28 with mental, emotional or behavioral disturbances or alcohol or drug dependence, residential care
29 and treatment in one or more buildings on contiguous properties.

30 (11) "Training" means the systematic, planned maintenance, development or enhancement of
31 self-care skills, social skills or independent living skills, or the planned sequence of systematic
32 interactions, activities or structured learning situations designed to meet each resident's specified
33 needs in the areas of physical, social, emotional and intellectual growth.

34 (12) "Treatment" means a planned, individualized program of medical, psychological or
35 rehabilitative procedures, experiences and activities designed to relieve or minimize mental, emo-
36 tional, physical or other symptoms or social, educational or vocational disabilities resulting from or
37 related to the mental or emotional disturbance, physical disability or alcohol or drug problem.

38 **SECTION 120.** ORS 443.830 is amended to read:

39 443.830. As used in this section and ORS 443.835:

40 (1) "Child" means a person for whom developmental disability services are planned and provided
41 and who is:

42 (a) Under 18 years of age; or

43 (b) At least 18 years of age but less than 22 years of age and resides in a developmental disa-
44 bility child foster home and whose needs, as determined by the individual support plan team, are
45 best met if services are provided in a developmental disability child foster home.

1 (2) "Department" means the Department of Human Services.

2 (3)(a) "Developmental disability child foster home" means any home maintained by a person who
 3 has under the care of the person, in the home, a child found eligible for developmental disability
 4 services for the purpose of providing the child with supervision, food and lodging. The child must
 5 be unrelated to the person by blood or marriage and be unattended by the child's parent or guard-
 6 ian.

7 (b) "Developmental disability child foster home" does not include:

8 (A) A boarding school that is essentially and primarily engaged in educational work;

9 (B) A home in which a child is provided with room and board by a school district board; or

10 (C) A foster home under the direct supervision of a private child-caring agency.

11 (4) "Individual support plan team" means a team composed of the child, the child's parent or
 12 guardian, the community [*mental health*] **developmental disabilities** program representative and
 13 representatives of all current service providers that develops a written plan of services covering a
 14 12-month period for a child.

15 **SECTION 121.** ORS 456.559 is amended to read:

16 456.559. (1) The Housing and Community Services Department shall:

17 (a) Maintain current housing data and information concerning available programs, status of
 18 funding, programs planned or undertaken which might conflict with, overlap, duplicate or supersede
 19 other planned or existing programs and call these to the attention of appropriate state agencies,
 20 governmental bodies and public or private housing sponsors.

21 (b) Provide to appropriate state agencies, governmental bodies and public or private housing
 22 sponsors such advisory and educational services as will assist them in the development of housing
 23 plans and projects.

24 (c) Subject to the approval of the State Housing Council, make noninterest bearing advances, in
 25 accordance with ORS 456.710 and the policies of the department to qualified nonprofit sponsors for
 26 development costs of housing projects until mortgage funds are released to repay the advances as
 27 provided in ORS 456.710.

28 (d) Advise and assist appropriate state agencies, governmental bodies and public or private
 29 housing sponsors, cities and counties, in all programs and activities which are designed or might
 30 tend to fulfill the purposes of ORS 456.548 to 456.725 and ORS chapter 458.

31 (e) Encourage and assist in the planning, development, construction, rehabilitation and conser-
 32 vation of dwelling units for persons and families of lower income.

33 (f) Be the central state department to apply for, receive and distribute, on behalf of appropriate
 34 state agencies, governmental bodies and public or private housing sponsors in the state, grants, gifts,
 35 contributions, loans, credits or assistance from the federal government or any other source for
 36 housing programs except when the donor, grantor, or lender of such funds specifically directs some
 37 other agency to administer them. Moneys received under this section shall be deposited with the
 38 State Treasurer in an account separate and distinct from the General Fund. Interest earned by the
 39 account shall be credited to the account.

40 (g) For the purposes of acquiring moneys, credits or other assistance from any agency or
 41 instrumentality of the United States or from any public corporation chartered by the United States,
 42 comply with any applicable agreements or restrictions for the receipt of such assistance and become
 43 a member of any such association or public corporation chartered by the United States.

44 (h) Assist individuals, appropriate state agencies, governmental bodies and public or private
 45 housing sponsors through a program which provides housing information, planning, educational

1 services and technical assistance.

2 (i) Comply with the requirements of ORS 443.225 in assisting in the development of any housing
 3 for residential care, training or treatment for persons with [*mental retardation*] **intellectual dis-**
 4 **abilities**, developmental disabilities or mental or emotional disturbances.

5 (2) Except as otherwise provided in ORS 456.625 (7), the department may not itself develop,
 6 construct, rehabilitate or conserve housing units; and neither the department nor any housing
 7 sponsor, including but not limited to any association, corporation, cooperative housing authority or
 8 urban renewal agency organized to provide housing and other facilities pursuant to ORS 456.548 to
 9 456.725, may own, acquire, construct, purchase, lease, operate or maintain utility facilities, including
 10 facilities for the generation of electricity, for the distribution of gas and electricity, and for the
 11 conveyance of telephone and telegraph messages.

12 (3) In accordance with the provisions of this section and with the advice of the council, the
 13 department shall establish statewide priorities for housing programs. State agencies shall coordinate
 14 their housing programs with the department. All state agencies intending to apply for federal funds
 15 for use in planning, developing or managing housing, or rendering assistance to governmental bodies
 16 or sponsors or individuals involved therein shall submit a description of the proposed activity to the
 17 department for review not less than 30 days prior to the intended date of submission of the appli-
 18 cation to the federal agency. The department shall determine whether the proposal would result in
 19 a program that would overlap, duplicate or conflict with any other housing program in the state. If
 20 the department finds overlapping or duplication or conflict, it shall recommend modifications in the
 21 application. The Oregon Department of Administrative Services shall consider these recommen-
 22 dations in making its decision to approve or disapprove the application. The department shall com-
 23 plete its review and forward its recommendations within 15 working days after receipt of the
 24 notification. Failure of the department to complete the review within that time shall constitute ap-
 25 proval of the application by the department.

26 (4) The director may participate in discussions and deliberations of the council. The director
 27 may suggest policies and rules to the council, including those necessary to stimulate and increase
 28 the supply of housing for persons and families of lower income.

29 **SECTION 122.** ORS 480.225 is amended to read:

30 480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

31 (a) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
 32 of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A
 33 person who has been so convicted is eligible under this subsection following the expiration of seven
 34 years after the date of final and unconditional discharge from all imprisonment, probation and parole
 35 resulting from the conviction.

36 (b) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
 37 of, and is not under indictment for, any felony.

38 (c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not
 39 free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this sub-
 40 section.

41 (d) The person has not been determined to be mentally ill under ORS 426.130 and 430.397 to
 42 430.401 [*or mentally retarded under ORS 427.290*]. A person who previously has been so determined
 43 is eligible under this subsection if, at the time of application for such a certificate, the person
 44 produces a certified copy of a full discharge from the proper state hospital. The Oregon Health
 45 Authority shall provide the State Fire Marshal with direct electronic access to the authority's da-

1 tabase of information identifying persons meeting the criteria of this section who were committed
 2 or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall enter into
 3 an agreement describing the access to information under this subsection.

4 (e) The person is at least 21 years of age.

5 (f) The person does not use a fictitious name or make a material misrepresentation in applica-
 6 tion for such a certificate.

7 (g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense
 8 involving a controlled substance as defined in ORS 475.005, other than the offense of driving under
 9 the influence of intoxicants.

10 (B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate
 11 denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible
 12 under this section following the expiration of seven years after the date of final and unconditional
 13 discharge from all imprisonment, probation and parole resulting from the conviction.

14 (h) The person has been discharged from the jurisdiction of the juvenile court for more than four
 15 years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involv-
 16 ing violence, as defined in ORS 166.470.

17 (i) The person is not the subject of a restraining order that alleges the person's possession of
 18 explosives presents a credible threat to another person.

19 (j) The person has passed an examination administered by the State Fire Marshal that assesses
 20 the person's knowledge of safety in the transportation and storage of explosives as required under
 21 federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall ex-
 22 amine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire
 23 Marshal may by rule establish and collect an examination fee in an amount necessary to cover the
 24 cost of administering the examination.

25 (k) The person certifies on the application for a certificate of possession that all explosives in
 26 the person's possession will be used, stored and transported in accordance with federal, state and
 27 local requirements.

28 (L) The person certifies that all explosives will be possessed, used, stored and transported in
 29 accordance with federal, state and local requirements.

30 (2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has
 31 been expunged from a person's record under the laws of this state or equivalent laws of another
 32 jurisdiction.

33 **SECTION 123.** ORS 547.045 is amended to read:

34 547.045. (1) Whenever any diking or drainage district is sought to be created and organized or
 35 is created and organized in the manner provided by law, within the boundaries of which are located
 36 any lands belonging to the state that have been acquired or used by or for any state institution
 37 described in ORS 179.321 **or a state training center**, the Director of Human Services or the Di-
 38 rector of the Oregon Health Authority may sign any petition or objections thereto for the organ-
 39 ization of such district and exercise on behalf of the state with respect to the district and the land
 40 therein belonging to the state, all the rights and privileges of a landowner within the district.

41 (2) Whenever any such district or proposed district includes any lands belonging to any public
 42 body as defined in ORS 174.109, the presiding officer of such public body, or other member of the
 43 governing body of such public body, when thereto authorized by a resolution of the governing body
 44 thereof, may sign such petition or objection thereto on behalf of the public body, and exercise with
 45 respect to the district and the land therein belonging to the public body, all the rights and privileges

1 of a landowner in the district, including the right to be a supervisor of the district.

2 (3) Lands belonging to a public body as defined in ORS 174.109 shall be subject to the same
 3 burdens and liabilities and entitled to the same benefits as lands in the district belonging to private
 4 individuals. The Department of Human Services or the Oregon Health Authority may pay from any
 5 appropriations made for the operation and maintenance of any institution, the lands of which have
 6 been included in any diking or drainage district, any charges billed to the department or any as-
 7 sessments levied against such lands by the diking or drainage district.

8 **SECTION 124.** ORS 653.269 is amended to read:

9 653.269. The provisions of ORS 653.268 relating to pay for overtime shall not apply to:

10 (1) Labor employed in forest fire fighting.

11 (2) Employees of any irrigation system district actually engaged in the distribution of water for
 12 irrigation or domestic use.

13 (3) Employees of a public employer, as defined in ORS 243.650, who are employed in fire pro-
 14 tection or law enforcement activities, including security personnel in corrections institutions, as
 15 those employees and activities are defined by rule of the Commissioner of the Bureau of Labor and
 16 Industries.

17 (4) Employees of a people’s utility district organized under ORS chapter 261.

18 (5) Employees exempted from overtime:

19 (a) By a public employer as defined in ORS 243.650 because of the executive, administrative,
 20 supervisory or professional nature of their employment as the nature of such employment is defined
 21 by rule of the Commissioner of the Bureau of Labor and Industries; or

22 (b) By a collective bargaining agreement expressly waiving application of ORS 653.268.

23 (6) Employees of a public employer as defined in ORS 243.650 engaged in the operation of a
 24 hospital or an establishment that is an institution primarily engaged in the care of persons who are
 25 sick or aged or have mental illness or *[mental retardation]* **developmental disabilities** and who re-
 26 side on the premises if, before performance of the work and pursuant to an agreement between the
 27 employer and employee or between the employer and the bargaining representative of the employees
 28 when the employees are represented under a collective bargaining agreement, a work period of 14
 29 consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of
 30 overtime computation and if, for the employee’s employment in excess of eight hours in any workday
 31 and in excess of 80 hours in such 14-day period, the employee receives compensation at a rate not
 32 less than one and one-half times the rate at which the employee is employed.

33 (7) Members of the organized militia while on state active duty in accordance with ORS 399.075.

34 **SECTION 125.** ORS 656.033 is amended to read:

35 656.033. (1) All persons participating as trainees in a work experience program or school di-
 36 rected professional education project of a school district as defined in ORS 332.002 in which such
 37 persons are enrolled, including persons with *[mental retardation]* **developmental disabilities** in
 38 training programs, are considered as workers of the district subject to this chapter for purposes of
 39 this section. Trainees placed in a work experience program with their resident school district as the
 40 training employer shall be subject workers under this section when the training and supervision are
 41 performed by noninstructional personnel.

42 (2) A school district conducting a work experience program or school directed professional ed-
 43 ucation project shall submit a written statement to the insurer, or in the case of self-insurers, the
 44 Director of the Department of Consumer and Business Services, that includes a description of the
 45 work to be performed by such persons and an estimate of the total number of persons enrolled.

1 (3) The premium cost for coverage under this section shall be based on an assumed hourly wage
 2 which is approved by the Director of the Department of Consumer and Business Services. Such as-
 3 sumed wage is to be used only for calculation purposes under this chapter and without regard to
 4 ORS chapter 652 or ORS 653.010 to 653.545 and 653.991. A self-insured district shall submit such
 5 assumed wage rates to the director. If the director finds that the rates are unreasonable, the direc-
 6 tor may fix appropriate rates to be used for purposes of this section.

7 (4) The school district shall furnish the insurer, or in the case of self-insurers, the director, with
 8 an estimate of the total number of persons enrolled in its work experience program or school di-
 9 rected professional education project and shall notify the insurer or director of any significant
 10 changes therein. Persons covered under this section are entitled to the benefits of this chapter.
 11 However, such persons are not entitled to benefits under ORS 656.210 or 656.212. They are entitled
 12 to such benefits if injured as provided in ORS 656.156 and 656.202 while performing any duties
 13 arising out of and in the course of their participation in the work experience program or school
 14 directed professional education project, provided the duties being performed are among those:

- 15 (a) Described on the application of the school district; and
- 16 (b) Required of similar full-time paid employees.

17 (5) The filing of claims for benefits under this section is the exclusive remedy of a trainee or a
 18 beneficiary of the trainee for injuries compensable under this chapter against the state, its political
 19 subdivisions, the school district board, its members, officers and employees, or any employer, re-
 20 gardless of negligence.

21 (6) The provisions of this section *[shall be]* **are** inapplicable to any trainee who has earned
 22 wages for such employment.

23 (7) As used in this section, “school directed professional education project” means an on-campus
 24 or off-campus project supervised by school personnel and which is an assigned activity of a local
 25 professional education program approved pursuant to operating procedures of the State Board of
 26 Education. A school directed professional education project must be of a practicum experience na-
 27 ture, performed outside of a classroom environment and extending beyond initial instruction or
 28 demonstration activities. Such projects are limited to logging, silvicultural thinning, slash burning,
 29 fire fighting, stream enhancement, woodcutting, reforestation, tree surgery, construction, printing
 30 and manufacturing involving formed metals.

31 (8) Notwithstanding subsection (1) of this section, a school district may elect to make trainees
 32 subject workers under this chapter for school directed professional education projects not enumer-
 33 ated in subsection (7) of this section by making written request to the district’s insurer, or in the
 34 case of a self-insured district, the director, with coverage to begin no sooner than the date the re-
 35 quest is received by the insurer or director. The request for coverage shall include a description of
 36 the work to be performed under the project and an estimate of the number of participating trainees.
 37 The insurer or director shall accept a request that meets the criteria of this section.

38 **SECTION 126.** ORS 680.205 is amended to read:

39 680.205. (1) A dental hygienist issued a permit to act as a limited access permit dental hygienist
 40 under ORS 680.200 shall be authorized to render all services within the scope of practice of dental
 41 hygiene, as defined in ORS 679.010, without the supervision of a dentist and as authorized by the
 42 limited access permit to:

- 43 (a) Patients or residents of the following facilities or programs who, due to age, infirmity or
 44 disability, are unable to receive regular dental hygiene treatment:

- 45 (A) Nursing homes as defined in ORS 678.710;

- 1 (B) Adult foster homes as defined in ORS 443.705;
- 2 (C) Residential care facilities as defined in ORS 443.400;
- 3 (D) Adult congregate living facilities as defined in ORS 441.525;
- 4 (E) Mental health residential programs administered by the Oregon Health Authority;
- 5 (F) Facilities for mentally ill persons, as those terms are defined in ORS 426.005;
- 6 (G) Facilities for persons with [*mental retardation*] **developmental disabilities**, as those terms
7 are defined in ORS 427.005;
- 8 (H) Local correctional facilities and juvenile detention facilities as those terms are defined in
9 ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities
10 as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Cor-
11 rections institutions as defined in ORS 421.005; or
- 12 (I) Public and nonprofit community health clinics.
- 13 (b) Adults who are homebound.
- 14 (c) Students or enrollees of nursery schools and day care programs and their siblings under 18
15 years of age, Job Corps and other similar employment training facilities, primary and secondary
16 schools, including private schools and public charter schools, and persons entitled to benefits under
17 the Women, Infants and Children Program.
- 18 (d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by nurse
19 practitioners, physician assistants or midwives.
- 20 (2) The Oregon Board of Dentistry may authorize the provision of dental hygiene services by a
21 limited access permit dental hygienist at locations or to populations that are underserved or lack
22 access to dental hygiene services.
- 23 (3) At least once each calendar year, a dental hygienist issued a permit to act as a limited ac-
24 cess permit dental hygienist shall refer each patient or resident to a dentist who is available to treat
25 the patient or resident.
- 26 (4) This section does not authorize a limited access permit dental hygienist to administer local
27 anesthesia or temporary restorations except under the general supervision of a dentist licensed un-
28 der ORS chapter 679, or to administer nitrous oxide except under the indirect supervision of a
29 dentist licensed under ORS chapter 679.
- 30 (5) A limited access permit dental hygienist may assess the need for and appropriateness of
31 sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is
32 applied or supplied to patients.
- 33 (6) A person granted a limited access permit under ORS 680.200 shall also procure all other
34 permits or certificates required by the board under ORS 679.250.
- 35 **SECTION 127.** ORS 688.132 is amended to read:
- 36 688.132. (1) A licensed physical therapist shall immediately refer a person to a medical doctor,
37 osteopathic physician, chiropractic physician, podiatric physician and surgeon, naturopathic physi-
38 cian, dentist, physician assistant or nurse practitioner if:
- 39 (a) Signs or symptoms are present that require treatment or diagnosis by such providers or for
40 which physical therapy is contraindicated or for which treatment is outside the knowledge of the
41 physical therapist or scope of practice of physical therapy; or
- 42 (b) The physical therapist continues therapy and 60 days have passed since the initial physical
43 therapy treatment has been administered, unless:
- 44 (A) The individual is a child or a student eligible for special education, as defined by state or
45 federal law, and is being seen pursuant to the child's or the student's individual education plan or

1 individual family service plan;

2 (B) The individual is a student athlete at a public or private school, college or university and
 3 is seeking treatment in that role as athlete; or

4 (C) The individual is a resident of a long term care facility as defined in ORS 442.015, a resi-
 5 dential facility as defined in ORS 443.400, an adult foster home as defined in ORS 443.705 or [*an*
 6 *intermediate care facility for mental retardation pursuant to federal regulations*] **a state training**
 7 **center described in 42 U.S.C. 1396d(d).**

8 (2) Notwithstanding any provision of ORS 742.518 to 742.542, personal injury protection benefits
 9 are not required to be paid for physical therapy treatment of a person covered by the applicable
 10 insurance policy unless the person is referred to the physical therapist by a licensed physician,
 11 podiatric physician and surgeon, naturopathic physician, dentist, physician's assistant or nurse
 12 practitioner.

13 **SECTION 128.** ORS 743A.190 is amended to read:

14 743A.190. (1) A health benefit plan, as defined in ORS 743.730, must cover for a child enrolled
 15 in the plan who is under 18 years of age and who has been diagnosed with a pervasive develop-
 16 mental disorder all medical services, including rehabilitation services, that are medically necessary
 17 and are otherwise covered under the plan.

18 (2) The coverage required under subsection (1) of this section, including rehabilitation services,
 19 may be made subject to other provisions of the health benefit plan that apply to covered services,
 20 including but not limited to:

- 21 (a) Deductibles, copayments or coinsurance;
 - 22 (b) Prior authorization or utilization review requirements; or
 - 23 (c) Treatment limitations regarding the number of visits or the duration of treatment.
- 24 (3) As used in this section:

25 (a) "Medically necessary" means in accordance with the definition of medical necessity that is
 26 specified in the policy, certificate or contract for the health benefit plan and that applies uniformly
 27 to all covered services under the health benefit plan.

28 (b) "Pervasive developmental disorder" means a neurological condition that includes Asperger's
 29 syndrome, autism, developmental delay, developmental disability or [*mental retardation*] **intellectual**
 30 **disability.**

31 (c) "Rehabilitation services" means physical therapy, occupational therapy or speech therapy
 32 services to restore or improve function.

33 (4) The provisions of ORS 743A.001 do not apply to this section.

34 (5) The definition of "pervasive developmental disorder" is not intended to apply to coverage
 35 required under ORS 743A.168.

36 **SECTION 129.** ORS 807.700 is amended to read:

37 807.700. (1) It shall be the duty of the superintendent of the hospital for persons with [*mental*
 38 *retardation or*] mental illness to notify the Department of Transportation as to released licensed
 39 operators who, in the opinion of the superintendent, should not drive because of their mental con-
 40 dition.

41 (2) Upon receipt of information submitted under this section, the department is subject to the
 42 provisions relating to this section under ORS 809.419.

43 **SECTION 130.** Section 15, chapter 736, Oregon Laws 2003, as amended by section 3, chapter
 44 757, Oregon Laws 2005, section 358, chapter 70, Oregon Laws 2007, and section 7, chapter 780,
 45 Oregon Laws 2007, is amended to read:

1 **Sec. 15.** As used in sections 15 to 22, chapter 736, Oregon Laws 2003:

2 (1) "Assessment rate" means the rate established by the Director of Human Services under
3 section 17, chapter 736, Oregon Laws 2003.

4 (2) "Assessment year" means a 12-month period, beginning July 1 and ending the following June
5 30, for which the assessment rate being determined is to apply.

6 (3) "Gross revenue":

7 (a) Means the revenue paid to a long term care facility for patient care, room, board and ser-
8 vices, less contractual adjustments; and

9 (b) Does not include:

10 (A) Revenue derived from sources other than long term care facility operations, including but
11 not limited to donations, interest and guest meals, or any other revenue not attributable to patient
12 care; and

13 (B) Hospital revenue or revenue derived from hospital operations.

14 (4) "Long term care facility" has the meaning given that term in ORS 442.015, but does not in-
15 clude [*an intermediate care facility for persons with mental retardation*] **a state training center de-**
16 **scribed in 42 U.S.C. 1396d(d).**

17 (5) "Medicaid patient days" means patient days attributable to patients who receive medical
18 assistance under a plan described in 42 U.S.C. 1396a et seq.

19 (6) "Patient days" means the total number of patients occupying beds in a long term care facility
20 for all days in the calendar period for which an assessment is being reported and paid. For purposes
21 of this subsection, if a long term care facility patient is admitted and discharged on the same day,
22 the patient shall be deemed to occupy a bed for one day.

23 **SECTION 131.** Section 5, chapter 826, Oregon Laws 2009, as amended by sections 18 and 18a,
24 chapter 826, Oregon Laws 2009, is amended to read:

25 **Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may
26 file a petition with the Psychiatric Security Review Board for relief from the bar if:

27 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

28 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f); or

29 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18
30 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

31 (2) The petitioner shall serve a copy of the petition on:

32 (a) The Department of Human Services and the Oregon Health Authority; and

33 (b) The district attorney in each county in which:

34 (A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a
35 court as mentally ill, under ORS 426.130;

36 (B) The person was committed by a court to the Department of Human Services, or adjudicated
37 by a court as [*mentally retarded*] **in need of commitment for residential care, treatment and**
38 **training**, under ORS 427.290;

39 (C) The person was found guilty except for insanity under ORS 161.295;

40 (D) The person was found responsible except for insanity under ORS 419C.411; or

41 (E) The person was found by a court to lack fitness to proceed under ORS 161.370.

42 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make
43 written findings of fact and conclusions of law on the issues before the board and issue a final order.

44 (4) The state and any person or entity described in subsection (2) of this section may appear and
45 object to and present evidence relevant to the relief sought by the petitioner.

1 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
 2 based on the petitioner’s reputation, the petitioner’s record, the circumstances surrounding the
 3 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
 4 in a manner that is dangerous to public safety and that granting the relief would not be contrary
 5 to the public interest.

6 (6) If the board grants the relief requested in the petition, the board shall provide to the De-
 7 partment of State Police the minimum information necessary, as defined in [section 1 of this 2009
 8 Act] **ORS 181.740**, to enable the department to:

9 (a) Maintain the information and transmit the information to the federal government as required
 10 under federal law; and

11 (b) Maintain a record of the person’s relief from the disqualification to possess or receive a
 12 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e) or (f).

13 (7) The petitioner may petition for judicial review of a final order of the board. The petition
 14 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
 15 view shall be conducted de novo and without a jury.

16 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
 17 the Court of Appeals shall be conducted in accordance with ORS 183.500.

18 (9) A person may file a petition for relief under this section no more than once every two years.

19 (10) The board shall adopt procedural rules to carry out the provisions of this section.

20 (11) As used in this section, “state mental health determination” means:

21 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

22 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
 23 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
 24 Security Review Board thereafter;

25 (c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that
 26 a person is mentally ill, under ORS 426.130; or

27 (d) A commitment by a court to the Department of Human Services, or an adjudication by a
 28 court that a person is [*mentally retarded*] **in need of commitment for residential care, treatment**
 29 **and training**, under ORS 427.290.

30 **SECTION 132. Sections 1 to 4 of this 2011 Act and ORS 417.345, 427.007, 430.212, 430.216**
 31 **and 430.218 are added to and made a part of ORS chapter 427.**

32 **SECTION 133. The amendments to ORS 430.670 by section 113 of this 2011 Act become**
 33 **operative January 2, 2014.**

34 **SECTION 134. ORS 427.010, 427.020, 427.031, 427.041, 427.051, 427.105, 427.108, 427.112,**
 35 **427.175, 427.180, 427.185, 427.190, 427.195 and 427.205 are repealed.**

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