

A-Engrossed
Senate Bill 420

Ordered by the Senate April 27
Including Senate Amendments dated April 27

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

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

[Calculates maximum period of jurisdiction of Psychiatric Security Review Board over person found guilty except for insanity of offense based on sentence person would have received had person been convicted of crime.]

[Requires court to discharge person, initiate civil commitment proceedings or conditionally release person under jurisdiction of court if person found guilty of presumptive jail offense except for insanity. Requires court to discharge person or commit person to jurisdiction of board if person found guilty of presumptive prison offense except for insanity.]

[Authorizes board to request that committing court initiate civil commitment proceedings when jurisdiction of board expires if board has probable cause to believe that person is danger to self or others.]

[Calculates maximum time person may be treated for fitness based on sentence defendant may receive if convicted of most serious charge.]

[Requires defendant who lacks fitness to proceed by reason of mental disease or defect to be released on supervision if most serious charge would result in presumptive jail sentence. Authorizes commitment of defendant who lacks fitness to proceed by reason of mental disease or defect if most serious charge would result in presumptive prison sentence.]

Modifies court's dispositional authority when person found guilty except for insanity of crime. Transfers jurisdiction over person found guilty except for insanity of crime to Oregon Health Authority while person is committed to state hospital or secure intensive community inpatient facility.

Authorizes Oregon Health Authority to conditionally release person from commitment. Requires Oregon Health Authority to impose conditions on release designated by Psychiatric Security Review Board. Transfers jurisdiction of person to Psychiatric Security Review Board upon conditional release.

Requires court to stay criminal sentence imposed while person under jurisdiction of Oregon Health Authority. Requires execution of criminal sentence upon conditional release of person from jurisdiction of Oregon Health Authority.

Becomes operative on January 1, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to mentally ill defendants; creating new provisions; amending ORS 21.010, 137.750, 151.216,
3 161.325, 161.326, 161.327, 161.328, 161.329, 161.336, 161.341, 161.346, 161.351, 161.375, 161.385,
4 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690, 278.315, 430.695,
5 809.419 and 810.375; and declaring an emergency.

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

7
8 **AGENCY HEARINGS AND JURISDICTION**

9
10 **SECTION 1.** ORS 161.346 is amended to read:

11 161.346. (1) **When** the Psychiatric Security Review Board *[shall conduct hearings upon any ap-*

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 *plication for discharge, conditional release, commitment or modification filed pursuant to ORS 161.336,*
 2 *161.341 or 161.351 and as otherwise required by ORS 161.336 to 161.351 and] or the Oregon Health*
 3 **Authority conducts a hearing under ORS 161.315 to 161.351, the agency conducting the hear-**
 4 **ing shall enter an order and** make findings *[on the issues before it which may include:]* **in support**
 5 **of the order. If the agency finds that a person under the jurisdiction of the agency:**

6 (a) *[If the board finds that the person]* Is no longer affected by mental disease or defect, or, if
 7 so affected, no longer presents a substantial danger to others, the *[board]* **agency** shall order the
 8 person discharged from commitment *[or from]* **and** conditional release.

9 (b) *[If the board finds that the person]* Is still affected by a mental disease or defect and is a
 10 substantial danger to others, but can be controlled adequately if conditionally released with treat-
 11 ment as a condition of release, the *[board]* **agency** shall order the person conditionally released as
 12 provided in ORS 161.336.

13 (c) *[If the board finds that the person]* Has not recovered from the mental disease or defect
 14 *[and],* is a substantial danger to others and cannot adequately be controlled if conditionally released
 15 on supervision, the *[board]* **agency** shall order the person committed to, or retained in, a state hos-
 16 pital *[designated by the Oregon Health Authority if the person is at least 18 years of age],* or **if the**
 17 **person is under 18 years of age,** a secure intensive community inpatient facility *[designated by the*
 18 *authority if the person is under 18 years of age],* for care, custody and treatment.

19 **(2)(a) When the Oregon Health Authority orders a person conditionally released under**
 20 **ORS 161.315 to 161.351, the order shall transfer jurisdiction of the person to the Psychiatric**
 21 **Security Review Board.**

22 **(b) When the board orders a person committed to a state hospital, or a secure intensive**
 23 **community inpatient facility, under ORS 161.315 to 161.351, the order shall transfer the ju-**
 24 **risdiction of the person to the authority.**

25 **(c) The authority shall assume jurisdiction over a person under the jurisdiction of the**
 26 **board when the person is returned to the custody of the authority under ORS 161.336 (4).**

27 **[(2)] (3) To assist the agency in making the determination described in subsection (1) of**
 28 **this section, the agency exercising jurisdiction over the person may,** at any time, *[the board*
 29 *may]* appoint a psychiatrist or licensed psychologist to examine the person and to submit a report
 30 to the *[board. Reports filed with the board pursuant to the examination shall include, but need not be*
 31 *limited to,]* **agency. The report must include** an opinion as to the mental condition of the person
 32 *[and],* whether the person presents a substantial danger to others*[,]* and whether the person could
 33 be adequately controlled with treatment as a condition of release. *[To facilitate the examination of*
 34 *the person, the board may order the person placed in the temporary custody of any state hospital or*
 35 *other suitable facility.]*

36 **[(3)] (4) The [board] agency exercising jurisdiction over the person** may make the determi-
 37 nation regarding discharge or conditional release based upon the written reports submitted pursuant
 38 to this section. If **the authority or** any member of the board desires further information from the
 39 examining psychiatrist or licensed psychologist who submitted the report, *[these persons shall be*
 40 *summoned by the board]* **the agency shall summon the person** to give testimony. The *[board]*
 41 **agency** shall consider all evidence available to it *[which]* **that** is material, relevant and reliable
 42 regarding the issues before the *[board. Such]* **agency. The** evidence may include but is not limited
 43 to the record of trial, the information supplied by the attorney representing the state or by any
 44 other interested party, including the person, and information concerning the person's mental condi-
 45 tion and the entire psychiatric and criminal history of the person. All evidence of a type commonly

1 relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible
2 at hearings. Testimony shall be taken upon oath or affirmation of the witness from whom received.
3 The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

4 [(4)] (5) The [board] **agency exercising jurisdiction over the person** shall furnish to the person
5 about whom the hearing is being conducted, the attorney representing the person, the Attorney
6 General, the district attorney and the court or department of the county from which the person was
7 committed written notice of any hearing pending under this section within a reasonable time prior
8 to the hearing. The notice shall include:

9 (a) The time, place and location of the hearing.

10 (b) The nature of the hearing and the specific action for which a hearing has been requested,
11 the issues to be considered at the hearing and a reference to the particular sections of the statutes
12 and rules involved.

13 (c) A statement of the **legal** authority and jurisdiction under which the hearing is to be held.

14 (d) A statement of all rights under subsection [(6)] (7) of this section.

15 [(5)] (6) Prior to the commencement of [a] **the** hearing, the [board or presiding officer] **agency**
16 shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).

17 [(6)] (7) At the hearing, the person about whom the hearing is being held shall have the right:

18 (a) To appear at all proceedings held pursuant to this section, except [board] **for** deliberations.

19 (b) To cross-examine all witnesses appearing to testify at the hearing.

20 (c) To subpoena witnesses and documents as provided in ORS 161.395.

21 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
22 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
23 nancially eligible, to have suitable counsel appointed at state expense.

24 (e) To examine all information, documents and reports [which] **that** the [board] **agency** consid-
25 ers. If then available to the [board] **agency**, the information, documents and reports shall be dis-
26 closed to the person so as to allow examination prior to the hearing.

27 [(7)] (8) A record shall be kept of all hearings [before the board, except board] **conducted under**
28 **ORS 161.315 to 161.351, except for** deliberations.

29 [(8)] (9) Upon request of any party [before the board], or on [its own motion, the board may con-
30 tinue a hearing] **motion of the agency conducting the hearing, the hearing may be continued**
31 for a reasonable period not to exceed 60 days to obtain additional information or testimony or for
32 other good cause shown.

33 [(9)] (10) Within 15 days following the conclusion of the hearing, the [board] **agency** shall pro-
34 vide to the person, the attorney representing the person, the Attorney General or other attorney
35 representing the state, if any, written notice of the [board's decision] **order entered by the**
36 **agency**.

37 [(10)] (11) The burden of proof on all issues at hearings [of the board] **under ORS 161.315 to**
38 **161.351** shall be by a preponderance of the evidence.

39 [(11)] (12) If the [board] **agency conducting the hearing** determines that the person about
40 whom the hearing is being held is financially eligible, the [board] **agency** shall appoint suitable
41 counsel to represent the person. Counsel so appointed shall be an attorney who satisfies the pro-
42 fessional qualifications established by the Public Defense Services Commission under ORS 151.216.
43 The public defense services executive director shall determine and allow fair compensation for
44 counsel appointed under this subsection and the reasonable expenses of the person in respect to the
45 hearing. Compensation payable to appointed counsel shall not be less than the applicable compen-

1 sation level established under ORS 151.216. The compensation and expenses so allowed shall be paid
2 by the public defense services executive director from funds available for the purpose.

3 [(12)] (13) The Attorney General may represent the state at contested hearings [*before the*
4 *board*] **under ORS 161.315 to 161.351** unless the district attorney of the county from which the
5 person was committed elects to represent the state. The district attorney of the county from which
6 the person was committed shall cooperate with the Attorney General in securing the material nec-
7 essary for presenting a contested hearing [*before the board*]. If the district attorney elects to repre-
8 sent the state, the district attorney shall give timely written notice of such election to the Attorney
9 General, the [*board*] **agency conducting the hearing** and the attorney representing the person.

10 **SECTION 2.** ORS 161.336 is amended to read:

11 161.336. (1)(a) [*If the Psychiatric Security Review Board determines that the person presents a*
12 *substantial danger to others but can be adequately controlled with supervision and treatment if condi-*
13 *tionally released and that necessary supervision and treatment are available, the board may order the*
14 *person conditionally released,*] **When a person is conditionally released under ORS 161.315 to**
15 **161.351, the person is** subject to those supervisory orders of the **Psychiatric Security Review**
16 **Board** as are in the best interests of justice, the protection of society and the welfare of the person.

17 (b) [*The board*] **An order of conditional release entered by the board or the Oregon Health**
18 **Authority** may designate any person or state, county or local agency [*the board considers*] capable
19 of supervising the person upon release, subject to [*those conditions as the board directs in the order*
20 *for conditional release*] **the conditions described in the order of conditional release.**

21 (c) Prior to the designation, the [*board*] **agency conducting the hearing** shall notify the person
22 or **state, county or local** agency to whom conditional release is contemplated and provide the
23 person or **state, county or local** agency an opportunity to be heard [*before the board*].

24 (d) After receiving an order entered under this section, the person or **state, county or local**
25 agency designated **in the order** shall assume supervision of the person [*pursuant to the direction of*
26 *the*] **in accordance with the conditions described in the order and any modifications of the**
27 **conditions ordered by the board.**

28 (2) Conditions of release contained in orders entered under this section may be modified from
29 time to time and conditional releases may be terminated [*by order of the board*] as provided in ORS
30 161.351.

31 [(3) *For purposes of this section, a person affected by a mental disease or defect in a state of re-*
32 *mission is considered to have a mental disease or defect requiring supervision when the disease may,*
33 *with reasonable medical probability, occasionally become active and, when active, render the person a*
34 *danger to others. The person may be continued on conditional release by the board as provided in this*
35 *section.*]

36 [(4)(a)] (3)(a) As a condition of release, [*the board may require*] the person **may be required** to
37 report to any state or local mental health facility for evaluation. Whenever medical, psychiatric or
38 psychological treatment is recommended, the [*board may*] order **may require** the person, as a con-
39 dition of release, to cooperate with and accept the treatment from the facility.

40 (b) The facility to which the person has been referred for evaluation shall perform the evalu-
41 ation and submit a written report of its findings to the board. If the facility finds that treatment of
42 the person is appropriate, it shall include its recommendations for treatment in the report to the
43 board.

44 (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a
45 regular basis concerning the progress of the person.

1 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
 2 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS
 3 192.501 to 192.505.

4 (e) The facility shall comply with **the conditional release order and any modifications of the**
 5 **conditions ordered by** *[any other conditions of release prescribed by order of]* the board.

6 [(5)] **(4)(a)** If at any time while the person is under the jurisdiction of the board it appears to
 7 the board or its chairperson that the person has violated the terms of the conditional release or that
 8 the mental health of the individual has changed, the board or its chairperson may order the person
 9 returned for evaluation or treatment to a state hospital *[designated by the Oregon Health Authority*
 10 *if the person is at least 18 years of age,]* or, **if the person is under 18 years of age,** to a secure
 11 intensive community inpatient facility *[designated by the authority if the person is under 18 years of*
 12 *age]*. A written order of the board, or its chairperson on behalf of the board, is sufficient warrant
 13 for any law enforcement officer to take into custody such person and transport the person accord-
 14 ingly. A sheriff, municipal police officer, constable, parole and probation officer, prison official or
 15 other peace officer shall execute the order, and the person shall be returned as soon as practicable
 16 to the custody of the authority. *[Within 20 days following the return of the person to the custody of*
 17 *the authority, the board shall conduct a hearing. Notice of the time and place of the hearing shall be*
 18 *given to the person, the attorney representing the person and the Attorney General. The board may*
 19 *continue the person on conditional release or, if it finds by a preponderance of the evidence that the*
 20 *person is affected by mental disease or defect and presents a substantial danger to others and cannot*
 21 *be adequately controlled if conditional release is continued, it may order the person committed to a state*
 22 *hospital designated by the authority if the person is at least 18 years of age, or to a secure intensive*
 23 *community inpatient facility designated by the authority if the person is under 18 years of age. The*
 24 *state must prove by a preponderance of the evidence the person's unfitness for conditional release. A*
 25 *person in custody pursuant to this subsection has the same rights as any person appearing before the*
 26 *board pursuant to ORS 161.346.]*

27 [(6)] **(b)** The community mental health program director, the director of the facility providing
 28 treatment to a person on conditional release, any peace officer or any person responsible for the
 29 supervision of a person on conditional release may take a person on conditional release into custody
 30 or request that the person be taken into custody if there is reasonable cause to believe the person
 31 is a substantial danger to others because of mental disease or defect and that the person is in need
 32 of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection
 33 shall be transported as soon as practicable to a state hospital *[designated by the authority if the*
 34 *person is at least 18 years of age,]* or, **if the person is under 18 years of age,** to a secure intensive
 35 community inpatient facility *[designated by the authority if the person is under 18 years of age]*.

36 **(c) Within 20 days following the return of the person to the custody of the authority**
 37 **under this subsection, the authority shall conduct a hearing. Notice of the hearing shall be**
 38 **given to the person, the attorney representing the person and the Attorney General. The**
 39 **state must prove by a preponderance of the evidence the person's unfitness for conditional**
 40 **release.** A person taken into custody under this subsection has the same rights as any person ap-
 41 pearing before the *[board]* **authority** pursuant to ORS 161.346. **Following the hearing, the au-**
 42 **thority shall enter an order described in ORS 161.346.**

43 [(7)(a)] **(5)(a)** Any person conditionally released under this section may apply to the board for
 44 discharge from or modification of an order of conditional release on the ground that the person is
 45 no longer affected by mental disease or defect or, if still so affected, no longer presents a substantial

1 danger to others and no longer requires supervision, medication, care or treatment. Notice of the
 2 hearing on an application for discharge or modification of an order of conditional release shall be
 3 made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove
 4 by a preponderance of the evidence the applicant's fitness for discharge or modification of the order
 5 of conditional release. Applications by the person for discharge or modification of conditional re-
 6 lease *[shall]* **may** not be filed more often than once every six months.

7 (b) Upon application by any person or agency responsible for supervision or treatment pursuant
 8 to an order of conditional release, the board shall conduct a hearing to determine if the conditions
 9 of release shall be continued, modified or terminated. The application shall be accompanied by a
 10 report setting forth the facts supporting the application.

11 **(6) Any person who has been placed under the jurisdiction of the board and who has spent**
 12 **five years on conditional release shall be brought before the board for hearing within 30 days**
 13 **before the expiration of the five-year period. The board shall review the person's status and**
 14 **determine whether the person should be discharged from the jurisdiction of the board.**

15 *[(8) The total period of commitment and conditional release ordered pursuant to this section may*
 16 *not exceed the maximum sentence provided by statute for the crime for which the person was found*
 17 *guilty except for insanity.]*

18 *[(9) The board shall maintain and keep current the medical, social and criminal history of all*
 19 *persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be*
 20 *determined pursuant to ORS 192.501 to 192.505.]*

21 *[(10)]* **(7)** In determining whether a person should be committed to a state hospital or to a secure
 22 intensive community inpatient facility, conditionally released or discharged, the board shall have as
 23 its primary concern the protection of society.

24 **SECTION 3.** ORS 161.341 is amended to read:

25 161.341. *[(1) If the Psychiatric Security Review Board finds, upon its initial hearing, that the per-*
 26 *son presents a substantial danger to others and is not a proper subject for conditional release, the*
 27 *board shall order the person committed to, or retained in, a state hospital designated by the Oregon*
 28 *Health Authority if the person is at least 18 years of age, or to a secure intensive community inpatient*
 29 *facility designated by the authority if the person is under 18 years of age, for custody, care and treat-*
 30 *ment. The period of commitment ordered by the board may not exceed the maximum sentence provided*
 31 *by statute for the crime for which the person was found guilty except for insanity.]*

32 *[(2)]* **(1)** If at any time after *[the commitment of a person]* **a person is placed under the juris-**
 33 **isdiction of the Oregon Health Authority under ORS 161.315 to 161.351 and committed** to a state
 34 hospital, *[or to]* **or** a secure intensive community inpatient facility, *[designated by the authority under*
 35 *this section,]* the superintendent of the hospital or the director of the secure intensive community
 36 inpatient facility is of the opinion that the person is no longer affected by mental disease or defect,
 37 or, if so affected, no longer presents a substantial danger to others or that the person continues to
 38 be affected by mental disease or defect and continues to be a danger to others, but that the person
 39 can be controlled with proper care, medication, supervision and treatment if conditionally released,
 40 the superintendent or director shall apply to the *[board]* **authority** for an order of discharge or
 41 conditional release. The application shall be accompanied by a report setting forth the facts sup-
 42 porting the opinion of the superintendent or director. If the application is for conditional release,
 43 the application must *[also]* be accompanied by a verified conditional release plan. The *[board]* **au-**
 44 **thority** shall hold a hearing on the application within 60 days of its receipt. Not less than 20 days
 45 prior to the hearing before the *[board]* **authority**, copies of the report shall be sent to the Attorney

1 General.

2 [(3)] (2) The attorney representing the state may choose a psychiatrist or licensed psychologist
3 to examine the person prior to the initial or any later decision by the [board] **authority** on dis-
4 charge or conditional release. The results of the examination shall be in writing and filed with the
5 [board] **authority**, and shall include, but need not be limited to, an opinion as to the mental condi-
6 tion of the person, whether the person presents a substantial danger to others and whether the
7 person could be adequately controlled with treatment as a condition of release.

8 [(4)] (3) Any person who has been committed to a state hospital, or to a secure intensive com-
9 munity inpatient facility, [designated by the authority] for custody, care and treatment **under ORS**
10 **161.315 to 161.351**, or another person acting on the person's behalf, may apply to the [board] **au-**
11 **thority** for an order of discharge or conditional release upon the grounds:

12 (a) That the person is no longer affected by mental disease or defect;

13 (b) [If so affected,] That the person, **if so affected**, no longer presents a substantial danger to
14 others; or

15 (c) That the person continues to be affected by a mental disease or defect and would continue
16 to be a danger to others without treatment, but that the person can be adequately controlled and
17 given proper care and treatment if placed on conditional release.

18 [(5)] (4) When application is made under subsection [(4)] (3) of this section, the [board] **au-**
19 **thority** shall require that a report from the superintendent of the hospital or the director of the
20 secure intensive community inpatient facility be prepared and transmitted as provided in subsection
21 [(2)] (1) of this section. The applicant must prove by a preponderance of the evidence the applicant's
22 fitness for discharge or conditional release under the standards of subsection [(4)] (3) of this section,
23 unless more than two years has passed since the state had the burden of proof on that issue, in
24 which case the state shall have the burden of proving by a preponderance of the evidence the
25 applicant's lack of fitness for discharge or conditional release. Applications for discharge or condi-
26 tional release under subsection [(4)] (3) of this section [shall] **may** not be filed more often than once
27 every six months commencing with the date of the initial board hearing.

28 [(6)] (5) The [board] **authority** is not required to hold a hearing on a first application under
29 subsection [(4)] (3) of this section any sooner than 90 days after the initial hearing. [However,]
30 Hearings resulting from any subsequent requests shall be held within 60 days of the filing of the
31 application.

32 [(7)(a)] (6)(a) In no case shall any person committed **to the jurisdiction of the authority** by
33 the court under ORS 161.327 [to a state hospital, or to a secure intensive community inpatient facility,
34 designated by the authority] be held in [the] **a hospital or a secure intensive community inpatient**
35 **facility** for more than 90 days from the date of the court's commitment order without an initial
36 hearing before the [board] **authority** to determine whether the person should be conditionally re-
37 leased or discharged.

38 (b) In no case shall a person be held pursuant to this section for a period of time exceeding two
39 years without a hearing before the [board] **authority** to determine whether the person should be
40 conditionally released or discharged.

41 (7) **The evidentiary phase of authority hearings are not deliberations for purposes of ORS**
42 **192.690.**

43 (8) **In determining whether a person should be committed to a state hospital or secure**
44 **intensive community inpatient facility, conditionally released or discharged, the authority**
45 **shall have as its primary concern the protection of society.**

1 **SECTION 4.** ORS 161.351 is amended to read:

2 161.351. (1) Any person placed under the jurisdiction of the Psychiatric Security Review Board
3 [*pursuant to ORS 161.336 or 161.341*] **or the Oregon Health Authority under ORS 161.315 to**
4 **161.351** shall be discharged at such time as the [*board*] **agency having jurisdiction over the per-**
5 **son**, upon a hearing, [*shall find*] **finds** by a preponderance of the evidence that the person is no
6 longer affected by mental disease or defect or, if so affected, no longer presents a substantial danger
7 to others [*which*] **that** requires regular medical care, medication, supervision or treatment.

8 (2) For purposes of [*this section*] **ORS 161.315 to 161.351**, a person affected by a mental disease
9 or defect in a state of remission is considered to have a mental disease or defect. A person whose
10 mental disease or defect may, with reasonable medical probability, occasionally become active and
11 when it becomes active will render the person a danger to others[, *shall*] **may** not be discharged.
12 The person shall continue under [*such*] supervision and treatment [*as the board deems*] necessary to
13 protect the person and others.

14 [*(3) Any person who has been placed under the jurisdiction of the board and who has spent five*
15 *years on conditional release shall be brought before the board for hearing within 30 days of the expi-*
16 *ration of the five-year period. The board shall review the person's status and determine whether the*
17 *person should be discharged from the jurisdiction of the board.*]

18 **SECTION 5.** ORS 161.390 is amended to read:

19 161.390. (1) The Oregon Health Authority shall [*promulgate*] **adopt** rules for the assignment of
20 persons to state mental hospitals or secure intensive community inpatient facilities under ORS
21 [*161.341*] **161.315 to 161.351**, 161.365 and 161.370 and for establishing standards for evaluation and
22 treatment of persons committed to a state hospital or a secure intensive community inpatient
23 facility[, *designated by the authority,*] or ordered to a community mental health program under ORS
24 161.315 to 161.351.

25 (2) [*Whenever*] **When** the Psychiatric Security Review Board **or the authority** requires the
26 preparation of a predischarge or preconditional release plan before a hearing or as a condition of
27 granting discharge or conditional release for a person committed under ORS [*161.327 or 161.341*]
28 **161.315 to 161.351** to a state hospital or a secure intensive community inpatient facility for custody,
29 care and treatment, the authority is responsible for and shall prepare the plan.

30 (3) In carrying out a conditional release plan prepared under subsection (2) of this section, the
31 authority may contract with a community mental health program, other public agency or private
32 corporation or an individual to provide supervision and treatment for the conditionally released
33 person.

34 (4) **Before the authority conducts a hearing under ORS 161.315 to 161.351, the authority**
35 **shall notify the board. The board may provide the authority with conditions of release that**
36 **the board determines are advisable. If the authority orders the person conditionally released,**
37 **the authority shall include the conditions of release in the order.**

38 (5) **The board and the authority shall maintain and keep current the medical, social and**
39 **criminal history of all persons committed to their respective jurisdiction. The confidentiality**
40 **of records maintained by the board shall be determined pursuant to ORS 192.501 to 192.505.**

41 **SECTION 6.** ORS 161.326, as amended by section 6, chapter 89, Oregon Laws 2010, is amended
42 to read:

43 161.326. [*(1) Whenever a person already under the jurisdiction of the Psychiatric Security Review*
44 *Board commits a new crime, the court or the board shall make the findings described in ORS 161.325*
45 *(2).*]

1 [(2)] (1) If the trial court [*or*], the **Psychiatric Security Review Board or the Oregon Health**
 2 **Authority** determines that a victim desires notification as described in ORS 161.325 (2), the
 3 [*board*] **agency having jurisdiction over the person** shall make a reasonable effort to notify the
 4 victim of [*board*] hearings and orders, conditional release, discharge or escape. Nothing in this sub-
 5 section authorizes the [*board*] **agency** to disseminate information that is otherwise privileged by law.

6 [(3)] (2) When the [*board*] **agency** conducts a hearing involving a person found guilty except for
 7 insanity of a crime for which there is a victim, the [*board*] **agency** shall afford the victim an op-
 8 portunity to be heard, either orally or in writing, at the hearing.

9 [(4)(a)] (3)(a) If the [*board*] **agency** fails to make a reasonable effort to notify the victim of a
 10 [*board*] hearing under subsection [(2)] (1) of this section or fails to afford the victim an opportunity
 11 to be heard at the hearing under subsection [(3)] (2) of this section, the victim may request that the
 12 [*board*] **agency** reconsider the order of the [*board*] **agency**.

13 (b) If the [*board*] **agency** determines that the [*board*] **agency** failed to make a reasonable effort
 14 to notify the victim or failed to afford the victim an opportunity to be heard, except as provided in
 15 paragraph (c) of this subsection, the [*board*] **agency** shall grant the request for reconsideration.
 16 Upon reconsideration, the [*board*] **agency** shall consider the statement of the victim and may con-
 17 sider any other information that was not available to the [*board*] **agency** at the previous hearing.

18 (c) The [*board*] **agency** may not grant a request for reconsideration that is made:

19 (A) After the person has been discharged from the jurisdiction of the board **and the**
 20 **authority**;

21 (B) After the board **or the authority** has held a subsequent hearing involving the person; or

22 (C) If the [*board*] **agency** failed to make a reasonable effort to notify the victim of a hearing,
 23 more than 30 days after the victim knew or reasonably should have known of the hearing.

24 **SECTION 7.** ORS 161.375 is amended to read:

25 161.375. (1) When a patient, who has been placed at [*the Oregon State Hospital*] **a state hospital**
 26 for evaluation, care, custody and treatment under [*the jurisdiction of the Psychiatric Security Review*
 27 *Board*] **ORS 161.315 to 161.351** or by court order under ORS 161.315, 161.365 or 161.370, has escaped
 28 or is absent without authorization from [*the Oregon State Hospital*] **the hospital** or from the custody
 29 of any person in whose charge the superintendent has placed the patient, the superintendent may
 30 order the arrest and detention of the patient.

31 (2) When a patient, who has been placed at a secure intensive community inpatient facility for
 32 evaluation, care, custody and treatment under [*the jurisdiction of the Psychiatric Security Review*
 33 *Board*] **ORS 161.315 to 161.351** or by court order under ORS 161.315, 161.365, 161.370 or 419C.527,
 34 has escaped or is absent without authorization from the facility or from the custody of any person
 35 in whose charge the director of the facility has placed the patient, the director of the facility shall
 36 notify the Director of the Oregon Health Authority. The Director of the Oregon Health Authority
 37 may order the arrest and detention of the patient.

38 (3) The superintendent or the Director of the Oregon Health Authority may issue an order under
 39 this section based upon a reasonable belief that grounds exist for issuing the order. When reason-
 40 able, the superintendent or the Director of the Oregon Health Authority shall investigate to ascer-
 41 tain whether such grounds exist.

42 (4) Any order issued by the superintendent or the Director of the Oregon Health Authority as
 43 authorized by this section constitutes full authority for the arrest and detention of the patient and
 44 all laws applicable to warrant or arrest apply to the order. An order issued by the superintendent
 45 or the Director of the Oregon Health Authority under this section expires 72 hours after being

1 signed by the superintendent or the Director of the Oregon Health Authority.

2 (5) As used in this section, “superintendent” means the superintendent of the [*Oregon State*
3 *Hospital*] **state hospital to which the person was committed** or the superintendent’s authorized
4 representative.

5 **SECTION 8.** ORS 161.385 is amended to read:

6 161.385. (1) There is hereby created a Psychiatric Security Review Board consisting of 10 mem-
7 bers appointed by the Governor and subject to confirmation by the Senate under section 4, Article
8 III of the Oregon Constitution.

9 (2) The membership of the board may not include any district attorney, deputy district attorney
10 or public defender. The Governor shall appoint:

11 (a) A psychiatrist experienced in the criminal justice system and not otherwise employed on a
12 full-time basis by the Oregon Health Authority or a community mental health program;

13 (b) A licensed psychologist experienced in the criminal justice system and not otherwise em-
14 ployed on a full-time basis by the authority or a community mental health program;

15 (c) A member with substantial experience in the processes of parole and probation;

16 (d) A lawyer with substantial experience in criminal trial practice;

17 (e) A psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child
18 psychiatry who is experienced in the juvenile justice system and not employed on a full-time basis
19 by the authority or a community mental health program;

20 (f) A licensed psychologist who is experienced in child psychology and the juvenile justice sys-
21 tem and not employed on a full-time basis by the authority or a community mental health program;

22 (g) A member with substantial experience in the processes of juvenile parole and probation;

23 (h) A lawyer with substantial experience in juvenile law practice; and

24 (i) Two members of the general public.

25 (3) The term of office of each member is four years. The Governor at any time may remove any
26 member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term
27 of a member, the Governor shall appoint a successor whose term begins on July 1 next following.
28 A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make
29 an appointment to become immediately effective for the unexpired term.

30 (4) A member of the board not otherwise employed full-time by the state shall be paid on a per
31 diem basis an amount equal to \$289.22, adjusted according to the executive pay plan for the
32 biennium, for each day during which the member is engaged in the performance of official duties,
33 including necessary travel time. In addition, subject to ORS 292.220 to 292.250 regulating travel and
34 other expenses of state officers and employees, the member shall be reimbursed for actual and nec-
35 essary travel and other expenses incurred in the performance of official duties.

36 (5) Subject to any applicable provision of the State Personnel Relations Law, the board may hire
37 employees to aid it in performing its duties.

38 (6) The board consists of two five-member panels. The adult panel is responsible for persons
39 placed under the board’s jurisdiction under ORS [*161.327*] **161.315 to 161.351** and 419C.544 and con-
40 sists of those members appointed under subsection (2)(a) to (d) of this section and one of the public
41 members. The juvenile panel is responsible for young persons placed under the board’s jurisdiction
42 under ORS 419C.529 and consists of those members appointed under subsection (2)(e) to (h) of this
43 section and the other public member.

44 (7)(a) Each panel shall select one of its members as chairperson to serve for a one-year term
45 with such duties and powers as the panel determines.

1 (b) A majority of the voting members of a panel constitutes a quorum for the transaction of
2 business of the panel.

3 (8) Each panel shall meet at least twice every month, unless the chairperson determines that
4 there is not sufficient business before the panel to warrant a meeting at the scheduled time. The
5 panel shall also meet at other times and places specified by the call of the chairperson or of a ma-
6 jority of the members of the panel.

7 *[(9)(a) When a person over whom a panel of the board exercises its jurisdiction is adversely affected*
8 *or aggrieved by a final order of the panel, the person is entitled to judicial review of the final order.*
9 *The person is entitled on judicial review to suitable counsel possessing skills and experience*
10 *commensurate with the nature and complexity of the case. If the person is financially eligible, suitable*
11 *counsel shall be appointed by the reviewing court in the manner provided in ORS 138.500 (1). If the*
12 *person is financially eligible, the public defense services executive director shall determine and pay, as*
13 *provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary to the review*
14 *and compensation for counsel appointed for the person. The costs, expenses and compensation so al-*
15 *lowed shall be paid as provided in ORS 138.500.]*

16 *[(b) The order and the proceedings underlying the order are subject to review by the Court of*
17 *Appeals upon petition to that court filed within 60 days of the order for which review is sought. The*
18 *panel shall submit to the court the record of the proceeding or, if the person agrees, a shortened record.*
19 *The record may include a certified true copy of a tape recording of the proceedings at a hearing in*
20 *accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the person by the*
21 *panel.]*

22 *[(c) The court may affirm, reverse or remand the order on the same basis as provided in ORS*
23 *183.482 (8).]*

24 *[(d) The filing of the petition does not stay the panel's order, but the panel or the Court of Appeals*
25 *may order a stay upon application on such terms as are deemed proper.]*

26 **SECTION 9. (1) When a person over whom the Psychiatric Security Review Board or the**
27 **Oregon Health Authority exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is**
28 **adversely affected or aggrieved by a final order of the board or authority, the person is en-**
29 **titled to judicial review of the final order. The person is entitled on judicial review to suitable**
30 **counsel possessing skills and experience commensurate with the nature and complexity of**
31 **the case. If the person is financially eligible, suitable counsel shall be appointed by the re-**
32 **viewing court in the manner provided in ORS 138.500 (1). If the person is financially eligible,**
33 **the public defense services executive director shall determine and pay, as provided in ORS**
34 **138.500, the cost of briefs, any other expenses of the person necessary to the review and**
35 **compensation for counsel appointed for the person. The costs, expenses and compensation**
36 **so allowed shall be paid as provided in ORS 138.500.**

37 **(2) The order and the proceedings underlying the order are subject to review by the Court**
38 **of Appeals upon petition to that court filed within 60 days of the order for which review is**
39 **sought. The agency that conducted the hearing shall submit to the court the record of the**
40 **proceeding or, if the person agrees, a shortened record. The record may include a certified**
41 **true copy of a tape recording of the proceedings at a hearing in accordance with ORS 161.346.**
42 **A copy of the record transmitted shall be delivered to the person by the agency.**

43 **(3) The court may affirm, reverse or remand the order on the same basis as provided in**
44 **ORS 183.482 (8).**

45 **(4) The filing of the petition does not stay the order of the agency, but the agency or the**

1 **Court of Appeals may order a stay upon application on such terms as are deemed proper.**

2 **SECTION 10.** ORS 161.395 is amended to read:

3 161.395. (1) Upon request of any party to a hearing before the **Psychiatric Security Review**
4 **Board or the Oregon Health Authority under ORS 161.315 to 161.351**, the *[board or its designated*
5 *representatives]* **agency conducting the hearing** shall issue, or *[the board]* on its own motion may
6 issue, subpoenas requiring the attendance and testimony of witnesses.

7 (2) Upon request of any party to the hearing before the *[board]* **agency** and upon a proper
8 showing of the general relevance and reasonable scope of the documentary or physical evidence
9 sought, the *[board or its designated representative]* **agency** shall issue, or *[the board]* on its own
10 motion may issue, subpoenas duces tecum.

11 (3) Witnesses appearing under subpoenas, other than the parties or state officers or employees,
12 shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). If the *[board*
13 *or its designated representative]* **agency** certifies that the testimony of a witness was relevant and
14 material, any person who has paid fees and mileage to that witness shall be reimbursed by the
15 *[board]* **agency**.

16 (4) If any person fails to comply with a subpoena issued under subsections (1) or (2) of this
17 section or any party or witness refuses to testify regarding any matter on which the party or wit-
18 ness may be lawfully interrogated, the judge of the circuit court of any county, on the application
19 of the *[board or its designated representative]* **agency that issued the subpoena** or of the party re-
20 questing the issuance of the subpoena, shall compel obedience by proceedings for contempt as in the
21 case of disobedience of the requirements of a subpoena issued by the court.

22 (5) If any person, agency or facility fails to comply with an order of the board **or authority** is-
23 sued pursuant to subsection (2) of this section, the judge of a circuit court of any county, on appli-
24 cation of the *[board or its designated representative]* **agency that issued the order**, shall compel
25 obedience by proceedings for contempt as in the case of disobedience of the requirements of an or-
26 der issued by the court. Contempt for disobedience of an order of the board **or authority** shall be
27 punishable by a fine of \$100.

28 **SECTION 11.** ORS 161.400 is amended to read:

29 161.400. If, at any time after the commitment of a person to a state hospital or a secure intensive
30 community inpatient facility under ORS *[161.341 (1)]* **161.315 to 161.351**, the superintendent of the
31 hospital or the director of the facility is of the opinion that a leave of absence from the hospital or
32 facility would be therapeutic for the person and that such leave would pose no substantial danger
33 to others, the superintendent or director may authorize such leave for up to 48 hours in accordance
34 with rules adopted by the *[Psychiatric Security Review Board]* **Oregon Health Authority**. However,
35 the superintendent or director, before authorizing the leave of absence, shall first notify the
36 *[board]* **authority** for the purposes of ORS 161.326 *[(2)]*.

37
38 **COURT PROVISIONS**
39

40 **SECTION 12.** ORS 161.327 is amended to read:

41 161.327. *[(1)(a) Following the entry of a judgment pursuant to ORS 161.319 and the dispositional*
42 *determination under ORS 161.325, if the court finds that the person would have been guilty of a felony,*
43 *or of a misdemeanor during a criminal episode in the course of which the person caused physical injury*
44 *or risk of physical injury to another, the court shall order that a psychiatric or psychological evaluation*
45 *be performed and a report of the evaluation be provided to the court if an evaluation was not performed*

1 or a report was not provided to the court prior to trial. Upon receipt of the evaluation, the court shall
 2 order that the person be placed under the jurisdiction of the Psychiatric Security Review Board for
 3 care and treatment if the court finds by a preponderance of the evidence that the person is affected by
 4 mental disease or defect and presents a substantial danger to others requiring commitment to:]

5 [(A) A state hospital designated by the Oregon Health Authority if the person is at least 18 years
 6 of age; or]

7 [(B) A secure intensive community inpatient facility designated by the authority if the person is
 8 under 18 years of age.]

9 [(b) The period of jurisdiction of the board is equal to the maximum sentence provided by statute
 10 for the crime for which the person was found guilty except for insanity.]

11 [(c) When a court orders a psychiatric or psychological evaluation of a financially eligible person
 12 under this subsection, the court shall order the public defense services executive director to pay a rea-
 13 sonable fee for the evaluation from funds available for the purpose.]

14 [(2) The court shall determine whether the person should be committed to a state hospital, or to a
 15 secure intensive community inpatient facility, designated by the authority or conditionally released
 16 pending any hearing before the board as follows:]

17 **(1) When a person is found guilty except for insanity of a felony, or of a misdemeanor**
 18 **during a criminal episode in the course of which the person caused physical injury or risk**
 19 **of physical injury to another, and the court finds that the person is affected by mental dis-**
 20 **ease or defect and presents a substantial danger to others, the court shall enter an order**
 21 **as follows:**

22 (a) If the court finds that the person [*presents a substantial danger to others and*] is not a proper
 23 subject for conditional release, [*the court shall order the person committed*] **the court shall enter**
 24 **an order placing the person under the jurisdiction of the Oregon Health Authority. The au-**
 25 **thority shall commit the person** to a state hospital [*designated by the authority if the person is at*
 26 *least 18 years of age,*] or, **if the person is under 18 years of age,** to a secure intensive community
 27 inpatient facility [*designated by the authority if the person is under 18 years of age,*] for custody, care
 28 and treatment pending hearing before the [*board in accordance with ORS 161.341 to 161.351*] **au-**
 29 **thority.**

30 (b) If the court finds that the person [*presents a substantial danger to others but that the*
 31 *person*] can be adequately controlled with supervision and treatment if conditionally released and
 32 that necessary supervision and treatment are available, the court [*may*] **shall** order the person
 33 conditionally released, subject to those supervisory orders of the court as are in the best interests
 34 of justice, the protection of society and the welfare of the person. The court shall designate a person
 35 or state, county or local agency to supervise the person upon release, subject to those conditions
 36 as the court directs in the order for conditional release. Prior to the designation, the court shall
 37 notify the person or agency to whom conditional release is contemplated and provide the person or
 38 agency an opportunity to be heard before the court. After receiving an order entered under this
 39 paragraph, the person or agency designated shall assume supervision of the person pursuant to the
 40 direction of the Psychiatric Security Review Board. The person or agency designated as supervisor
 41 shall be required to report in writing no less than once per month to the board concerning the
 42 supervised person's compliance with the conditions of release.

43 [(3) For purposes of this section, a person affected by a mental disease or defect in a state of re-
 44 mission is considered to have a mental disease or defect requiring supervision when the disease may,
 45 with reasonable medical probability, occasionally become active and, when active, render the person a

1 *danger to others.]*

2 [(4)] (2) In determining whether a person should be conditionally released, the court may order
3 evaluations, examinations and compliance as provided in ORS 161.336 [(4)] (3) and 161.346 [(2)] (3).

4 [(5) *In determining whether a person should be committed to a state hospital or to a secure inten-*
5 *sive community inpatient facility or conditionally released, the court]* **and** shall have as its primary
6 concern the protection of society.

7 [(6)] (3) Upon placing a person on conditional release, the court shall notify the board in writing
8 of the court's conditional release order, the supervisor appointed, and all other conditions of release,
9 and the person shall be on conditional release pending hearing before the board [*in accordance with*
10 *ORS 161.336 to 161.351*]. Upon compliance with [*this subsection and subsections (1) and (2) of*] this
11 section, the court's jurisdiction over the person is terminated [*and the board assumes jurisdiction*
12 *over the person*].

13 [(7)] (4) An order of the court under this section is a final order appealable by the person found
14 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
15 of an appeal under this section shall be served and filed within 90 days after the order appealed from
16 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
17 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
18 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
19 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
20 determined and paid as provided in ORS 138.500.

21 [(8)] (5) [*Upon placing a person under the jurisdiction of the board*] **Following entry of the order**
22 **described in subsection (1) of this section**, the court shall notify the person of the right to appeal
23 and the right to a hearing before the [*board*] **agency having jurisdiction over the person** in ac-
24 cordance with ORS 161.336 [(7)] (6) and 161.341 [(4)] (3).

25 **(6) The total period of commitment or conditional release under ORS 161.315 to 161.351**
26 **may not exceed the maximum sentence provided by statute for the crime for which the**
27 **person was found guilty except for insanity.**

28 **SECTION 13.** ORS 161.328 is amended to read:

29 161.328. [*Following the entry of a judgment pursuant to ORS 161.319 and the dispositional deter-*
30 *mination under ORS 161.325, if the court finds that the person would have been guilty*] **When a per-**
31 **son is found guilty except for insanity** of a misdemeanor during a criminal episode in the course
32 of which the person did not cause physical injury or risk of physical injury to another, [*and if the*
33 *court has probable cause to believe that the person is dangerous to self or others as a result of a mental*
34 *disorder, the court may*] **the court shall** initiate civil commitment proceedings under ORS 426.070
35 to 426.130 **if the court finds that the person is affected by mental disease or defect and pre-**
36 **sents a substantial danger to others requiring care, supervision and treatment.**

37 **SECTION 14.** ORS 161.329 is amended to read:

38 161.329. [*Following the entry of a judgment pursuant to ORS 161.319 and the dispositional deter-*
39 *mination under ORS 161.325,*] **When a person is found guilty except for insanity of a crime, the**
40 **court shall order the person discharged from custody** if the court finds that the person is no
41 longer affected by mental disease or defect, or, if so affected, no longer presents a substantial danger
42 to others and is not in need of care, supervision or treatment[, *the court shall order the person dis-*
43 *charged from custody*].

44 **SECTION 15.** (1) **When a person under the jurisdiction of the Oregon Health Authority**
45 **under ORS 161.315 to 161.351 is convicted of a crime and sentenced to a term of incarceration**

1 and when the person is sentenced to a term of incarceration as a sanction for violating the
 2 conditions of probation, parole or post-prison supervision, the sentencing court shall stay
 3 execution of the sentence pending the conditional release or discharge of the person or the
 4 expiration of the period of time described in ORS 161.327 (6). When the person is conditionally
 5 released or discharged by the Oregon Health Authority under ORS 161.315 to 161.351, or when
 6 the maximum period of jurisdiction described in ORS 161.327 (6) expires, the stay shall be
 7 lifted by operation of law and the person shall be committed to the custody of the Depart-
 8 ment of Corrections or the supervisory authority to begin service of the sentence imposed.

9 (2) When a person described in subsection (1) of this section is committed to the custody
 10 of the department or the supervisory authority as described in this section, the Oregon
 11 Health Authority shall notify the department or the supervisory authority when the period
 12 of time described in ORS 161.327 (6) will expire.

13 (3) The department or supervisory authority shall notify the Psychiatric Security Review
 14 Board when the person has served the term of incarceration imposed by the court and the
 15 board shall resume exercising active jurisdiction over the person in accordance with ORS
 16 161.315 to 161.351.

17 (4) As used in this section, "supervisory authority" has the meaning given that term in
 18 ORS 144.087.

19 **SECTION 16.** ORS 161.325, as amended by section 9, chapter 89, Oregon Laws 2010, is amended
 20 to read:

21 161.325. (1) *[After entry of judgment of guilty except for insanity]* **When a person is found guilty**
 22 **except for insanity of a felony, or of a misdemeanor during a criminal episode in the course**
 23 **of which the person caused physical injury or risk of physical injury to another,** the court
 24 shall[,]:

25 (a) **Order that a psychiatric or psychological evaluation of the person be performed and**
 26 **a report of the evaluation be provided to the court, if an evaluation was not performed or a**
 27 **report was not provided to the court prior to trial; and**

28 (b) On the basis of the **report described in paragraph (a) of this subsection and the** evidence
 29 given at the trial, or at a separate hearing[,], if requested by either party, *[make]* **enter** an order as
 30 provided in ORS 161.327, **161.328** or 161.329, whichever is appropriate.

31 (2) If the court *[makes]* **enters** an order as provided in ORS 161.327, it shall also:

32 (a) Determine on the record the offense of which the person otherwise would have been con-
 33 victed;

34 (b) State on the record the mental disease or defect on which the defendant relied for the guilty
 35 except for insanity defense; and

36 (c) Make specific findings on whether there is a victim of the crime for which the defendant has
 37 been found guilty except for insanity and, if so, whether the victim wishes to be notified, under ORS
 38 161.326 [(2)], of any *[Psychiatric Security Review Board]* hearings and orders concerning the defend-
 39 ant and of any conditional release, discharge or escape of the defendant.

40 (3) The court shall include any such findings in its order.

41 (4) Except under circumstances described in ORS 137.076 (4), whenever a defendant charged
 42 with any offense listed in ORS 137.076 (1) has been found guilty of that offense except for insanity,
 43 the court shall, in any order entered under ORS 161.327 or 161.329, direct the defendant to submit
 44 to the obtaining of a blood or buccal sample in the manner provided in ORS 137.076.

45 (5) **When a court orders a psychiatric or psychological evaluation under subsection (1)**

1 **of this section for a financially eligible person, the court shall order the public defense ser-**
2 **VICES executive director to pay a reasonable fee for the evaluation from funds available for**
3 **that purpose.**

4
5 **CONFORMING PROVISIONS**
6

7 **SECTION 17.** ORS 21.010 is amended to read:

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

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

21 (3) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings
22 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
23 419A.200, [and] the involuntary commitment of persons determined to be mentally ill under ORS
24 426.135 or persons determined to be mentally retarded under ORS 427.295[,] **or orders of the State**
25 **Board of Parole and Post-Prison Supervision** or on judicial review of orders [of] **entered under**
26 **ORS 161.315 to 161.351** by the Psychiatric Security Review Board **or the Oregon Health Au-**
27 **thority** [under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision].

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

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

34 **SECTION 18.** ORS 21.010, as amended by section 30, chapter 659, Oregon Laws 2009, and sec-
35 tion 37f, chapter 885, Oregon Laws 2009, is amended to read:

36 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a
37 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the
38 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in
39 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State
40 Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal
41 shall recover from the opponent the amount so paid.

42 (2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings
43 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
44 419A.200, [and] the involuntary commitment of persons determined to be mentally ill under ORS
45 426.135 or persons determined to be mentally retarded under ORS 427.295[,] **or orders of the State**

1 **Board of Parole and Post-Prison Supervision** or on judicial review of orders [of] **entered under**
2 **ORS 161.315 to 161.351** by the Psychiatric Security Review Board **or the Oregon Health Au-**
3 **thority** [under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision].

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

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

10 **SECTION 19.** ORS 137.750 is amended to read:

11 137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of
12 a crime, the court shall order on the record in open court as part of the sentence imposed that the
13 defendant may be considered by the executing or releasing authority for any form of temporary
14 leave from custody, reduction in sentence, work release or program of conditional or supervised
15 release authorized by law for which the defendant is otherwise eligible at the time of sentencing,
16 unless the court finds on the record in open court substantial and compelling reasons to order that
17 the defendant not be considered for such leave, release or program.

18 (2) The executing or releasing authority may consider the defendant for a program described in
19 subsection (1) of this section only upon order of the sentencing court appearing in the judgment.

20 (3) As used in this section:

21 (a) "Executing or releasing authority" means the Department of Corrections, State Board of
22 Parole and Post-Prison Supervision, Psychiatric Security Review Board, **Oregon Health Authority**,
23 sentencing court or supervisory authority.

24 (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

25 **SECTION 20.** ORS 151.216 is amended to read:

26 151.216. (1) The Public Defense Services Commission shall:

27 (a) Establish and maintain a public defense system that ensures the provision of public defense
28 services in the most cost-efficient manner consistent with the Oregon Constitution, the United States
29 Constitution and Oregon and national standards of justice.

30 (b) Establish an office of public defense services and appoint a public defense services executive
31 director who serves at the pleasure of the commission.

32 (c) Submit the budget of the commission and the office of public defense services to the Legis-
33 lative Assembly after the budget is submitted to the commission by the director and approved by the
34 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall
35 present the budget to the Legislative Assembly.

36 (d) Review and approve any public defense services contract negotiated by the director before
37 the contract can become effective.

38 (e) Adopt a compensation plan, classification system and personnel plan for the office of public
39 defense services that are commensurate with other state agencies.

40 (f) Adopt policies, procedures, standards and guidelines regarding:

41 (A) The determination of financial eligibility of persons entitled to be represented by appointed
42 counsel at state expense;

43 (B) The appointment of counsel;

44 (C) The fair compensation of counsel appointed to represent a person financially eligible for
45 appointed counsel at state expense;

1 (D) Appointed counsel compensation disputes;

2 (E) Any other costs associated with the representation of a person by appointed counsel in the
3 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,
4 161.346, 161.365, [161.385,] 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,
5 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 **or section**
6 **9 of this 2011 Act** or any other provision of law that expressly provides for payment of such com-
7 pensation, costs or expenses by the commission;

8 (F) Professional qualifications for counsel appointed to represent public defense clients;

9 (G) Performance for legal representation;

10 (H) The contracting of public defense services;

11 (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
12 only if in-state expert witnesses are not available or are more expensive than out-of-state expert
13 witnesses; and

14 (J) Any other matters necessary to carry out the duties of the commission.

15 (g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in
16 cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review
17 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

18 (h) Establish a complaint process that allows district attorneys, criminal defense counsel and the
19 public to file complaints concerning the payment from public funds of nonroutine fees and expenses
20 incurred in cases.

21 (i) Reimburse the State Court Administrator from funds deposited in the subaccount established
22 under ORS 151.225 for the costs of personnel and other costs associated with location of eligibility
23 verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

24 (2) Policies, procedures, standards and guidelines adopted by the commission supersede any
25 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-
26 tor, circuit courts, the Court of Appeals, the Supreme Court [*and*], the Psychiatric Security Review
27 Board **and the Oregon Health Authority** related to the exercise of the commission's administrative
28 responsibilities under this section and transferred duties, functions and powers as they occur.

29 (3) The commission may accept gifts, grants or contributions from any source, whether public
30 or private. However, the commission may not accept a gift, grant or contribution if acceptance
31 would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the
32 Public Defense Services Account created in ORS 151.225 and expended for the purposes for which
33 given or granted.

34 (4) The commission may not:

35 (a) Make any decision regarding the handling of any individual case;

36 (b) Have access to any case file; or

37 (c) Interfere with the director or any member of the staff of the director in carrying out pro-
38 fessional duties involving the legal representation of public defense clients.

39 **SECTION 21.** ORS 162.135 is amended to read:

40 162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

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

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

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

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

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

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

6 (2) "Correctional facility" means any place used for the confinement of persons charged with
7 or convicted of a crime or otherwise confined under a court order and includes but is not limited
8 to a youth correction facility. "Correctional facility" applies to a state hospital or a secure intensive
9 community inpatient facility only as to persons detained therein charged with or convicted of a
10 crime, or detained therein after having been found guilty except for insanity of a crime under ORS
11 161.290 to 161.370.

12 (3) "Currency" means paper money and coins that are within the correctional institution.

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

16 (5) "Escape" means the unlawful departure of a person from custody or a correctional facility.
17 "Escape" includes the unauthorized departure or absence from this state or failure to return to this
18 state by a person who is under the jurisdiction of the Psychiatric Security Review Board **or under**
19 **the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351**. "Escape" does
20 not include failure to comply with provisions of a conditional release in ORS 135.245.

21 (6) "Youth correction facility" means:

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

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

24 (7) "State hospital" means the Oregon State Hospital, Blue Mountain Recovery Center, Eastern
25 Oregon Training Center and any other hospital established by law for similar purposes.

26 (8) "Unauthorized departure" means the unauthorized departure of a person confined by court
27 order in a youth correction facility or a state hospital that, because of the nature of the court order,
28 is not a correctional facility as defined in this section, or the failure to return to custody after any
29 form of temporary release or transitional leave from a correctional facility.

30 **SECTION 22.** ORS 162.155 is amended to read:

31 162.155. (1) A person commits the crime of escape in the second degree if:

32 (a) The person uses or threatens to use physical force escaping from custody; or

33 (b) Having been convicted or found guilty of a felony, the person escapes from custody imposed
34 as a result thereof; or

35 (c) The person escapes from a correctional facility; or

36 (d) While under the jurisdiction of the Psychiatric Security Review Board **or under the juris-**
37 **diction of the Oregon Health Authority under ORS 161.315 to 161.351**, the person departs, is
38 absent from or fails to return to this state without authorization of the board.

39 (2) Escape in the second degree is a Class C felony.

40 **SECTION 23.** ORS 181.740 is amended to read:

41 181.740. (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric
42 Security Review Board and the Judicial Department shall provide the Department of State Police
43 with the minimum information necessary to identify persons who:

44 (a) Have been committed by a court to the Oregon Health Authority under ORS 426.130, based
45 on a finding that the person is dangerous to self or others;

1 (b) Are subject to a court order under ORS 426.130 prohibiting the person from purchasing or
2 possessing a firearm;

3 (c) Have been committed by a court to the Department of Human Services under ORS 427.290,
4 based on a finding that the person is dangerous to self or others;

5 (d) Have been found by a court to lack fitness to proceed under ORS 161.370;

6 (e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;

7 (f) Have been found responsible except for insanity for an act under ORS 419C.411;

8 (g) Have been placed under the jurisdiction of the Psychiatric Security Review Board [*by a*
9 *court*] **or the Oregon Health Authority under ORS 161.315 to 161.351**; or

10 (h) Have been committed to a state hospital or facility under ORS [*161.327, 161.336*] **161.315** to
11 **161.351** or 419C.529 to 419C.544.

12 (2) Upon receipt of the information described in this section, the Department of State Police
13 shall access and maintain the information and transmit the information to the federal government
14 as required under federal law.

15 (3) The Department of Human Services, the Oregon Health Authority, the Psychiatric Security
16 Review Board and the Judicial Department shall enter into agreements with the Department of State
17 Police describing the access to information provided under this section.

18 (4) The Department of State Police shall adopt rules:

19 (a) After consulting with the Department of Human Services, the Oregon Health Authority, the
20 Psychiatric Security Review Board and the Judicial Department, describing the type of information
21 provided to the Department of State Police under this section; and

22 (b) Describing the method and manner of maintaining the information described in this section
23 and transmitting the information to the federal government.

24 (5) As used in this section, “minimum information necessary” means data elements or nominal
25 information that is necessary or required under federal law to accurately identify a person described
26 in this section and includes the person’s name, date of birth, gender and reference information that
27 identifies the originating agency or court and enables the originating agency or court to locate an
28 underlying record or file of a person described in this section. “Minimum information necessary”
29 does not include any medical, psychiatric or psychological information, case histories or files of a
30 person described in this section or any record or file of an originating agency or court.

31 **SECTION 24.** ORS 183.315 is amended to read:

32 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,
33 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created
34 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,
35 Department of Consumer and Business Services with respect to its functions under ORS chapters
36 654 and 656, **State Board of Parole and Post-Prison Supervision**, Psychiatric Security Review
37 Board or [*State Board of Parole and Post-Prison Supervision*] **Oregon Health Authority with re-**
38 **spect to its functions under ORS 161.315 to 161.351.**

39 (2) This chapter does not apply with respect to actions of the Governor authorized under ORS
40 chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

41 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and
42 183.460 do not apply to the Employment Appeals Board or the Employment Department.

43 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-
44 tent that a formal finding of the United States Secretary of Labor is made that such provision con-
45 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent

1 to continued certification by the United States Secretary of Labor of the state's law.

2 (5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490
3 to 183.500 do not apply to orders issued to persons who:

4 (a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Cor-
5 rections or are otherwise confined in a Department of Corrections facility; or

6 (b) Seek to visit an inmate confined in a Department of Corrections facility.

7 (6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do
8 not apply to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in
9 ORS 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled
10 to seek judicial review of an order of the commission.

11 (7) The provisions of this chapter do not apply to the suspension, cancellation or termination
12 of an apprenticeship or training agreement under ORS 660.060.

13 (8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings con-
14 ducted under rules adopted by the Secretary of State under ORS 246.190.

15 **SECTION 25.** ORS 183.635 is amended to read:

16 183.635. (1) Except as provided in this section, all agencies must use administrative law judges
17 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-
18 tested case hearings, without regard to whether those hearings are subject to the procedural re-
19 quirements for contested case hearings.

20 (2) The following agencies need not use administrative law judges assigned from the office:

21 (a) Attorney General.

22 (b) Boards of stewards appointed by the Oregon Racing Commission.

23 (c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

24 (d) Department of Corrections.

25 (e) Department of Education, State Board of Education and Superintendent of Public Instruction.

26 (f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.
27 722(c) and disability determination cases under 42 U.S.C. 405.

28 (g) Department of Revenue.

29 (h) Department of State Police.

30 (i) Employment Appeals Board.

31 (j) Employment Relations Board.

32 (k) Energy Facility Siting Council.

33 (L) Fair Dismissal Appeals Board.

34 (m) Governor.

35 (n) Land Conservation and Development Commission.

36 (o) Land Use Board of Appeals.

37 (p) Local government boundary commissions created pursuant to ORS 199.430.

38 (q) Oregon University System and institutions of higher education listed in ORS 352.002.

39 (r) Oregon Youth Authority.

40 (s) Psychiatric Security Review Board.

41 **(t) The Oregon Health Authority for hearings conducted under ORS 161.315 to 161.351.**

42 [(t)] **(u) Public Utility Commission.**

43 [(u)] **(v) State Accident Insurance Fund Corporation.**

44 [(v)] **(w) State Apprenticeship and Training Council.**

45 [(w)] **(x) State Board of Parole and Post-Prison Supervision.**

1 [(x)] (y) State Land Board.

2 [(y)] (z) State Treasurer.

3 [(z)] (aa) Wage and Hour Commission.

4 (3) The Workers' Compensation Board is exempt from using administrative law judges assigned
5 from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except
6 as specifically provided in this subsection, the Department of Consumer and Business Services must
7 use administrative law judges assigned from the office only for contested cases arising out of the
8 department's powers and duties under:

9 (a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

10 (b) ORS chapter 455;

11 (c) ORS chapter 674;

12 (d) ORS chapters 706 to 716;

13 (e) ORS chapter 717;

14 (f) ORS chapters 723, 725 and 726; and

15 (g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750.

16 (4) Notwithstanding any other provision of law, in any proceeding in which an agency is re-
17 quired to use an administrative law judge assigned from the office, an officer or employee of the
18 agency may not conduct the hearing on behalf of the agency.

19 (5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to
20 use an administrative law judge assigned from the office if:

21 (a) Federal law requires that a different administrative law judge or hearing officer be used; or

22 (b) Use of an administrative law judge from the office could result in a loss of federal funds.

23 (6) Notwithstanding any other provision of this section, the Department of Environmental
24 Quality must use administrative law judges assigned from the office only for contested case hearings
25 conducted under the provisions of ORS 183.413 to 183.470.

26 **SECTION 26.** ORS 192.690 is amended to read:

27 192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of [*the State Board of Parole*
28 *and Post-Prison Supervision,*] **the Oregon Health Authority conducted under ORS 161.315 to**
29 **161.351**, the Psychiatric Security Review Board, **the State Board of Parole and Post-Prison**
30 **Supervision**, state agencies conducting hearings on contested cases in accordance with the pro-
31 visions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment
32 Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance
33 committee operating under the provisions of ORS 9.568, meetings of the personal and practice man-
34 agement assistance committees operating under the provisions of ORS 9.568, the county multidisci-
35 plinary child abuse teams required to review child abuse cases in accordance with the provisions
36 of ORS 418.747, the child fatality review teams required to review child fatalities in accordance with
37 the provisions of ORS 418.785, the peer review committees in accordance with the provisions of ORS
38 441.055, mediation conducted under ORS 36.250 to 36.270, any judicial proceeding, meetings of the
39 Oregon Health and Science University Board of Directors or its designated committee regarding
40 candidates for the position of president of the university or regarding sensitive business, financial
41 or commercial matters of the university not customarily provided to competitors related to fi-
42 nancings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or
43 substantial change in use of, significant real or personal property, or related to health system
44 strategies, or to Oregon Health and Science University faculty or staff committee meetings.

45 (2) Because of the grave risk to public health and safety that would be posed by misappropri-

1 ation or misapplication of information considered during such review and approval, ORS 192.610 to
2 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting
3 Council pursuant to ORS 469.530.

4 **SECTION 27.** ORS 278.315 is amended to read:

5 278.315. (1) The Oregon Health Authority may provide tort liability coverage through the
6 Oregon Department of Administrative Services to any county or private community care provider
7 that has contracted with the authority to provide supervision, care, treatment or training of persons
8 under the jurisdiction of the Psychiatric Security Review Board **or the authority under ORS**
9 **161.315 to 161.351**. Counties or private community care providers, and the officers and employees
10 of those counties and providers acting within the scope of their employment, may be covered to the
11 extent that any tort claim arises out of the provision of supervision, care, treatment or training of
12 persons pursuant to the terms of the contract. Tort liability coverage under this section must be in
13 writing, and may be part of the contract between the authority and the county or private community
14 care provider. The coverage provided under this section shall be self-insurance by the State of
15 Oregon to the limits contained in ORS 30.260 to 30.300.

16 (2) Counties or private community care providers that have contracted with the authority to
17 provide supervision, care, treatment or training of persons under the jurisdiction of the Psychiatric
18 Security Review Board **or the authority under ORS 161.315 to 161.351**, and the officers and em-
19 ployees of those counties and providers, are not agents of the authority for the purposes of ORS
20 30.260 to 30.300.

21 **SECTION 28.** ORS 430.695 is amended to read:

22 430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any
23 source, except client resources applied toward the cost of care in group homes for persons with
24 mental retardation or mental illness and client resources and third-party payments for community
25 psychiatric inpatient care, received by a community mental health program are not an offset to the
26 costs of the services and may not be applied to reduce the program's eligibility for state funds,
27 providing the funds are expended for mental health services approved by the Oregon Health Au-
28 thority.

29 (2) Within the limits of available funds, the authority may contract for specialized, statewide and
30 regional services including but not limited to group homes for persons with mental retardation or
31 mental or emotional disturbances, day and residential treatment programs for children and adoles-
32 cents with mental or emotional disturbances and community services for clients of the Psychiatric
33 Security Review Board **or the authority under ORS 161.315 to 161.351**.

34 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the
35 Social Security Act by the Department of Human Services or the Oregon Health Authority, for
36 mental health services or developmental disabilities services and interest earned on those fees and
37 reimbursements shall be retained by the community mental health program or community develop-
38 mental disabilities program and expended for any service that meets the standards of ORS 430.630.

39 **SECTION 29.** ORS 809.419 is amended to read:

40 809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person
41 if the department requests the person to submit to examination under ORS 807.340 and the person
42 fails to appear within a reasonable length of time after being notified to do so or fails to satisfac-
43 torily complete the required examination. A suspension under this subsection shall continue until
44 the examination required by the department is successfully completed.

45 (b) Upon suspension under this subsection, the department may issue an identification card to

1 the person for identification purposes as described under ORS 807.400.

2 (2) The department shall suspend the driving privileges of a person if the department requests
3 the person to obtain medical clearance under ORS 807.070 or 807.090 and the person fails to do so.
4 The suspension under this subsection shall continue until the required medical clearance is received
5 by the department.

6 (3)(a) The department may suspend the driving privileges of a person who is incompetent to
7 drive a motor vehicle because of a mental or physical condition or impairment that affects the
8 person's ability to safely operate a motor vehicle upon the highways.

9 (b) A suspension under this subsection shall continue for a period determined by the department
10 and shall be subject to any conditions the department determines to be necessary.

11 (c) The department may impose an immediate suspension of driving privileges of any person
12 described in paragraph (a) of this subsection without hearing and without receiving a record of the
13 conviction of the person of a crime if the department has reason to believe that the person may
14 endanger people or property if the person's driving privileges are not immediately suspended. A
15 suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. A person
16 who is denied eligibility under ORS 807.090 is entitled to a hearing under ORS 809.440.

17 (4)(a) Whenever the department has reason to believe an individual with a motorcycle endorse-
18 ment under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke the
19 endorsement.

20 (b) Upon revocation under this subsection, the endorsed license shall be surrendered to the de-
21 partment.

22 (c) Upon surrender of the endorsed license, the department may issue a license without
23 endorsement for the unexpired period of the license.

24 (5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should
25 not drive, the department shall immediately suspend the driving privileges of the released person.
26 A suspension under this subsection is subject to administrative review under ORS 809.440 and shall
27 continue until such time as the person produces a judicial judgment of competency or a certificate
28 from the superintendent of the hospital that the person is competent, or establishes eligibility under
29 ORS 807.090.

30 (6) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense
31 has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Se-
32 curity Review Board **or the Oregon Health Authority under ORS 161.315 to 161.351**, the depart-
33 ment shall immediately suspend the driving privileges of the person. A suspension under this
34 subsection is subject to administrative review under ORS 809.440 and shall continue until such time
35 as the person establishes eligibility under ORS 807.090.

36 **SECTION 30.** ORS 810.375 is amended to read:

37 810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic of-
38 fense, including all local and municipal judicial officers in this state:

39 (a) Shall keep a full record of every case in which a person is charged with any such offense.

40 (b) Shall send the Department of Transportation an abstract of conviction for any person who
41 is convicted.

42 (c) Shall send the department a copy of any final judgment of conviction of any person which
43 results in mandatory suspension or revocation of driving privileges or commercial driver license
44 under ORS 809.404, 809.407, 809.409, 809.411, 809.413, 813.400 or 813.403.

45 (d) Shall send the department a copy of any final judgment finding a person charged with a

1 traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security
2 Review Board **or the Oregon Health Authority under ORS 161.315 to 161.351.**

3 (2) The department shall keep such records in its office, and they shall be open to the inspection
4 of any person during reasonable business hours.

5 (3) To comply with this section, a judge or clerk must comply with the following:

6 (a) Any information required by this section to be sent to the department must be sent within
7 the time provided under ORS 810.370 and must include information required by ORS 810.370.

8 (b) Information shall not be sent to the department under this section concerning convictions
9 excluded from ORS 810.370.

10
11 **MISCELLANEOUS PROVISIONS**
12

13 **SECTION 31. The unit captions used in this 2011 Act are provided only for the conven-**
14 **ience of the reader and do not become part of the statutory law of this state or express any**
15 **legislative intent in the enactment of this 2011 Act.**

16 **SECTION 32. Sections 9 and 15 of this 2011 Act and ORS 161.327 are added to and made**
17 **a part of ORS 161.315 to 161.351.**

18 **SECTION 33. (1) Sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010,**
19 **137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.336, 161.341, 161.346, 161.351,**
20 **161.375, 161.385, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690,**
21 **278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to 14 and 16 to 30 of this 2011 Act**
22 **become operative on January 1, 2012.**

23 (2) The Psychiatric Security Review Board and the Oregon Health Authority may adopt
24 rules or take any other action before the operative date specified in subsection (1) of this
25 section that is necessary to enable the board or authority to exercise, on or after the oper-
26 ative date specified in subsection (1) of this section, all the duties, functions and powers
27 conferred on the board or authority by sections 9 and 15 of this 2011 Act and the amend-
28 ments to ORS 21.010, 137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.336, 161.341,
29 161.346, 161.351, 161.375, 161.385, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315,
30 183.635, 192.690, 278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to 14 and 16 to 30
31 of this 2011 Act.

32 (3) On the operative date specified in subsection (1) of this section, the Oregon Health
33 Authority shall exercise jurisdiction over persons committed to a state hospital or secure
34 intensive community inpatient facility under ORS 161.315 to 161.351 in accordance with
35 sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010, 137.750, 151.216, 161.325,
36 161.326, 161.327, 161.328, 161.329, 161.336, 161.341, 161.346, 161.351, 161.375, 161.385, 161.390,
37 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and
38 810.375 by sections 1 to 8, 10 to 14 and 16 to 30 of this 2011 Act.

39 **SECTION 34. This 2011 Act being necessary for the immediate preservation of the public**
40 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
41 **on its passage.**