

(Including Amendments to Resolve Conflicts)

## B-Engrossed Senate Bill 420

Ordered by the Senate June 24  
Including Senate Amendments dated April 27 and June 24

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.

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 **if person is found guilty except for insanity of certain crimes.**

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*] **is committed to state hospital or secure intensive community inpatient facility.** Requires execution of criminal sentence upon conditional release of person from jurisdiction of Oregon Health Authority **or Psychiatric Security Review Board.**

Becomes operative on January 1, 2012.

**Increases, for biennium beginning July 1, 2011, General Fund appropriations made to Department of Justice, Oregon Health Authority and Psychiatric Security Review Board.**

**Increases, for biennium beginning July 1, 2011, limitation on expenditures from fees, moneys and other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Department of Justice.**

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, 161.332, 161.336, 161.341, 161.346, 161.351, 161.375,  
4 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690,  
5 278.315, 430.695, 809.419 and 810.375; appropriating money; and declaring an emergency.

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

### AGENCY HEARINGS AND JURISDICTION

7  
8  
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-*  
12 *plication for discharge, conditional release, commitment or modification filed pursuant to ORS 161.336,*  
13 *161.341 or 161.351 and as otherwise required by ORS 161.336 to 161.351 and*] **or the Oregon Health**  
14 **Authority conducts a hearing under ORS 161.315 to 161.351, the agency conducting the hear-**  
15 **ing shall enter an order and make findings** [*on the issues before it which may include:*] **in support**  
16 **of the order. If the agency finds that a person under the jurisdiction of the agency:**

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

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

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

14 **(2)(a) Except as otherwise provided in section 15 of this 2011 Act, the Psychiatric Security**  
 15 **Review Board shall exercise exclusive jurisdiction over a tier one offender until the board**  
 16 **discharges the person from the jurisdiction of the board or the maximum period of jurisdic-**  
 17 **tion expires.**

18 **(b) When the board orders a tier two offender committed to a state hospital, or a secure**  
 19 **intensive community inpatient facility, under ORS 161.315 to 161.351, the order shall transfer**  
 20 **jurisdiction over the person to the Oregon Health Authority.**

21 **(c) When the authority orders a tier two offender conditionally released under ORS**  
 22 **161.315 to 161.351, the order shall transfer jurisdiction over the person to the board.**

23 **(d) The authority shall assume jurisdiction over a tier two offender when the person is**  
 24 **returned to a state hospital, or to a secure intensive community inpatient facility, under**  
 25 **ORS 161.336 (4).**

26 **[(2)] (3) To assist the agency in making the determination described in subsection (1) of**  
 27 **this section, the agency exercising jurisdiction over the person may,** at any time, *[the board*  
 28 *may]* appoint a psychiatrist or licensed psychologist to examine the person and to submit a report  
 29 to the *[board. Reports filed with the board pursuant to the examination shall include, but need not be*  
 30 *limited to,]* **agency. The report must include** an opinion as to the mental condition of the person  
 31 *[and]*, whether the person presents a substantial danger to others*[,]* and whether the person could  
 32 be adequately controlled with treatment as a condition of release. *[To facilitate the examination of*  
 33 *the person, the board may order the person placed in the temporary custody of any state hospital or*  
 34 *other suitable facility.]*

35 **[(3)] (4) The [board] agency exercising jurisdiction over the person may make the determi-**  
 36 **nation regarding discharge or conditional release based upon the written reports submitted pursuant**  
 37 **to this section. If the authority or any member of the board desires further information from the**  
 38 **examining psychiatrist or licensed psychologist who submitted the report, [these persons shall be**  
 39 **summoned by the board] the agency shall summon the person to give testimony. The [board]**  
 40 **agency shall consider all evidence available to it [which] that is material, relevant and reliable**  
 41 **regarding the issues before the [board. Such] agency. The evidence may include but is not limited**  
 42 **to the record of trial, the information supplied by the attorney representing the state or by any**  
 43 **other interested party, including the person, and information concerning the person's mental condi-**  
 44 **tion and the entire psychiatric and criminal history of the person. All evidence of a type commonly**  
 45 **relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible**

1 at hearings. Testimony shall be taken upon oath or affirmation of the witness from whom received.  
2 The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

3 [(4)] (5) The [board] **agency exercising jurisdiction over the person** shall furnish to the person  
4 about whom the hearing is being conducted, the attorney representing the person, the Attorney  
5 General, the district attorney and the court or department of the county from which the person was  
6 committed written notice of any hearing pending under this section within a reasonable time prior  
7 to the hearing. The notice shall include:

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

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

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

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

14 [(5)] (6) Prior to the commencement of [a] **the** hearing, the [board or presiding officer] **agency**  
15 shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).

16 [(6)] (7) At the hearing, the person about whom the hearing is being held shall have the right:

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

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

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

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

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

26 [(7)] (8) A record shall be kept of all hearings [before the board, except board] **conducted under**  
27 **ORS 161.315 to 161.351, except for** deliberations.

28 [(8)] (9) Upon request of any party [before the board], or on [its own motion, the board may con-  
29 tinue a hearing] **motion of the agency conducting the hearing, the hearing may be continued**  
30 for a reasonable period not to exceed 60 days to obtain additional information or testimony or for  
31 other good cause shown.

32 [(9)] (10) Within 15 days following the conclusion of the hearing, the [board] **agency** shall pro-  
33 vide to the person, the attorney representing the person, the Attorney General or other attorney  
34 representing the state, if any, written notice of the [board's decision] **order entered by the**  
35 **agency**.

36 [(10)] (11) The burden of proof on all issues at hearings [of the board] **under ORS 161.315 to**  
37 **161.351** shall be by a preponderance of the evidence.

38 [(11)] (12) If the [board] **agency conducting the hearing** determines that the person about  
39 whom the hearing is being held is financially eligible, the [board] **agency** shall appoint suitable  
40 counsel to represent the person. Counsel so appointed shall be an attorney who satisfies the pro-  
41 fessional qualifications established by the Public Defense Services Commission under ORS 151.216.  
42 The public defense services executive director shall determine and allow fair compensation for  
43 counsel appointed under this subsection and the reasonable expenses of the person in respect to the  
44 hearing. Compensation payable to appointed counsel shall not be less than the applicable compen-  
45 sation level established under ORS 151.216. The compensation and expenses so allowed shall be paid

1 by the public defense services executive director from funds available for the purpose.

2 [(12)] (13) The Attorney General may represent the state at contested hearings [*before the*  
3 *board*] **under ORS 161.315 to 161.351** unless the district attorney of the county from which the  
4 person was committed elects to represent the state. The district attorney of the county from which  
5 the person was committed shall cooperate with the Attorney General in securing the material nec-  
6 essary for presenting a contested hearing [*before the board*]. If the district attorney elects to repre-  
7 sent the state, the district attorney shall give timely written notice of such election to the Attorney  
8 General, the [*board*] **agency conducting the hearing** and the attorney representing the person.

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

10 161.336. (1)(a) [*If the Psychiatric Security Review Board determines that the person presents a*  
11 *substantial danger to others but can be adequately controlled with supervision and treatment if condi-*  
12 *tionally released and that necessary supervision and treatment are available, the board may order the*  
13 *person conditionally released.*] **When a person is conditionally released under ORS 161.315 to**  
14 **161.351, the person is** subject to those supervisory orders of the **Psychiatric Security Review**  
15 **Board** as are in the best interests of justice, the protection of society and the welfare of the person.

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

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

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

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

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

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

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

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

45 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the

1 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS  
2 192.501 to 192.505.

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

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

38 (c) **Within 20 days following the return of the person to a state hospital or secure in-**  
39 **tensive community inpatient facility under this subsection, the agency having jurisdiction**  
40 **over the person shall conduct a hearing. The agency shall provide notice of the hearing to**  
41 **the person, the attorney representing the person and the Attorney General. The state must**  
42 **prove by a preponderance of the evidence the person's unfitness for conditional release. The**  
43 **hearing shall be conducted in accordance with ORS 161.346.**

44 [(7)(a)] (5)(a) Any person conditionally released under this section may apply to the board for  
45 discharge from or modification of an order of conditional release on the ground that the person is

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

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

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

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

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

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

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

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

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

1 [board] **agency**, copies of the report shall be sent to the Attorney 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] **agency having ju-**  
4 **risdiction over the person** on discharge or conditional release. The results of the examination  
5 shall be in writing and filed with the [board] **agency**, and shall include, but need not be limited to,  
6 an opinion as to the mental condition of the person, whether the person presents a substantial  
7 danger to others and whether the person could be adequately controlled with treatment as a con-  
8 dition of release.

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

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

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

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

20 [(5)] (4) When application is made under subsection [(4)] (3) of this section, the [board] **agency**  
21 **having jurisdiction over the person** shall require that a report from the superintendent of the  
22 hospital or the director of the secure intensive community inpatient facility be prepared and trans-  
23 mitted as provided in subsection [(2)] (1) of this section. The applicant must prove by a preponder-  
24 ance of the evidence the applicant's fitness for discharge or conditional release under the standards  
25 of subsection [(4)] (3) of this section, unless more than two years has passed since the state had the  
26 burden of proof on that issue, in which case the state shall have the burden of proving by a pre-  
27 ponderance of the evidence the applicant's lack of fitness for discharge or conditional release. Ap-  
28 plications for discharge or conditional release under subsection [(4)] (3) of this section [shall] **may**  
29 not be filed more often than once every six months commencing with the date of the initial [board]  
30 **agency** hearing.

31 [(6)] (5) The [board] **agency having jurisdiction over the person** is not required to hold a  
32 hearing on a first application under subsection [(4)] (3) of this section any sooner than 90 days after  
33 the initial hearing. [However,] Hearings resulting from any subsequent requests shall be held within  
34 60 days of the filing of the application.

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

40 (6)(a) **In no case shall a person committed by the court under ORS 161.327 to a state**  
41 **hospital, or to a secure intensive community inpatient facility, be held in the hospital or fa-**  
42 **ility for more than 90 days from the date of the court's commitment order without an initial**  
43 **hearing before the agency having jurisdiction over the person to determine whether the**  
44 **person should be conditionally released or discharged.**

45 (b) In no case shall a person be held pursuant to this section for a period of time exceeding two

1 years without a hearing before the [board] **agency** to determine whether the person should be con-  
2 ditionally released or discharged.

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

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

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

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

20 **(3) In determining whether a person should be committed to a state hospital or secure**  
21 **intensive community inpatient facility, conditionally released or discharged, the board and**  
22 **the authority shall have as their primary concern the protection of society.**

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

24 161.390. (1) The Oregon Health Authority shall [promulgate] **adopt** rules for the assignment of  
25 persons to state mental hospitals or secure intensive community inpatient facilities under ORS  
26 [161.341] **161.315 to 161.351**, 161.365 and 161.370 and for establishing standards for evaluation and  
27 treatment of persons committed to a state hospital or a secure intensive community inpatient  
28 facility[, designated by the authority,] or ordered to a community mental health program under ORS  
29 161.315 to 161.351.

30 (2) [Whenever] **When** the Psychiatric Security Review Board **or the authority** requires the  
31 preparation of a predischarge or preconditional release plan before a hearing or as a condition of  
32 granting discharge or conditional release for a person committed under ORS [161.327 or 161.341]  
33 **161.315 to 161.351** to a state hospital or a secure intensive community inpatient facility for custody,  
34 care and treatment, the authority is responsible for and shall prepare the plan.

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

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

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



1       **(6) The evidentiary phase of a hearing conducted by the board or the authority under**  
2 **ORS 161.315 to 161.351 is not a deliberation for purposes of ORS 192.690.**

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

5       161.326. [(1) Whenever a person already under the jurisdiction of the Psychiatric Security Review  
6 Board commits a new crime, the court or the board shall make the findings described in ORS 161.325  
7 (2).]

8       [(2)] (1) If the trial court [or], the **Psychiatric Security Review Board or the Oregon Health**  
9 **Authority** determines that a victim desires notification as described in ORS 161.325 (2), the  
10 [board] **agency having jurisdiction over the person** shall make a reasonable effort to notify the  
11 victim of [board] hearings and orders, conditional release, discharge or escape. Nothing in this sub-  
12 section authorizes the [board] **agency** to disseminate information that is otherwise privileged by law.

13       [(3)] (2) When the [board] **agency** conducts a hearing involving a person found guilty except for  
14 insanity of a crime for which there is a victim, the [board] **agency** shall afford the victim an op-  
15 portunity to be heard, either orally or in writing, at the hearing.

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

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

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

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

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

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

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

32       161.375. (1) When a patient, who has been placed at [*the Oregon State Hospital*] **a state hospital**  
33 for evaluation, care, custody and treatment under [*the jurisdiction of the Psychiatric Security Review*  
34 Board] **ORS 161.315 to 161.351** or by court order under ORS 161.315, 161.365 or 161.370, has escaped  
35 or is absent without authorization from [*the Oregon State Hospital*] **the hospital** or from the custody  
36 of any person in whose charge the superintendent has placed the patient, the superintendent may  
37 order the arrest and detention of the patient.

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

45       (3) The superintendent or the Director of the Oregon Health Authority may issue an order under

1 this section based upon a reasonable belief that grounds exist for issuing the order. When reason-  
2 able, the superintendent or the Director of the Oregon Health Authority shall investigate to ascer-  
3 tain whether such grounds exist.

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

9 (5) As used in this section, "superintendent" means the superintendent of the [*Oregon State*  
10 *Hospital*] **state hospital to which the person was committed** or the superintendent's authorized  
11 representative.

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

13 161.385. (1) There is hereby created a Psychiatric Security Review Board consisting of 10 mem-  
14 bers appointed by the Governor and subject to confirmation by the Senate under section 4, Article  
15 III of the Oregon Constitution.

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

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

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

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

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

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

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

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

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

31 (i) Two members of the general public.

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

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

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

45 (6) The board consists of two five-member panels. The adult panel is responsible for persons

1 placed under the board's jurisdiction under ORS [161.327] **161.315 to 161.351** and 419C.544 and con-  
2 sists of those members appointed under subsection (2)(a) to (d) of this section and one of the public  
3 members. The juvenile panel is responsible for young persons placed under the board's jurisdiction  
4 under ORS 419C.529 and consists of those members appointed under subsection (2)(e) to (h) of this  
5 section and the other public member.

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

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

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

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

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

29 *[(c) The court may affirm, reverse or remand the order on the same basis as provided in ORS*  
30 *183.482 (8).]*

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

33 **SECTION 9. (1) When a person over whom the Psychiatric Security Review Board or the**  
34 **Oregon Health Authority exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is**  
35 **adversely affected or aggrieved by a final order of the board or authority, the person is en-**  
36 **titled to judicial review of the final order. The person is entitled on judicial review to suitable**  
37 **counsel possessing skills and experience commensurate with the nature and complexity of**  
38 **the case. If the person is financially eligible, suitable counsel shall be appointed by the re-**  
39 **viewing court in the manner provided in ORS 138.500 (1). If the person is financially eligible,**  
40 **the public defense services executive director shall determine and pay, as provided in ORS**  
41 **138.500, the cost of briefs, any other expenses of the person necessary to the review and**  
42 **compensation for counsel appointed for the person. The costs, expenses and compensation**  
43 **so allowed shall be paid as provided in ORS 138.500.**

44 **(2) The order and the proceedings underlying the order are subject to review by the Court**  
45 **of Appeals upon petition to that court filed within 60 days of the order for which review is**

1 sought. The agency that conducted the hearing shall submit to the court the record of the  
2 proceeding or, if the person agrees, a shortened record. The record may include a certified  
3 true copy of a tape recording of the proceedings at a hearing in accordance with ORS 161.346.  
4 A copy of the record transmitted shall be delivered to the person by the agency.

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

7 (4) The filing of the petition does not stay the order of the agency, but the agency or the  
8 Court of Appeals may order a stay upon application on such terms as are deemed proper.

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

10 161.395. (1) Upon request of any party to a hearing before the **Psychiatric Security Review**  
11 **Board or the Oregon Health Authority under ORS 161.315 to 161.351**, the [board or its designated  
12 representatives] **agency conducting the hearing** shall issue, or [the board] on its own motion may  
13 issue, subpoenas requiring the attendance and testimony of witnesses.

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

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

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

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

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

36 161.400. If, at any time after the commitment of a person to a state hospital or a secure intensive  
37 community inpatient facility under ORS [161.341 (1)] **161.315 to 161.351**, the superintendent of the  
38 hospital or the director of the facility is of the opinion that a leave of absence from the hospital or  
39 facility would be therapeutic for the person and that such leave would pose no substantial danger  
40 to others, the superintendent or director may authorize such leave for up to 48 hours in accordance  
41 with rules adopted by the [Psychiatric Security Review Board] **agency having jurisdiction over the**  
42 **person**. However, the superintendent or director, before authorizing the leave of absence, shall first  
43 notify the [board] **agency** for the purposes of ORS 161.326 [(2)].

44 **SECTION 11a.** ORS 161.332 is amended to read:

45 161.332. As used in ORS 161.315 to 161.351 and 161.385 to 161.395[,]:

1 (1) "Conditional release" includes, but is not limited to, the monitoring of mental and physical  
2 health treatment.

3 (2) "Tier one offender" means a person who has been found guilty except for insanity of  
4 a tier one offense.

5 (3) "Tier one offense" means:

6 (a) Aggravated murder as defined in ORS 163.095;

7 (b) Attempt or conspiracy to commit aggravated murder as defined in ORS 163.095;

8 (c) Murder as defined in ORS 163.115;

9 (d) Attempt or conspiracy to commit murder as defined in ORS 163.115;

10 (e) Manslaughter in the first degree as defined in ORS 163.118;

11 (f) Manslaughter in the second degree as defined in ORS 163.125;

12 (g) Assault in the first degree as defined in ORS 163.185;

13 (h) Assault in the second degree as defined in ORS 163.175;

14 (i) Kidnapping in the first degree as defined in ORS 163.235;

15 (j) Kidnapping in the second degree as defined in ORS 163.225;

16 (k) Rape in the first degree as defined ORS 163.375;

17 (L) Rape in the second degree as defined in ORS 163.365;

18 (m) Sodomy in the first degree as defined in ORS 163.405;

19 (n) Sodomy in the second degree as defined in ORS 163.395;

20 (o) Unlawful sexual penetration in the first degree as defined ORS 163.411;

21 (p) Unlawful sexual penetration in the second degree as defined ORS 163.408;

22 (q) Sexual abuse in the first degree as defined in ORS 163.427;

23 (r) Robbery in the first degree as defined in ORS 164.415;

24 (s) Robbery in the second degree as defined in ORS 164.405;

25 (t) Arson in the first degree as defined in ORS 164.325;

26 (u) Using a child in a display of sexually explicit conduct as defined in ORS 163.670;

27 (v) Compelling prostitution as defined in ORS 167.017; or

28 (w) Aggravated vehicular homicide as defined in ORS 163.149.

29 (4) "Tier two offender" means a person who has been found guilty except for insanity  
30 only of offenses that are not tier one offenses.

31 **SECTION 11b.** ORS 161.387 is amended to read:

32 161.387. (1) The Psychiatric Security Review Board, by rule pursuant to ORS 183.325 to 183.410  
33 and not inconsistent with law, may implement its policies and set out its procedure and practice  
34 requirements and may promulgate such interpretive rules as the board deems necessary or appro-  
35 priate to carry out its statutory responsibilities.

36 (2) Administrative meetings of the board [*and the evidentiary phase of board hearings*] are not  
37 deliberations for the purposes of ORS 192.690.

## 38 COURT PROVISIONS

39  
40  
41 **SECTION 12.** ORS 161.327 is amended to read:

42 161.327. [(1)(a) *Following the entry of a judgment pursuant to ORS 161.319 and the dispositional*  
43 *determination under ORS 161.325, if the court finds that the person would have been guilty of a felony,*  
44 *or of a misdemeanor during a criminal episode in the course of which the person caused physical injury*  
45 *or risk of physical injury to another, the court shall order that a psychiatric or psychological evaluation*

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

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

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

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

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

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

18 *[(a) If the court finds that the person presents a substantial danger to others and is not a proper*  
19 *subject for conditional release, the court shall order the person committed to a state hospital designated*  
20 *by the authority if the person is at least 18 years of age, or to a secure intensive community inpatient*  
21 *facility designated by the authority if the person is under 18 years of age, for custody, care and treat-*  
22 *ment pending hearing before the board in accordance with ORS 161.341 to 161.351.]*

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

28 **(a) If the court finds that the person is not a proper subject for conditional release, the**  
29 **court shall order the person committed to a state hospital or, if the person is under 18 years**  
30 **of age, to a secure intensive community inpatient facility, for custody, care and treatment.**  
31 **When the court orders a person committed under this paragraph, the court shall place the**  
32 **person under the jurisdiction of:**

33 **(A) The Psychiatric Security Review Board, if the person is a tier one offender.**

34 **(B) The Oregon Health Authority, if the person is a tier two offender.**

35 **(b) If the court finds that the person [presents a substantial danger to others but that the**  
36 **person] can be adequately controlled with supervision and treatment if conditionally released and**  
37 **that necessary supervision and treatment are available, the court [may] shall order the person**  
38 **conditionally released, subject to those supervisory orders of the court as are in the best interests**  
39 **of justice, the protection of society and the welfare of the person. The court shall designate a person**  
40 **or state, county or local agency to supervise the person upon release, subject to those conditions**  
41 **as the court directs in the order for conditional release. Prior to the designation, the court shall**  
42 **notify the person or agency to whom conditional release is contemplated and provide the person or**  
43 **agency an opportunity to be heard before the court. After receiving an order entered under this**  
44 **paragraph, the person or agency designated shall assume supervision of the person pursuant to the**  
45 **direction of the Psychiatric Security Review Board. The person or agency designated as supervisor**

1 shall be required to report in writing no less than once per month to the board concerning the  
2 supervised person's compliance with the conditions of release.

3 [(3) *For purposes of this section, a person affected by a mental disease or defect in a state of re-*  
4 *mission is considered to have a mental disease or defect requiring supervision when the disease may,*  
5 *with reasonable medical probability, occasionally become active and, when active, render the person a*  
6 *danger to others.*]

7 [(4) (2) In determining whether a person should be conditionally released, the court may order  
8 evaluations, examinations and compliance as provided in ORS 161.336 [(4) (3) and 161.346 [(2)]  
9 (3)].]

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

13 [(6) (3) Upon placing a person on conditional release, the court shall notify the board in writing  
14 of the court's conditional release order, the supervisor appointed, and all other conditions of release,  
15 and the person shall be on conditional release pending hearing before the board [*in accordance with*  
16 *ORS 161.336 to 161.351*]. Upon compliance with [*this subsection and subsections (1) and (2) of*] this  
17 section, the court's jurisdiction over the person is terminated [*and the board assumes jurisdiction*  
18 *over the person*].

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

27 [(8) (5) *Upon placing a person under the jurisdiction of the board*] **Following entry of the order**  
28 **described in subsection (1) of this section**, the court shall notify the person of the right to appeal  
29 and the right to a hearing before the [*board*] **agency having jurisdiction over the person** in ac-  
30 cordance with ORS 161.336 [(7) (5) and 161.341 [(4) (3)].

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

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

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

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

44 161.329. [*Following the entry of a judgment pursuant to ORS 161.319 and the dispositional deter-*  
45 *mination under ORS 161.325,*] **When a person is found guilty except for insanity of a crime, the**

1 **court shall order the person discharged from custody** if the court finds that the person is no  
2 longer affected by mental disease or defect, or, if so affected, no longer presents a substantial danger  
3 to others and is not in need of care, supervision or treatment[, *the court shall order the person dis-*  
4 *charged from custody*].

5 **SECTION 15. (1) When a person who is committed to a state hospital or a secure inten-**  
6 **sive community inpatient facility under ORS 161.315 to 161.351 is convicted of a crime and**  
7 **sentenced to a term of incarceration and when the person is sentenced to a term of**  
8 **incarceration as a sanction for violating the conditions of probation, parole or post-prison**  
9 **supervision, the sentencing court shall stay execution of the sentence pending the condi-**  
10 **tional release or discharge of the person or the expiration of the period of time described in**  
11 **ORS 161.327 (6). When the person is conditionally released or discharged by the agency hav-**  
12 **ing jurisdiction over the person under ORS 161.315 to 161.351, or when the maximum period**  
13 **of jurisdiction described in ORS 161.327 (6) expires, the stay shall be lifted by operation of law**  
14 **and the person shall be delivered to the custody of the Department of Corrections or the**  
15 **supervisory authority to begin service of the sentence imposed.**

16 (2) When a person described in subsection (1) of this section is delivered to the custody  
17 of the department or the supervisory authority as described in this section, the agency  
18 having jurisdiction over the person while the person was committed to a state hospital or a  
19 secure intensive community inpatient facility shall notify the department or the supervisory  
20 authority when the period of time described in ORS 161.327 (6) will expire.

21 (3) The department or supervisory authority shall notify the Psychiatric Security Review  
22 Board when the person has served the term of incarceration imposed by the court and the  
23 board shall resume exercising active jurisdiction over the person in accordance with ORS  
24 161.315 to 161.351.

25 (4) As used in this section, “supervisory authority” has the meaning given that term in  
26 ORS 144.087.

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

29 161.325. (1) [*After entry of judgment of guilty except for insanity*] **When a person is found guilty**  
30 **except for insanity of a felony, or of a misdemeanor during a criminal episode in the course**  
31 **of which the person caused physical injury or risk of physical injury to another, the court**  
32 **shall[,]:**

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

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

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

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

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

44 (c) Make specific findings on whether there is a victim of the crime for which the defendant has  
45 been found guilty except for insanity and, if so, whether the victim wishes to be notified, under ORS



1 161.326 [(2)], of any [*Psychiatric Security Review Board*] hearings and orders concerning the defend-  
2 ant and of any conditional release, discharge or escape of the defendant.

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

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

8 **(5) When a court orders a psychiatric or psychological evaluation under subsection (1)**  
9 **of this section for a financially eligible person, the court shall order the public defense ser-**  
10 **vices executive director to pay a reasonable fee for the evaluation from funds available for**  
11 **that purpose.**

12  
13 **CONFORMING PROVISIONS**  
14

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

16 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a  
17 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the  
18 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in  
19 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State  
20 Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal  
21 shall recover from the opponent the amount so paid.

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

29 (3) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings  
30 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
31 419A.200, [and] the involuntary commitment of persons determined to be mentally ill under ORS  
32 426.135 or persons determined to be mentally retarded under ORS 427.295[,] **or orders of the State**  
33 **Board of Parole and Post-Prison Supervision** or on judicial review of orders [of] **entered under**  
34 **ORS 161.315 to 161.351 by the Psychiatric Security Review Board or the Oregon Health Au-**  
35 **thority** [*under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision*].

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

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

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

44 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a  
45 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the

1 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in  
2 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State  
3 Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal  
4 shall recover from the opponent the amount so paid.

5 (2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings  
6 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
7 419A.200, [and] the involuntary commitment of persons determined to be mentally ill under ORS  
8 426.135 or persons determined to be mentally retarded under ORS 427.295[,] **or orders of the State**  
9 **Board of Parole and Post-Prison Supervision** or on judicial review of orders [of] **entered under**  
10 **ORS 161.315 to 161.351 by the Psychiatric Security Review Board or the Oregon Health Au-**  
11 **thority** [under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision].

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

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

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

19 137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of  
20 a crime, the court shall order on the record in open court as part of the sentence imposed that the  
21 defendant may be considered by the executing or releasing authority for any form of temporary  
22 leave from custody, reduction in sentence, work release or program of conditional or supervised  
23 release authorized by law for which the defendant is otherwise eligible at the time of sentencing,  
24 unless the court finds on the record in open court substantial and compelling reasons to order that  
25 the defendant not be considered for such leave, release or program.

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

28 (3) As used in this section:

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

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

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

34 151.216. (1) The Public Defense Services Commission shall:

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

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

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

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

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

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

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

6 (B) The appointment of counsel;

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

9 (D) Appointed counsel compensation disputes;

10 (E) Any other costs associated with the representation of a person by appointed counsel in the  
11 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,  
12 161.346, 161.365, [161.385,] 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,  
13 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 **or section**  
14 **9 of this 2011 Act** or any other provision of law that expressly provides for payment of such com-  
15 pensation, costs or expenses by the commission;

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

17 (G) Performance for legal representation;

18 (H) The contracting of public defense services;

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

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

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

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

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

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

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

42 (4) The commission may not:

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

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

45 (c) Interfere with the director or any member of the staff of the director in carrying out pro-

1 fessional duties involving the legal representation of public defense clients.

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

3 162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

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

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

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

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

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

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

14 (2) "Correctional facility" means any place used for the confinement of persons charged with  
15 or convicted of a crime or otherwise confined under a court order and includes but is not limited  
16 to a youth correction facility. "Correctional facility" applies to a state hospital or a secure intensive  
17 community inpatient facility only as to persons detained therein charged with or convicted of a  
18 crime, or detained therein after having been found guilty except for insanity of a crime under ORS  
19 161.290 to 161.370.

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

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

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

29 (6) "Youth correction facility" means:

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

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

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

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

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

39 162.155. (1) A person commits the crime of escape in the second degree if:

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

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

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

44 (d) While under the jurisdiction of the Psychiatric Security Review Board **or under the juris-**  
45 **isdiction of the Oregon Health Authority under ORS 161.315 to 161.351,** the person departs, is

1 absent from or fails to return to this state without authorization of the board.

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

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

4 181.740. (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric  
5 Security Review Board and the Judicial Department shall provide the Department of State Police  
6 with the minimum information necessary to identify persons who:

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

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

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

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

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

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

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

18 (h) Have been committed to a state hospital or facility under ORS [*161.327, 161.336*] **161.315 to**  
19 **161.351 or 419C.529 to 419C.544.**

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

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

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

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

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

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

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

40 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,  
41 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created  
42 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,  
43 Department of Consumer and Business Services with respect to its functions under ORS chapters  
44 654 and 656, **State Board of Parole and Post-Prison Supervision**, Psychiatric Security Review  
45 Board or [*State Board of Parole and Post-Prison Supervision*] **Oregon Health Authority with re-**

1 **spect to its functions under ORS 161.315 to 161.351.**

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

4 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and  
5 183.460 do not apply to the Employment Appeals Board or the Employment Department.

6 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-  
7 tent that a formal finding of the United States Secretary of Labor is made that such provision con-  
8 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent  
9 to continued certification by the United States Secretary of Labor of the state's law.

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

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

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

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

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

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

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

24 183.635. (1) Except as provided in this section, all agencies must use administrative law judges  
25 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-  
26 tested case hearings, without regard to whether those hearings are subject to the procedural re-  
27 quirements for contested case hearings.

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

29 (a) Attorney General.

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

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

32 (d) Department of Corrections.

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

34 (f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.  
35 722(c) and disability determination cases under 42 U.S.C. 405.

36 (g) Department of Revenue.

37 (h) Department of State Police.

38 (i) Employment Appeals Board.

39 (j) Employment Relations Board.

40 (k) Energy Facility Siting Council.

41 (L) Fair Dismissal Appeals Board.

42 (m) Governor.

43 (n) Land Conservation and Development Commission.

44 (o) Land Use Board of Appeals.

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

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

2 (r) Oregon Youth Authority.

3 (s) Psychiatric Security Review Board.

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

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

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

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

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

9 [(x)] **(y)** State Land Board.

10 [(y)] **(z)** State Treasurer.

11 [(z)] **(aa)** Wage and Hour Commission.

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

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

18 (b) ORS chapter 455;

19 (c) ORS chapter 674;

20 (d) ORS chapters 706 to 716;

21 (e) ORS chapter 717;

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

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

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

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

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

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

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

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

35 192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of [*the State Board of Parole*  
36 *and Post-Prison Supervision,*] **the Oregon Health Authority conducted under ORS 161.315 to**  
37 **161.351**, the Psychiatric Security Review Board, **the State Board of Parole and Post-Prison**  
38 **Supervision**, state agencies conducting hearings on contested cases in accordance with the pro-  
39 visions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment  
40 Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance  
41 committee operating under the provisions of ORS 9.568, meetings of the personal and practice man-  
42 agement assistance committees operating under the provisions of ORS 9.568, the county multidisci-  
43 plinary child abuse teams required to review child abuse cases in accordance with the provisions  
44 of ORS 418.747, the child fatality review teams required to review child fatalities in accordance with  
45 the provisions of ORS 418.785, the peer review committees in accordance with the provisions of ORS

1 441.055, mediation conducted under ORS 36.250 to 36.270, any judicial proceeding, meetings of the  
2 Oregon Health and Science University Board of Directors or its designated committee regarding  
3 candidates for the position of president of the university or regarding sensitive business, financial  
4 or commercial matters of the university not customarily provided to competitors related to fi-  
5 nancings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or  
6 substantial change in use of, significant real or personal property, or related to health system  
7 strategies, or to Oregon Health and Science University faculty or staff committee meetings.

8 (2) Because of the grave risk to public health and safety that would be posed by misappropri-  
9 ation or misapplication of information considered during such review and approval, ORS 192.610 to  
10 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting  
11 Council pursuant to ORS 469.530.

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

13 278.315. (1) The Oregon Health Authority may provide tort liability coverage through the  
14 Oregon Department of Administrative Services to any county or private community care provider  
15 that has contracted with the authority to provide supervision, care, treatment or training of persons  
16 under the jurisdiction of the Psychiatric Security Review Board **or the authority under ORS**  
17 **161.315 to 161.351**. Counties or private community care providers, and the officers and employees  
18 of those counties and providers acting within the scope of their employment, may be covered to the  
19 extent that any tort claim arises out of the provision of supervision, care, treatment or training of  
20 persons pursuant to the terms of the contract. Tort liability coverage under this section must be in  
21 writing, and may be part of the contract between the authority and the county or private community  
22 care provider. The coverage provided under this section shall be self-insurance by the State of  
23 Oregon to the limits contained in ORS 30.260 to 30.300.

24 (2) Counties or private community care providers that have contracted with the authority to  
25 provide supervision, care, treatment or training of persons under the jurisdiction of the Psychiatric  
26 Security Review Board **or the authority under ORS 161.315 to 161.351**, and the officers and em-  
27 ployees of those counties and providers, are not agents of the authority for the purposes of ORS  
28 30.260 to 30.300.

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

30 430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any  
31 source, except client resources applied toward the cost of care in group homes for persons with  
32 mental retardation or mental illness and client resources and third-party payments for community  
33 psychiatric inpatient care, received by a community mental health program are not an offset to the  
34 costs of the services and may not be applied to reduce the program's eligibility for state funds,  
35 providing the funds are expended for mental health services approved by the Oregon Health Au-  
36 thority.

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

42 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the  
43 Social Security Act by the Department of Human Services or the Oregon Health Authority, for  
44 mental health services or developmental disabilities services and interest earned on those fees and  
45 reimbursements shall be retained by the community mental health program or community develop-



1 mental disabilities program and expended for any service that meets the standards of ORS 430.630.

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

3 809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person  
4 if the department requests the person to submit to examination under ORS 807.340 and the person  
5 fails to appear within a reasonable length of time after being notified to do so or fails to satisfac-  
6 torily complete the required examination. A suspension under this subsection shall continue until  
7 the examination required by the department is successfully completed.

8 (b) Upon suspension under this subsection, the department may issue an identification card to  
9 the person for identification purposes as described under ORS 807.400.

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

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

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

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

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

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

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

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

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

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

45 810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic of-

1 fense, including all local and municipal judicial officers in this state:

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

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

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

8 (d) Shall send the department a copy of any final judgment finding a person charged with a  
9 traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security  
10 Review Board **or the Oregon Health Authority under ORS 161.315 to 161.351.**

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

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

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

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

18  
19 **MISCELLANEOUS PROVISIONS**  
20

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

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

26 **SECTION 33. (1) Sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010,**  
27 **137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.332, 161.336, 161.341, 161.346,**  
28 **161.351, 161.375, 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315,**  
29 **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**  
30 **of this 2011 Act become operative on January 1, 2012.**

31 **(2) The Psychiatric Security Review Board and the Oregon Health Authority may adopt**  
32 **rules or take any other action before the operative date specified in subsection (1) of this**  
33 **section that is necessary to enable the board or authority to exercise, on or after the oper-**  
34 **ative date specified in subsection (1) of this section, all the duties, functions and powers**  
35 **conferred on the board or authority by sections 9 and 15 of this 2011 Act and the amend-**  
36 **ments to ORS 21.010, 137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.332, 161.336,**  
37 **161.341, 161.346, 161.351, 161.375, 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155,**  
38 **181.740, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to**  
39 **14 and 16 to 30 of this 2011 Act.**

40 **(3) On the operative date specified in subsection (1) of this section, the Oregon Health**  
41 **Authority shall exercise jurisdiction over tier two offenders, as defined in ORS 161.332,**  
42 **committed to a state hospital or secure intensive community inpatient facility under ORS**  
43 **161.315 to 161.351 in accordance with sections 9 and 15 of this 2011 Act and the amendments**  
44 **to ORS 21.010, 137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.332, 161.336,**  
45 **161.341, 161.346, 161.351, 161.375, 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155,**

1 181.740, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to  
2 14 and 16 to 30 of this 2011 Act.

3 **SECTION 34.** The Oregon Health Authority and the Psychiatric Security Review Board  
4 shall each submit a report to the Legislative Assembly, in the manner provided in ORS  
5 192.245, that describes the implementation and effects of this 2011 Act. The authority and the  
6 board shall submit a report under this section no later than:

7 (1) March 1 of each year; and

8 (2) November 1 of each year.

9 **SECTION 35.** Section 34 of this 2011 Act is repealed on January 1, 2016.

10 **SECTION 35a.** Notwithstanding any other provision of law, the General Fund appropri-  
11 ation made to the Department of Justice by section 1, chapter \_\_\_\_\_, Oregon Laws 2011  
12 (Enrolled Senate Bill 5518), for the biennium beginning July 1, 2011, is increased by \$800,800.

13 **SECTION 35b.** Notwithstanding any other law limiting expenditures, the limitation on  
14 expenditures established by section 2, chapter \_\_\_\_\_, Oregon Laws 2011 (Enrolled Senate  
15 Bill 5518), for the biennium beginning July 1, 2011, as the maximum limit for payment of ex-  
16 penses from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding  
17 lottery funds and federal funds, collected or received by the Department of Justice, is in-  
18 creased by \$771,501.

19 **SECTION 35c.** Notwithstanding any other provision of law, the General Fund appropri-  
20 ation made to the Oregon Health Authority by section 1 (1), chapter \_\_\_\_\_, Oregon Laws  
21 2011 (Enrolled Senate Bill 5529), for the biennium beginning July 1, 2011, is increased by  
22 \$595,041.

23 **SECTION 35d.** Notwithstanding any other provision of law, the General Fund appropri-  
24 ation made to the Psychiatric Security Review Board by section 1, chapter \_\_\_\_\_, Oregon  
25 Laws 2011 (Enrolled Senate Bill 5539), for the biennium beginning July 1, 2011, is increased  
26 by \$382,222.

27  
28 **CONFLICT AMENDMENTS**  
29

30 **SECTION 36.** If House Bill 3100 becomes law, section 12 of this 2011 Act (amending ORS  
31 161.327) is repealed and ORS 161.327, as amended by section 3, chapter \_\_\_\_, Oregon Laws 2011  
32 (Enrolled House Bill 3100), is amended to read:

33 161.327. [(1) Following the entry of a judgment pursuant to ORS 161.319, the court shall order that  
34 a person be placed under the jurisdiction of the Psychiatric Security Review Board for care and  
35 treatment if:]

36 [(a) The person was found guilty except for insanity of a felony; and]

37 [(b) The court finds by a preponderance of the evidence that the person is affected by mental disease  
38 or defect and presents a substantial danger to others that requires commitment or conditional  
39 release.]

40 [(2) The court shall determine whether the person should be committed or conditionally released  
41 pending any hearing before the board as follows:]

42 (1) Following the entry of a judgment pursuant to ORS 161.319, if the court finds by a  
43 preponderance of the evidence that a person found guilty except for insanity of a felony is  
44 affected by mental disease or defect and presents a substantial danger to others, the court  
45 shall enter an order as follows:

1 (a) If the court finds that the person [*presents a substantial danger to others and*] is not a proper  
2 subject for conditional release, the court shall order the person committed to a state hospital [*des-*  
3 *ignated by the Oregon Health Authority if the person is at least 18 years of age,*] or, **if the person**  
4 **is under 18 years of age**, to a secure intensive community inpatient facility [*designated by the au-*  
5 *thority or the Department of Human Services if the person is under 18 years of age,*] for custody, care  
6 and treatment [*pending hearing before the board in accordance with ORS 161.341 to 161.351*]. **When**  
7 **the court orders a person committed under this paragraph, the court shall place the person**  
8 **under the jurisdiction of:**

9 (A) **The Psychiatric Security Review Board, if the person is a tier one offender.**

10 (B) **The Oregon Health Authority, if the person is a tier two offender.**

11 (b) If the court finds that the person [*presents a substantial danger to others but that the*  
12 *person*] can be adequately controlled with supervision and treatment if conditionally released and  
13 that necessary supervision and treatment are available, the court [*may*] **shall** order the person  
14 conditionally released.

15 [(3)] (2) When a person is conditionally released under this section, the person is subject to  
16 those supervisory orders of the court as are in the best interests of justice, the protection of society  
17 and the welfare of the person. The court shall designate a person or state, county or local agency  
18 to supervise the person upon release, subject to those conditions as the court directs in the order  
19 for conditional release. Prior to the designation, the court shall notify the person or agency to whom  
20 conditional release is contemplated and provide the person or agency an opportunity to be heard  
21 before the court. After receiving an order entered under subsection [(2)(b)] (1)(b) of this section, the  
22 person or agency designated shall assume supervision of the person pursuant to the direction of the  
23 Psychiatric Security Review Board. The person or agency designated as supervisor shall be required  
24 to report in writing no less than once per month to the board concerning the supervised person's  
25 compliance with the conditions of release.

26 [(4) *For purposes of this section, a person affected by a mental disease or defect in a state of re-*  
27 *mission is considered to have a mental disease or defect requiring supervision when the disease may,*  
28 *with reasonable medical probability, occasionally become active and, when active, render the person a*  
29 *danger to others.*]

30 [(5)] (3) In determining whether a person should be conditionally released, the court:

31 (a) May order evaluations, examinations and compliance as provided in ORS 161.336 (4) and  
32 161.346 (2); [*and*]

33 (b) Shall order that the person be examined by a local mental health program designated by the  
34 board and a report of the examination be provided to the court if each felony for which the de-  
35 fendant was found guilty except for insanity is a Class C felony[.]; **and**

36 [(6)] (c) [*In determining whether a person should be committed to a state hospital or to a secure*  
37 *intensive community inpatient facility or conditionally released, the court*] Shall have as its primary  
38 concern the protection of society.

39 [(7)] (4) Upon placing a person on conditional release, the court shall notify the board in writing  
40 of the court's conditional release order, the supervisor appointed, and all other conditions of release,  
41 and the person shall be on conditional release pending hearing before the board [*in accordance with*  
42 *ORS 161.336 to 161.351*]. Upon compliance with this section, the court's jurisdiction over the person  
43 is terminated [*and the board assumes jurisdiction over the person*].

44 [(8)] (5) The **total** period of [*jurisdiction of the board is equal to*] **commitment or conditional**  
45 **release under ORS 161.315 to 161.351 may not exceed** the maximum sentence provided by statute

1 for the crime for which the person was found guilty except for insanity.

2 [(9)] (6) An order of the court under this section is a final order appealable by the person found  
3 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice  
4 of an appeal under this section shall be served and filed within 90 days after the order appealed from  
5 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing  
6 skills and experience commensurate with the nature and complexity of the case. If the person is fi-  
7 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and  
8 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be  
9 determined and paid as provided in ORS 138.500.

10 [(10)] (7) [Upon placing a person under the jurisdiction of the board] **Following the entry of an**  
11 **order described in subsection (1) of this section**, the court shall notify the person of the right  
12 to appeal and the right to a hearing before the [board] **agency exercising jurisdiction over the**  
13 **person** in accordance with ORS 161.336 [(7)] (5) and 161.341 [(4)] (3).

14 **SECTION 37. If House Bill 3100 becomes law, section 13 of this 2011 Act (amending ORS**  
15 **161.328) is repealed and ORS 161.328, as amended by section 4, chapter \_\_, Oregon Laws 2011**  
16 **(Enrolled House Bill 3100), is amended to read:**

17 161.328. (1) Following the entry of a judgment pursuant to ORS 161.319, the court [may] **shall**  
18 order a person committed to a state mental hospital or other facility designated by the Oregon  
19 Health Authority if:

20 (a) Each offense for which the person is found guilty except for insanity is a misdemeanor; and

21 (b) The court finds that the person is affected by mental disease or defect and presents a sub-  
22 stantial danger to others that requires commitment.

23 (2) The total period of commitment under this section may not exceed the maximum sentence  
24 provided by statute for the crime for which the person was found guilty except for insanity.

25 (3) If the superintendent of the state mental hospital or the director of the facility to which the  
26 person is committed determines that a person committed under this section is no longer affected by  
27 mental disease or defect or, if so affected, no longer presents a substantial danger to others that  
28 requires commitment, the superintendent or director shall file notice of that determination with the  
29 committing court. Upon filing of the notice, the superintendent or director shall discharge the per-  
30 son from custody.

31 **SECTION 38. If House Bill 3100 becomes law, section 14 of this 2011 Act (amending ORS**  
32 **161.329) is repealed.**

33 **SECTION 39. If House Bill 3100 becomes law, section 15 of this 2011 Act is amended to read:**

34 **Sec. 15.** (1) When a person who is committed to a state hospital or a secure intensive community  
35 inpatient facility under ORS 161.315 to 161.351 is convicted of a crime and sentenced to a term of  
36 incarceration and when the person is sentenced to a term of incarceration as a sanction for violat-  
37 ing the conditions of probation, parole or post-prison supervision, the sentencing court shall stay  
38 execution of the sentence pending the conditional release or discharge of the person or the expira-  
39 tion of the period of time described in ORS 161.327 [(6)] (5). When the person is conditionally re-  
40 leased or discharged by the agency having jurisdiction over the person under ORS 161.315 to  
41 161.351, or when the maximum period of jurisdiction described in ORS 161.327 [(6)] (5) expires, the  
42 stay shall be lifted by operation of law and the person shall be delivered to the custody of the De-  
43 partment of Corrections or the supervisory authority to begin service of the sentence imposed.

44 (2) When a person described in subsection (1) of this section is delivered to the custody of the  
45 department or the supervisory authority as described in this section, the agency having jurisdiction

1 over the person while the person was committed to a state hospital or a secure intensive community  
2 inpatient facility shall notify the department or the supervisory authority when the period of time  
3 described in ORS 161.327 [(6)] (5) will expire.

4 (3) The department or supervisory authority shall notify the Psychiatric Security Review Board  
5 when the person has served the term of incarceration imposed by the court and the board shall re-  
6 sume exercising active jurisdiction over the person in accordance with ORS 161.315 to 161.351.

7 (4) As used in this section, "supervisory authority" has the meaning given that term in ORS  
8 144.087.

9 **SECTION 40.** If House Bill 3100 becomes law, section 16 of this 2011 Act (amending ORS  
10 161.325) is repealed and ORS 161.325, as amended by section 9, chapter 89, Oregon Laws 2010,  
11 and section 2, chapter \_\_, Oregon Laws 2011 (Enrolled House Bill 3100), is amended to read:

12 161.325. (1) After entry of judgment of guilty except for insanity, the court shall, on the basis  
13 of the evidence given at the trial or at a separate hearing, if requested by either party, [make] enter  
14 an order as provided in ORS 161.327, 161.328 or 161.329, whichever is appropriate.

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

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

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

20 (c) Make specific findings on whether there is a victim of the crime for which the defendant has  
21 been found guilty except for insanity and, if so, whether the victim wishes to be notified, under ORS  
22 161.326 [(2)], of any [Psychiatric Security Review Board] hearings and orders concerning the defend-  
23 ant and of any conditional release, discharge or escape of the defendant.

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

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

29 **SECTION 41.** If House Bill 3100 becomes law, section 33 of this 2011 Act is amended to read:

30 **Sec. 33.** (1) Sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010, 137.750,  
31 151.216, 161.325, 161.326, 161.327, 161.328, [161.329,] 161.332, 161.336, 161.341, 161.346, 161.351,  
32 161.375, 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690,  
33 278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to [14 and 16] **11b, 17 to 30, 36, 37 and**  
34 **40** of this 2011 Act become operative on January 1, 2012.

35 (2) The Psychiatric Security Review Board and the Oregon Health Authority may adopt rules  
36 or take any other action before the operative date specified in subsection (1) of this section that is  
37 necessary to enable the board or authority to exercise, on or after the operative date specified in  
38 subsection (1) of this section, all the duties, functions and powers conferred on the board or au-  
39 thority by sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010, 137.750, 151.216,  
40 161.325, 161.326, 161.327, 161.328, [161.329,] 161.332, 161.336, 161.341, 161.346, 161.351, 161.375,  
41 161.385, 161.387, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690, 278.315,  
42 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to [14 and 16] **11b, 17 to 30, 36, 37 and 40** of this  
43 2011 Act.

44 (3) On the operative date specified in subsection (1) of this section, the Oregon Health Authority  
45 shall exercise jurisdiction over tier two offenders, as defined in ORS 161.332, committed to a state

1 hospital or secure intensive community inpatient facility under ORS 161.315 to 161.351 in accordance  
2 with sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010, 137.750, 151.216, 161.325,  
3 161.326, 161.327, 161.328, [161.329,] 161.332, 161.336, 161.341, 161.346, 161.351, 161.375, 161.385,  
4 161.387, 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 by sections 1 to 8, 10 to [14 and 16] **11b, 17 to 30, 36, 37 and 40** of this 2011  
6 Act.

7  
8 **EMERGENCY CLAUSE**

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10 **SECTION 42. This 2011 Act being necessary for the immediate preservation of the public**  
11 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**  
12 **on its passage.**  
13

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