

## SENATE AMENDMENTS TO SENATE BILL 420

By COMMITTEE ON JUDICIARY

April 27

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete lines 3  
2 and 4 and insert “21.010, 137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.336, 161.341,  
3 161.346, 161.351, 161.375, 161.385, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635,  
4 192.690, 278.315, 430.695, 809.419 and 810.375; and declaring an emergency.”.

5 Delete lines 6 through 22 and delete pages 2 through 15 and insert:  
6

### “AGENCY HEARINGS AND JURISDICTION

7  
8

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

10 “161.346. (1) **When** the Psychiatric Security Review Board [*shall conduct hearings upon any ap-*  
11 *plication for discharge, conditional release, commitment or modification filed pursuant to ORS 161.336,*  
12 *161.341 or 161.351 and as otherwise required by ORS 161.336 to 161.351 and]* **or the Oregon Health**  
13 **Authority conducts a hearing under ORS 161.315 to 161.351, the agency conducting the hear-**  
14 **ing shall enter an order and make findings** [*on the issues before it which may include:]* **in support**  
15 **of the order. If the agency finds that a person under the jurisdiction of the agency:**

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

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

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

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

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

35 “(c) **The authority shall assume jurisdiction over a person under the jurisdiction of the**

1 **board when the person is returned to the custody of the authority under ORS 161.336 (4).**

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

11 “[~~(3)~~] **(4) The [board] agency exercising jurisdiction over the person** may make the determi-  
12 nation regarding discharge or conditional release based upon the written reports submitted pursuant  
13 to this section. If **the authority or** any member of the board desires further information from the  
14 examining psychiatrist or licensed psychologist who submitted the report, [*these persons shall be*  
15 *summoned by the board*] **the agency shall summon the person** to give testimony. The [*board*]  
16 **agency** shall consider all evidence available to it [*which*] **that** is material, relevant and reliable  
17 regarding the issues before the [*board. Such*] **agency. The** evidence may include but is not limited  
18 to the record of trial, the information supplied by the attorney representing the state or by any  
19 other interested party, including the person, and information concerning the person’s mental condi-  
20 tion and the entire psychiatric and criminal history of the person. All evidence of a type commonly  
21 relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible  
22 at hearings. Testimony shall be taken upon oath or affirmation of the witness from whom received.  
23 The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

24 “[~~(4)~~] **(5) The [board] agency exercising jurisdiction over the person** shall furnish to the  
25 person about whom the hearing is being conducted, the attorney representing the person, the At-  
26 torney General, the district attorney and the court or department of the county from which the  
27 person was committed written notice of any hearing pending under this section within a reasonable  
28 time prior to the hearing. The notice shall include:

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

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

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

34 “(d) A statement of all rights under subsection [~~(6)~~] **(7)** of this section.

35 “[~~(5)~~] **(6) Prior to the commencement of [a] the hearing, the [board or presiding officer] agency**  
36 **shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).**

37 “[~~(6)~~] **(7) At the hearing, the person about whom the hearing is being held shall have the right:**

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

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

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

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

44 “(e) To examine all information, documents and reports [*which*] **that** the [*board*] **agency** con-  
45 siders. If then available to the [*board*] **agency**, the information, documents and reports shall be dis-

1 closed to the person so as to allow examination prior to the hearing.

2 “[(7)] (8) A record shall be kept of all hearings [*before the board, except board*] **conducted under**  
3 **ORS 161.315 to 161.351, except for** deliberations.

4 “[(8)] (9) Upon request of any party [*before the board*], or on [*its own motion, the board may*  
5 *continue a hearing*] **motion of the agency conducting the hearing, the hearing may be contin-**  
6 **ued** for a reasonable period not to exceed 60 days to obtain additional information or testimony or  
7 for other good cause shown.

8 “[(9)] (10) Within 15 days following the conclusion of the hearing, the [*board*] **agency shall**  
9 provide to the person, the attorney representing the person, the Attorney General or other attorney  
10 representing the state, if any, written notice of the [*board’s decision*] **order entered by the**  
11 **agency.**

12 “[(10)] (11) The burden of proof on all issues at hearings [*of the board*] **under ORS 161.315 to**  
13 **161.351** shall be by a preponderance of the evidence.

14 “[(11)] (12) If the [*board*] **agency conducting the hearing** determines that the person about  
15 whom the hearing is being held is financially eligible, the [*board*] **agency** shall appoint suitable  
16 counsel to represent the person. Counsel so appointed shall be an attorney who satisfies the pro-  
17 fessional qualifications established by the Public Defense Services Commission under ORS 151.216.  
18 The public defense services executive director shall determine and allow fair compensation for  
19 counsel appointed under this subsection and the reasonable expenses of the person in respect to the  
20 hearing. Compensation payable to appointed counsel shall not be less than the applicable compen-  
21 sation level established under ORS 151.216. The compensation and expenses so allowed shall be paid  
22 by the public defense services executive director from funds available for the purpose.

23 “[(12)] (13) The Attorney General may represent the state at contested hearings [*before the*  
24 *board*] **under ORS 161.315 to 161.351** unless the district attorney of the county from which the  
25 person was committed elects to represent the state. The district attorney of the county from which  
26 the person was committed shall cooperate with the Attorney General in securing the material nec-  
27 essary for presenting a contested hearing [*before the board*]. If the district attorney elects to repre-  
28 sent the state, the district attorney shall give timely written notice of such election to the Attorney  
29 General, the [*board*] **agency conducting the hearing** and the attorney representing the person.

30 “**SECTION 2.** ORS 161.336 is amended to read:

31 “161.336. (1)(a) [*If the Psychiatric Security Review Board determines that the person presents a*  
32 *substantial danger to others but can be adequately controlled with supervision and treatment if condi-*  
33 *tionally released and that necessary supervision and treatment are available, the board may order the*  
34 *person conditionally released,*] **When a person is conditionally released under ORS 161.315 to**  
35 **161.351, the person is** subject to those supervisory orders of the **Psychiatric Security Review**  
36 **Board** as are in the best interests of justice, the protection of society and the welfare of the person.

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

41 “(c) Prior to the designation, the [*board*] **agency conducting the hearing** shall notify the per-  
42 son or **state, county or local** agency to whom conditional release is contemplated and provide the  
43 person or **state, county or local** agency an opportunity to be heard [*before the board*].

44 “(d) After receiving an order entered under this section, the person or **state, county or local**  
45 **agency designated in the order** shall assume supervision of the person [*pursuant to the direction of*

1 *the] in accordance with the conditions described in the order and any modifications of the*  
2 **conditions ordered by the board.**

3 “(2) Conditions of release contained in orders entered under this section may be modified from  
4 time to time and conditional releases may be terminated [*by order of the board*] as provided in ORS  
5 161.351.

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

11 “[*(4)(a)*] **(3)(a)** As a condition of release, [*the board may require*] the person **may be required**  
12 to report to any state or local mental health facility for evaluation. Whenever medical, psychiatric  
13 or psychological treatment is recommended, the [*board may*] order **may require** the person, as a  
14 condition of release, to cooperate with and accept the treatment from the facility.

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

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

21 “(d) Copies of all reports submitted to the board pursuant to this section shall be furnished to  
22 the person and the person’s counsel. The confidentiality of these reports is determined pursuant to  
23 ORS 192.501 to 192.505.

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

26 “[*(5)*] **(4)(a)** If at any time while the person is under the jurisdiction of the board it appears to  
27 the board or its chairperson that the person has violated the terms of the conditional release or that  
28 the mental health of the individual has changed, the board or its chairperson may order the person  
29 returned for evaluation or treatment to a state hospital [*designated by the Oregon Health Authority*  
30 *if the person is at least 18 years of age,*] or, **if the person is under 18 years of age,** to a secure  
31 intensive community inpatient facility [*designated by the authority if the person is under 18 years of*  
32 *age*]. A written order of the board, or its chairperson on behalf of the board, is sufficient warrant  
33 for any law enforcement officer to take into custody such person and transport the person accord-  
34 ingly. A sheriff, municipal police officer, constable, parole and probation officer, prison official or  
35 other peace officer shall execute the order, and the person shall be returned as soon as practicable  
36 to the custody of the authority. [*Within 20 days following the return of the person to the custody of*  
37 *the authority, the board shall conduct a hearing. Notice of the time and place of the hearing shall be*  
38 *given to the person, the attorney representing the person and the Attorney General. The board may*  
39 *continue the person on conditional release or, if it finds by a preponderance of the evidence that the*  
40 *person is affected by mental disease or defect and presents a substantial danger to others and cannot*  
41 *be adequately controlled if conditional release is continued, it may order the person committed to a state*  
42 *hospital designated by the authority if the person is at least 18 years of age, or to a secure intensive*  
43 *community inpatient facility designated by the authority if the person is under 18 years of age. The*  
44 *state must prove by a preponderance of the evidence the person’s unfitness for conditional release. A*  
45 *person in custody pursuant to this subsection has the same rights as any person appearing before the*

1 *board pursuant to ORS 161.346.]*

2 “[6] (b) The community mental health program director, the director of the facility providing  
3 treatment to a person on conditional release, any peace officer or any person responsible for the  
4 supervision of a person on conditional release may take a person on conditional release into custody  
5 or request that the person be taken into custody if there is reasonable cause to believe the person  
6 is a substantial danger to others because of mental disease or defect and that the person is in need  
7 of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection  
8 shall be transported as soon as practicable to a state hospital [*designated by the authority if the*  
9 *person is at least 18 years of age,*] or, **if the person is under 18 years of age,** to a secure intensive  
10 community inpatient facility [*designated by the authority if the person is under 18 years of age*].

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

18 “[7](a) (5)(a) Any person conditionally released under this section may apply to the board for  
19 discharge from or modification of an order of conditional release on the ground that the person is  
20 no longer affected by mental disease or defect or, if still so affected, no longer presents a substantial  
21 danger to others and no longer requires supervision, medication, care or treatment. Notice of the  
22 hearing on an application for discharge or modification of an order of conditional release shall be  
23 made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove  
24 by a preponderance of the evidence the applicant’s fitness for discharge or modification of the order  
25 of conditional release. Applications by the person for discharge or modification of conditional re-  
26 lease [*shall*] **may** not be filed more often than once every six months.

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

31 **“(6) Any person who has been placed under the jurisdiction of the board and who has**  
32 **spent five years on conditional release shall be brought before the board for hearing within**  
33 **30 days before the expiration of the five-year period. The board shall review the person’s**  
34 **status and determine whether the person should be discharged from the jurisdiction of the**  
35 **board.**

36 “[8] *The total period of commitment and conditional release ordered pursuant to this section may*  
37 *not exceed the maximum sentence provided by statute for the crime for which the person was found*  
38 *guilty except for insanity.]*

39 “[9] *The board shall maintain and keep current the medical, social and criminal history of all*  
40 *persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be*  
41 *determined pursuant to ORS 192.501 to 192.505.]*

42 “[10] (7) In determining whether a person should be committed to a state hospital or to a se-  
43 cure intensive community inpatient facility, conditionally released or discharged, the board shall  
44 have as its primary concern the protection of society.

45 **“SECTION 3.** ORS 161.341 is amended to read:

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

8           “[(2)] (1) If at any time after [*the commitment of a person*] **a person is placed under the juris-**  
9 **isdiction of the Oregon Health Authority under ORS 161.315 to 161.351 and committed** to a state  
10 hospital[, or to] **or** a secure intensive community inpatient facility, [*designated by the authority under*  
11 *this section,*] the superintendent of the hospital or the director of the secure intensive community  
12 inpatient facility is of the opinion that the person is no longer affected by mental disease or defect,  
13 or, if so affected, no longer presents a substantial danger to others or that the person continues to  
14 be affected by mental disease or defect and continues to be a danger to others, but that the person  
15 can be controlled with proper care, medication, supervision and treatment if conditionally released,  
16 the superintendent or director shall apply to the [*board*] **authority** for an order of discharge or  
17 conditional release. The application shall be accompanied by a report setting forth the facts sup-  
18 porting the opinion of the superintendent or director. If the application is for conditional release,  
19 the application must [*also*] be accompanied by a verified conditional release plan. The [*board*] **au-**  
20 **thority** shall hold a hearing on the application within 60 days of its receipt. Not less than 20 days  
21 prior to the hearing before the [*board*] **authority**, copies of the report shall be sent to the Attorney  
22 General.

23           “[(3)] (2) The attorney representing the state may choose a psychiatrist or licensed psychologist  
24 to examine the person prior to the initial or any later decision by the [*board*] **authority** on dis-  
25 charge or conditional release. The results of the examination shall be in writing and filed with the  
26 [*board*] **authority**, and shall include, but need not be limited to, an opinion as to the mental condi-  
27 tion of the person, whether the person presents a substantial danger to others and whether the  
28 person could be adequately controlled with treatment as a condition of release.

29           “[(4)] (3) Any person who has been committed to a state hospital, or to a secure intensive  
30 community inpatient facility, [*designated by the authority*] for custody, care and treatment **under**  
31 **ORS 161.315 to 161.351**, or another person acting on the person’s behalf, may apply to the [*board*]  
32 **authority** for an order of discharge or conditional release upon the grounds:

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

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

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

39           “[(5)] (4) When application is made under subsection [(4)] (3) of this section, the [*board*] **au-**  
40 **thority** shall require that a report from the superintendent of the hospital or the director of the  
41 secure intensive community inpatient facility be prepared and transmitted as provided in subsection  
42 [(2)] (1) of this section. The applicant must prove by a preponderance of the evidence the applicant’s  
43 fitness for discharge or conditional release under the standards of subsection [(4)] (3) of this section,  
44 unless more than two years has passed since the state had the burden of proof on that issue, in  
45 which case the state shall have the burden of proving by a preponderance of the evidence the

1 applicant's lack of fitness for discharge or conditional release. Applications for discharge or condi-  
2 tional release under subsection [(4)] (3) of this section [shall] **may** not be filed more often than once  
3 every six months commencing with the date of the initial board hearing.

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

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

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

17 "(7) **The evidentiary phase of authority hearings are not deliberations for purposes of**  
18 **ORS 192.690.**

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

22 "**SECTION 4.** ORS 161.351 is amended to read:

23 "161.351. (1) Any person placed under the jurisdiction of the Psychiatric Security Review Board  
24 [pursuant to ORS 161.336 or 161.341] **or the Oregon Health Authority under ORS 161.315 to**  
25 **161.351** shall be discharged at such time as the [board] **agency having jurisdiction over the per-**  
26 **son**, upon a hearing, [shall find] **finds** by a preponderance of the evidence that the person is no  
27 longer affected by mental disease or defect or, if so affected, no longer presents a substantial danger  
28 to others [which] **that** requires regular medical care, medication, supervision or treatment.

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

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

39 "**SECTION 5.** ORS 161.390 is amended to read:

40 "161.390. (1) The Oregon Health Authority shall [promulgate] **adopt** rules for the assignment of  
41 persons to state mental hospitals or secure intensive community inpatient facilities under ORS  
42 [161.341] **161.315 to 161.351**, 161.365 and 161.370 and for establishing standards for evaluation and  
43 treatment of persons committed to a state hospital or a secure intensive community inpatient  
44 facility[, designated by the authority,] or ordered to a community mental health program under ORS  
45 161.315 to 161.351.

1 “(2) [Whenever] **When** the Psychiatric Security Review Board **or the authority** requires the  
2 preparation of a predischarge or preconditional release plan before a hearing or as a condition of  
3 granting discharge or conditional release for a person committed under ORS [161.327 or 161.341]  
4 **161.315 to 161.351** to a state hospital or a secure intensive community inpatient facility for custody,  
5 care and treatment, the authority is responsible for and shall prepare the plan.

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

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

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

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

19 “161.326. [(1) Whenever a person already under the jurisdiction of the Psychiatric Security Review  
20 Board commits a new crime, the court or the board shall make the findings described in ORS 161.325  
21 (2).]

22 “[2] (1) If the trial court [or], the **Psychiatric Security Review Board or the Oregon Health**  
23 **Authority** determines that a victim desires notification as described in ORS 161.325 (2), the  
24 [board] **agency having jurisdiction over the person** shall make a reasonable effort to notify the  
25 victim of [board] hearings and orders, conditional release, discharge or escape. Nothing in this sub-  
26 section authorizes the [board] **agency** to disseminate information that is otherwise privileged by law.

27 “[3] (2) When the [board] **agency** conducts a hearing involving a person found guilty except  
28 for insanity of a crime for which there is a victim, the [board] **agency** shall afford the victim an  
29 opportunity to be heard, either orally or in writing, at the hearing.

30 “[4(a)] (3)(a) If the [board] **agency** fails to make a reasonable effort to notify the victim of a  
31 [board] hearing under subsection [2] (1) of this section or fails to afford the victim an opportunity  
32 to be heard at the hearing under subsection [3] (2) of this section, the victim may request that the  
33 [board] **agency** reconsider the order of the [board] **agency**.

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

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

40 “(A) After the person has been discharged from the jurisdiction of the board **and the**  
41 **authority;**

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

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

45 “**SECTION 7.** ORS 161.375 is amended to read:



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

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

14 “(3) The superintendent or the Director of the Oregon Health Authority may issue an order  
15 under this section based upon a reasonable belief that grounds exist for issuing the order. When  
16 reasonable, the superintendent or the Director of the Oregon Health Authority shall investigate to  
17 ascertain whether such grounds exist.

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

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

26 “**SECTION 8.** ORS 161.385 is amended to read:

27 “161.385. (1) There is hereby created a Psychiatric Security Review Board consisting of 10  
28 members appointed by the Governor and subject to confirmation by the Senate under section 4,  
29 Article III of the Oregon Constitution.

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

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

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

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

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

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

41 “(f) A licensed psychologist who is experienced in child psychology and the juvenile justice  
42 system and not employed on a full-time basis by the authority or a community mental health pro-  
43 gram;

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

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

1       “(i) Two members of the general public.

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

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

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

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

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

23       “(b) A majority of the voting members of a panel constitutes a quorum for the transaction of  
24 business of the panel.

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

29       “[(9)(a) *When a person over whom a panel of the board exercises its jurisdiction is adversely af-*  
30 *fected or aggrieved by a final order of the panel, the person is entitled to judicial review of the final*  
31 *order. The person is entitled on judicial review to suitable counsel possessing skills and experience*  
32 *commensurate with the nature and complexity of the case. If the person is financially eligible, suitable*  
33 *counsel shall be appointed by the reviewing court in the manner provided in ORS 138.500 (1). If the*  
34 *person is financially eligible, the public defense services executive director shall determine and pay, as*  
35 *provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary to the review*  
36 *and compensation for counsel appointed for the person. The costs, expenses and compensation so al-*  
37 *lowed shall be paid as provided in ORS 138.500.]*

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

44       “[(c) *The court may affirm, reverse or remand the order on the same basis as provided in ORS*  
45 *183.482 (8).]*

1           “(d) *The filing of the petition does not stay the panel’s order, but the panel or the Court of Appeals*  
2 *may order a stay upon application on such terms as are deemed proper.*”

3           “**SECTION 9. (1) When a person over whom the Psychiatric Security Review Board or the**  
4 **Oregon Health Authority exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is**  
5 **adversely affected or aggrieved by a final order of the board or authority, the person is en-**  
6 **titled to judicial review of the final order. The person is entitled on judicial review to suitable**  
7 **counsel possessing skills and experience commensurate with the nature and complexity of**  
8 **the case. If the person is financially eligible, suitable counsel shall be appointed by the re-**  
9 **viewing court in the manner provided in ORS 138.500 (1). If the person is financially eligible,**  
10 **the public defense services executive director shall determine and pay, as provided in ORS**  
11 **138.500, the cost of briefs, any other expenses of the person necessary to the review and**  
12 **compensation for counsel appointed for the person. The costs, expenses and compensation**  
13 **so allowed shall be paid as provided in ORS 138.500.**

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

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

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

24           “**SECTION 10.** ORS 161.395 is amended to read:

25           “161.395. (1) Upon request of any party to a hearing before the **Psychiatric Security Review**  
26 **Board or the Oregon Health Authority under ORS 161.315 to 161.351**, the [*board or its designated*  
27 *representatives*] **agency conducting the hearing** shall issue, or [*the board*] on its own motion may  
28 issue, subpoenas requiring the attendance and testimony of witnesses.

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

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

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

44           “(5) If any person, agency or facility fails to comply with an order of the board **or authority**  
45 issued pursuant to subsection (2) of this section, the judge of a circuit court of any county, on ap-

1 plication of the [board or its designated representative] **agency that issued the order**, shall compel  
2 obedience by proceedings for contempt as in the case of disobedience of the requirements of an or-  
3 der issued by the court. Contempt for disobedience of an order of the board **or authority** shall be  
4 punishable by a fine of \$100.

5 “**SECTION 11.** ORS 161.400 is amended to read:

6 “161.400. If, at any time after the commitment of a person to a state hospital or a secure in-  
7 tensive community inpatient facility under ORS [161.341 (1)] **161.315 to 161.351**, the superintendent  
8 of the hospital or the director of the facility is of the opinion that a leave of absence from the  
9 hospital or facility would be therapeutic for the person and that such leave would pose no substan-  
10 tial danger to others, the superintendent or director may authorize such leave for up to 48 hours in  
11 accordance with rules adopted by the [Psychiatric Security Review Board] **Oregon Health Author-**  
12 **ity**. However, the superintendent or director, before authorizing the leave of absence, shall first  
13 notify the [board] **authority** for the purposes of ORS 161.326 [(2)].

14  
15 **“COURT PROVISIONS**

16  
17 “**SECTION 12.** ORS 161.327 is amended to read:

18 “161.327. [(1)(a) *Following the entry of a judgment pursuant to ORS 161.319 and the dispositional*  
19 *determination under ORS 161.325, if the court finds that the person would have been guilty of a felony,*  
20 *or of a misdemeanor during a criminal episode in the course of which the person caused physical injury*  
21 *or risk of physical injury to another, the court shall order that a psychiatric or psychological evaluation*  
22 *be performed and a report of the evaluation be provided to the court if an evaluation was not performed*  
23 *or a report was not provided to the court prior to trial. Upon receipt of the evaluation, the court shall*  
24 *order that the person be placed under the jurisdiction of the Psychiatric Security Review Board for*  
25 *care and treatment if the court finds by a preponderance of the evidence that the person is affected by*  
26 *mental disease or defect and presents a substantial danger to others requiring commitment to:]*

27 “[A] *A state hospital designated by the Oregon Health Authority if the person is at least 18 years*  
28 *of age; or]*

29 “[B] *A secure intensive community inpatient facility designated by the authority if the person is*  
30 *under 18 years of age.]*

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

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

36 “[2] *The court shall determine whether the person should be committed to a state hospital, or to*  
37 *a secure intensive community inpatient facility, designated by the authority or conditionally released*  
38 *pending any hearing before the board as follows:]*

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

44 “(a) If the court finds that the person [*presents a substantial danger to others and*] is not a proper  
45 subject for conditional release, [*the court shall order the person committed*] **the court shall enter**

1 **an order placing the person under the jurisdiction of the Oregon Health Authority. The au-**  
2 **thority shall commit the person** to a state hospital [*designated by the authority if the person is at*  
3 *least 18 years of age,*] or, **if the person is under 18 years of age,** to a secure intensive community  
4 inpatient facility [*designated by the authority if the person is under 18 years of age,*] for custody, care  
5 and treatment pending hearing before the [*board in accordance with ORS 161.341 to 161.351*] **au-**  
6 **thority.**

7 “(b) If the court finds that the person [*presents a substantial danger to others but that the*  
8 *person*] can be adequately controlled with supervision and treatment if conditionally released and  
9 that necessary supervision and treatment are available, the court [*may*] **shall** order the person  
10 conditionally released, subject to those supervisory orders of the court as are in the best interests  
11 of justice, the protection of society and the welfare of the person. The court shall designate a person  
12 or state, county or local agency to supervise the person upon release, subject to those conditions  
13 as the court directs in the order for conditional release. Prior to the designation, the court shall  
14 notify the person or agency to whom conditional release is contemplated and provide the person or  
15 agency an opportunity to be heard before the court. After receiving an order entered under this  
16 paragraph, the person or agency designated shall assume supervision of the person pursuant to the  
17 direction of the Psychiatric Security Review Board. The person or agency designated as supervisor  
18 shall be required to report in writing no less than once per month to the board concerning the  
19 supervised person’s compliance with the conditions of release.

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

24 “[*(4)*] **(2)** In determining whether a person should be conditionally released, the court may order  
25 evaluations, examinations and compliance as provided in ORS 161.336 [*(4)*] **(3)** and 161.346 [*(2)*] **(3)**.

26 “[*(5) In determining whether a person should be committed to a state hospital or to a secure in-*  
27 *tensive community inpatient facility or conditionally released, the court*] **and** shall have as its primary  
28 concern the protection of society.

29 “[*(6)*] **(3)** Upon placing a person on conditional release, the court shall notify the board in  
30 writing of the court’s conditional release order, the supervisor appointed, and all other conditions  
31 of release, and the person shall be on conditional release pending hearing before the board [*in ac-*  
32 *cordance with ORS 161.336 to 161.351*]. Upon compliance with [*this subsection and subsections (1) and*  
33 *(2) of*] this section, the court’s jurisdiction over the person is terminated [*and the board assumes*  
34 *jurisdiction over the person*].

35 “[*(7)*] **(4)** An order of the court under this section is a final order appealable by the person found  
36 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice  
37 of an appeal under this section shall be served and filed within 90 days after the order appealed from  
38 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing skills  
39 and experience commensurate with the nature and complexity of the case. If the person is financially  
40 eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and the  
41 compensation for counsel and costs and expenses of the person necessary to the appeal shall be  
42 determined and paid as provided in ORS 138.500.

43 “[*(8)*] **(5)** [*Upon placing a person under the jurisdiction of the board*] **Following entry of the**  
44 **order described in subsection (1) of this section,** the court shall notify the person of the right  
45 to appeal and the right to a hearing before the [*board*] **agency having jurisdiction over the person**

1 in accordance with ORS 161.336 [(7)] (6) and 161.341 [(4)] (3).

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

5 **“SECTION 13.** ORS 161.328 is amended to read:

6 **“161.328.** [*Following the entry of a judgment pursuant to ORS 161.319 and the dispositional de-*  
7 *termination under ORS 161.325, if the court finds that the person would have been guilty*] **When a**  
8 **person is found guilty except for insanity** of a misdemeanor during a criminal episode in the  
9 course of which the person did not cause physical injury or risk of physical injury to another, [*and*  
10 *if the court has probable cause to believe that the person is dangerous to self or others as a result of*  
11 *a mental disorder, the court may*] **the court shall** initiate civil commitment proceedings under ORS  
12 426.070 to 426.130 **if the court finds that the person is affected by mental disease or defect**  
13 **and presents a substantial danger to others requiring care, supervision and treatment.**

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

15 **“161.329.** [*Following the entry of a judgment pursuant to ORS 161.319 and the dispositional de-*  
16 *termination under ORS 161.325,*] **When a person is found guilty except for insanity of a crime,**  
17 **the court shall order the person discharged from custody** if the court finds that the person is  
18 no longer affected by mental disease or defect, or, if so affected, no longer presents a substantial  
19 danger to others and is not in need of care, supervision or treatment[, *the court shall order the per-*  
20 *son discharged from custody*].

21 **“SECTION 15.** (1) **When a person under the jurisdiction of the Oregon Health Authority**  
22 **under ORS 161.315 to 161.351 is convicted of a crime and sentenced to a term of incarceration**  
23 **and when the person is sentenced to a term of incarceration as a sanction for violating the**  
24 **conditions of probation, parole or post-prison supervision, the sentencing court shall stay**  
25 **execution of the sentence pending the conditional release or discharge of the person or the**  
26 **expiration of the period of time described in ORS 161.327 (6). When the person is conditionally**  
27 **released or discharged by the Oregon Health Authority under ORS 161.315 to 161.351, or when**  
28 **the maximum period of jurisdiction described in ORS 161.327 (6) expires, the stay shall be**  
29 **lifted by operation of law and the person shall be committed to the custody of the Depart-**  
30 **ment of Corrections or the supervisory authority to begin service of the sentence imposed.**

31 **“(2) When a person described in subsection (1) of this section is committed to the custody**  
32 **of the department or the supervisory authority as described in this section, the Oregon**  
33 **Health Authority shall notify the department or the supervisory authority when the period**  
34 **of time described in ORS 161.327 (6) will expire.**

35 **“(3) The department or supervisory authority shall notify the Psychiatric Security Re-**  
36 **view Board when the person has served the term of incarceration imposed by the court and**  
37 **the board shall resume exercising active jurisdiction over the person in accordance with ORS**  
38 **161.315 to 161.351.**

39 **“(4) As used in this section, ‘supervisory authority’ has the meaning given that term in**  
40 **ORS 144.087.**

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

43 **“161.325.** (1) [*After entry of judgment of guilty except for insanity*] **When a person is found**  
44 **guilty except for insanity of a felony, or of a misdemeanor during a criminal episode in the**  
45 **course of which the person caused physical injury or risk of physical injury to another, the**

1 court shall,];

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

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

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

9 **“(a) Determine on the record the offense of which the person otherwise would have been con-**  
10 **victed;**

11 **“(b) State on the record the mental disease or defect on which the defendant relied for the guilty**  
12 **except for insanity defense; and**

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

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

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

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

26  
27 **“CONFORMING PROVISIONS**  
28

29 **“SECTION 17.** ORS 21.010 is amended to read:

30 **“21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a**  
31 **judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$154 in the**  
32 **manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in**  
33 **the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State**  
34 **Court Administrator the sum of \$154. The party entitled to costs and disbursements on such appeal**  
35 **shall recover from the opponent the amount so paid.**

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

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

1 426.135 or persons determined to be mentally retarded under ORS 427.295[,] **or orders of the State**  
2 **Board of Parole and Post-Prison Supervision** or on judicial review of orders [of] **entered under**  
3 **ORS 161.315 to 161.351** by the Psychiatric Security Review Board **or the Oregon Health Au-**  
4 **thority** [under ORS 161.385 (9) or orders of the State Board of Parole and Post-Prison Supervision].

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

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

11 “**SECTION 18.** ORS 21.010, as amended by section 30, chapter 659, Oregon Laws 2009, and  
12 section 37f, chapter 885, Oregon Laws 2009, is amended to read:

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

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

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

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

32 “**SECTION 19.** ORS 137.750 is amended to read:

33 “137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of  
34 a crime, the court shall order on the record in open court as part of the sentence imposed that the  
35 defendant may be considered by the executing or releasing authority for any form of temporary  
36 leave from custody, reduction in sentence, work release or program of conditional or supervised  
37 release authorized by law for which the defendant is otherwise eligible at the time of sentencing,  
38 unless the court finds on the record in open court substantial and compelling reasons to order that  
39 the defendant not be considered for such leave, release or program.

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

42 “(3) As used in this section:

43 “(a) ‘Executing or releasing authority’ means the Department of Corrections, State Board of  
44 Parole and Post-Prison Supervision, Psychiatric Security Review Board, **Oregon Health Authority,**  
45 sentencing court or supervisory authority.



1 “(b) ‘Supervisory authority’ has the meaning given that term in ORS 144.087.  
2 “**SECTION 20.** ORS 151.216 is amended to read:  
3 “151.216. (1) The Public Defense Services Commission shall:  
4 “(a) Establish and maintain a public defense system that ensures the provision of public defense  
5 services in the most cost-efficient manner consistent with the Oregon Constitution, the United States  
6 Constitution and Oregon and national standards of justice.  
7 “(b) Establish an office of public defense services and appoint a public defense services execu-  
8 tive director who serves at the pleasure of the commission.  
9 “(c) Submit the budget of the commission and the office of public defense services to the Legis-  
10 lative Assembly after the budget is submitted to the commission by the director and approved by the  
11 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall  
12 present the budget to the Legislative Assembly.  
13 “(d) Review and approve any public defense services contract negotiated by the director before  
14 the contract can become effective.  
15 “(e) Adopt a compensation plan, classification system and personnel plan for the office of public  
16 defense services that are commensurate with other state agencies.  
17 “(f) Adopt policies, procedures, standards and guidelines regarding:  
18 “(A) The determination of financial eligibility of persons entitled to be represented by appointed  
19 counsel at state expense;  
20 “(B) The appointment of counsel;  
21 “(C) The fair compensation of counsel appointed to represent a person financially eligible for  
22 appointed counsel at state expense;  
23 “(D) Appointed counsel compensation disputes;  
24 “(E) Any other costs associated with the representation of a person by appointed counsel in the  
25 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,  
26 161.346, 161.365, [161.385,] 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,  
27 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 **or section**  
28 **9 of this 2011 Act** or any other provision of law that expressly provides for payment of such com-  
29 pensation, costs or expenses by the commission;  
30 “(F) Professional qualifications for counsel appointed to represent public defense clients;  
31 “(G) Performance for legal representation;  
32 “(H) The contracting of public defense services;  
33 “(I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses  
34 only if in-state expert witnesses are not available or are more expensive than out-of-state expert  
35 witnesses; and  
36 “(J) Any other matters necessary to carry out the duties of the commission.  
37 “(g) Establish a peer review system for the approval of nonroutine fees and expenses incurred  
38 in cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review  
39 shall be conducted by a panel of attorneys who practice in the area of criminal defense.  
40 “(h) Establish a complaint process that allows district attorneys, criminal defense counsel and  
41 the public to file complaints concerning the payment from public funds of nonroutine fees and ex-  
42 penses incurred in cases.  
43 “(i) Reimburse the State Court Administrator from funds deposited in the subaccount established  
44 under ORS 151.225 for the costs of personnel and other costs associated with location of eligibility  
45 verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

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

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

11 “(4) The commission may not:

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

13 “(b) Have access to any case file; or

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

16 “**SECTION 21.** ORS 162.135 is amended to read:

17 “162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

18 “(1)(a) ‘Contraband’ means:

19 “(A) Controlled substances as defined in ORS 475.005;

20 “(B) Drug paraphernalia as defined in ORS 475.525;

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

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

26 “(b) ‘Contraband’ does not include authorized currency possessed by an inmate in a work release  
27 facility.

28 “(2) ‘Correctional facility’ means any place used for the confinement of persons charged with  
29 or convicted of a crime or otherwise confined under a court order and includes but is not limited  
30 to a youth correction facility. ‘Correctional facility’ applies to a state hospital or a secure intensive  
31 community inpatient facility only as to persons detained therein charged with or convicted of a  
32 crime, or detained therein after having been found guilty except for insanity of a crime under ORS  
33 161.290 to 161.370.

34 “(3) ‘Currency’ means paper money and coins that are within the correctional institution.

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

38 “(5) ‘Escape’ means the unlawful departure of a person from custody or a correctional facility.  
39 ‘Escape’ includes the unauthorized departure or absence from this state or failure to return to this  
40 state by a person who is under the jurisdiction of the Psychiatric Security Review Board **or under**  
41 **the jurisdiction of the Oregon Health Authority under ORS 161.315 to 161.351.** ‘Escape’ does  
42 not include failure to comply with provisions of a conditional release in ORS 135.245.

43 “(6) ‘Youth correction facility’ means:

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

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

1 “(7) ‘State hospital’ means the Oregon State Hospital, Blue Mountain Recovery Center, Eastern  
2 Oregon Training Center and any other hospital established by law for similar purposes.

3 “(8) ‘Unauthorized departure’ means the unauthorized departure of a person confined by court  
4 order in a youth correction facility or a state hospital that, because of the nature of the court order,  
5 is not a correctional facility as defined in this section, or the failure to return to custody after any  
6 form of temporary release or transitional leave from a correctional facility.

7 “**SECTION 22.** ORS 162.155 is amended to read:

8 “162.155. (1) A person commits the crime of escape in the second degree if:

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

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

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

13 “(d) While under the jurisdiction of the Psychiatric Security Review Board **or under the ju-**  
14 **risdiction of the Oregon Health Authority under ORS 161.315 to 161.351**, the person departs, is  
15 absent from or fails to return to this state without authorization of the board.

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

17 “**SECTION 23.** ORS 181.740 is amended to read:

18 “181.740. (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric  
19 Security Review Board and the Judicial Department shall provide the Department of State Police  
20 with the minimum information necessary to identify persons who:

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

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

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

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

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

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

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

32 “(h) Have been committed to a state hospital or facility under ORS [*161.327, 161.336*] **161.315** to  
33 **161.351** or 419C.529 to 419C.544.

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

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

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

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

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

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

8 “**SECTION 24.** ORS 183.315 is amended to read:

9 “183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,  
10 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created  
11 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,  
12 Department of Consumer and Business Services with respect to its functions under ORS chapters  
13 654 and 656, **State Board of Parole and Post-Prison Supervision**, Psychiatric Security Review  
14 Board or [*State Board of Parole and Post-Prison Supervision*] **Oregon Health Authority with re-**  
15 **spect to its functions under ORS 161.315 to 161.351.**

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

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

20 “(4) The Employment Department shall be exempt from the provisions of this chapter to the  
21 extent that a formal finding of the United States Secretary of Labor is made that such provision  
22 conflicts with the terms of the federal law, acceptance of which by the state is a condition precedent  
23 to continued certification by the United States Secretary of Labor of the state’s law.

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

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

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

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

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

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

37 “**SECTION 25.** ORS 183.635 is amended to read:

38 “183.635. (1) Except as provided in this section, all agencies must use administrative law judges  
39 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-  
40 tested case hearings, without regard to whether those hearings are subject to the procedural re-  
41 quirements for contested case hearings.

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

43 “(a) Attorney General.

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

45 “(c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Indus-

1 tries.

2 “(d) Department of Corrections.

3 “(e) Department of Education, State Board of Education and Superintendent of Public Instruc-  
4 tion.

5 “(f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.  
6 722(c) and disability determination cases under 42 U.S.C. 405.

7 “(g) Department of Revenue.

8 “(h) Department of State Police.

9 “(i) Employment Appeals Board.

10 “(j) Employment Relations Board.

11 “(k) Energy Facility Siting Council.

12 “(L) Fair Dismissal Appeals Board.

13 “(m) Governor.

14 “(n) Land Conservation and Development Commission.

15 “(o) Land Use Board of Appeals.

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

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

18 “(r) Oregon Youth Authority.

19 “(s) Psychiatric Security Review Board.

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

21 “[t] (u) Public Utility Commission.

22 “[u] (v) State Accident Insurance Fund Corporation.

23 “[v] (w) State Apprenticeship and Training Council.

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

25 “[x] (y) State Land Board.

26 “[y] (z) State Treasurer.

27 “[z] (aa) Wage and Hour Commission.

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

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

34 “(b) ORS chapter 455;

35 “(c) ORS chapter 674;

36 “(d) ORS chapters 706 to 716;

37 “(e) ORS chapter 717;

38 “(f) ORS chapters 723, 725 and 726; and

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

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

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

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

1 or

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

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

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

7 “192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of [*the State Board of*  
8 *Parole and Post-Prison Supervision,*] **the Oregon Health Authority conducted under ORS 161.315**  
9 **to 161.351**, the Psychiatric Security Review Board, **the State Board of Parole and Post-Prison**  
10 **Supervision**, state agencies conducting hearings on contested cases in accordance with the pro-  
11 visions of ORS chapter 183, the review by the Workers’ Compensation Board or the Employment  
12 Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance  
13 committee operating under the provisions of ORS 9.568, meetings of the personal and practice man-  
14 agement assistance committees operating under the provisions of ORS 9.568, the county multidisci-  
15 plinary child abuse teams required to review child abuse cases in accordance with the provisions  
16 of ORS 418.747, the child fatality review teams required to review child fatalities in accordance with  
17 the provisions of ORS 418.785, the peer review committees in accordance with the provisions of ORS  
18 441.055, mediation conducted under ORS 36.250 to 36.270, any judicial proceeding, meetings of the  
19 Oregon Health and Science University Board of Directors or its designated committee regarding  
20 candidates for the position of president of the university or regarding sensitive business, financial  
21 or commercial matters of the university not customarily provided to competitors related to fi-  
22 nancings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or  
23 substantial change in use of, significant real or personal property, or related to health system  
24 strategies, or to Oregon Health and Science University faculty or staff committee meetings.

25 “(2) Because of the grave risk to public health and safety that would be posed by misappropri-  
26 ation or misapplication of information considered during such review and approval, ORS 192.610 to  
27 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting  
28 Council pursuant to ORS 469.530.

29 “**SECTION 27.** ORS 278.315 is amended to read:

30 “278.315. (1) The Oregon Health Authority may provide tort liability coverage through the  
31 Oregon Department of Administrative Services to any county or private community care provider  
32 that has contracted with the authority to provide supervision, care, treatment or training of persons  
33 under the jurisdiction of the Psychiatric Security Review Board **or the authority under ORS**  
34 **161.315 to 161.351**. Counties or private community care providers, and the officers and employees  
35 of those counties and providers acting within the scope of their employment, may be covered to the  
36 extent that any tort claim arises out of the provision of supervision, care, treatment or training of  
37 persons pursuant to the terms of the contract. Tort liability coverage under this section must be in  
38 writing, and may be part of the contract between the authority and the county or private community  
39 care provider. The coverage provided under this section shall be self-insurance by the State of  
40 Oregon to the limits contained in ORS 30.260 to 30.300.

41 “(2) Counties or private community care providers that have contracted with the authority to  
42 provide supervision, care, treatment or training of persons under the jurisdiction of the Psychiatric  
43 Security Review Board **or the authority under ORS 161.315 to 161.351**, and the officers and em-  
44 ployees of those counties and providers, are not agents of the authority for the purposes of ORS  
45 30.260 to 30.300.

1       “**SECTION 28.** ORS 430.695 is amended to read:

2       “430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any  
3 source, except client resources applied toward the cost of care in group homes for persons with  
4 mental retardation or mental illness and client resources and third-party payments for community  
5 psychiatric inpatient care, received by a community mental health program are not an offset to the  
6 costs of the services and may not be applied to reduce the program’s eligibility for state funds,  
7 providing the funds are expended for mental health services approved by the Oregon Health Au-  
8 thority.

9       “(2) Within the limits of available funds, the authority may contract for specialized, statewide  
10 and regional services including but not limited to group homes for persons with mental retardation  
11 or mental or emotional disturbances, day and residential treatment programs for children and ado-  
12 lescents with mental or emotional disturbances and community services for clients of the Psychiatric  
13 Security Review Board **or the authority under ORS 161.315 to 161.351.**

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

19       “**SECTION 29.** ORS 809.419 is amended to read:

20       “809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a per-  
21 son if the department requests the person to submit to examination under ORS 807.340 and the  
22 person fails to appear within a reasonable length of time after being notified to do so or fails to  
23 satisfactorily complete the required examination. A suspension under this subsection shall continue  
24 until the examination required by the department is successfully completed.

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

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

31       “(3)(a) The department may suspend the driving privileges of a person who is incompetent to  
32 drive a motor vehicle because of a mental or physical condition or impairment that affects the  
33 person’s ability to safely operate a motor vehicle upon the highways.

34       “(b) A suspension under this subsection shall continue for a period determined by the depart-  
35 ment and shall be subject to any conditions the department determines to be necessary.

36       “(c) The department may impose an immediate suspension of driving privileges of any person  
37 described in paragraph (a) of this subsection without hearing and without receiving a record of the  
38 conviction of the person of a crime if the department has reason to believe that the person may  
39 endanger people or property if the person’s driving privileges are not immediately suspended. A  
40 suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. A person  
41 who is denied eligibility under ORS 807.090 is entitled to a hearing under ORS 809.440.

42       “(4)(a) Whenever the department has reason to believe an individual with a motorcycle  
43 endorsement under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke  
44 the endorsement.

45       “(b) Upon revocation under this subsection, the endorsed license shall be surrendered to the

1 department.

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

4 “(5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person  
5 should not drive, the department shall immediately suspend the driving privileges of the released  
6 person. A suspension under this subsection is subject to administrative review under ORS 809.440  
7 and shall continue until such time as the person produces a judicial judgment of competency or a  
8 certificate from the superintendent of the hospital that the person is competent, or establishes el-  
9 igibility under ORS 807.090.

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

16 “**SECTION 30.** ORS 810.375 is amended to read:

17 “810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic  
18 offense, including all local and municipal judicial officers in this state:

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

20 “(b) Shall send the Department of Transportation an abstract of conviction for any person who  
21 is convicted.

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

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

28 “(2) The department shall keep such records in its office, and they shall be open to the in-  
29 spection of any person during reasonable business hours.

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

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

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

35  
36 **“MISCELLANEOUS PROVISIONS**

37  
38 “**SECTION 31.** The unit captions used in this 2011 Act are provided only for the conven-  
39 ience of the reader and do not become part of the statutory law of this state or express any  
40 legislative intent in the enactment of this 2011 Act.

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

43 “**SECTION 33.** (1) Sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010,  
44 137.750, 151.216, 161.325, 161.326, 161.327, 161.328, 161.329, 161.336, 161.341, 161.346, 161.351,  
45 161.375, 161.385, 161.390, 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690,



1 278.315, 430.695, 809.419 and 810.375 by sections 1 to 8, 10 to 14 and 16 to 30 of this 2011 Act  
2 become operative on January 1, 2012.

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

12 “(3) On the operative date specified in subsection (1) of this section, the Oregon Health  
13 Authority shall exercise jurisdiction over persons committed to a state hospital or secure  
14 intensive community inpatient facility under ORS 161.315 to 161.351 in accordance with  
15 sections 9 and 15 of this 2011 Act and the amendments to ORS 21.010, 137.750, 151.216, 161.325,  
16 161.326, 161.327, 161.328, 161.329, 161.336, 161.341, 161.346, 161.351, 161.375, 161.385, 161.390,  
17 161.395, 161.400, 162.135, 162.155, 181.740, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and  
18 810.375 by sections 1 to 8, 10 to 14 and 16 to 30 of this 2011 Act.

19 “SECTION 34. This 2011 Act being necessary for the immediate preservation of the public  
20 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect  
21 on its passage.”.

22

---