

House Bill 4022

Sponsored by Representative BARKER (at the request of Multnomah County District Attorney Michael D. Schrunk)
(Presession filed.)

SUMMARY

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

Expands definition of "mentally ill person" for purposes of civil commitment proceedings to include persons with substance dependence associated with opioids and two prior convictions for unlawful possession of heroin and for whom compelled treatment is necessary to avoid reoffending. Authorizes commitment of such persons to supervision of court for period of 12 months or less. Prohibits such persons from converting from involuntary to voluntary commitment. Allows such persons to be incarcerated without filing criminal charges.

A BILL FOR AN ACT

1
2 Relating to commitment of persons with mental illness; creating new provisions; and amending ORS
3 163.738, 166.291, 166.470, 426.005, 426.010, 426.020, 426.070, 426.074, 426.075, 426.090, 426.095,
4 426.100, 426.110, 426.125, 426.127, 426.130, 426.140, 426.150, 426.170, 426.217, 426.223, 426.231,
5 426.233, 426.234, 426.237, 426.238, 426.273, 426.275, 426.278, 426.292, 426.300, 426.301, 426.303,
6 426.310, 426.335, 426.370, 426.380, 427.300, 428.210 and 480.225.

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

CIVIL COMMITMENT OF PERSONS WITH SUBSTANCE DEPENDENCE ASSOCIATED WITH OPIOIDS

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12 **SECTION 1.** ORS 426.005 is amended to read:

13 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

14 (a) "Authority" means the Oregon Health Authority.

15 (b) "Community mental health program director" means the director of an entity that provides
16 the services described in ORS 430.630 (3) to (5).

17 (c) "Director of the facility" means a superintendent of a state mental hospital, the chief of
18 psychiatric services in a community hospital or the person in charge of treatment and rehabilitation
19 programs at other treatment facilities.

20 (d) "Facility" means a state mental hospital, community hospital, residential facility,
21 detoxification center, day treatment facility, **inpatient opioid treatment program** or such other
22 facility as the authority determines suitable, any of which may provide diagnosis and evaluation,
23 medical care, detoxification, social services or rehabilitation for committed mentally ill persons.

24 (e) "Mentally ill person" means a person who, because of a mental disorder, is one or more of
25 the following:

26 (A) Dangerous to self or others.

27 (B) Unable to provide for basic personal needs and is not receiving such care as is necessary
28 for health or safety.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (C) A person:

2 (i) With a chronic mental illness, as defined in ORS 426.495;

3 (ii) Who, within the previous three years, has twice been placed in a hospital or approved in-
4 patient facility by the authority or the Department of Human Services under ORS 426.060;

5 (iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led
6 to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii)
7 of this subparagraph; and

8 (iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or
9 mentally deteriorate so that the person will become a person described under either subparagraph
10 (A) or (B) of this paragraph or both.

11 **(D) A person with substance dependence associated with opioids:**

12 **(i) Who has two or more prior convictions within the preceding five years under ORS**
13 **475.854, or its statutory counterpart in another jurisdiction, for the unlawful possession of**
14 **heroin or who has been committed to the supervision of the court under ORS 426.130 during**
15 **the preceding five years;**

16 **(ii) Who, within the 30-day period ending on the date the community mental health pro-**
17 **gram director receives the notice under ORS 426.070, was in possession of heroin;**

18 **(iii) Who has no pending criminal charges; and**

19 **(iv) For whom it would be difficult, if not impossible, to avoid the commission of another**
20 **offense under ORS 475.854, or its statutory counterpart in another jurisdiction, if the person**
21 **is not compelled to undergo treatment.**

22 (f) “Nonhospital facility” means any facility, other than a hospital, that is approved by the au-
23 thority to provide adequate security, psychiatric, nursing and other services to persons under ORS
24 426.232 or 426.233.

25 (g) “Prehearing period of detention” means a period of time calculated from the initiation of
26 custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

27 (2) Whenever **the Oregon Health Authority**, a community mental health program director, di-
28 rector of *[the]* a facility, superintendent of a state hospital, *[or]* administrator of a facility **or sheriff**
29 is referred to, the reference includes any *[designee such]* **individual** the person has designated to
30 act on the person’s behalf in the exercise of duties.

31 **SECTION 2.** ORS 426.010 is amended to read:

32 426.010. (1) Except as otherwise ordered by the Oregon Health Authority pursuant to ORS
33 179.325, the Oregon State Hospital campuses in Salem, Marion County, and in Junction City, Lane
34 County, and the Blue Mountain Recovery Center in Pendleton, Umatilla County, shall be used as
35 state hospitals for the care and treatment of mentally ill persons who are assigned to the care of
36 such institutions by the authority or who have previously been committed to such institutions.

37 **(2) Inpatient opioid treatment programs approved by the Oregon Health Authority shall**
38 **provide the care and treatment of mentally ill persons described in ORS 426.005 (1)(e)(D) who**
39 **are under the supervision of a court under ORS 426.130.**

40 **SECTION 3.** ORS 426.070 is amended to read:

41 426.070. (1) Any of the following may initiate commitment *[procedures]* **proceedings** under this
42 section by giving the notice described under subsection (2) of this section:

43 (a) Two persons;

44 (b) The county health officer; *[or]*

45 (c) Any magistrate~~].~~; **or**

1 **(d) Any district attorney or deputy district attorney.**

2 (2) For purposes of subsection (1) of this section, the notice must comply with the following:

3 (a) It must be in writing under oath;

4 (b) It must be given to the community mental health program director [*or a designee of the di-*
5 *rector in*] **of** the county where the allegedly mentally ill person resides;

6 (c) It must state that **there is probable cause to believe that** a person within the county other
7 than the person giving the notice:

8 **(A)** Is a mentally ill person and is in need of treatment, care or custody; **or**

9 **(B) Is a mentally ill person as described in ORS 426.005 (1)(e)(D);**

10 (d) If the commitment proceeding is initiated by two persons under subsection (1)(a) of this sec-
11 tion, it may include a request that the court notify the two persons:

12 (A) Of the issuance or nonissuance of a warrant under this section; or

13 (B) Of the court's determination under ORS 426.130 (1); and

14 (e) If the notice contains a request under paragraph (d) of this subsection, it must also include
15 the addresses of the two persons making the request.

16 (3) Upon receipt of a notice under subsections (1) and (2) of this section or when notified by a
17 circuit court that the court received notice under ORS 426.234, the community mental health pro-
18 gram director[, *or designee of the director,*] shall:

19 (a) Immediately notify [*the judge of*] the court having jurisdiction for that county under ORS
20 426.060 of the notification described in subsections (1) and (2) of this section.

21 (b) Immediately notify the Oregon Health Authority if commitment is proposed because the
22 person appears to be a mentally ill person, as defined in ORS 426.005 (1)(e)(C). When such notice is
23 received, the authority may verify, to the extent known by the authority, whether or not the person
24 meets the criteria described in ORS 426.005 (1)(e)(C)(i) and (ii) and so inform the community mental
25 health program director [*or designee of the director*].

26 (c) Initiate an investigation under ORS 426.074 to determine whether there is probable cause to
27 believe that the person is in fact a mentally ill person.

28 (4)(a) Upon completion **of the investigation, the community mental health program direc-**
29 **tor shall promptly submit** a recommendation based upon the investigation report under ORS
30 426.074 [*shall be promptly submitted*] to the court **and to any district attorney or deputy district**
31 **attorney who initiated the proceedings.**

32 (b) If the community mental health program director determines that probable cause does not
33 exist to believe that a person released from detention under ORS 426.234 (2)(c) or (3)(b) is a mentally
34 ill person, the community mental health program director [*shall*] **may** not submit a recommendation
35 to the court.

36 (5) When the court receives notice under subsection (3) of this section:

37 (a) If the court, following the investigation, concludes that there is probable cause to believe
38 that the person investigated is a mentally ill person, [*it*] **the court** shall, through the issuance of a
39 citation as provided in ORS 426.090, cause the person to be brought before [*it*] **the court** at a time
40 and place as [*it*] **the court** may direct, for a hearing under ORS 426.095 to determine whether the
41 person is mentally ill. The person shall be given the opportunity to appear voluntarily at the hearing
42 unless the person fails to appear or unless the person is detained pursuant to paragraph (b) of this
43 subsection.

44 (b)(A) The [*judge*] **court** may cause the allegedly mentally ill person to be taken into custody
45 pending the investigation or hearing by issuing a warrant of detention under this subsection. A

1 *[judge]* **court** may *[only]* issue a warrant under this subsection **only** if the court finds that there is
 2 probable cause to believe that failure to take the person into custody would pose serious harm or
 3 danger to the person or to others **or that the person meets the criteria in ORS 426.005**
 4 **(1)(e)(D)**.

5 (B) To cause the custody of a person under this paragraph, the *[judge]* **court** must issue a
 6 warrant of detention to the community mental health program director or *[designee,]* **to** the sheriff
 7 of the county *[or designee, directing that person]* **that directs the community mental health di-**
 8 **rector or the sheriff** to take the allegedly mentally ill person into custody and **to** produce the
 9 person at the time and place stated in the warrant.

10 (C) At the time the person is taken into custody, the person shall be informed by the community
 11 mental health program director[,], **or** the sheriff *[or a designee]* of the following:

12 (i) The person's rights with regard to representation by or appointment of counsel as described
 13 in ORS 426.100;

14 (ii) The warning under ORS 426.123; and

15 (iii) The person's right, if the community mental health program director[,], **or** sheriff *[or*
 16 *designee]* reasonably suspects that the person is a foreign national, to communicate with an official
 17 from the consulate of the person's country. A community mental health program director[,], **or** sheriff
 18 *[or designee]* is not civilly or criminally liable for failure to provide the information required by this
 19 sub-subparagraph. Failure to provide the information required by this sub-subparagraph does not in
 20 itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a pro-
 21 ceeding.

22 (D) The court may make any orders for the care and custody of the person prior to the hearing
 23 as *[it]* **the court** considers necessary.

24 (c) If the notice includes a request under subsection (2)(d)(A) of this section, the court shall
 25 notify the two persons of the issuance or nonissuance of a warrant under this subsection.

26 **SECTION 4.** ORS 426.074 is amended to read:

27 426.074. The following is applicable to an investigation initiated by a community mental health
 28 program director[, *or a designee of the director,*] as part of commitment *[procedures]* **proceedings**
 29 under ORS 426.070 and 426.228 to 426.235:

30 (1) If the allegedly mentally ill person is held in custody before the hearing the investigation
 31 shall be completed at least 24 hours before the hearing under ORS 426.095, otherwise the investi-
 32 gation shall comply with the following time schedule:

33 (a) If the allegedly mentally ill person can be located, the investigator shall contact the person
 34 within three judicial days from the date the community mental health program director *[or a*
 35 *designee]* receives a notice under ORS 426.070 alleging that the person is mentally ill.

36 (b) Within 15 days from the date the community mental health program director *[or a designee]*
 37 receives a notice under ORS 426.070 alleging that a person is mentally ill, one of the following shall
 38 occur:

39 (A) The investigation shall be completed and submitted to the court.

40 (B) An application for extension shall be made to the court under paragraph (c) of this sub-
 41 section.

42 (c) The community mental health program director[, *a designee]* or the investigator may file for
 43 an extension of the time under paragraph (b) of this subsection only if one of the following occurs:

44 (A) A treatment option less restrictive than involuntary *[in-patient]* **inpatient** commitment is
 45 actively being pursued.

1 (B) The allegedly mentally ill person cannot be located.

2 (d) A court may grant an extension under paragraph (c) of this subsection for a time and upon
3 the terms and conditions the court considers appropriate.

4 (2) This subsection establishes a nonexclusive list of provisions applicable to the content of the
5 investigation, as follows:

6 (a) The investigation conducted should, where appropriate, include an interview or examination
7 of the allegedly mentally ill person in the home of the person or other place familiar to the person.

8 (b) Whether or not the allegedly mentally ill person consents, the investigation should include
9 interviews with any persons that the investigator has probable cause to believe have pertinent in-
10 formation regarding the investigation. If the allegedly mentally ill person objects to the contact with
11 any person, the objection shall be noted in the investigator's report.

12 (c) The investigator shall be allowed access to physicians, nurses or social workers and to
13 medical records compiled during the current involuntary prehearing period of detention to determine
14 probable cause and to develop alternatives to commitment. If commitment is proposed because the
15 person appears to be a mentally ill person as defined in ORS 426.005 (1)(e)(C) **or (D)**, the investi-
16 gator shall be allowed access to medical records necessary to verify the existence of criteria de-
17 scribed in ORS 426.005 (1)(e)(C) **or (D)**. The investigator shall include pertinent parts of the medical
18 record in the investigation report. Records and communications described in this paragraph and
19 communications related thereto are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

20 (3) A copy of the investigation report shall be provided as soon as possible, but in no event later
21 than 24 hours prior to the hearing, to the allegedly mentally ill person and to that person's counsel.
22 Copies shall likewise be provided to counsel assisting the court, to the examiners and to the court
23 for use in questioning witnesses.

24 **SECTION 5.** ORS 426.095 is amended to read:

25 426.095. The following is applicable to a commitment hearing held by a court under ORS 426.070:

26 (1) The hearing may be held in a hospital, the person's home or in some other place convenient
27 to the court and the allegedly mentally ill person.

28 (2) The court shall hold the hearing at the time established according to the following:

29 (a) Except as provided by paragraph (b) or (c) of this subsection, a hearing shall be held five
30 judicial days from the day a court under ORS 426.070 issues a citation provided under ORS 426.090.

31 (b) Except as provided by paragraph (c) of this subsection, if a person is detained by a warrant
32 of detention under ORS 426.070, a hearing shall be held within five judicial days of the commence-
33 ment of detention.

34 (c) If requested under this paragraph, the court, for good cause, may postpone the hearing for
35 not more than five judicial days in order to allow preparation for the hearing. The court may make
36 orders for the care and custody of the person during a postponement as *[it]* **the court** deems nec-
37 essary. If a person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232 or
38 426.233 and the hearing is postponed under this paragraph, the court, for good cause, may allow the
39 person to be detained during the postponement if the postponement is requested by the person or
40 the legal counsel of the person. Any of the following may request a postponement under this para-
41 graph:

42 (A) The allegedly mentally ill person.

43 (B) The legal counsel or guardian of the allegedly mentally ill person.

44 (C) The person representing the state's interest.

45 (3) The allegedly mentally ill person and the person representing the state's interest shall have

1 the right to cross-examine all the following:

2 (a) Witnesses.

3 (b) The person conducting the investigation.

4 (c) The examining physicians or other qualified persons recommended by the Oregon Health
5 Authority who have examined the person.

6 (4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 [*shall*] **do** not apply to and the court
7 may consider as evidence any of the following:

8 (a) Medical records for the current involuntary prehearing period of detention.

9 (b) Statements attributed by the maker of the medical records or the investigation report to
10 witnesses concerning their own observations in the absence of objection or if such persons are
11 produced as witnesses at the hearing available for cross-examination.

12 (c) The testimony of any treating physicians, nurses or social workers for the prehearing period
13 of detention. Any treating physician, nurse or social worker who is subpoenaed as a witness for the
14 proceeding shall testify as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and
15 40.425 and is subject to treatment as an expert witness in the payment of witness fees and costs.

16 (d) The investigation report prepared under ORS 426.074. Subject to the following, the investi-
17 gation report shall be introduced in evidence:

18 (A) Introduction of the report under this paragraph does not require the consent of the allegedly
19 mentally ill person.

20 (B) Upon objection by any party to the action, the court shall exclude any part of the investi-
21 gation report that may be excluded under the Oregon Evidence Code on grounds other than those
22 set forth in ORS 40.230, 40.235, 40.240 or 40.250.

23 (C) Neither the investigation report nor any part thereof shall be introduced into evidence under
24 this paragraph unless the investigator is present during the proceeding to be cross-examined or un-
25 less the presence of the investigator is waived by the allegedly mentally ill person or counsel for
26 the allegedly mentally ill person.

27 **(5) For a person alleged to be a mentally ill person as defined in ORS 426.005 (1)(e)(D),**
28 **the court shall receive and consider:**

29 **(a) The Oregon Judicial Information Network criminal records of the person;**

30 **(b) Criminal records from another jurisdiction if the records contain sufficient indicia of**
31 **reliability; and**

32 **(c) The results of a presumptive test, as defined in ORS 475.235, that is:**

33 **(A) Conducted by a law enforcement officer trained to use the test or by a forensic sci-**
34 **entist; and**

35 **(B) Positive for heroin.**

36 **SECTION 6.** ORS 426.100 is amended to read:

37 426.100. (1) At the time the allegedly mentally ill person is brought before the court, the court
38 shall advise the person of the following:

39 (a) The reason for being brought before the court;

40 (b) The nature of the proceedings;

41 (c) The possible results of the proceedings;

42 (d) The right to subpoena witnesses; and

43 (e) The person's rights regarding representation by or appointment of counsel.

44 (2) Subsection (3) of this section establishes the rights of allegedly mentally ill persons in each
45 of the following circumstances:

1 (a) When the person is held by warrant of detention issued under ORS 426.070.

2 (b) In commitment hearings under ORS 426.095.

3 (c) When the person is detained as provided under ORS 426.228, 426.232 or 426.233.

4 (d) In recommitment hearings under ORS 426.307.

5 (3) When provided under subsection (2) of this section, an allegedly mentally ill person has the
6 following rights relating to representation by or appointment of counsel:

7 (a) The right to obtain suitable legal counsel possessing skills and experience commensurate
8 with the nature of the allegations and complexity of the case during the proceedings.

9 (b) If the person is determined to be financially eligible for appointed counsel at state expense,
10 the court will appoint legal counsel to represent the person. If a person is appointed counsel at state
11 expense, payment of expenses and compensation relating to legal counsel shall be made as provided
12 under ORS 426.250.

13 (c) If the allegedly mentally ill person does not request legal counsel, the legal guardian, relative
14 or friend may request the assistance of suitable legal counsel on behalf of the person.

15 (d) If no request for legal counsel is made, the court shall appoint suitable legal counsel unless
16 counsel is expressly, knowingly and intelligently refused by the person.

17 (e) If the person is being involuntarily detained before a hearing on the issue of commitment,
18 the right under paragraph (a) of this subsection to contact an attorney or under paragraph (b) of this
19 subsection to have an attorney appointed may be exercised as soon as reasonably possible.

20 (f) In all cases suitable legal counsel shall be present at the hearing and may be present at ex-
21 amination and may examine all witnesses offering testimony, and otherwise represent the person.

22 (4) The responsibility for representing the state's interest in commitment proceedings, including,
23 but not limited to, preparation of the state's case and appearances at commitment hearings is as
24 follows:

25 (a) The Attorney General's office shall have the responsibility relating to proceedings initiated
26 by state hospital staff that are any of the following:

27 (A) Recommitment proceedings under ORS 426.307; or

28 (B) Proceedings under ORS 426.228, 426.232 or 426.233.

29 (b) The district attorney if **the proceedings were initiated by the district attorney or deputy**
30 **district attorney under ORS 426.070 (1)(d), or if** [*requested to do so by*] the governing body of the
31 county **requests the district attorney to represent the state's interest.**

32 (c) In lieu of the district attorney under paragraph (b) of this subsection, a counsel designated
33 by the governing body of a county shall take the responsibility. A county governing body may des-
34 ignate counsel to take responsibility under this paragraph either for single proceedings or for all
35 such proceedings the county will be obligated to pay for under ORS 426.250. If a county governing
36 body elects to proceed under this paragraph, the county governing body shall so notify the district
37 attorney. The expenses of an attorney appointed under this paragraph shall be paid as provided
38 under ORS 426.250.

39 **SECTION 7.** ORS 426.127 is amended to read:

40 426.127. The following provisions are applicable to outpatient commitment under ORS 426.130
41 as described:

42 (1) The Oregon Health Authority **and the court** may [*only*] place a person in an outpatient
43 commitment **only** if an adequate treatment facility is available.

44 (2) Conditions for the outpatient commitment shall be set at the time of the hearing under ORS
45 426.095 by the community mental health program director[, or a designee for the director, for] **of** the

1 county in which the hearing takes place **or, for an alleged mentally ill person as defined in ORS**
 2 **426.005 (1)(e)(D), by the court.** The conditions shall include, but not be limited to, the following:

3 (a) Provision for outpatient care.

4 (b) A designation of a facility, service or other provider to provide care or treatment.

5 (3) A copy of the conditions shall be given to all of the persons described in ORS 426.278.

6 (4) Any outpatient commitment ordered under this section is subject to the provisions under
 7 ORS 426.275.

8 (5) The community mental health program director [*or designee, for*] **of** the county where a
 9 person is on outpatient commitment, **or the court,** may modify the conditions for outpatient com-
 10 mitment when a modification is in the best interest of the person. The community mental health
 11 program director or [*designee*] **the court** shall send notification of such changes and the reasons for
 12 the changes to all those who received a copy of the original conditions under ORS 426.278.

13 **SECTION 8.** ORS 426.130 is amended to read:

14 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examining per-
 15 sons, the court shall determine whether the person is mentally ill. If, in the opinion of the court, the
 16 person is:

17 (a) Not mentally ill, the person shall be discharged forthwith.

18 (b) **A** mentally ill **person** based upon clear and convincing evidence, the court:

19 (A) **Except for persons described in ORS 426.005 (1)(e)(D),** shall order the release of the
 20 [*individual*] **person** and dismiss the case if:

21 (i) The mentally ill person is willing and able to participate in treatment on a voluntary basis;
 22 and

23 (ii) The court finds that the person will probably do so.

24 (B) May order conditional release under this subparagraph subject to the qualifications and re-
 25 quirements under ORS 426.125. If the court orders conditional release under this subparagraph, the
 26 court shall establish a period of commitment for the conditional release.

27 (C) May order commitment of the [*individual*] **person** to the Oregon Health Authority for
 28 treatment, **or if the person is a mentally ill person as defined in ORS 426.005 (1)(e)(D) to the**
 29 **supervision of the court** if, in the opinion of the court, subparagraph (A) or (B) of this paragraph
 30 is not in the best interest of the mentally ill person. If the court orders commitment under this
 31 subparagraph:

32 (i) The court shall establish a period of commitment **that may not exceed 12 months for a**
 33 **person committed to the supervision of the court.**

34 (ii) The authority may place [*the committed*] **a person committed to the authority** in outpa-
 35 tient commitment under ORS 426.127.

36 (iii) **Subject to sub-subparagraph (iv) of this subparagraph, the court may place a person**
 37 **committed to the court's supervision in an inpatient opioid treatment program or an outpa-**
 38 **tient commitment under ORS 426.127.**

39 (iv) **For a mentally ill person as defined in ORS 426.005 (1)(e)(D) who is committed to the**
 40 **supervision of the court, the court may require the person to participate in inpatient treat-**
 41 **ment for a period of no more than 90 days. For good cause, the court may require additional**
 42 **periods of inpatient treatment but the total duration of inpatient treatment may not exceed**
 43 **180 days.**

44 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the
 45 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self

1 or others or to the community at large as a result of the person’s mental or psychological state as
 2 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
 3 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
 4 a court makes an order under this subparagraph, the court shall cause a copy of the order to be
 5 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data
 6 System.

7 (2) A court that orders a conditional release or a commitment under this section shall establish
 8 a period of commitment for the person subject to the order. Any period of commitment ordered for
 9 commitment or conditional release under this section shall be:

10 (a) For a period of time not to exceed 180 days[,] **for a commitment to the Oregon Health**
 11 **Authority; or**

12 (b) **For a period of time not to exceed 12 months for a commitment to the supervision**
 13 **of the court.**

14 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a) and if the notice in-
 15 cluded a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court’s
 16 determination under subsection (1) of this section.

17 **SECTION 9.** ORS 426.140 is amended to read:

18 426.140. (1) [No] **A** person, not incarcerated upon a criminal charge, who has been adjudged a
 19 mentally ill person or [one] **a person** against whom commitment proceedings have been instituted
 20 [shall] **may not** be confined in any prison, jail or other enclosure where those charged with a crime
 21 or a violation of a municipal ordinance are incarcerated, unless the person:

22 (a) Represents an immediate and serious danger to staff or physical facilities of a hospital or
 23 other facility approved by the Oregon Health Authority for the care, custody and treatment of the
 24 person[.]; **or**

25 (b) **Is alleged or adjudged to be a mentally ill person as defined in ORS 426.005 (1)(e)(D).**

26 (2) [No] **An** allegedly mentally ill person who has been taken into custody [shall] **may not** be
 27 confined, either before or after the commitment hearing, without an attendant in direct charge of
 28 the person[; and,] **If the allegedly mentally ill person is** not confined in a community hospital, the
 29 sheriff or community mental health program director having the person in custody shall select some
 30 suitable person to act as attendant in quarters suitable for the comfortable, safe and humane con-
 31 finement of the person and approved by the authority.

32 **SECTION 10.** ORS 426.150 is amended to read:

33 426.150. (1) Upon receipt of [the] **an** order of commitment, the Oregon Health Authority [or its
 34 designee] shall take the mentally ill person into its custody, and [insure] **ensure** the safekeeping and
 35 proper care of the person until delivery is made to an assigned treatment facility or its represen-
 36 tative. The representative of the treating facility to which the person has been assigned, accompa-
 37 nied by any assistants the authority [or its designee] may deem necessary, shall proceed to the place
 38 where the person is to be delivered into custody, and upon demand shall be given custody of the
 39 mentally ill person, together with the certified record required by ORS 426.170. The representative
 40 shall issue appropriate receipts therefor and immediately proceed to transport the committed men-
 41 tally ill person safely to the facility to which the person has been assigned by the authority **or a**
 42 **court** and [there make delivery of] **deliver** the person and the record to the director or a designated
 43 employee of the facility. In taking custody of the person, the authority[, its designee,] or the repre-
 44 sentative of the facility has all the powers provided by ORS 133.225 and 161.255 and may require
 45 the assistance of any peace officer or other person.

1 (2) The committing [*judge*] **court**, upon approval of the examining physicians or other qualified
 2 persons as recommended by the authority and upon request of a guardian, friend or relative of the
 3 mentally ill person, may authorize the guardian, friend or relative to transport the person to the
 4 [*designated*] **assigned** facility when the [*committing judge*] **court** determines that means of trans-
 5 portation would not be detrimental to the welfare of the mentally ill person or to the public.

6 **SECTION 11.** ORS 426.170 is amended to read:

7 426.170. If any person is adjudged mentally ill and ordered committed to the Oregon Health
 8 Authority **or to the supervision of the court**, a copy of the complete record in the case, certified
 9 to by the court clerk or court administrator, shall be given to the [*health officer of the county*]
 10 **community mental health program director**, or to the sheriff, for delivery to the director of the
 11 facility to which such mentally ill person is assigned. The record shall include the name, residence,
 12 nativity, sex and age of such mentally ill person and all other information that may be required by
 13 the rules and regulations promulgated by the authority.

14 **SECTION 12.** ORS 426.217 is amended to read:

15 426.217. At any time after commitment by [*the*] **a court of a mentally ill person other than a**
 16 **person described in ORS 426.005 (1)(e)(D)**, the person, with the approval of the Oregon Health
 17 Authority [*or its designee*], may change the status of the person to that of a voluntary patient.
 18 Notwithstanding ORS 426.220, any person who alters status to that of a voluntary patient under this
 19 section shall be released from the treating facility within 72 hours of the request of the person for
 20 release.

21 **SECTION 13.** ORS 426.223 is amended to read:

22 426.223. In retaking custody of a mentally ill person who has been committed to the Oregon
 23 Health Authority **or to the supervision of a court** under ORS 426.130 and who has, without lawful
 24 authority, left the custody of the facility to which the person has been assigned under ORS 426.060,
 25 or in the case of an allegedly mentally ill person who is in custody under ORS 426.070, 426.095,
 26 426.228 to 426.235 or 426.237 at a hospital or nonhospital facility and who has, without lawful au-
 27 thority, left the hospital or nonhospital facility, the **director of the facility** [*director or designee*]
 28 has all the powers provided by ORS 133.225 and 161.255 and may require the assistance of any peace
 29 officer or other person.

30 **SECTION 14.** ORS 426.237 is amended to read:

31 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
 32 or 426.233, the community mental health program director shall do one of the following:

33 (a) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court not
 34 proceed further in the matter if the community mental health program director does not believe the
 35 person is a mentally ill person.

36 (b) No later than three judicial days after initiation of a prehearing period of detention as pro-
 37 vided in ORS 426.070, 426.140, 426.232 or 426.233, certify the detained person for a 14-day period of
 38 intensive treatment if:

39 (A) The community mental health program director and a psychiatrist, as defined by rule by the
 40 Oregon Health Authority, have probable cause to believe the person is a mentally ill person;

41 (B) The community mental health program director [*in*] **of** the county where the person resides
 42 verbally approves the arrangements for payment for the services at the hospital or nonhospital fa-
 43 cility; and

44 (C) The community mental health program director locates a hospital or nonhospital facility
 45 that:

1 (i) Is approved by the authority and the community mental health program director [*in*] of the
 2 county where the person resides; and

3 (ii) Can, in the opinion of the community mental health program director and the psychiatrist,
 4 provide intensive care or treatment for mental illness necessary and sufficient to meet the emer-
 5 gency psychiatric needs of the person.

6 (c) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court
 7 hold a hearing under ORS 426.070 to 426.130 if the community mental health program director has
 8 probable cause to believe the person is a mentally ill person.

9 (2)(a) If the circuit court adopts the recommendation of the community mental health program
 10 director under subsection (1)(a) of this section, the circuit court shall enter an order releasing the
 11 person and dismissing the case. Unless the person agrees to voluntary treatment, if the person is
 12 being detained in a:

13 (A) Nonhospital facility, the community mental health program director shall make discharge
 14 plans and [*insure*] **ensure** the discharge of the person.

15 (B) Hospital, the treating physician shall make discharge plans and discharge the person.

16 (b) Upon release of the person, the community mental health program director shall attempt to
 17 notify the person's next of kin if the person consents to the notification.

18 (3)(a) If the detained person is certified for treatment under subsection (1)(b) of this section, the
 19 community mental health program director shall:

20 (A) Deliver immediately a certificate to the court having jurisdiction under ORS 426.060; and

21 (B) Orally inform the person of the certification and deliver a copy of the certificate to the
 22 person.

23 (b) The certificate required by paragraph (a) of this subsection shall include:

24 (A) A written statement under oath by the community mental health program director and the
 25 psychiatrist that they have probable cause to believe the person is a mentally ill person in need of
 26 care or treatment for mental illness;

27 (B) A treatment plan that describes, in general terms, the types of treatment and medication to
 28 be provided to the person during the 14-day period of intensive treatment;

29 (C) A notice of the person's right to an attorney and that an attorney will be appointed by the
 30 court or as otherwise obtained under ORS 426.100 (3);

31 (D) A notice that the person has a right to request and be provided a hearing under ORS 426.070
 32 to 426.130 at any time during the 14-day period; and

33 (E) The date and time the copy of the certificate was delivered to the person.

34 (c) Immediately upon receipt of a certificate under paragraph (a) of this subsection, the court
 35 shall notify the person's attorney or appoint an attorney for the person if the person cannot afford
 36 one. Within 24 hours of the time the certificate is delivered to the court, the person's attorney shall
 37 review the certificate with the person. If the person and the person's attorney consent to the cer-
 38 tification within one judicial day of the time the certificate is delivered to the circuit court and,
 39 except as provided in subsection (4) of this section, the court shall postpone the hearing required
 40 by ORS 426.070 to 426.130 for 14 days.

41 (d) When a person is certified for treatment under subsection (1)(b) of this section and accepts
 42 the certification:

43 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the
 44 prescription and administration of drugs, shall be the sole responsibility of the treating physician.
 45 However, the person shall not be subject to electroshock therapy or unduly hazardous treatment and

1 shall receive usual and customary treatment in accordance with medical standards in the commu-
 2 nity.

3 (B) Except when the person expressly refuses treatment, the treating physician shall treat the
 4 person within the scope of the treatment plan provided the person under paragraph (b) of this sub-
 5 section. The person's refusal of treatment constitutes sufficient grounds for the community mental
 6 health program director to request a hearing as provided in subsection (4)(a) of this section.

7 (C) If the person is in a hospital and the community mental health program director locates a
 8 nonhospital facility, approved by the authority, that, in the opinion of the community mental health
 9 program director and the treating physician, can provide care or treatment for mental illness nec-
 10 cessary and sufficient to meet the emergency psychiatric needs of the person, the treating physician
 11 shall discharge the person from the hospital and the community mental health program director
 12 shall remove the person to the nonhospital facility for the remainder of the 14-day intensive treat-
 13 ment period. If, however, in the opinion of the treating physician, the person's condition requires the
 14 person to receive medical care or treatment, the physician shall retain the person in the hospital.

15 (D) If the person is in a nonhospital facility, the community mental health program director shall
 16 transfer the person to a hospital approved by the authority under the following conditions:

17 (i) If, in the opinion of a physician, the person's condition requires the person to receive medical
 18 care or treatment in a hospital; and

19 (ii) The physician agrees to admit the person to a hospital, approved by the authority, where the
 20 physician has admitting privileges.

21 (E) If the person is transferred as provided in subparagraph (C) or (D) of this paragraph, the
 22 community mental health program director shall notify the circuit court, in the county where the
 23 certificate was filed, of the location of the person. The person may appeal the transfer as provided
 24 by rules of the authority.

25 (e) If the person is in a hospital, the treating physician may discharge the person at any time
 26 during the 14-day period. The treating physician shall confer with the community mental health
 27 program director and the person's next of kin, if the person consents to the consultation, prior to
 28 discharging the person. Immediately upon discharge of the person, the treating physician shall no-
 29 tify the court in the county in which the certificate was filed initially.

30 (f) If the person is in a nonhospital facility, the community mental health program director may
 31 discharge the person at any time during the 14-day period. The community mental health program
 32 director shall consult with the treating physician and the person's next of kin, if the person consents
 33 to the consultation, prior to discharging the person. Immediately upon discharge of the person, the
 34 community mental health program director shall notify the court in the county in which the certif-
 35 icate was filed initially.

36 (g) The person may agree to voluntary treatment at any time during the 14-day period. When a
 37 person agrees to voluntary treatment under this paragraph, the community mental health program
 38 director immediately shall notify the court in the county in which the certificate was filed initially.

39 (h) A person consenting to 14 days of treatment under subsection (3)(c) of this section shall not
 40 be held longer than 14 days from the time of consenting without a hearing as provided in ORS
 41 426.070 to 426.130.

42 (i) **Except for a person described in ORS 426.005 (1)(e)(D), when the court receives notifica-**
 43 **tion under paragraph (e), (f) or (g) of this subsection, the court shall dismiss the case. For persons**
 44 **described in ORS 426.005 (1)(e)(D) who have been committed to the supervision of a court,**
 45 **the discharge from inpatient treatment under this section does not require dismissal of the**

1 **court supervision.**

2 (4) The [*judge of the*] circuit court shall immediately commence proceedings under ORS 426.070
3 to 426.130 when:

4 (a) The person consenting to 14 days of treatment or the community mental health program di-
5 rector requests a hearing. The hearing shall be held without unreasonable delay. In no case shall
6 the person be held in a hospital or nonhospital facility longer than five judicial days after the re-
7 quest for a hearing is made without a hearing being held under ORS 426.070 to 426.130.

8 (b) The community mental health program director acts under subsection (1)(c) of this section.
9 In no case shall the person be held longer than five judicial days without a hearing under this
10 subsection.

11 **SECTION 15.** ORS 426.238 is amended to read:

12 426.238. The Oregon Health Authority may assign classifications, as defined by rule of the au-
13 thority, to facilities that provide care and treatment for persons committed to the authority **or to**
14 **the supervision of a court** under ORS 426.130 or provide emergency care or treatment for persons
15 pursuant to ORS 426.070, 426.228 to 426.235 or 426.237. The authority may authorize a facility to
16 retake custody of a person who unlawfully leaves a facility as provided in ORS 426.223.

17 **SECTION 16.** ORS 426.273 is amended to read:

18 426.273. (1) During a period of commitment of a [*patient*] **person** under ORS 426.130, the Oregon
19 Health Authority, **or a court for a person committed to the supervision of the court**, may grant
20 a trial visit to the [*patient*] **person** for a period of time and under any conditions the authority **or**
21 **the court** shall establish. The authority **or the court** shall [*only*] grant a trial visit under this
22 section **only** if the trial visit is agreed to by the community mental health program director[, *or the*
23 *designee of the director, for*] **of** the county in which the person would reside.

24 (2) When [*in the opinion of the authority,*] **the authority or the court determines that** the
25 committed person can be appropriately served by outpatient care during the period of commitment,
26 the outpatient care may be required as a condition for trial visit for a period which, when added to
27 the inpatient treatment period, [*shall*] **may** not exceed the period of commitment. If outpatient care
28 is required as a condition for a trial visit, the conditions shall include a designation of a facility,
29 service or other provider to provide care or treatment.

30 (3) A copy of the conditions for trial visit shall be given to all of the persons listed in ORS
31 426.278.

32 (4) Any trial visit granted under this section is subject to the provisions under ORS 426.275.

33 (5) The [*director of the*] community mental health program[, *or designee,*] **director** of the county
34 in which a person who is on trial visit lives while on trial visit may modify the conditions for con-
35 tinued trial visit when such modification is in the best interest of the person. The **community**
36 **mental health program** director shall send notification of [*such*] **the** changes and the reasons for
37 the changes to all those who received a copy of the original conditions under ORS 426.278.

38 **SECTION 17.** ORS 426.275 is amended to read:

39 426.275. The following are applicable to placements of mentally ill persons that are made as
40 conditional release under ORS 426.125, outpatient commitments under ORS 426.127 or trial visits
41 under ORS 426.273 as described:

42 (1) If the person responsible under this subsection determines that the mentally ill person is
43 failing to adhere to the terms and conditions of the placement, the responsible person shall notify
44 the court having jurisdiction that the mentally ill person is not adhering to the terms and conditions
45 of the placement. If the placement is an outpatient commitment under ORS 426.127 or a trial visit

1 under ORS 426.273, the notifications shall include a copy of the conditions for the placement. The
 2 person responsible for notifying the court under this subsection is as follows:

3 (a) For conditional releases under ORS 426.125, the guardian, relative or friend in whose care
 4 the mentally ill person is conditionally released.

5 (b) For outpatient commitments under ORS 426.127, the community mental health program
 6 director[, or *designee of the director*,] of the county in which the person on outpatient commitment
 7 lives.

8 (c) For trial visits under ORS 426.273, the community mental health program director[, or
 9 *designee of the director*,] of the county in which the person on trial visit is to receive outpatient
 10 treatment.

11 (2) On its own motion, the court with jurisdiction of a mentally ill person on such placement
 12 may cause the person to be brought before it for a hearing to determine whether the person is or
 13 is not adhering to the terms and conditions of the placement. The person shall have the same rights
 14 with respect to notice, detention stay, hearing and counsel as for a hearing held under ORS 426.095.
 15 The court shall hold the hearing within five judicial days of the date the mentally ill person receives
 16 notice under this section. The court may allow postponement and detention during postponement as
 17 provided under ORS 426.095.

18 (3) Pursuant to the determination of the court upon hearing under this section, a person on
 19 placement shall either continue the placement on the same or modified conditions or shall be re-
 20 turned to [*the Oregon Health Authority*] **an inpatient facility** for involuntary care and treatment,
 21 [*on an inpatient basis*] subject to discharge at the end of the commitment period or as otherwise
 22 provided under this chapter.

23 (4) If the person on placement is living in a county other than the county of the court that es-
 24 tablished the current period of commitment under ORS 426.130 during which the trial visit, condi-
 25 tional release or outpatient commitment takes place, the court establishing the current period of
 26 commitment shall transfer jurisdiction to the appropriate court of the county in which the person
 27 is living while on the placement and the court receiving the transfer shall accept jurisdiction.

28 (5) The court may proceed as provided in **this section or** ORS 426.307 [*or this section*] when the
 29 court:

30 (a) Receives notice under ORS 426.070 or 426.228 to 426.235; and

31 (b) Determines that the person is a mentally ill person on conditional release under ORS 426.125,
 32 outpatient commitment under ORS 426.127 or trial visit under ORS 426.273.

33 **SECTION 18.** ORS 426.292 is amended to read:

34 426.292. [*Nothing in this chapter and ORS 430.397 to 430.401 prohibits the Oregon Health Au-*
 35 *thority from releasing*] **A community mental health program director, or, for a person com-**
 36 **mitted to the supervision of a court, the court, may release** a person from a hospital or other
 37 facility in which the person is being treated prior to the expiration of the period of commitment
 38 under ORS 426.130 when, in the opinion of the director of the facility or treating physician, the
 39 person is no longer [*mentally ill*] **a mentally ill person.**

40 **SECTION 19.** ORS 426.300 is amended to read:

41 426.300. (1) The Oregon Health Authority shall, by filing a written certificate with the last
 42 committing court and the court of residence, discharge any [*patient*] **person committed to the**
 43 **authority** from court commitment, [*except one held upon an order of a court or judge having criminal*
 44 *jurisdiction in an action or proceeding arising out of criminal offense when in its opinion*] **if the au-**
 45 **thority determines that** the [*individual*] **person** is no longer a mentally ill person or [*when in its*

1 *opinion*] **that** the transfer of the [*individual*] **person** to a voluntary status is in the best interest of
 2 the treatment of the [*patient*] **person**.

3 (2) The authority may sign applications for public assistance on behalf of those [*patients*] **per-**
 4 **sons described in subsection (1) of this section** who may be eligible for public assistance.

5 (3) **A person held upon an order of a court having criminal jurisdiction in an action or**
 6 **proceeding, or a person committed to the supervision of the court, may be discharged upon**
 7 **the earlier of a finding by the court that the person is no longer a mentally ill person or 12**
 8 **months from the date of the commitment.**

9 **SECTION 20.** ORS 426.301 is amended to read:

10 426.301. (1) At the end of the 180-day period of commitment, any person whose status has not
 11 been changed to voluntary shall be released unless the Oregon Health Authority certifies to the
 12 court in the county where the treating facility is located that the person is still mentally ill and in
 13 need of further treatment. The authority, pursuant to its rules, may delegate to the director of the
 14 treating facility the responsibility for making the certification. The director of the treating facility
 15 shall consult with the community mental health program director of the **person's** county of resi-
 16 dence prior to making the certification. If the certification is made, the person will not be released,
 17 but the director of the treating facility shall immediately issue a copy of the certification to the
 18 person and to the community mental health program director of the **person's** county of residence.

19 (2) The certification shall be served upon the person by the director of the **treating** facility
 20 [*wherein*] **in which** the person is confined [*or the designee of the director*]. The director of the facility
 21 shall inform the court in writing that service has been made and the date thereof.

22 (3) The certification shall advise the person of all the following:

23 (a) That the authority or facility has requested that commitment be continued for an additional
 24 period of time.

25 (b) That the person may consult with legal counsel and that legal counsel will be provided for
 26 the person without cost if the person is unable to afford legal counsel.

27 (c) That the person may protest this further commitment within 14 days, and if the person does
 28 not commitment will be continued for an indefinite period of time up to 180 days.

29 (d) That if the person does protest a further period of commitment, the person is entitled to a
 30 hearing before the court on whether commitment should be continued.

31 (e) That the person may protest either orally or in writing by signing the form accompanying
 32 the certification[;] **and** that the person is entitled to have a physician or other qualified person as
 33 recommended by the authority, other than a member of the staff at the facility where the person is
 34 confined, examine the person and report to the court the results of the examination.

35 (f) That the person may subpoena witnesses and offer evidence on behalf of the person at the
 36 hearing.

37 (g) That if the person is without funds to retain legal counsel or an examining physician or
 38 qualified person as recommended by the authority, the court will appoint legal counsel, a physician
 39 or other qualified person.

40 (4) Nothing in subsection (3) of this section requires the giving of the warning under ORS
 41 426.123.

42 (5) The person serving the certification shall read and deliver the certification to the person and
 43 ask whether the person protests a further period of commitment. The person may protest further
 44 commitment either orally or by signing a simple protest form to be given to the person with the
 45 certification. If the person does not protest a further period of commitment within 14 days of service

1 of the certification, the authority or facility shall so notify the court and the court shall, without
 2 further hearing, order the commitment of the person for an additional indefinite period of time up
 3 to 180 days.

4 **(6) This section does not apply to a person described in ORS 426.005 (1)(e)(D) who is**
 5 **committed to the supervision of a court.**

6 **SECTION 21.** ORS 426.303 is amended to read:

7 426.303. When *[the]* a person protests a further period of commitment **under ORS 426.301**, the
 8 Oregon Health Authority or facility designated in *[accordance with]* ORS 426.301 shall immediately
 9 notify the court and the court shall have the person brought before it and shall again advise the
 10 person that the authority or facility has requested that commitment be continued for an additional
 11 period of time and that if the person does not protest this commitment the commitment will be
 12 continued for an indefinite period of time up to 180 days. The person shall also be informed of the
 13 rights set forth in ORS 426.301.

14 **SECTION 22.** ORS 426.380 is amended to read:

15 426.380. (1) Any *[individual]* **person committed to a state hospital** pursuant to ORS 426.005 to
 16 426.223 and 426.241 to 426.380 *[shall be]* **is** entitled to the writ of habeas corpus upon proper petition
 17 by the *[individual or a friend]* **person or by a guardian, friend or relative of the person** to any
 18 court generally empowered to issue the writ of habeas corpus in the county in which the state
 19 hospital in which the person is detained is located.

20 **(2) A person described in ORS 426.005 (1)(e)(D) who is committed to the supervision of a**
 21 **court and receiving treatment in an inpatient opioid treatment program may appeal the**
 22 **commitment order to the Court of Appeals. The court on review shall give due deference to**
 23 **the findings of the committing court.**

24
 25 **TECHNICAL CORRECTIONS**

26
 27 **SECTION 23.** ORS 163.738 is amended to read:

28 163.738. (1)(a) A citation shall notify the respondent of a circuit court hearing where the re-
 29 spondent shall appear at the place and time set forth in the citation. The citation shall contain:

- 30 (A) The name of the court at which the respondent is to appear;
- 31 (B) The name of the respondent;
- 32 (C) A copy of the stalking complaint;
- 33 (D) The date, time and place at which the citation was issued;
- 34 (E) The name of the law enforcement officer who issued the citation;
- 35 (F) The time, date and place at which the respondent is to appear in court;
- 36 (G) Notice to the respondent that failure to appear at the time, date and place set forth in the
- 37 citation shall result in the respondent's arrest and entry of a court's stalking protective order; and
- 38 (H) Notice to the respondent of potential liability under federal law for the possession or pur-
- 39 chase of firearms or firearm ammunition and for other acts prohibited by 18 U.S.C. 2261 to 2262.

40 (b) The officer shall notify the petitioner in writing of the place and time set for the hearing.

41 (2)(a) The hearing shall be held as indicated in the citation. At the hearing, the petitioner may
 42 appear in person or by telephonic appearance. The respondent shall be given the opportunity to
 43 show cause why a court's stalking protective order should not be entered. The hearing may be
 44 continued for up to 30 days. The court may enter:

- 45 (A) A temporary stalking protective order pending further proceedings; or

1 (B) A court's stalking protective order if the court finds by a preponderance of the evidence
2 that:

3 (i) The person intentionally, knowingly or recklessly engages in repeated and unwanted contact
4 with the other person or a member of that person's immediate family or household thereby alarming
5 or coercing the other person;

6 (ii) It is objectively reasonable for a person in the victim's situation to have been alarmed or
7 coerced by the contact; and

8 (iii) The repeated and unwanted contact causes the victim reasonable apprehension regarding
9 the personal safety of the victim or a member of the victim's immediate family or household.

10 (b) In the order, the court shall specify the conduct from which the respondent is to refrain,
11 which may include all contact listed in ORS 163.730 and any attempt to make contact listed in ORS
12 163.730. The order is of unlimited duration unless limited by law. If the respondent was provided
13 notice and an opportunity to be heard, the court shall also include in the order, when appropriate,
14 terms and findings sufficient under 18 U.S.C. 922 (d)(8) and (g)(8) to affect the respondent's ability
15 to possess firearms and ammunition or engage in activities involving firearms.

16 (3) The circuit court may enter an order under this section against a minor respondent without
17 appointment of a guardian ad litem.

18 (4) If the respondent fails to appear at the time, date and place specified in the citation, the
19 circuit court shall issue a warrant of arrest as provided in ORS 133.110 in order to ensure the ap-
20 pearance of the respondent at court and shall enter a court's stalking protective order.

21 (5) The circuit court may also order the respondent to undergo mental health evaluation and,
22 if indicated by the evaluation, treatment. If the respondent is without sufficient resources to obtain
23 the evaluation or treatment, or both, the court shall refer the respondent to the mental health
24 agency designated by the community mental health **program** director for evaluation or treatment,
25 or both.

26 (6) If the circuit court, the mental health evaluator or any other persons have probable cause
27 to believe that the respondent is dangerous to self or others or is unable to provide for basic per-
28 sonal needs, the court shall initiate commitment [*procedures*] **proceedings** as provided in ORS
29 426.070 or 426.180.

30 (7) A law enforcement officer shall report the results of any investigation arising from a com-
31 plaint under ORS 163.744 to the district attorney within three days after presentation of the com-
32 plaint.

33 (8) Except for purposes of impeachment, a statement made by the respondent at a hearing under
34 this section may not be used as evidence in a prosecution for stalking as defined in ORS 163.732 or
35 for violating a court's stalking protective order as defined in ORS 163.750.

36 **SECTION 24.** ORS 166.291 is amended to read:

37 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
38 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
39 out in this section, shall issue the person a concealed handgun license if the person:

40 (a)(A) Is a citizen of the United States; or

41 (B) Is a legal resident alien who can document continuous residency in the county for at least
42 six months and has declared in writing to the United States Citizenship and Immigration Services
43 the intent to acquire citizenship status and can present proof of the written declaration to the
44 sheriff at the time of application for the license;

45 (b) Is at least 21 years of age;

- 1 (c) Is a resident of the county;
- 2 (d) Has no outstanding warrants for arrest;
- 3 (e) Is not free on any form of pretrial release;
- 4 (f) Demonstrates competence with a handgun by any one of the following:
 - 5 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
 - 6 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
 - 7 of the course;
 - 8 (B) Completion of any National Rifle Association firearms safety or training course if handgun
 - 9 safety was a component of the course;
 - 10 (C) Completion of any firearms safety or training course or class available to the general public
 - 11 offered by law enforcement, community college, or private or public institution or organization or
 - 12 firearms training school utilizing instructors certified by the National Rifle Association or a law
 - 13 enforcement agency if handgun safety was a component of the course;
 - 14 (D) Completion of any law enforcement firearms safety or training course or class offered for
 - 15 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
 - 16 cers if handgun safety was a component of the course;
 - 17 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
 - 18 ized shooting competition or military service;
 - 19 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
 - 20 revoked; or
 - 21 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
 - 22 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
 - 23 was a component of the course;
 - 24 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
 - 25 of a felony;
 - 26 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
 - 27 161.295, of a misdemeanor within the four years prior to the application;
 - 28 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
 - 29 (j) Has not been found to be a mentally ill **person as defined in ORS 426.005 (1)(e)(A), (B)**
 - 30 **or (C)** and is not subject to an order under ORS 426.130 that the person be prohibited from pur-
 - 31 chasing or possessing a firearm as a result of that mental illness;
 - 32 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
 - 33 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
 - 34 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
 - 35 volving violence, as defined in ORS 166.470;
 - 36 (L) Has not been convicted of an offense involving controlled substances or participated in a
 - 37 court-supervised drug diversion program, except this disability does not operate to exclude a person
 - 38 if:
 - 39 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
 - 40 a court-supervised drug diversion program under ORS 135.907; or
 - 41 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
 - 42 has not been convicted of violating ORS 475.864 (3);
 - 43 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 - 44 107.700 to 107.735 or 163.738;
 - 45 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

1 (o) Is not required to register as a sex offender in any state.

2 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
3 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person’s record expunged under the laws of
4 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
5 (1)(g) to (L) of this section.

6 (3) Before the sheriff may issue a license:

7 (a) The application must state the applicant’s legal name, current address and telephone number,
8 date and place of birth, hair and eye color and height and weight. The application must also list the
9 applicant’s residence address or addresses for the previous three years. The application must contain
10 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
11 section. The application may include the Social Security number of the applicant if the applicant
12 voluntarily provides this number. The application must be signed by the applicant.

13 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
14 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
15 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
16 records check is necessary, the sheriff shall request the Department of State Police to conduct the
17 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
18 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
19 check and may not keep any record of the fingerprints. The Department of State Police shall report
20 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
21 Police shall also furnish the sheriff with any information about the applicant that the Department
22 of State Police may have in its possession including, but not limited to, manual or computerized
23 criminal offender information.

24 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
25 quest. The forms shall be uniform throughout this state in substantially the following form:

26 _____
27
28 APPLICATION FOR LICENSE TO CARRY
29 CONCEALED HANDGUN

30 Date _____

31 I hereby declare as follows:

32 I am a citizen of the United States or a legal resident alien who can document continuous resi-
33 dency in the county for at least six months and have declared in writing to the United States Cit-
34 izenship and Immigration Services my intention to become a citizen and can present proof of the
35 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
36 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
37 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
38 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
39 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
40 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
41 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
42 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
43 volving controlled substances or completed a court-supervised drug diversion program. There are
44 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
45 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found **to be a**

1 mentally ill **person as defined in ORS 426.005 (1)(e)(A), (B) or (C)** and presently subject to an
2 order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the
3 previous conditions do apply to me, I have been granted relief or wish to petition for relief from the
4 disability under ORS 166.274 or 166.293 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C.
5 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735
6 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dis-
7 honorable discharge from the Armed Forces of the United States. I am not required to register as
8 a sex offender in any state. I understand I will be fingerprinted and photographed.

9
10 Legal name _____
11 Age _____ Date of birth _____
12 Place of birth _____
13 Social Security number _____

14 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
15 thorized under ORS 166.291. It will be used only as a means of identification.)

16
17 Proof of identification (Two pieces of current identification are required, one of which must bear a
18 photograph of the applicant. The type of identification and the number on the identification are to
19 be filled in by the sheriff.):

- 20 1. _____
21 2. _____

22
23 Height _____ Weight _____
24 Hair color _____ Eye color _____

25
26 Current address _____

(List residence addresses for the
past three years on the back.)

27
28
29
30 City _____ County _____ Zip _____
31 Phone _____

32
33 I have read the entire text of this application, and the statements therein are correct and true.
34 (Making false statements on this application is a misdemeanor.)

35 _____
36 (Signature of Applicant)

37
38 Character references.

39 _____
40 Name Address
41 _____
42 Name Address

43
44 Approved _____ Disapproved _____ by _____
45

1 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

2 Date _____ Fee Paid _____

3 License No. _____

4 _____

5
6 (5)(a) Fees for concealed handgun licenses are:

7 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

8 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

9 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

10 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
11 the concealed handgun license.

12 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
13 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
14 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
15 performance of duties under those sections.

16 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
17 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
18 is an applicant for a concealed handgun license or is a license holder.

19 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
20 for a resident of a contiguous state who has a compelling business interest or other legitimate
21 demonstrated need.

22 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
23 person:

24 (a) Has a current Oregon driver license issued to the person showing a residence address in the
25 county;

26 (b) Is registered to vote in the county and has a memorandum card issued to the person under
27 ORS 247.181 showing a residence address in the county;

28 (c) Has documentation showing that the person currently leases or owns real property in the
29 county; or

30 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
31 tax year showing a residence address in the county.

32 **SECTION 25.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, and
33 section 34, chapter 547, Oregon Laws 2011, is amended to read:

34 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
35 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
36 out in this section, shall issue the person a concealed handgun license if the person:

37 (a)(A) Is a citizen of the United States; or

38 (B) Is a legal resident alien who can document continuous residency in the county for at least
39 six months and has declared in writing to the United States Citizenship and Immigration Services
40 the intent to acquire citizenship status and can present proof of the written declaration to the
41 sheriff at the time of application for the license;

42 (b) Is at least 21 years of age;

43 (c) Is a resident of the county;

44 (d) Has no outstanding warrants for arrest;

45 (e) Is not free on any form of pretrial release;

- 1 (f) Demonstrates competence with a handgun by any one of the following:
- 2 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
- 3 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
- 4 of the course;
- 5 (B) Completion of any National Rifle Association firearms safety or training course if handgun
- 6 safety was a component of the course;
- 7 (C) Completion of any firearms safety or training course or class available to the general public
- 8 offered by law enforcement, community college, or private or public institution or organization or
- 9 firearms training school utilizing instructors certified by the National Rifle Association or a law
- 10 enforcement agency if handgun safety was a component of the course;
- 11 (D) Completion of any law enforcement firearms safety or training course or class offered for
- 12 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
- 13 cers if handgun safety was a component of the course;
- 14 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
- 15 ized shooting competition or military service;
- 16 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
- 17 revoked; or
- 18 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
- 19 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
- 20 was a component of the course;
- 21 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
- 22 of a felony;
- 23 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
- 24 161.295, of a misdemeanor within the four years prior to the application;
- 25 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
- 26 (j) Has not been found to be a mentally ill **person as defined in ORS 426.005 (1)(e)(A), (B)**
- 27 **or (C)** and is not subject to an order under ORS 426.130 that the person be prohibited from pur-
- 28 chasing or possessing a firearm as a result of that mental illness;
- 29 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
- 30 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
- 31 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
- 32 volving violence, as defined in ORS 166.470;
- 33 (L) Has not been convicted of an offense involving controlled substances or participated in a
- 34 court-supervised drug diversion program, except this disability does not operate to exclude a person
- 35 if:
- 36 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
- 37 a court-supervised drug diversion program under ORS 135.907; or
- 38 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
- 39 has not been convicted of violating ORS 475.864 (3);
- 40 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
- 41 107.700 to 107.735 or 163.738;
- 42 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and
- 43 (o) Is not required to register as a sex offender in any state.
- 44 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
- 45 has had the person's record expunged under the laws of this state or equivalent laws of other ju-

1 jurisdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

2 (3) Before the sheriff may issue a license:

3 (a) The application must state the applicant’s legal name, current address and telephone number,
 4 date and place of birth, hair and eye color and height and weight. The application must also list the
 5 applicant’s residence address or addresses for the previous three years. The application must contain
 6 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 7 section. The application may include the Social Security number of the applicant if the applicant
 8 voluntarily provides this number. The application must be signed by the applicant.

9 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 10 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
 11 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
 12 records check is necessary, the sheriff shall request the Department of State Police to conduct the
 13 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
 14 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
 15 check and may not keep any record of the fingerprints. The Department of State Police shall report
 16 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
 17 Police shall also furnish the sheriff with any information about the applicant that the Department
 18 of State Police may have in its possession including, but not limited to, manual or computerized
 19 criminal offender information.

20 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
 21 quest. The forms shall be uniform throughout this state in substantially the following form:

22
 23
 24 APPLICATION FOR LICENSE TO CARRY
 25 CONCEALED HANDGUN

26 Date _____

27 I hereby declare as follows:

28 I am a citizen of the United States or a legal resident alien who can document continuous resi-
 29 dency in the county for at least six months and have declared in writing to the United States Cit-
 30 izenship and Immigration Services my intention to become a citizen and can present proof of the
 31 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 32 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 33 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 34 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 35 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 36 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 37 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 38 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
 39 volving controlled substances or completed a court-supervised drug diversion program. There are
 40 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
 41 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found **to be a**
 42 **mentally ill person as defined in ORS 426.005 (1)(e)(A), (B) or (C)** and presently subject to an
 43 order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the
 44 previous conditions do apply to me, I have been granted relief or wish to petition for relief from the
 45 disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am

1 not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to
2 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the
3 United States. I am not required to register as a sex offender in any state. I understand I will be
4 fingerprinted and photographed.

5
6 Legal name _____
7 Age _____ Date of birth _____
8 Place of birth _____
9 Social Security number _____

10 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
11 thorized under ORS 166.291. It will be used only as a means of identification.)

12
13 Proof of identification (Two pieces of current identification are required, one of which must bear a
14 photograph of the applicant. The type of identification and the number on the identification are to
15 be filled in by the sheriff.):

16 1. _____
17 2. _____

18
19 Height _____ Weight _____
20 Hair color _____ Eye color _____

21
22 Current address _____

(List residence addresses for the
past three years on the back.)

23
24
25
26 City _____ County _____ Zip _____
27 Phone _____

28
29 I have read the entire text of this application, and the statements therein are correct and true.
30 (Making false statements on this application is a misdemeanor.)

31 _____
32 (Signature of Applicant)

33
34 Character references.
35 _____

36 Name: Address
37 _____

38 Name: Address
39 _____

40 Approved _____ Disapproved _____ by _____

41
42 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

43 Date _____ Fee Paid _____

44 License No. _____

45 _____

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- (5)(a) Fees for concealed handgun licenses are:
 - (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

(b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.

(6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.

(7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant’s name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.

(8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.

(9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:

- (a) Has a current Oregon driver license issued to the person showing a residence address in the county;
- (b) Is registered to vote in the county and has a memorandum card issued to the person under ORS 247.181 showing a residence address in the county;
- (c) Has documentation showing that the person currently leases or owns real property in the county; or
- (d) Has documentation showing that the person filed an Oregon tax return for the most recent tax year showing a residence address in the county.

SECTION 26. ORS 166.470 is amended to read:

166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably should know that the recipient:

- (a) Is under 18 years of age;
- (b) Has been convicted of a felony;
- (c) Has any outstanding felony warrants for arrest;
- (d) Is free on any form of pretrial release for a felony;
- (e) Was committed to the Oregon Health Authority under ORS 426.130;
- (f) After January 1, 1990, was found to be a mentally ill **person as defined in ORS 426.005 (1)(e)(A), (B) or (C)** and subject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of that mental illness;
- (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in this paragraph, “misdemeanor involving violence” means a misdemeanor described in ORS 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b); or
- (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

1 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
2 reasonably should know is stolen.

3 (3) Subsection (1)(a) of this section does not prohibit:

4 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
5 minor from transferring to the minor a firearm, other than a handgun; or

6 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
7 lawful purpose.

8 (4) Violation of this section is a Class A misdemeanor.

9 **SECTION 27.** ORS 166.470, as amended by section 11, chapter 826, Oregon Laws 2009, is
10 amended to read:

11 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the
12 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-
13 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably
14 should know that the recipient:

15 (a) Is under 18 years of age;

16 (b) Has been convicted of a felony;

17 (c) Has any outstanding felony warrants for arrest;

18 (d) Is free on any form of pretrial release for a felony;

19 (e) Was committed to the Oregon Health Authority under ORS 426.130;

20 (f) After January 1, 1990, was found to be a mentally ill **person as defined in ORS 426.005**
21 **(1)(e)(A), (B) or (C)** and subject to an order under ORS 426.130 that the person be prohibited from
22 purchasing or possessing a firearm as a result of that mental illness;

23 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
24 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
25 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
26 163.187, 163.190, 163.195 or 166.155 (1)(b); or

27 (h) Has been found guilty except for insanity under ORS 161.295 of a felony.

28 (2) A person may not sell, deliver or otherwise transfer any firearm that the person knows or
29 reasonably should know is stolen.

30 (3) Subsection (1)(a) of this section does not prohibit:

31 (a) The parent or guardian, or another person with the consent of the parent or guardian, of a
32 minor from transferring to the minor a firearm, other than a handgun; or

33 (b) The temporary transfer of any firearm to a minor for hunting, target practice or any other
34 lawful purpose.

35 (4) Violation of this section is a Class A misdemeanor.

36 **SECTION 28.** ORS 426.020 is amended to read:

37 426.020. (1) The superintendent of a hospital referred to in ORS 426.010 shall be a person the
38 Oregon Health Authority considers qualified to administer the hospital. If the superintendent of any
39 hospital is a physician licensed by the Oregon Medical Board, the superintendent shall serve as
40 chief medical officer.

41 (2) If the superintendent is not a physician, [*the Director of*] the Oregon Health Authority [*or the*
42 *designee of the director*] shall designate a physician to serve as chief medical officer. The designated
43 chief medical officer may be an appointed state employee in the unclassified service, a self-employed
44 contractor or an employee of a public or private entity that contracts with the authority to provide
45 chief medical officer services. Unless the designated chief medical officer is specifically appointed

1 as a state employee in the unclassified service, the designated chief medical officer shall not be
2 deemed a state employee for purposes of any state statute, rule or policy.

3 (3)(a) Notwithstanding any other provision of law, the designated chief medical officer may su-
4 pervise physicians who are employed by the hospital or who provide services at the hospital pursu-
5 ant to a contract.

6 (b) The designated chief medical officer may delegate all or part of the authority to supervise
7 other physicians at the hospital to a physician who is employed by the state, a self-employed con-
8 tractor or an employee of a public or private entity that contracts with the authority to provide
9 physician services.

10 **SECTION 29.** ORS 426.075 is amended to read:

11 426.075. This section establishes procedures that are required to be followed before the hearing
12 if a court, under ORS 426.070, orders a hearing under ORS 426.095. The following apply as described:

13 (1) The court shall be fully advised of all drugs and other treatment known to have been ad-
14 ministered to the allegedly mentally ill person that may substantially affect the ability of the person
15 to prepare for or function effectively at the hearing. The following shall advise the court as re-
16 quired by this subsection:

17 (a) When not otherwise provided by paragraph (b) of this subsection, the community mental
18 health program director [*or designee*].

19 (b) When the person has been detained by a warrant of detention under ORS 426.070, 426.180,
20 426.228, 426.232 or 426.233, the treating physician.

21 (2) The court shall appoint examiners under ORS 426.110 sufficiently long before the hearing so
22 that [*they*] **the examiners** may begin their preparation for the hearing. The records established by
23 the Oregon Health Authority by rule and the investigation report shall be made available to the
24 examiners at least 24 hours before the hearing in order that the examiners may review the medical
25 record and have an opportunity to inquire of the medical personnel concerning the treatment of the
26 allegedly mentally ill person relating to the detention period prior to the hearing.

27 (3) The medical record described in subsection (2) of this section shall be made available to
28 counsel for the allegedly mentally ill person at least 24 hours prior to the hearing.

29 (4) When requested by a party to the action, the party's attorney shall subpoena physicians who
30 are or have been treating the allegedly mentally ill person. Any treating physician subpoenaed under
31 this subsection shall be subpoenaed as an expert witness.

32 **SECTION 30.** ORS 426.090 is amended to read:

33 426.090. [*The judge*] **A court** shall cause a citation to issue to the allegedly mentally ill person
34 stating the nature of the information filed concerning the person and the specific reasons the person
35 is believed to be mentally ill. The citation shall further contain a notice of the time and place of the
36 commitment hearing, the right to legal counsel, the right to have legal counsel appointed if the
37 person is unable to afford legal counsel, and, if requested, to have legal counsel immediately ap-
38 pointed, the right to subpoena witnesses in behalf of the person to the hearing and other information
39 as the court may direct. The citation shall be served upon the person by delivering a duly certified
40 copy of the original thereof to the person in person prior to the hearing. The person shall have an
41 opportunity to consult with legal counsel prior to being brought before the court.

42 **SECTION 31.** ORS 426.110 is amended to read:

43 426.110. The following requirements relating to the appointment of examiners for purposes of a
44 hearing under ORS 426.095 apply as described:

45 (1) The [*judge*] **court** shall appoint one qualified examiner. If requested, the [*judge*] **court** shall

1 appoint one additional qualified examiner. A request for an additional examiner under this sub-
 2 section must be made in writing and must be made by the allegedly mentally ill person or the at-
 3 torney for the allegedly mentally ill person.

4 (2) To be qualified for purposes of this section, an examiner must meet all of the following
 5 qualifications:

6 (a) The person must agree to be an examiner.

7 (b) The person must be one of the following:

8 (A) A physician licensed by the Oregon Medical Board who is competent to practice psychiatry
 9 as provided by the Oregon Health Authority by rule.

10 (B) Certified as a mental health examiner qualified to make examinations for involuntary com-
 11 mitment proceedings by the authority. The authority may establish, by rule, requirements for cer-
 12 tification as a mental health examiner for purposes of this subparagraph.

13 (3) The cost of examiners under this section shall be paid as provided under ORS 426.250.

14 **SECTION 32.** ORS 426.125 is amended to read:

15 426.125. The following qualifications, requirements and other provisions relating to a conditional
 16 release under ORS 426.130 apply as described:

17 (1) A court may *[only]* order conditional release **only** if all of the following occur:

18 (a) The conditional release is requested by the legal guardian, relative or friend of the mentally
 19 ill person.

20 (b) The person requesting the conditional release requests to be allowed to care for the mentally
 21 ill person during the period of commitment in a place satisfactory to the *[judge]* **court**.

22 (c) The person requesting the release establishes all of the following to the satisfaction of the
 23 court:

24 (A) Ability to care for the mentally ill person.

25 (B) That there are adequate financial resources available for the care of the mentally ill person.

26 (2) If the court determines to allow conditional release, the court shall order that the mentally
 27 ill person be conditionally released and placed in the care of the requester. The court shall establish
 28 any terms and conditions on the conditional release that the court determines appropriate.

29 (3) Any conditional release ordered under this section is subject to the provisions under ORS
 30 426.275.

31 **SECTION 33.** ORS 426.231 is amended to read:

32 426.231. (1) A physician licensed by the Oregon Medical Board may hold a person for transpor-
 33 tation to a treatment facility for up to 12 hours in a health care facility licensed under ORS chapter
 34 431 and approved by the Oregon Health Authority if:

35 (a) The physician believes the person is dangerous to self or to any other person and is in need
 36 of emergency care or treatment for mental illness;

37 (b) The physician is not related to the person by blood or marriage; and

38 (c) An admitting physician at the receiving facility consents to the transporting.

39 (2) Before transporting the person, the physician shall prepare a written statement that:

40 (a) The physician has examined the person within the preceding 12 hours;

41 (b) An admitting physician at the receiving facility has consented to the transporting of the
 42 person for examination and admission if appropriate; and

43 (c) The physician believes the person is dangerous to self or to any other person and is in need
 44 of emergency care or treatment for mental illness.

45 (3) The written statement required by subsection (2) of this section authorizes a peace officer,

1 a person authorized under ORS 426.233 or the *[designee of a]* community mental health program di-
 2 rector to transport a person to the treatment facility indicated on the statement.

3 **SECTION 34.** ORS 426.233 is amended to read:

4 426.233. (1)(a) A community mental health program director operating under ORS 430.610 to
 5 430.695 *[or a designee thereof, under]* **and under the** authorization of a county governing body[,] may
 6 take one of the actions listed in paragraph (b) of this subsection when the community mental health
 7 program director *[or designee]* has probable cause to believe a person:

8 (A) Is dangerous to self or to any other person and is in need of immediate care, custody or
 9 treatment for mental illness; *[or]*

10 (B)(i) Is a mentally ill person placed on conditional release under ORS 426.125, outpatient com-
 11 mitment under ORS 426.127 or trial visit under ORS 426.273; and

12 (ii) Is dangerous to self or to any other person or is unable to provide for basic personal needs
 13 and is not receiving the care that is necessary for health and safety and is in need of immediate
 14 care, custody or treatment for mental illness.

15 (b) The community mental health program director *[or designee]* under the circumstances set out
 16 in paragraph (a) of this subsection may:

17 (A) Notify a peace officer to take the person into custody and direct the officer to remove the
 18 person to a hospital or nonhospital facility approved by the Oregon Health Authority;

19 (B) Authorize involuntary admission of, or, if already admitted, cause to be involuntarily re-
 20 tained in a nonhospital facility approved by the authority, a person approved for care or treatment
 21 at a nonhospital facility by a physician under ORS 426.232;

22 (C) Notify a person authorized under subsection (3) of this section to take the person into cus-
 23 tody and direct the authorized person to remove the person in custody to a hospital or nonhospital
 24 facility approved by the authority;

25 (D) Direct a person authorized under subsection (3) of this section to transport a person in
 26 custody from a hospital or a nonhospital facility approved by the authority to another hospital or
 27 nonhospital facility approved by the authority as provided under ORS 426.235; or

28 (E) Direct a person authorized under subsection (3) of this section to transport a person in
 29 custody from a facility approved by the authority to another facility approved by the authority as
 30 provided under ORS 426.060.

31 (2) A *[designee]* **peace officer or authorized person** under subsection (1) of this section must
 32 be recommended by the community mental health program director, meet the standards established
 33 by rule of the authority and be approved by the county governing body before assuming the au-
 34 thority permitted under subsection (1) of this section.

35 (3) The county governing body may, upon recommendation by the community mental health
 36 program director, authorize any person to provide custody and secure transportation services for a
 37 person in custody under ORS 426.228. In authorizing a person under this subsection, the county
 38 governing body shall grant the person the authority to do the following:

39 (a) Accept custody from a peace officer of a person in custody under ORS 426.228;

40 (b) Take custody of a person upon notification by the community mental health program director
 41 under the provisions of this section;

42 (c) Remove a person in custody to an approved hospital or nonhospital facility as directed by
 43 the community mental health program director;

44 (d) Transfer a person in custody to another person authorized under this subsection or a peace
 45 officer;

1 (e) Transfer a person in custody from a hospital or nonhospital facility to another hospital fa-
 2 cility or nonhospital facility when directed to do so by the community mental health program di-
 3 rector; and

4 (f) Retain a person in custody at the approved hospital or nonhospital facility until a physician
 5 makes a determination under ORS 426.232.

6 (4) A person authorized under subsection (3) of this section must be recommended by the com-
 7 munity mental health program director, meet the standards established by rule of the authority and
 8 be approved by the governing body before assuming the authority granted under this section.

9 (5) The costs of transporting a person as authorized under ORS 426.060, 426.228 or 426.235 by
 10 a person authorized under subsection (3) of this section [*shall be*] **are** the responsibility of the
 11 county whose peace officer or community mental health program director directs the authorized
 12 person to take custody of a person and to transport the person to a facility approved by the au-
 13 thority, but the county [*shall not be*] **is not** responsible for costs that exceed the amount provided
 14 by the state for that transportation. A person authorized to act under subsection (3) of this section
 15 shall charge the cost of emergency medical transportation to, and collect that cost from, the person,
 16 third party payers or otherwise legally responsible persons or agencies in the same manner that
 17 costs for the transportation of other persons are charged and collected.

18 **SECTION 35.** ORS 426.234 is amended to read:

19 426.234. (1) At the time a person is admitted to or retained in a hospital or nonhospital facility
 20 under ORS 426.232 or 426.233, a physician, nurse or qualified mental health professional at the
 21 hospital or nonhospital facility shall:

22 (a) Inform the person of the person's right to representation by or appointment of counsel as
 23 described in ORS 426.100;

24 (b) Give the person the warning under ORS 426.123;

25 (c) Immediately examine the allegedly mentally ill person;

26 (d) Set forth, in writing, the condition of the person and the need for emergency care or treat-
 27 ment; and

28 (e) If the physician, nurse or qualified mental health professional reasonably suspects that the
 29 person is a foreign national, inform the person of the person's right to communicate with an official
 30 from the consulate of the person's country. A physician, nurse or qualified mental health profes-
 31 sional is not civilly or criminally liable for failure to provide the information required by this par-
 32 agraph. Failure to provide the information required by this paragraph does not in itself constitute
 33 grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

34 (2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the
 35 physician shall contact the community mental health program director of the county in which the
 36 person resides, if the county of residence is different from the county in which the hospital is lo-
 37 cated. The community mental health program director may request that the physician notify the
 38 circuit court in the county in which the person resides. If the community mental health program
 39 director does not make the request authorized by this paragraph, the physician shall notify, imme-
 40 diately and in writing, the circuit court in the county in which the person is hospitalized.

41 (b) At the time the person is admitted to a hospital under ORS 426.232 after being brought to
 42 the hospital by a peace officer under ORS 426.228, the physician shall contact the community mental
 43 health program director of the county in which the person is hospitalized. The community mental
 44 health program director of the county in which the person is hospitalized may request that the
 45 physician notify the circuit court in the county in which the person is hospitalized. If the community

1 mental health program director does not make the request authorized by this paragraph, the physi-
 2 cian shall notify, immediately and in writing, the circuit court in the county in which the person
 3 was taken into custody.

4 (c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the physician responsible
 5 for a person admitted or retained under ORS 426.232 determines that the person is not dangerous
 6 to self or others and is not in need of emergency care or treatment for mental illness, the physician
 7 may release the person from the detention authorized by ORS 426.232. The physician shall imme-
 8 diately notify the circuit court notified under this subsection and the community mental health
 9 program director of the person's release from detention.

10 (3)(a) At the time the person is admitted to or retained in a nonhospital facility under ORS
 11 426.233, the community mental health program director [*in*] **of** the county where the person was
 12 taken into custody shall contact the community mental health program director of the county in
 13 which the person resides, if the county of residence is different from the county in which the person
 14 was taken into custody. The community mental health program director of the county in which the
 15 person resides may request that the community mental health program director of the county in
 16 which the person was taken into custody notify the circuit court in the county where the person
 17 resides. Otherwise, the community mental health program director of the county in which the person
 18 was taken into custody shall notify, immediately and in writing, the circuit court in the county in
 19 which the person was taken into custody.

20 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health
 21 program director, after consultation with a physician, determines that a person admitted or retained
 22 under ORS 426.233 is not dangerous to self or others and is not in need of immediate care, custody
 23 or treatment for mental illness, the community mental health program director may release the
 24 person from detention. The community mental health program director shall immediately notify the
 25 circuit court originally notified under paragraph (a) of this subsection of the person's release from
 26 detention.

27 (4) When the [*judge of the*] circuit court receives notice under subsection (2) or (3) of this sec-
 28 tion, the [*judge*] **court** immediately shall commence proceedings under ORS 426.070 to 426.130. In a
 29 county having a population of 100,000 or more, and when feasible in a county with a lesser popu-
 30 lation, the community mental health program director [*or designee*] who directs the peace officer or
 31 other authorized person to take a person into custody under ORS 426.233 shall not also conduct the
 32 investigation as provided for under ORS 426.074. Except when a person is being held under ORS
 33 426.237 (1)(b), a person shall not be held under ORS 426.232 or 426.233 for more than five judicial
 34 days without a hearing being held under ORS 426.070 to 426.130.

35 (5) When the [*judge of the*] circuit court receives notice under subsection (2)(c) or (3)(b) of this
 36 section that a person has been released, and unless the court receives the recommendation required
 37 by ORS 426.070 (4), the [*judge*] **court** shall dismiss the case no later than 14 days after the date the
 38 person was initially detained.

39 **SECTION 36.** ORS 426.278 is amended to read:

40 426.278. The following persons shall be given a copy of the conditions of a placement of a men-
 41 tally ill person that is made as an outpatient commitment under ORS 426.127 or as a trial visit under
 42 ORS 426.273:

43 (1) The committed person;

44 (2) The community mental health program director[, *or designee of the director,*] of the county
 45 in which the committed person is to receive outpatient treatment;

1 (3) The director of any facility, service or other provider designated to provide care or treat-
 2 ment;

3 (4) The court of current commitment; and

4 (5) The appropriate court of the county in which the committed person lives during the com-
 5 mitment period if the person is living in a different county than the county of the court that made
 6 the current commitment.

7 **SECTION 37.** ORS 426.310 is amended to read:

8 426.310. (1) If the mentally ill person is a resident of some other county in this state, the county
 9 making the commitment shall be reimbursed by the county of which the person is a resident. All
 10 reasonable and actual expenses incurred and paid by the county by reason of the care, custody,
 11 treatment, investigation examination and commitment hearing shall, upon presentation of a copy of
 12 the order of the [*judge*] **court** making the examination and commitment, together with a properly
 13 itemized and certified claim covering the expense, be promptly paid to the county **making the**
 14 **commitment** by the county of which the person was a resident. The expenses reimbursed under this
 15 subsection shall include any expenses incurred to pay for representation of the state's interest under
 16 ORS 426.100 and 426.250.

17 (2) If an allegedly mentally ill person is a resident of some other county in this state, a county
 18 attempting a commitment shall be reimbursed by the county of which the person is a resident, as
 19 defined in ORS 426.241, for all actual, reasonable expenses incurred and paid by the county at-
 20 tempting commitment by reason of the care, custody, treatment, investigation examination and
 21 commitment hearing. The expenses reimbursed under this subsection shall include any expenses in-
 22 curred to pay for representation of the state's interest under ORS 426.100 and 426.250.

23 **SECTION 38.** ORS 426.335 is amended to read:

24 426.335. The following limitations on liability and circumstances are applicable to situations
 25 within this chapter and ORS 430.397 to 430.401:

26 (1) None of the following shall in any way be held criminally or civilly liable for the making of
 27 the notification under ORS 426.070, provided the person acts in good faith, on probable cause and
 28 without malice:

29 (a) The community mental health program director [*or designee of the director*].

30 (b) The two petitioning persons.

31 (c) The county health officer.

32 (d) Any magistrate.

33 (e) Any peace officer or parole and probation officer.

34 (f) Any physician attending the allegedly mentally ill person.

35 (g) The physician attached to a hospital or institution wherein the allegedly mentally ill person
 36 is a patient.

37 (2) The person conducting the investigation under ORS 426.070 and 426.074 shall not be held
 38 criminally or civilly liable for conducting the investigation, provided the investigator acts in good
 39 faith, on probable cause and without malice.

40 (3) The person representing the state's interest under ORS 426.100 shall not be held criminally
 41 or civilly liable for performing responsibilities under ORS 426.100 as long as the person acts in good
 42 faith and without malice.

43 (4) No person appointed under ORS 426.110 to conduct an examination under ORS 426.120 shall
 44 be held criminally or civilly liable for actions pursuant to ORS 426.120 if the examiner acts in good
 45 faith and without malice.

1 (5) No physician, hospital or judge shall be held criminally or civilly liable for actions pursuant
 2 to ORS 426.228, 426.231, 426.232, 426.234 or 426.235 if the physician, hospital or judge acts in good
 3 faith, on probable cause and without malice.

4 (6) No peace officer, person authorized under ORS 426.233, community mental health **program**
 5 director [*or designee*], hospital or other facility, physician or judge shall in any way be held
 6 criminally or civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual or facility
 7 acts in good faith, on probable cause and without malice.

8 (7) Any guardian, relative or friend of a mentally ill person who assumes responsibility for the
 9 mentally ill person under a conditional release under ORS 426.125 shall not be liable for any dam-
 10 ages that are sustained by any person on account of the misconduct of the mentally ill person while
 11 on conditional release if the guardian, relative or friend acts in good faith and without malice.

12 (8) The persons designated in this subsection shall not be liable for damages that are sustained
 13 by any person or property on account of the misconduct of a mentally ill person while the mentally
 14 ill person is on outpatient commitment under ORS 426.127 if the designated person acts without
 15 willful and wanton neglect of duty. This subsection is applicable to all of the following:

16 (a) The community mental health program director [*and the designee of the director for*] **of** the
 17 county in which the committed person resides.

18 (b) The superintendent or director of any staff of any facility where the mentally ill person re-
 19 ceives treatment during the outpatient commitment.

20 (c) The Director of the Oregon Health Authority.

21 (d) The physician and the facility granting an outpatient commitment to a patient.

22 (9) For trial visits granted under ORS 426.273 and 426.275:

23 (a) None of the following shall be liable for a patient's expenses while on trial visit:

24 (A) The physician and the facility granting a trial visit to a patient;

25 (B) The superintendent or director of the facility granting a trial visit;

26 (C) The Director of the Oregon Health Authority; and

27 (D) The chief medical officer of the facility.

28 (b) The following persons shall not be liable for damages that are sustained by any person on
 29 account of the misconduct of such patient while on trial visit if the person acts without willful and
 30 wanton neglect of duty:

31 (A) The community mental health program director [*for*] **of** the county in which the person re-
 32 sides;

33 (B) The superintendent, director or chief medical officer of any facility granting a trial visit to
 34 a patient;

35 (C) The physician responsible for the patient's trial visit;

36 (D) The Director of the Oregon Health Authority; or

37 (E) The employees and agents of persons listed in this paragraph.

38 **SECTION 39.** ORS 426.370 is amended to read:

39 426.370. A community mental health program director [*or designee*] may withhold information
 40 obtained during an investigation under ORS 426.070, 426.228, 426.232, 426.233 or 426.234 if the com-
 41 munity mental health program director determines:

42 (1) That information was not included in its investigation report or otherwise used in a material
 43 way to support a determination by the community mental health program director that there was
 44 probable cause to believe a person was a mentally ill person; and

45 (2) Release of the information would constitute a clear and immediate danger to any person.

SECTION 40. ORS 427.300 is amended to read:

427.300. (1) The Department of Human Services may, at its discretion, direct any person with an intellectual disability who has been committed under ORS 427.290 to the facility best able to treat and train the person. The authority of the department on such matters shall be final.

(2) At any time, for good cause and in the best interest of the person, the department may decide to transfer a resident from one facility to another or discharge a resident as no longer in need of residential care, treatment or training in a state training center. Fifteen days prior to department action, the department shall notify the resident and the parent, guardian or person entitled to custody of the resident by certified mail of its decision. The notice shall indicate the right of the aforementioned parties to appeal this decision to the State Training Center Review Board in writing within 10 days after receipt of notice. Within 30 days from the date the appeal is received by the department, the State Training Center Review Board shall hold a hearing at which the department and the person having filed the appeal shall present their case and shall communicate its recommendation to the Director of Human Services pursuant to ORS 427.205 (4)(b); and the director shall communicate the decision of the director by certified mail to the appealing party.

(3) The department, pursuant to its rules, may delegate to a community developmental disabilities program director the responsibility for assignment of persons with intellectual disabilities to suitable facilities or transfer between such facilities under conditions which the department may define. Any voluntary client or resident shall be released from the treating or training facility within 15 business days of the request of the client or resident for release, unless commitment [procedures] **proceedings** are initiated under ORS 427.235.

SECTION 41. ORS 428.210 is amended to read:

428.210. As used in ORS 428.210 to 428.270:

(1) "Authority" means the Oregon Health Authority.

(2) "Department" means the Department of Human Services.

(3) "Foreign hospital" means an institution in any other state which corresponds to the institutions defined in subsection (8) of this section.

(4) "Nonresident" means any person who is not a resident of this state as defined in subsection (7) of this section.

(5) "Other state" includes all the states, territories, possessions, commonwealths and agencies of the United States and the District of Columbia, with the exception of the State of Oregon.

(6) "Patient" means any person who has been committed by a court of competent jurisdiction to a state hospital, except a person committed to a state hospital pursuant to ORS 136.150 (1969 Replacement Part), 136.160 (1969 Replacement Part), 161.341 or 161.370.

(7) "Resident of this state" means a person who has lived in this state continuously for a period of one year and who has not acquired legal residence in any other state by living continuously therein for at least one year subsequent to the residence of the person in this state. However, a service man or woman on active duty in the Armed Forces of the United States who was domiciled in Oregon upon entry into active duty and who has acquired no other domicile shall be entitled to have his or her children considered a resident of this state so long as no other domicile is acquired by the service man or woman.

(8) "State hospital" means any institution listed in ORS 426.010 (1) or 427.010.

SECTION 42. ORS 480.225 is amended to read:

480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

(a) The person has not been convicted, or found guilty except for insanity under ORS 161.295,

1 of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A
2 person who has been so convicted is eligible under this subsection following the expiration of seven
3 years after the date of final and unconditional discharge from all imprisonment, probation and parole
4 resulting from the conviction.

5 (b) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
6 of, and is not under indictment for, any felony.

7 (c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not
8 free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this sub-
9 section.

10 (d) The person has not been determined to be mentally ill under ORS 426.130 or to have an in-
11 tellectual disability under ORS 427.290. A person who previously has been so determined is eligible
12 under this subsection if, at the time of application for such a certificate, the person produces a
13 certified copy of a full discharge from the proper state hospital **or treatment facility**. The Oregon
14 Health Authority shall provide the State Fire Marshal with direct electronic access to the
15 authority's database of information identifying persons meeting the criteria of this section who were
16 committed or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall
17 enter into an agreement describing the access to information under this subsection.

18 (e) The person is at least 21 years of age.

19 (f) The person does not use a fictitious name or make a material misrepresentation in applica-
20 tion for such a certificate.

21 (g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense
22 involving a controlled substance as defined in ORS 475.005, other than the offense of driving under
23 the influence of intoxicants.

24 (B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate
25 denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible
26 under this section following the expiration of seven years after the date of final and unconditional
27 discharge from all imprisonment, probation and parole resulting from the conviction.

28 (h) The person has been discharged from the jurisdiction of the juvenile court for more than four
29 years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involv-
30 ing violence, as defined in ORS 166.470.

31 (i) The person is not the subject of a restraining order that alleges the person's possession of
32 explosives presents a credible threat to another person.

33 (j) The person has passed an examination administered by the State Fire Marshal that assesses
34 the person's knowledge of safety in the transportation and storage of explosives as required under
35 federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall ex-
36 amine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire
37 Marshal may by rule establish and collect an examination fee in an amount necessary to cover the
38 cost of administering the examination.

39 (k) The person certifies on the application for a certificate of possession that all explosives in
40 the person's possession will be used, stored and transported in accordance with federal, state and
41 local requirements.

42 (L) The person certifies that all explosives will be possessed, used, stored and transported in
43 accordance with federal, state and local requirements.

44 (2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has
45 been expunged from a person's record under the laws of this state or equivalent laws of another

1 jurisdiction.

2 **SECTION 43. ORS 426.370 is added to and made a part of ORS 426.005 to 426.390.**

3

4

CAPTIONS

5

6 **SECTION 44. The unit captions used in this 2012 Act are provided only for the conven-**
7 **ience of the reader and do not become part of the statutory law of this state or express any**
8 **legislative intent in the enactment of this 2012 Act.**

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