

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 2594 - A**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Linda Ames, Monica Brown, Steve Bender
Date: 5/8/2013

Measure Description:

Modifies standard for court commitment of person with mental illness.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Justice (DOJ), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC), county health programs

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

House Bill 2594 A-Engrossed modifies statutes relating to civil commitment proceedings instituted against person alleged to have mental illness to allow courts the option of ordering assisted outpatient treatment (AOT). The bill stipulates that assisted outpatient treatment does not include taking the person into custody or forced medication. AOT is intended for adults diagnosed with a serious mental illness who are unlikely to live safely in the community without supervision and treatment, and who also are unlikely to voluntarily participate in treatment, but requires treatment to prevent deterioration in the person's condition. A period of assisted outpatient treatment shall not exceed 12 months. The court retains jurisdiction over the person until either the end of the period of the assisted outpatient treatment or until the court finds that the person no longer meets the criteria for participation in assisted outpatient treatment. The provisions of this bill apply to determinations or adjudications of whether a person is a person with mental illness that are made on or after January 1, 2014.

Oregon Health Authority (OHA)

The fiscal impact of this bill on the Oregon Health Authority is dependent on the number of individuals ordered by the courts to receive assisted outpatient treatment, and the type and level of treatment services required by these individuals. Assuming that assisted outpatient treatment would include some combination of one or all four of the following services: (1) Assertive Community Treatment programs, (2) Monitoring and Supervision / Case Management, (3) Rental Assistance, and (4) Acute Care; and assuming that passage of this bill would result in roughly 142 individuals ordered by the courts to receive assisted outpatient treatment annually, the Oregon Health Authority calculates that the fiscal impact of this bill would be roughly \$6,320,224 General Fund for the 2013-15 biennium, and \$6,471,909 General Fund for the 2015-17 biennium in Special Payments to county health programs which would be responsible for delivering the assisted outpatient treatment required by the bill. OHA reports that a portion of the Assertive Community Treatment services may be eligible for federal reimbursement through the Oregon Health Plan, but at this time, OHA cannot predict this amount.

In addition to the cost for treatment, the Department of Justice estimates OHA could incur an estimated \$100,200 General Fund for the 18 months of the 2013-15 biennium, and \$133,600 for the 2015-17 biennium, in attorney general fees to cover legal interpretations and implementation issues, as well as for assistance in civil commitment cases, contested case hearings, and cases on appeal.

Department of Justice (DOJ)

The fiscal impact to the Department of Justice is indeterminate depending on the number of civil commitment hearings initiated by the Oregon State Hospital and the Oregon Department of Correction. DOJ reports that currently about six to seven attorneys handle, on a rotating basis, six to ten civil commitment hearings per month. If passage of this bill result in a 50% increase in these hearings, the Civil Enforcement Division would need an additional 0.25 FTE Attorney and 0.50 FTE Legal Secretary to assist state agencies, district attorneys, and offices of county counsel in handling this increase in civil commitment hearings. DOJ estimates the Personal Services, and related Services and Supplies cost to be \$108,215 Other Funds, and 0.56 FTEs for the 18 months of the 2013-15 biennium; and \$135,462 Other Funds, and 0.75 FTEs for the 2015-17 biennium. This cost would be covered by attorney general fees paid by the Oregon Health Authority.

Oregon Judicial Department (OJD)

The Oregon Judicial Department estimates the fiscal impact of this bill to be roughly between \$47,288 and \$90,976 General Fund per biennium. OJD reports that in 2011, under current law, there were 8,871 civil commitment cases filed in the circuit courts. The estimated cost range assumes a 1% to 2% increase in civil commitment cases filed in circuit courts, and additionally, that 1% to 2% of civil commitment cases would result in a hearing on whether to order a person to assisted outpatient treatment.

Not included in the rough estimate above is the potential cost of case management for the courts. The measure allows courts to retain jurisdiction over the person until the end of the period for assisted outpatient treatment or until the court finds that the person no longer meets the criteria for assisted outpatient treatment, whichever is earlier. At this time, OJD cannot predict how each court will choose to oversee and manage these cases, and therefore the extent to which this would affect judge and court staff.

Public Defense Services Commission (PDSC)

The Public Defense Services Commission reports that the average cost of representation in civil commitment proceedings is \$350. Based on the Oregon Judicial Department assumption that passage of this bill could result in approximately 89 and 177 additional hearings each year, and assuming that the individual would be eligible in all cases, the Public Defense Services Commission estimates the fiscal impact of this bill on PDSC to be roughly between \$62,300 to \$123,900 General Fund per biennium.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means
Vote:	9 - 0 - 0
Yeas:	Barton, Cameron, Garrett, Hicks, Krieger, Olson, Tomei, Williamson, Barker
Nays:	0
Exc.:	0
Prepared By:	Mike Schmidt, Counsel
Meeting Dates:	2/21, 4/15, 4/18

WHAT THE MEASURE DOES: Creates new standards for courts to order people to engage in outpatient assisted treatment. Creates standard that person ordered to engage in outpatient assisted treatment is deteriorating to point that person will predictably become a person with mental illness as defined in ORS 426.005. Lists factors court shall consider when making such a determination. Conforms language across all statutes to “persons with mental illness” rather than “mentally ill person.” Allows people who would not meet the high standard required for inpatient commitment to be ordered to engage in outpatient treatment in the community they live in.

ISSUES DISCUSSED:

- Police officers are on the front lines of mental health crisis response, and will often look for ways to get people off of the streets but consistently find that people suffering or in crisis are turned away from hospitals because they do not meet the stringent criteria necessary for inpatient commitment.
- It is not intention of House Bill 2594 A to require forced medication, or to use jails or hospitals to punish people.
- Intention is to order people who would not voluntarily seek out mental health resources to meet with treatment providers, and to set them up with resources that may be able to help.

EFFECT OF COMMITTEE AMENDMENT: Makes new standard for outpatient assisted treatment that people who would not meet the high standard required for inpatient commitment could be ordered to engage in outpatient treatment in the community they live in.

BACKGROUND: Currently in Oregon the statutes, as interpreted through the case law, put a very high bar on the findings that a court has to make in order for a person to be civilly committed. Essentially, the law requires that the courts find by clear and convincing evidence that a person is imminently a danger to his/herself, others, or on the precipice of expiration due to an inability to care for their basic needs. House Bill 2594 A creates a new standard with lesser barriers for those who do not meet the high criteria required for inpatient commitment. A person meeting this new standard would be under jurisdiction of the court, and would be required to participate in outpatient assisted treatment.

A-Engrossed
House Bill 2594

Ordered by the House April 26
Including House Amendments dated April 26

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

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

[Modifies standard for court commitment of person with mental illness.] **In commitment proceedings instituted against person alleged to have mental illness, offers court option of ordering "assisted outpatient treatment" for up to 12 months, during which period person is released from custody but court retains jurisdiction while person participates in outpatient treatment recommended by community mental health program director. Specifies criteria for court to order assisted outpatient treatment.**

Updates terminology.

A BILL FOR AN ACT

1
2 Relating to commitment of persons with mental illness; creating new provisions; and amending ORS
3 21.010, 109.322, 135.775, 166.250, 166.291, 166.470, 179.473, 408.570, 419C.529, 421.245, 421.284,
4 421.296, 426.005, 426.010, 426.060, 426.070, 426.072, 426.074, 426.075, 426.090, 426.095, 426.100,
5 426.110, 426.120, 426.123, 426.125, 426.127, 426.130, 426.135, 426.140, 426.150, 426.155, 426.160,
6 426.170, 426.223, 426.225, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235, 426.237, 426.241,
7 426.250, 426.255, 426.273, 426.275, 426.278, 426.292, 426.297, 426.300, 426.301, 426.307, 426.310,
8 426.320, 426.335, 426.370, 426.385, 426.500, 428.310, 480.225, 677.225 and 680.205 and section 5,
9 chapter 826, Oregon Laws 2009.

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

11
12 **STANDARD FOR CIVIL COMMITMENT OF**
13 **PERSON WITH MENTAL ILLNESS**
14

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

16 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

17 [(a) "Authority" means the Oregon Health Authority.]

18 [(b)] (a) "Community mental health program director" means the director of an entity that pro-
19 vides the services described in ORS 430.630 (3) to (5).

20 [(c)] (b) "Director of the facility" means a superintendent of a state [mental] hospital, the chief
21 of psychiatric services in a community hospital or the person in charge of treatment and rehabili-
22 tation programs at other treatment facilities.

23 [(d)] (c) "Facility" means a state [mental] hospital, community hospital, residential facility,
24 detoxification center, day treatment facility or such other facility as the **Oregon Health** Authority
25 determines suitable[, any of which may provide] **that provides** diagnosis and evaluation, medical

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 care, detoxification, social services or rehabilitation [for committed mentally ill persons] **to persons**
2 **committed to the authority under ORS 426.130.**

3 [(e) “Mentally ill person” means a person who, because of a mental disorder, is one or more of the
4 following:]

5 [(A) Dangerous to self or others.]

6 [(B) Unable to provide for basic personal needs and is not receiving such care as is necessary for
7 health or safety.]

8 [(C) A person:]

9 [(i) With a chronic mental illness, as defined in ORS 426.495;]

10 [(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient
11 facility by the authority or the Department of Human Services under ORS 426.060;]

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

15 [(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or men-
16 tally deteriorate so that the person will become a person described under either subparagraph (A) or
17 (B) of this paragraph or both.]

18 [(f)] (d) “Nonhospital facility” means any facility, other than a hospital, that is approved by the
19 authority to provide adequate security, psychiatric, nursing and other services to persons under ORS
20 426.232 or 426.233.

21 (e) “Person with mental illness” means a person who, because of a mental disorder:

22 (A) Is dangerous to self or to any other person;

23 (B) Is unable to provide for basic personal needs and is not receiving such care as is
24 necessary for health or safety; or

25 (C)(i) Is a person with a chronic mental illness, as defined in ORS 426.495;

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

28 (iii) Is exhibiting symptoms or behavior substantially similar to those that preceded and
29 led to one or more of the hospitalizations or inpatient placements referred to in sub-
30 subparagraph (ii) of this subparagraph; and

31 (iv) Unless treated, will continue, to a reasonable medical probability, to physically or
32 mentally deteriorate so that the person will become a person described under either sub-
33 paragraph (A) or (B) of this paragraph or both.

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

36 (2) Whenever a community mental health program director, director of the facility, superinten-
37 dent of a state hospital or administrator of a facility is referred to, the reference includes any
38 designee such person has designated to act on the person’s behalf in the exercise of duties.

39
40 **ASSISTED OUTPATIENT TREATMENT**

41
42 **SECTION 1a. Section 1b of this 2013 Act is added to and made a part of ORS 426.005 to**
43 **426.390.**

44 **SECTION 1b. (1) As used in ORS 426.005 to 426.390, “assisted outpatient treatment” may**
45 **not be construed to be a commitment under ORS 426.130 and does not include taking a per-**

1 son into custody or the forced medication of a person.

2 (2) A court may issue an order requiring a person to participate in assisted outpatient
3 treatment if the court finds that the person:

4 (a)(A) Is 18 years of age or older;

5 (B) Has a mental disorder;

6 (C) Will not obtain treatment in the community voluntarily; and

7 (D) Is unable to make an informed decision to seek or to comply with voluntary treat-
8 ment; and

9 (b) As a result of being a person described in paragraph (a) of this subsection:

10 (A) Is incapable of surviving safely in the community without treatment; and

11 (B) Requires treatment to prevent a deterioration in the person's condition that will
12 predictably result in the person becoming a person with mental illness.

13 (3) In determining whether to issue the order under subsection (2) of this section, the
14 court shall consider, but is not limited to considering, the following factors:

15 (a) The person's ability to access finances in order to get food or medicine.

16 (b) The person's ability to obtain treatment for the person's medical condition.

17 (c) The person's ability to access necessary resources in the community without assist-
18 ance.

19 (d) The degree to which there are risks to the person's safety.

20 (e) The likelihood that the person will decompensate without immediate care or treat-
21 ment.

22 (f) The person's previous attempts to inflict physical injury on self or others.

23 (g) The person's history of mental health treatment in the community.

24 (h) The person's patterns of decompensation in the past.

25 (i) The person's risk of being victimized or harmed by others.

26 (j) The person's access to the means to inflict harm on self or others.

27 (4) The community mental health program director shall recommend to the court a
28 treatment plan for a person participating in assisted outpatient treatment. The court may
29 adopt the plan as recommended or with modifications.

30 (5) The court retains jurisdiction over the person until the earlier of the end of the period
31 of the assisted outpatient treatment established under ORS 426.130 (2) or until the court
32 finds that the person no longer meets the criteria in subsection (2) of this section.

33 (6) This section does not prevent a court from appointing a guardian ad litem to act for
34 the person.

35 **SECTION 1c.** ORS 426.070 is amended to read:

36 426.070. (1) Any of the following may initiate commitment procedures under this section by giv-
37 ing the notice described under subsection (2) of this section:

38 (a) Two persons;

39 (b) The county health officer; or

40 (c) Any magistrate.

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

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

43 (b) It must be given to the community mental health program director or a designee of the di-
44 rector in the county where the [*allegedly mentally ill*] person **alleged to have a mental illness** re-
45 sides;

1 (c) It must state that a person within the county other than the person giving the notice is a
2 [*mentally ill*] person **with mental illness** and is in need of treatment, care or custody;

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

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

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

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

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

12 (a) Immediately notify the judge of the court having jurisdiction for that county under ORS
13 426.060 of the notification described in subsections (1) and (2) of this section.

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

19 (c) Initiate an investigation under ORS 426.074 to determine whether there is probable cause to
20 believe that the person is in fact a [*mentally ill*] person **with mental illness**.

21 (4) Upon completion, a recommendation based upon the investigation report under ORS 426.074
22 shall be promptly submitted to the court. If the community mental health program director deter-
23 mines that probable cause does not exist to believe that a person released from detention under ORS
24 426.234 (2)(c) or (3)(b) is a [*mentally ill*] person **with mental illness**, the community mental health
25 program director [*shall not submit a recommendation to the court*] **may recommend assisted out-**
26 **patient treatment in accordance with section 1b of this 2013 Act.**

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

28 (a) If the court, following the investigation, concludes that there is probable cause to believe
29 that the person investigated is a [*mentally ill*] person **with mental illness**, it shall, through the is-
30 suance of a citation as provided in ORS 426.090, cause the person to be brought before it at a time
31 and place as it may direct, for a hearing under ORS 426.095 to determine whether the person is
32 [*mentally ill*] **a person with mental illness**. The person shall be given the opportunity to appear
33 voluntarily at the hearing unless the person fails to appear or unless the person is detained pursuant
34 to paragraph (b) of this subsection.

35 (b)(A) [*The judge may cause the allegedly mentally ill person to be taken into custody pending the*
36 *investigation or hearing by issuing a warrant of detention under this subsection. A judge may only*
37 *issue a warrant under this subsection*] If the court finds that there is probable cause to believe that
38 failure to take the person into custody **pending the investigation or hearing** would pose serious
39 harm or danger to the person or to others,[]

40 [(B) *To cause the custody of a person under this paragraph, the judge must*] **the court may** issue
41 a warrant of detention to the community mental health program director or designee[,] **or** the sheriff
42 of the county or designee[,] directing [*that person*] **the director, sheriff or a designee** to take the
43 [*allegedly mentally ill*] person **alleged to have a mental illness** into custody and produce the person
44 at the time and place stated in the warrant.

45 [(C)] **(B)** At the time the person is taken into custody, the person shall be informed by the

1 community mental health program director, the sheriff or a designee of the following:

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

4 (ii) The warning under ORS 426.123; and

5 (iii) The person's right, if the community mental health program director, sheriff or designee
6 reasonably suspects that the person is a foreign national, to communicate with an official from the
7 consulate of the person's country. A community mental health program director, sheriff or designee
8 is not civilly or criminally liable for failure to provide the information required by this sub-
9 subparagraph. Failure to provide the information required by this sub-subparagraph does not in itself
10 constitute grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

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

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

15 **SECTION 1d.** ORS 426.130 is amended to read:

16 426.130. (1) After hearing all of the evidence, and reviewing the findings of the [*examining per-*
17 *sons*] **examiners**, the court shall determine whether the person [*is mentally ill*] **has a mental illness**
18 **and is in need of treatment**. If, in the opinion of the court, the person [*is*]:

19 [(a) *Not mentally ill, the person shall be discharged forthwith.*]

20 [(b)] (a) [*Mentally ill*] **Is a person with mental illness** based upon clear and convincing evi-
21 dence, the court:

22 (A) Shall order the release of the [*individual*] **person** and dismiss the case if:

23 (i) The [*mentally ill*] person is willing and able to participate in treatment on a voluntary basis;
24 and

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

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

29 (C) May order commitment of the [*individual*] **person with mental illness** to the Oregon Health
30 Authority for treatment if, in the opinion of the court, subparagraph (A) or (B) of this paragraph is
31 not in the best interest of the [*mentally ill*] person. If the court orders commitment under this sub-
32 paragraph:

33 (i) The court shall establish a period of commitment.

34 (ii) The authority may place the committed person in outpatient commitment under ORS 426.127.

35 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the
36 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self
37 or others or to the community at large as a result of the person's mental or psychological state as
38 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
39 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
40 a court makes an order under this subparagraph, the court shall cause a copy of the order to be
41 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data
42 System.

43 (b) **Is not a person with mental illness, the court shall release the person from custody**
44 **if the person has been detained under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and:**

45 (A) **Dismiss the case; or**

1 **(B) Order the person to participate in assisted outpatient treatment in accordance with**
2 **section 1b of this 2013 Act. The court may continue the proceeding for no more than seven**
3 **days to allow time for the community mental health program director to develop the person's**
4 **assisted outpatient treatment plan.**

5 (2) A court that orders a conditional release, [or] a commitment **or assisted outpatient treat-**
6 **ment** under this section shall establish a period of commitment for the person subject to the order.
7 Any period of commitment ordered for commitment or conditional release under this section shall
8 be for a period of time not to exceed 180 days. **A period of assisted outpatient treatment shall**
9 **be for a period of time not to exceed 12 months.**

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

13 **SECTION 1e.** ORS 426.237 is amended to read:

14 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
15 or 426.233, the community mental health program director shall do one of the following:

16 (a) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court not
17 proceed further in the matter if the community mental health program director does not believe the
18 person is a [*mentally ill*] person **with mental illness or that the person is in need of assisted**
19 **outpatient treatment.**

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

23 (A) The community mental health program director and a psychiatrist, as defined by rule by the
24 Oregon Health Authority, have probable cause to believe the person is a [*mentally ill*] person **with**
25 **mental illness;**

26 (B) The community mental health program director in the county where the person resides
27 verbally approves the arrangements for payment for the services at the hospital or nonhospital fa-
28 cility; and

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

31 (i) Is approved by the authority and the community mental health program director in the
32 county where the person resides; and

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

36 (c) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court
37 hold a hearing under ORS 426.070 to 426.130 if the community mental health program director has
38 probable cause to believe the person is a [*mentally ill*] person **with mental illness or that the**
39 **person is in need of assisted outpatient treatment.**

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

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

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

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

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

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

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

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

10 (A) A written statement under oath by the community mental health program director and the
11 psychiatrist that they have probable cause to believe the person is a [*mentally ill*] person **with**
12 **mental illness** in need of care or treatment for mental illness;

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

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

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

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

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

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

29 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the
30 prescription and administration of drugs, shall be the sole responsibility of the treating physician.
31 However, the person shall not be subject to electroshock therapy or unduly hazardous treatment and
32 shall receive usual and customary treatment in accordance with medical standards in the commu-
33 nity.

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

38 (C) If the person is in a hospital and the community mental health program director locates a
39 nonhospital facility, approved by the authority, that, in the opinion of the community mental health
40 program director and the treating physician, can provide care or treatment for mental illness nec-
41 essary and sufficient to meet the emergency psychiatric needs of the person, the treating physician
42 shall discharge the person from the hospital and the community mental health program director
43 shall remove the person to the nonhospital facility for the remainder of the 14-day intensive treat-
44 ment period. If, however, in the opinion of the treating physician, the person's condition requires the
45 person to receive medical care or treatment, the physician shall retain the person in the hospital.

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

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

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

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

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

16 (f) If the person is in a nonhospital facility, the community mental health program director may
17 discharge the person at any time during the 14-day period. The community mental health program
18 director shall consult with the treating physician and the person's next of kin, if the person consents
19 to the consultation, prior to discharging the person. Immediately upon discharge of the person, the
20 community mental health program director shall notify the court in the county in which the certifi-
21 cate was filed initially.

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

25 (h) A person consenting to 14 days of treatment under subsection (3)(c) of this section shall not
26 be held longer than 14 days from the time of consenting without a hearing as provided in ORS
27 426.070 to 426.130.

28 (i) When the court receives notification under paragraph (e), (f) or (g) of this subsection, the
29 court shall dismiss the case.

30 (4) The judge of the circuit court shall immediately commence proceedings under ORS 426.070
31 to 426.130 when:

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

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

39
40 **CONFORMING AMENDMENTS**

41
42 **SECTION 2.** ORS 21.010 is amended to read:

43 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a
44 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$355 in the
45 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in

1 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State
2 Court Administrator a filing fee of \$355. The party entitled to costs and disbursements on such ap-
3 peal shall recover from the opponent the amount so paid.

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

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

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

17 (5) The filing and appearance fees established by this section apply to cases of original juris-
18 diction in the Supreme Court.

19 **SECTION 3.** ORS 109.322 is amended to read:

20 109.322. (1) If a parent has been adjudged *[mentally ill or mentally retarded]* **to be a person with**
21 **mental illness under ORS 426.130 or a person with an intellectual disability who is in need**
22 **of commitment for residential care, treatment and training under ORS 427.290**, and remains
23 so at the time of the adoption proceedings, or if a parent is imprisoned in a state or federal prison
24 under a sentence for a term of not less than three years and has actually served three years, the
25 petitioner, in accordance with ORS 109.330, shall serve on the parent, if the parent has not con-
26 sented in writing to the adoption, a summons and a motion and order to show cause why the
27 adoption of the child should not be ordered without the parent's consent.

28 (2) In the case of a parent adjudged *[mentally ill or mentally retarded]* **to be a person with**
29 **mental illness under ORS 426.130 or a person with an intellectual disability who is in need**
30 **of commitment for residential care, treatment and training under ORS 427.290**, the petitioner
31 shall also serve the summons and the motion and order to show cause upon the guardian of the
32 parent. If the parent has no guardian, the court shall appoint a guardian ad litem to appear for the
33 parent in the adoption proceedings.

34 (3) Upon hearing, if the court finds that the adoption is in the best interests of the child, the
35 consent of the parent who is imprisoned or adjudged *[mentally ill or mentally retarded]* **to be a**
36 **person with mental illness or an intellectual disability** is not required, and the court may pro-
37 ceed regardless of the objection of the parent.

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

40 **SECTION 4.** ORS 135.775 is amended to read:

41 135.775. The Agreement on Detainers is hereby enacted into law and entered into by this state
42 with all other jurisdictions legally joining therein in the form substantially as follows:

43 _____
44
45 AGREEMENT ON DETAINERS

1 The contracting states solemnly agree that:

2 ARTICLE I

3 The party states find that charges outstanding against a prisoner, detainers based on untried
4 indictments, informations or complaints, and difficulties in securing speedy trial of persons already
5 incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner
6 treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this
7 agreement to encourage the expeditious and orderly disposition of such charges and determination
8 of the proper status of any and all detainers based on untried indictments, informations or com-
9 plaints. The party states also find that proceedings with reference to such charges and detainers,
10 when emanating from another jurisdiction, cannot properly be had in the absence of cooperative
11 procedures. It is the further purpose of this agreement to provide such cooperative procedures.

12 ARTICLE II

13 As used in this agreement:

14 (a) "State" shall mean a state of the United States; the United States of America; a territory
15 or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

16 (b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that the
17 prisoner initiates a request for final disposition pursuant to Article III of this agreement or at the
18 time that a request for custody or availability is initiated pursuant to Article IV of this agreement.

19 (c) "Receiving state" shall mean the state in which trial is to be had on an indictment, infor-
20 mation or complaint pursuant to Article III or Article IV of this agreement.

21 (d) "Department of Corrections institution" of this state shall mean any institution operated by
22 the Department of Corrections.

23 ARTICLE III

24 (a) Whenever a person has entered upon a term of imprisonment in a penal or correctional in-
25 stitution of a party state, and whenever during the continuance of the term of imprisonment there
26 is pending in any other party state any untried indictment, information or complaint on the basis
27 of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial
28 within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and
29 the appropriate court of the prosecuting officer's jurisdiction written notice of the place of
30 imprisonment and the request of the prisoner for a final disposition to be made of the indictment,
31 information or complaint: Provided, that for good cause shown in open court, the prisoner or the
32 counsel of the prisoner being present, the court having jurisdiction of the matter may grant any
33 necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certif-
34 icate of the appropriate official having custody of the prisoner, stating the term of commitment un-
35 der which the prisoner is being held, the time already served, the time remaining to be served on
36 the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any
37 decisions of the state parole agency relating to the prisoner.

38 (b) The written notice and request for final disposition referred to in paragraph (a) of this Ar-
39 ticle shall be given or sent by the prisoner to the warden or other official having custody of the
40 prisoner, who shall promptly forward it together with the certificate to the prosecuting official and
41 court by registered or certified mail, return receipt requested.

42 (c) The warden or other official having custody of the prisoner shall promptly inform the pris-
43 oner of the source and contents of any detainer lodged against the prisoner and shall also inform
44 the prisoner of the right to make a request for final disposition of the indictment, information or
45 complaint on which the detainer is based.

1 (d) Any request for final disposition made by a prisoner pursuant to paragraph (a) of this Article
2 shall operate as a request for final disposition of all untried indictments, informations or complaints
3 on the basis of which detainers have been lodged against the prisoner from the state to whose
4 prosecuting official the request for final disposition is specifically directed. The warden or other
5 official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and
6 courts in the several jurisdictions within the state to which the prisoner's request for final disposi-
7 tion is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant
8 to this paragraph shall be accompanied by copies of the prisoner's written notice, request and the
9 certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior
10 to the return of the prisoner to the original place of imprisonment, such indictment, information or
11 complaint shall not be of any further force or effect, and the court shall enter an order dismissing
12 the same with prejudice.

13 (e) Any request for final disposition made by a prisoner pursuant to paragraph (a) of this Article
14 shall also be deemed to be a waiver of extradition with respect to any charge or proceeding con-
15 templated thereby or included therein by reason of paragraph (d) of this Article, and a waiver of
16 extradition to the receiving state to serve any sentence there imposed upon the prisoner, after
17 completion of the term of imprisonment in the sending state. The request for final disposition shall
18 also constitute a consent by the prisoner to the production of the body of the prisoner in any court
19 where the presence of the prisoner may be required in order to effectuate the purposes of this
20 agreement and a further consent voluntarily to be returned to the original place of imprisonment in
21 accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the im-
22 position of a concurrent sentence if otherwise permitted by law.

23 (f) Escape from custody by the prisoner subsequent to the execution of the request for final
24 disposition referred to in paragraph (a) of this Article shall void the request.

25 ARTICLE IV

26 (a) The appropriate officer of the jurisdiction in which an untried indictment, information or
27 complaint is pending shall be entitled to have a prisoner against whom the officer has lodged a
28 detainer and who is serving a term of imprisonment in any party state made available in accordance
29 with paragraph (a) of Article V of this agreement upon presentation of a written request for tem-
30 porary custody or availability to the appropriate authorities of the state in which the prisoner is
31 incarcerated: Provided, that the court having jurisdiction of such indictment, information or com-
32 plaint shall have duly approved, recorded and transmitted the request; And provided further, that
33 there shall be a period of 30 days after receipt by the appropriate authorities before the request be
34 honored, within which period the governor of the sending state may disapprove the request for
35 temporary custody or availability, either upon the own motion of the governor or upon motion of
36 the prisoner.

37 (b) Upon receipt of the officer's written request as provided in paragraph (a) of this Article, the
38 appropriate authorities having the prisoner in custody shall furnish the officer with a certificate
39 stating the term of commitment under which the prisoner is being held, the time already served, the
40 time remaining to be served on the sentence, the amount of good time earned, the time of parole
41 eligibility of the prisoner and any decisions of the state parole agency relating to the prisoner. Such
42 authorities simultaneously shall furnish all other officers and appropriate courts in the receiving
43 state who have lodged detainers against the prisoner with similar certificates and with notices in-
44 forming them of the request for custody or availability and of the reasons therefor.

45 (c) In respect of any proceeding made possible by this Article, trial shall be commenced within

1 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open
2 court, the prisoner or the counsel of the prisoner being present, the court having jurisdiction of the
3 matter may grant any necessary or reasonable continuance.

4 (d) Nothing contained in this Article shall be construed to deprive any prisoner of any right
5 which the prisoner may have to contest the legality of the delivery of the prisoner as provided in
6 paragraph (a) of this Article, but such delivery may not be opposed or denied on the ground that the
7 executive authority of the sending state has not affirmatively consented to or ordered such delivery.

8 (e) If trial is not had on any indictment, information or complaint contemplated hereby prior to
9 the prisoner's being returned to the original place of imprisonment pursuant to paragraph (e) of
10 Article V of this agreement, such indictment, information or complaint shall not be of any further
11 force or effect, and the court shall enter an order dismissing the same with prejudice.

12 ARTICLE V

13 (a) In response to a request made under Article III or Article IV of this agreement, the appro-
14 priate authority in a sending state shall offer to deliver temporary custody of such prisoner to the
15 appropriate authority in the state where such indictment, information or complaint is pending
16 against such person in order that speedy and efficient prosecution may be had. If the request for
17 final disposition is made by the prisoner, the offer of temporary custody shall accompany the written
18 notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate
19 authority in the receiving state shall be entitled to temporary custody as provided by this agreement
20 or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrange-
21 ment may be approved by the custodian.

22 (b) The officer or other representative of a state accepting an offer of temporary custody shall
23 present the following upon demand:

24 (1) Proper identification and evidence of authority to act for the state into whose temporary
25 custody the prisoner is to be given.

26 (2) A duly certified copy of the indictment, information or complaint on the basis of which the
27 detainer has been lodged and on the basis of which the request for temporary custody of the pris-
28 oner has been made.

29 (c) If the appropriate authority shall refuse or fail to accept temporary custody of such prisoner,
30 or in the event that an action on the indictment, information or complaint on the basis of which the
31 detainer has been lodged is not brought to trial within the period provided in Article III or Article
32 IV of this agreement, the appropriate court of the jurisdiction where the indictment, information or
33 complaint has been pending shall enter an order dismissing the same with prejudice, and any
34 detainer based thereon shall cease to be of any force or effect.

35 (d) The temporary custody referred to in this agreement shall be only for the purpose of per-
36 mitting prosecution on the charge or charges contained in one or more untried indictments, infor-
37 mations or complaints which form the basis of the detainer or detainers or for prosecution on any
38 other charge or charges arising out of the same transaction. Except for attendance of the prisoner
39 at court and while being transported to or from any place at which the presence of the prisoner
40 may be required, the prisoner shall be held in a suitable jail or other facility regularly used for
41 persons awaiting prosecution.

42 (e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner
43 shall be returned to the sending state.

44 (f) During the continuance of temporary custody or while the prisoner is otherwise being made
45 available for trial as required by this agreement, time being served on the sentence shall continue

1 to run but good time shall be earned by the prisoner only if, and to the extent that, the law and
2 practice of the jurisdiction which imposed the sentence may allow.

3 (g) For all purposes other than that for which temporary custody as provided in this agreement
4 is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction
5 of the sending state and any escape from temporary custody may be dealt with in the same manner
6 as an escape from the original place of imprisonment or in any other manner permitted by law.

7 (h) From the time that a party state receives custody of a prisoner pursuant to this agreement
8 until such prisoner is returned to the territory and custody of the sending state, the state in which
9 the one or more untried indictments, informations or complaints are pending or in which trial is
10 being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring
11 for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the
12 states concerned shall have entered into a supplementary agreement providing for a different allo-
13 cation of costs and responsibilities as between or among themselves. Nothing contained in this par-
14 agraph shall be construed to alter or affect any internal relationship among the departments,
15 agencies and officers of and in the government of a party state, or between a party state and its
16 subdivisions, as to the payment of costs, or responsibilities therefor.

17 ARTICLE VI

18 (a) In determining the duration and expiration dates of the time periods provided in Articles III
19 and IV of this agreement, the running of such time periods shall be tolled whenever and for as long
20 as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

21 (b) No provision of this agreement, and no remedy made available by this agreement, shall apply
22 to any person who is adjudged to be [*mentally ill*] **a person with mental illness.**

23 ARTICLE VII

24 Each state party to this agreement shall designate an officer who, acting jointly with like offi-
25 cers of other party states, shall promulgate rules and regulations to carry out more effectively the
26 terms and provisions of this agreement, and who shall provide within and without the state, infor-
27 mation necessary to the effective operation of this agreement.

28 ARTICLE VIII

29 This agreement shall enter into full force and effect as to a party state when such state has
30 enacted the agreement into law. A state party to this agreement may withdraw herefrom by enacting
31 a statute repealing the agreement. However, the withdrawal of any state shall not affect the status
32 of any proceedings already initiated by prisoners or by state officers at the time such withdrawal
33 takes effect, nor shall it affect their rights in respect thereof.

34 ARTICLE IX

35 This agreement shall be liberally construed so as to effectuate its purposes. The provisions of
36 this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement
37 is declared to be contrary to the constitution of any party state or of the United States or the ap-
38 plicability thereof to any government, agency, person or circumstance is held invalid, the validity
39 of the remainder of this agreement and the applicability thereof to any government, agency, person
40 or circumstance shall not be affected thereby. If this agreement shall be held contrary to the con-
41 stitution of any state party to this agreement, the agreement shall remain in full force and effect
42 as to the remaining states and in full force and effect as to the state affected as to all severable
43 matters.

1 **SECTION 5.** ORS 166.250 is amended to read:

2 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
3 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter 826, Oregon Laws 2009, a person commits
4 the crime of unlawful possession of a firearm if the person knowingly:

5 (a) Carries any firearm concealed upon the person;

6 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
7 cle; or

8 (c) Possesses a firearm and:

9 (A) Is under 18 years of age;

10 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
11 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
12 volving violence, as defined in ORS 166.470; and

13 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
14 charged under this section;

15 (C) Has been convicted of a felony;

16 (D) Was committed to the Oregon Health Authority under ORS 426.130;

17 (E) Was found to be [*mentally ill*] **a person with mental illness** and subject to an order under
18 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
19 that mental illness; or

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

21 (2) This section does not prohibit:

22 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
23 sessed a firearm:

24 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
25 guardian or by another person with the consent of the minor's parent or guardian; or

26 (B) Temporarily for hunting, target practice or any other lawful purpose; or

27 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
28 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
29 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
30 residence or place of business any handgun, and no permit or license to purchase, own, possess or
31 keep any such firearm at the person's place of residence or place of business is required of any such
32 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
33 while used, for whatever period of time, as residential quarters.

34 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

35 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-
36 cessible within the meaning of this section if the handgun is within the passenger compartment of
37 the vehicle.

38 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage
39 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-
40 sible within the meaning of this section if:

41 (A) The handgun is stored in a closed and locked glove compartment, center console or other
42 container; and

43 (B) The key is not inserted into the lock, if the glove compartment, center console or other
44 container unlocks with a key.

45 (c) If a vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not readily

1 accessible within the meaning of this section if:

2 (A) The handgun is in a locked container within or affixed to the vehicle; or

3 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the
4 discharge of the firearm.

5 (5) Unlawful possession of a firearm is a Class A misdemeanor.

6 **SECTION 6.** ORS 166.250, as amended by section 11a, chapter 826, Oregon Laws 2009, and
7 section 2, chapter 662, Oregon Laws 2011, is amended to read:

8 166.250. (1) Except as otherwise provided in this section or ORS 166.260, 166.270, 166.274,
9 166.291, 166.292 or 166.410 to 166.470, a person commits the crime of unlawful possession of a firearm
10 if the person knowingly:

11 (a) Carries any firearm concealed upon the person;

12 (b) Possesses a handgun that is concealed and readily accessible to the person within any vehi-
13 cle; or

14 (c) Possesses a firearm and:

15 (A) Is under 18 years of age;

16 (B)(i) While a minor, was found to be within the jurisdiction of the juvenile court for having
17 committed an act which, if committed by an adult, would constitute a felony or a misdemeanor in-
18 volving violence, as defined in ORS 166.470; and

19 (ii) Was discharged from the jurisdiction of the juvenile court within four years prior to being
20 charged under this section;

21 (C) Has been convicted of a felony;

22 (D) Was committed to the Oregon Health Authority under ORS 426.130;

23 (E) Was found to be [*mentally ill*] **a person with mental illness** and subject to an order under
24 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
25 that mental illness; or

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

27 (2) This section does not prohibit:

28 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of this section, from pos-
29 sessed a firearm:

30 (A) Other than a handgun, if the firearm was transferred to the minor by the minor's parent or
31 guardian or by another person with the consent of the minor's parent or guardian; or

32 (B) Temporarily for hunting, target practice or any other lawful purpose; or

33 (b) Any citizen of the United States over the age of 18 years who resides in or is temporarily
34 sojourning within this state, and who is not within the excepted classes prescribed by ORS 166.270
35 and subsection (1) of this section, from owning, possessing or keeping within the person's place of
36 residence or place of business any handgun, and no permit or license to purchase, own, possess or
37 keep any such firearm at the person's place of residence or place of business is required of any such
38 citizen. As used in this subsection, "residence" includes a recreational vessel or recreational vehicle
39 while used, for whatever period of time, as residential quarters.

40 (3) Firearms carried openly in belt holsters are not concealed within the meaning of this section.

41 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a handgun is readily ac-
42 cessible within the meaning of this section if the handgun is within the passenger compartment of
43 the vehicle.

44 (b) If a vehicle, other than a vehicle described in paragraph (c) of this subsection, has no storage
45 location that is outside the passenger compartment of the vehicle, a handgun is not readily acces-

1 sible within the meaning of this section if:

2 (A) The handgun is stored in a closed and locked glove compartment, center console or other
3 container; and

4 (B) The key is not inserted into the lock, if the glove compartment, center console or other
5 container unlocks with a key.

6 (c) If the vehicle is a motorcycle, an all-terrain vehicle or a snowmobile, a handgun is not
7 readily accessible within the meaning of this section if:

8 (A) The handgun is in a locked container within or affixed to the vehicle; or

9 (B) The handgun is equipped with a trigger lock or other locking mechanism that prevents the
10 discharge of the firearm.

11 (5) Unlawful possession of a firearm is a Class A misdemeanor.

12 **SECTION 7.** ORS 166.291 is amended to read:

13 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
14 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
15 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

22 (c) Is a resident of the county;

23 (d) Has no outstanding warrants for arrest;

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

25 (f) Demonstrates competence with a handgun by any one of the following:

26 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
27 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
28 of the course;

29 (B) Completion of any National Rifle Association firearms safety or training course if handgun
30 safety was a component of the course;

31 (C) Completion of any firearms safety or training course or class available to the general public
32 offered by law enforcement, community college, or private or public institution or organization or
33 firearms training school utilizing instructors certified by the National Rifle Association or a law
34 enforcement agency if handgun safety was a component of the course;

35 (D) Completion of any law enforcement firearms safety or training course or class offered for
36 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
37 cers if handgun safety was a component of the course;

38 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
39 ized shooting competition or military service;

40 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
41 revoked; or

42 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
43 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
44 was a component of the course;

45 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,

1 of a felony;

2 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
3 161.295, of a misdemeanor within the four years prior to the application;

4 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

5 (j) Has not been found to be [*mentally ill*] **a person with mental illness** and is not subject to
6 an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm
7 as a result of that mental illness;

8 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
9 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
10 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
11 volving violence, as defined in ORS 166.470;

12 (L) Has not been convicted of an offense involving controlled substances or participated in a
13 court-supervised drug diversion program, except this disability does not operate to exclude a person
14 if:

15 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
16 a court-supervised drug diversion program under ORS 135.907; or

17 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
18 has not been convicted of violating ORS 475.864 (3);

19 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
20 107.700 to 107.735 or 163.738;

21 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

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

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

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

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

34 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
35 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
36 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
37 records check is necessary, the sheriff shall request the Department of State Police to conduct the
38 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
39 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
40 check and may not keep any record of the fingerprints. The Department of State Police shall report
41 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
42 Police shall also furnish the sheriff with any information about the applicant that the Department
43 of State Police may have in its possession including, but not limited to, manual or computerized
44 criminal offender information.

45 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-

1 quest. The forms shall be uniform throughout this state in substantially the following form:

2 _____
3
4 APPLICATION FOR LICENSE TO CARRY
5 CONCEALED HANDGUN

6 Date _____

7 I hereby declare as follows:

8 I am a citizen of the United States or a legal resident alien who can document continuous res-
9 idency in the county for at least six months and have declared in writing to the United States Cit-
10 izenship and Immigration Services my intention to become a citizen and can present proof of the
11 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
12 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
13 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
14 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
15 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
16 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
17 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
18 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
19 volving controlled substances or completed a court-supervised drug diversion program. There are
20 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
21 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found [*mentally*
22 *ill*] **to be a person with mental illness** and presently subject to an order prohibiting me from
23 purchasing or possessing a firearm because of mental illness. If any of the previous conditions do
24 apply to me, I have been granted relief or wish to petition for relief from the disability under ORS
25 166.274 or 166.293 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the
26 records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under
27 ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the
28 Armed Forces of the United States. I am not required to register as a sex offender in any state. I
29 understand I will be fingerprinted and photographed.

30
31 Legal name _____

32 Age _____ Date of birth _____

33 Place of birth _____

34 Social Security number _____

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

37
38 Proof of identification (Two pieces of current identification are required, one of which must bear a
39 photograph of the applicant. The type of identification and the number on the identification are to
40 be filled in by the sheriff.):

41 1. _____

42 2. _____

43
44 Height _____ Weight _____

45 Hair color _____ Eye color _____

1 Current address _____

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

5 City _____ County _____ Zip _____

6 Phone _____

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

(Signature of Applicant)

13 Character references.

14 _____

15 Name Address

16 _____

17 Name Address

19 Approved _____ Disapproved _____ by _____

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

22 Date _____ Fee Paid _____

23 License No. _____

24 _____

- 26 (5)(a) Fees for concealed handgun licenses are:
 - 27 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - 28 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - 29 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- 30 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
 - 31 the concealed handgun license.
- 32 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
 - 33 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
 - 34 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
 - 35 performance of duties under those sections.
- 36 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
 - 37 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
 - 38 is an applicant for a concealed handgun license or is a license holder.
- 39 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
 - 40 for a resident of a contiguous state who has a compelling business interest or other legitimate
 - 41 demonstrated need.
- 42 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
 - 43 person:
 - 44 (a) Has a current Oregon driver license issued to the person showing a residence address in the
 - 45 county;

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

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

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

7 **SECTION 8.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, and sec-
8 tion 34, chapter 547, Oregon Laws 2011, is amended to read:

9 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
10 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
11 out in this section, shall issue the person a concealed handgun license if the person:

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

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

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

18 (c) Is a resident of the county;

19 (d) Has no outstanding warrants for arrest;

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

21 (f) Demonstrates competence with a handgun by any one of the following:

22 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
23 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
24 of the course;

25 (B) Completion of any National Rifle Association firearms safety or training course if handgun
26 safety was a component of the course;

27 (C) Completion of any firearms safety or training course or class available to the general public
28 offered by law enforcement, community college, or private or public institution or organization or
29 firearms training school utilizing instructors certified by the National Rifle Association or a law
30 enforcement agency if handgun safety was a component of the course;

31 (D) Completion of any law enforcement firearms safety or training course or class offered for
32 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
33 cers if handgun safety was a component of the course;

34 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
35 ized shooting competition or military service;

36 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
37 revoked; or

38 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
39 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
40 was a component of the course;

41 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
42 of a felony;

43 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
44 161.295, of a misdemeanor within the four years prior to the application;

45 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

1 (j) Has not been found to be [*mentally ill*] **a person with mental illness** and is not subject to
2 an order under ORS 426.130 that the person be prohibited from purchasing or possessing a firearm
3 as a result of that mental illness;

4 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
5 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
6 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
7 volving violence, as defined in ORS 166.470;

8 (L) Has not been convicted of an offense involving controlled substances or participated in a
9 court-supervised drug diversion program, except this disability does not operate to exclude a person
10 if:

11 (A) The person has been convicted only once of violating ORS 475.864 (3) and has not completed
12 a court-supervised drug diversion program under ORS 135.907; or

13 (B) The person has completed a court-supervised drug diversion program under ORS 135.907 and
14 has not been convicted of violating ORS 475.864 (3);

15 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
16 107.700 to 107.735 or 163.738;

17 (n) Has not received a dishonorable discharge from the Armed Forces of the United States; and

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

19 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
20 has had the person's record expunged under the laws of this state or equivalent laws of other ju-
21 risdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

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

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

29 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
30 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
31 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
32 records check is necessary, the sheriff shall request the Department of State Police to conduct the
33 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
34 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
35 check and may not keep any record of the fingerprints. The Department of State Police shall report
36 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
37 Police shall also furnish the sheriff with any information about the applicant that the Department
38 of State Police may have in its possession including, but not limited to, manual or computerized
39 criminal offender information.

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

42
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44 APPLICATION FOR LICENSE TO CARRY
45 CONCEALED HANDGUN

Date _____

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I hereby declare as follows:

I am a citizen of the United States or a legal resident alien who can document continuous residency in the county for at least six months and have declared in writing to the United States Citizenship and Immigration Services my intention to become a citizen and can present proof of the written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have been discharged from the jurisdiction of the juvenile court for more than four years if, while a minor, I was found to be within the jurisdiction of the juvenile court for having committed an act that, if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years, been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense involving controlled substances or completed a court-supervised drug diversion program. There are no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not been committed to the Oregon Health Authority under ORS 426.130, nor have I been found [*mentally ill*] **to be a person with mental illness** and presently subject to an order prohibiting me from purchasing or possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I have been granted relief or wish to petition for relief from the disability under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed Forces of the United States. I am not required to register as a sex offender in any state. I understand I will be fingerprinted and photographed.

Legal name _____
Age _____ Date of birth _____
Place of birth _____
Social Security number _____

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

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

- 1. _____
- 2. _____

Height _____ Weight _____
Hair color _____ Eye color _____

Current address _____

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

1 City _____ County _____ Zip _____

2 Phone _____

3

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

6

7

(Signature of Applicant)

8

9 Character references.

10

Name: Address

12

Name: Address

14

15 Approved _____ Disapproved _____ by _____

16

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

18

19 Date _____ Fee Paid _____

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

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- (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

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

3 **SECTION 9.** ORS 166.470 is amended to read:

4 166.470. (1) Unless relief has been granted under ORS 166.274 or section 5, chapter 826, Oregon
5 Laws 2009, or 18 U.S.C. 925(c) or the expunction laws of this state or an equivalent law of another
6 jurisdiction, a person may not intentionally sell, deliver or otherwise transfer any firearm when the
7 transferor knows or reasonably should know that the recipient:

8 (a) Is under 18 years of age;

9 (b) Has been convicted of a felony;

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

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

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

13 (f) After January 1, 1990, was found to be [*mentally ill*] **a person with mental illness** and sub-
14 ject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a
15 firearm as a result of that mental illness;

16 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
17 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
18 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,
19 163.187, 163.190, 163.195 or 166.155 (1)(b); or

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

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

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

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

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

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

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

31 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C. 925(c) or the
32 expunction laws of this state or an equivalent law of another jurisdiction, a person may not inten-
33 tionally sell, deliver or otherwise transfer any firearm when the transferor knows or reasonably
34 should know that the recipient:

35 (a) Is under 18 years of age;

36 (b) Has been convicted of a felony;

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

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

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

40 (f) After January 1, 1990, was found to be [*mentally ill*] **a person with mental illness** and sub-
41 ject to an order under ORS 426.130 that the person be prohibited from purchasing or possessing a
42 firearm as a result of that mental illness;

43 (g) Has been convicted of a misdemeanor involving violence or found guilty except for insanity
44 under ORS 161.295 of a misdemeanor involving violence within the previous four years. As used in
45 this paragraph, "misdemeanor involving violence" means a misdemeanor described in ORS 163.160,

1 163.187, 163.190, 163.195 or 166.155 (1)(b); or

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

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

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

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

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

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

11 **SECTION 11.** ORS 179.473 is amended to read:

12 179.473. (1) Whenever the health and welfare of the person and the efficient administration of
13 the institution require the transfer of an inmate of a Department of Corrections institution or a
14 youth offender in a youth correction facility to another institution:

15 (a) The Department of Corrections or the Oregon Youth Authority, with the consent of the De-
16 partment of Human Services, may transfer a person at any institution under its jurisdiction to an
17 institution for persons with mental retardation, or, with the consent of the Oregon Health and Sci-
18 ence University, to the Oregon Health and Science University.

19 (b) The Department of Corrections may transfer an inmate of a Department of Corrections in-
20 stitution to a state [*mental*] hospital listed in ORS 426.010 for evaluation and treatment pursuant to
21 rules adopted jointly by the Department of Corrections and the Oregon Health Authority.

22 (c) The Oregon Youth Authority may transfer a youth offender or other person confined in a
23 youth correction facility to a hospital or facility designated by the Oregon Health Authority for
24 evaluation and treatment pursuant to rules adopted jointly by the Oregon Youth Authority and the
25 Oregon Health Authority.

26 (d) Except as provided in subsection (2) of this section, the Department of Corrections or the
27 Oregon Youth Authority may make a transfer of a person from any institution under the jurisdiction
28 of the department or the Oregon Youth Authority to any other institution under the jurisdiction of
29 the department or authority.

30 (2) A youth offender in a youth correction facility may not be transferred to a Department of
31 Corrections institution under subsection (1) of this section. A youth offender in a youth correction
32 facility who has been transferred to another institution may not be transferred from such other in-
33 stitution to a Department of Corrections institution.

34 (3) The rules adopted under subsection (1)(b) and (c) of this section must:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (e) Provide that an inmate or a youth offender may not be administratively committed involun-
26 tarily unless the independent decision maker finds by clear and convincing evidence that the inmate
27 or youth offender is a [*mentally ill*] person **with mental illness** as defined in ORS 426.005.

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

33 **SECTION 12.** ORS 408.570 is amended to read:

34 408.570. When a veteran who has been adjudged [*mentally ill*] **under ORS 426.130 to be a per-**
35 **son with mental illness** is eligible for treatment in a United States veterans facility and commit-
36 ment is necessary for the proper care and treatment of such veteran, the Oregon Health Authority
37 or community mental health program director, as provided under ORS 426.060, may, upon receipt
38 of a certificate of eligibility from the United States Department of Veterans Affairs, assign the per-
39 son to the United States Department of Veterans Affairs for care, custody and treatment in a United
40 States veterans facility. Upon admission to any such facility, the veteran shall be subject to the
41 rules and regulations of the United States Department of Veterans Affairs and provisions of ORS
42 426.060 to 426.395 and related rules and regulations of the Oregon Health Authority. The chief offi-
43 cer of such facility shall be vested with the same powers exercised by superintendents of state
44 hospitals for persons with mental illness within this state with reference to the retention, transfer,
45 trial visit or discharge of the veteran so assigned. The commitment of a veteran to a veterans fa-

1 cility within this state by a court of another state under a similar provision of law has the same
2 force and effect as if the veteran was committed to a veterans facility within that other state.

3 **SECTION 13.** ORS 419C.529 is amended to read:

4 419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds
5 by a preponderance of the evidence that the young person, at the time of disposition, has a serious
6 mental condition or has a mental disease or defect other than a serious mental condition and pre-
7 sents a substantial danger to others, requiring conditional release or commitment to a hospital or
8 facility designated on an individual case basis by the Department of Human Services or the Oregon
9 Health Authority as provided in subsection (6) of this section, the court shall order the young person
10 placed under the jurisdiction of the Psychiatric Security Review Board.

11 (2) The court shall determine whether the young person should be committed to a hospital or
12 facility designated on an individual case basis by the department or the authority, as provided in
13 subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel
14 of the Psychiatric Security Review Board as follows:

15 (a) If the court finds that the young person is not a proper subject for conditional release, the
16 court shall order the young person committed to a secure hospital or a secure intensive community
17 inpatient facility designated on an individual case basis by the department or the authority, as
18 provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing
19 before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and
20 419C.542 and shall order the young person placed under the jurisdiction of the board.

21 (b) If the court finds that the young person can be adequately controlled with supervision and
22 treatment services if conditionally released and that necessary supervision and treatment services
23 are available, the court may order the young person conditionally released, subject to those super-
24 visory orders of the court that are in the best interests of justice and the young person. The court
25 shall designate a qualified mental health or developmental disabilities treatment provider or state,
26 county or local agency to supervise the young person on release, subject to those conditions as the
27 court directs in the order for conditional release. Prior to the designation, the court shall notify the
28 qualified mental health or developmental disabilities treatment provider or agency to whom condi-
29 tional release is contemplated and provide the qualified mental health or developmental disabilities
30 treatment provider or agency an opportunity to be heard before the court. After receiving an order
31 entered under this paragraph, the qualified mental health or developmental disabilities treatment
32 provider or agency designated shall assume supervision of the young person subject to the direction
33 of the juvenile panel. The qualified mental health or developmental disabilities treatment provider
34 or agency designated as supervisor shall report in writing no less than once per month to the ju-
35 venile panel concerning the supervised young person's compliance with the conditions of release.

36 (c) For purposes of determining whether to order commitment to a hospital or facility or con-
37 ditional release, the primary concern of the court is the protection of society.

38 (3) In determining whether a young person should be conditionally released, the court may order
39 examinations or evaluations deemed necessary.

40 (4) Upon placing a young person on conditional release and ordering the young person placed
41 under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's
42 conditional release order, the supervisor designated and all other conditions of release pending a
43 hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540
44 and 419C.542.

45 (5) When making an order under this section, the court shall:

1 (a) Determine whether the parent or guardian of the young person is able and willing to assist
2 the young person in obtaining necessary mental health or developmental disabilities services and is
3 willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or
4 guardian:

5 (A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
6 ocable consent form in which the parent agrees to any placement decision made by the juvenile
7 panel.

8 (B) Is unable or unwilling to do so, the court shall order that the young person be placed in the
9 legal custody of the Department of Human Services for the purpose of obtaining necessary devel-
10 opmental disabilities services or mental health services.

11 (b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to
12 be notified of any board hearings and orders concerning the young person and of any conditional
13 release, discharge or escape of the young person.

14 (c) Include in the order a list of the persons who wish to be notified of any board hearing con-
15 cerning the young person.

16 (d) Determine on the record the act committed by the young person for which the young person
17 was found responsible except for insanity.

18 (e) State on the record the mental disease or defect on which the young person relied for the
19 responsible except for insanity defense.

20 (6) When the department designates a facility for the commitment of a [*developmentally*
21 *disabled*] young person **with a developmental disability** under this section, or the authority desig-
22 nates a hospital or facility for commitment of a [*mentally ill*] young person **with mental illness**
23 under this section, the department and the authority shall take into account the care and treatment
24 needs of the young person, the resources available to the department or the authority and the safety
25 of the public.

26 **SECTION 14.** ORS 426.010 is amended to read:

27 426.010. Except as otherwise ordered by the Oregon Health Authority pursuant to ORS 179.325,
28 the Oregon State Hospital campuses in Salem, Marion County, and in Junction City, Lane County,
29 and the Blue Mountain Recovery Center in Pendleton, Umatilla County, shall be used as state hos-
30 pitals for the care and treatment of [*mentally ill*] persons **with mental illness** who are assigned to
31 the care of such institutions by the authority or who have previously been committed to such in-
32 stitutions.

33 **SECTION 15.** ORS 426.060 is amended to read:

34 426.060. (1) Commitments to the Oregon Health Authority shall be made only by the judge of a
35 circuit court in a county of this state.

36 (2) The following is a nonexclusive list of powers the authority may exercise concerning the
37 placement of persons committed or persons receiving emergency care and treatment under ORS
38 426.070, 426.228 to 426.235 or 426.237:

39 (a) In its discretion and for reasons which are satisfactory to the authority, the authority may
40 direct any court-committed person to the facility best able to treat the person. The decision of the
41 authority on such matters shall be final.

42 (b) At any time, for good cause and in the best interest of the [*mentally ill*] person **with mental**
43 **illness**, the authority may transfer a committed person from one facility to another. When trans-
44 ferring a person under this paragraph, the authority shall make the transfer:

45 (A) If the transfer is from a facility in one class to a facility of the same class, as provided by

1 rule of the authority;

2 (B) If the transfer is from a facility in one class to a facility in a less restrictive class, by fol-
3 lowing the procedures for trial visits under ORS 426.273; and

4 (C) If the transfer is from a facility in one class to a facility in a more restrictive class, by fol-
5 lowing the procedures under ORS 426.275.

6 (c) At any time, for good cause and in the best interest of the [*mentally ill*] person **with mental**
7 **illness**, the authority may transfer a person receiving emergency care and treatment under ORS
8 426.070 or 426.228 to 426.235, or intensive treatment under ORS 426.237, between hospitals and
9 nonhospital facilities approved by the authority to provide emergency care or treatment as defined
10 by rule of the authority.

11 (d) Pursuant to its rules, the authority may delegate to a community mental health program di-
12 rector the responsibility for assignment of [*mentally ill*] persons **with mental illness** to suitable fa-
13 cilities or transfer between such facilities under conditions which the authority may define.

14 **NOTE:** Section 16 was deleted by amendment. Subsequent sections were not renumbered.

15 **SECTION 17.** ORS 426.072 is amended to read:

16 426.072. (1) A hospital or nonhospital facility and a treating physician must comply with the
17 following when [*an allegedly mentally ill*] a person **alleged to have a mental illness** is placed in
18 custody at the hospital or nonhospital facility:

19 (a) By a warrant of detention under ORS 426.070;

20 (b) By a peace officer under ORS 426.228 or other [*person*] **individual** authorized under ORS
21 426.233; or

22 (c) By a physician under ORS 426.232.

23 (2) In circumstances described under subsection (1) of this section, the hospital or nonhospital
24 facility and treating physician must comply with the following:

25 (a) The person shall receive the care, custody and treatment required for mental and physical
26 health and safety;

27 (b) The treating physician shall report any care, custody and treatment to the court as required
28 in ORS 426.075;

29 (c) All methods of treatment, including the prescription and administration of drugs, shall be the
30 sole responsibility of the treating physician. However, the person shall not be subject to
31 electroshock therapy or unduly hazardous treatment and shall receive usual and customary treat-
32 ment in accordance with medical standards in the community;

33 (d) The treating physician shall be notified immediately of any use of mechanical restraints on
34 the person. Every use of a mechanical restraint and the reasons therefor shall be made a part of the
35 clinical record of the person over the signature of the treating physician; and

36 (e) The treating physician shall give the person the warning under ORS 426.123 at times the
37 treating physician determines the person will reasonably understand the notice. This paragraph only
38 requires the notice to be given as often as the physician determines is necessary to assure that the
39 person is given an opportunity to be aware of the notice.

40 (3) The Oregon Health Authority shall adopt rules necessary to carry out this section, including
41 rules regarding the content of the medical record compiled during the current period of custody.

42 **SECTION 18.** ORS 426.074 is amended to read:

43 426.074. The following is applicable to an investigation initiated by a community mental health
44 program director, or a designee of the director, as part of commitment procedures under ORS
45 426.070 and 426.228 to 426.235:

1 (1) If the [*allegedly mentally ill*] person **alleged to have a mental illness** is held in custody
2 before the hearing the investigation shall be completed at least 24 hours before the hearing under
3 ORS 426.095, otherwise the investigation shall comply with the following time schedule:

4 (a) If the [*allegedly mentally ill*] person can be located, the investigator shall contact the person
5 within three judicial days from the date the community mental health program director or a
6 designee receives a notice under ORS 426.070 alleging that the person [*is mentally ill*] **has a mental**
7 **illness and is in need of treatment.**

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

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

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

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

16 (A) A treatment option less restrictive than involuntary in-patient commitment is actively being
17 pursued.

18 (B) The [*allegedly mentally ill*] person **alleged to have a mental illness** cannot be located.

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

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

23 (a) The investigation conducted should, where appropriate, include an interview or examination
24 of the [*allegedly mentally ill*] person **alleged to have a mental illness** in the home of the person
25 or other place familiar to the person.

26 (b) Whether or not the [*allegedly mentally ill*] person consents, the investigation should include
27 interviews with any [*persons*] **individuals** that the investigator has probable cause to believe have
28 pertinent information regarding the investigation. If the [*allegedly mentally ill*] person objects to the
29 contact with any [*person*] **individual**, the objection shall be noted in the investigator's report.

30 (c) The investigator shall be allowed access to physicians, nurses or social workers and to
31 medical records compiled during the current involuntary prehearing period of detention to determine
32 probable cause and to develop alternatives to commitment. If commitment is proposed because the
33 person appears to be a [*mentally ill*] person **with mental illness** as defined in ORS 426.005 (1)(e)(C),
34 the investigator shall be allowed access to medical records necessary to verify the existence of cri-
35 teria described in ORS 426.005 (1)(e)(C). The investigator shall include pertinent parts of the medical
36 record in the investigation report. Records and communications described in this paragraph and
37 **related** communications [*related thereto*] are not privileged under ORS 40.230, 40.235, 40.240 or
38 40.250.

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

43 **SECTION 19.** ORS 426.075 is amended to read:

44 426.075. This section establishes procedures that are required to be followed before the hearing
45 if a court, under ORS 426.070, orders a hearing under ORS 426.095. The following apply as described:

1 (1) The court shall be fully advised of all drugs and other treatment known to have been ad-
2 ministered to the [*allegedly mentally ill*] person **alleged to have a mental illness** that may sub-
3 stantially affect the ability of the person to prepare for or function effectively at the hearing. The
4 following shall advise the court as required by this subsection:

5 (a) When not otherwise provided by paragraph (b) of this subsection, the community mental
6 health program director or designee.

7 (b) When the person has been detained by a warrant of detention under ORS 426.070, 426.180,
8 426.228, 426.232 or 426.233, the treating physician.

9 (2) The court shall appoint examiners under ORS 426.110 sufficiently [*long before*] **in advance**
10 **of** the hearing so that [*they*] **the examiners** may begin their preparation for the hearing. The re-
11 cords established by the Oregon Health Authority by rule and the investigation report shall be made
12 available to the examiners at least 24 hours before the hearing in order that the examiners may
13 review the medical record and have an opportunity to inquire of the medical personnel concerning
14 the treatment of the [*allegedly mentally ill person relating to*] **person alleged to have a mental**
15 **illness during** the detention period prior to the hearing.

16 (3) The medical record described in subsection (2) of this section shall be made available to
17 counsel for the [*allegedly mentally ill*] person **alleged to have a mental illness** at least 24 hours
18 prior to the hearing.

19 (4) When requested by a party to the action, the party's attorney shall subpoena physicians who
20 are or have been treating the [*allegedly mentally ill*] person. Any treating physician subpoenaed un-
21 der this subsection shall be subpoenaed as an expert witness.

22 **SECTION 20.** ORS 426.090 is amended to read:

23 426.090. The judge shall [*cause a citation to*] issue **a citation** to the [*allegedly mentally ill*] person
24 **alleged to have a mental illness** stating the nature of the information filed concerning the person
25 and the specific reasons the person is believed to be [*mentally ill*] **a person with mental illness**.
26 The citation shall further contain a notice of the time and place of the commitment hearing, the
27 right to legal counsel, the right to have legal counsel appointed if the person is unable to afford
28 legal counsel, and, if requested, to have legal counsel immediately appointed, the right to subpoena
29 witnesses in behalf of the person to the hearing and other information as the court may direct. The
30 citation shall be served upon the person by delivering a duly certified copy of the original thereof
31 to the person in person prior to the hearing. The person shall have an opportunity to consult with
32 legal counsel prior to being brought before the court.

33 **SECTION 21.** ORS 426.095 is amended to read:

34 426.095. The following is applicable to a commitment hearing held by a court under ORS 426.070:

35 (1) The hearing may be held in a hospital, the person's home or in some other place convenient
36 to the court and the [*allegedly mentally ill*] person **alleged to have a mental illness**.

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

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

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

43 (c) If requested under this paragraph, the court, for good cause, may postpone the hearing for
44 not more than five judicial days in order to allow preparation for the hearing. The court may make
45 orders for the care and custody of the person during a postponement as it deems necessary. If a

1 person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and the
2 hearing is postponed under this paragraph, the court, for good cause, may allow the person to be
3 detained during the postponement if the postponement is requested by the person or the legal
4 counsel of the person. Any of the following may request a postponement under this paragraph:

5 (A) The [*allegedly mentally ill*] person **alleged to have a mental illness**.

6 (B) The legal counsel or guardian of the [*allegedly mentally ill*] person.

7 (C) The [*person*] **individual** representing the state's interest.

8 (3) The [*allegedly mentally ill*] person **alleged to have a mental illness** and the [*person*] **indi-**
9 **vidual** representing the state's interest shall have the right to cross-examine all the following:

10 (a) Witnesses.

11 (b) The [*person*] **individual** conducting the investigation.

12 (c) The examining physicians or other qualified [*persons*] **professionals** recommended by the
13 Oregon Health Authority who have examined the person.

14 (4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 shall not apply to and the court may
15 consider as evidence any of the following:

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

17 (b) Statements attributed by the maker of the medical records or the investigation report to
18 witnesses concerning their own observations in the absence of objection or if such [*persons*] **indi-**
19 **viduals** are produced as witnesses at the hearing available for cross-examination.

20 (c) The testimony of any treating physicians, nurses or social workers for the prehearing period
21 of detention. Any treating physician, nurse or social worker who is subpoenaed as a witness for the
22 proceeding shall testify as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and
23 40.425 and is subject to treatment as an expert witness in the payment of witness fees and costs.

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

26 (A) Introduction of the report under this paragraph does not require the consent of the [*allegedly*
27 *mentally ill*] person **alleged to have a mental illness**.

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

31 (C) Neither the investigation report nor any part thereof shall be introduced into evidence under
32 this paragraph unless the investigator is present during the proceeding to be cross-examined or un-
33 less the presence of the investigator is waived by the [*allegedly mentally ill*] person **alleged to have**
34 **a mental illness** or counsel for the [*allegedly mentally ill*] person.

35 **SECTION 22.** ORS 426.100 is amended to read:

36 426.100. (1) At the time the [*allegedly mentally ill*] person **alleged to have a mental illness** is
37 brought before the court, the court shall advise the person of the following:

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

39 (b) The nature of the proceedings;

40 (c) The possible results of the proceedings;

41 (d) The right to subpoena witnesses; and

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

43 (2) Subsection (3) of this section establishes the rights of [*allegedly mentally ill*] persons **alleged**
44 **to have a mental illness** in each of the following circumstances:

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

1 (b) In commitment hearings under ORS 426.095.

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

3 (d) In recommitment hearings under ORS 426.307.

4 (3) When provided under subsection (2) of this section, [*an allegedly mentally ill*] a person **al-**
5 **leged to have a mental illness** has the following rights relating to representation by or appoint-
6 ment 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 **is**
11 **appointed** at state expense, payment of expenses and compensation relating to legal counsel shall
12 be made as provided under ORS 426.250.

13 (c) If the [*allegedly mentally ill*] person **alleged to have a mental illness** does not request legal
14 counsel, the legal guardian, relative or friend may request the assistance of suitable legal counsel
15 on behalf of the person.

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

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

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

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

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

28 (A) Recommitment proceedings under ORS 426.307; or

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

30 (b) The district attorney if requested to do so by the governing body of the county.

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

38 **SECTION 23.** ORS 426.110 is amended to read:

39 426.110. The following requirements relating to the appointment of examiners for purposes of a
40 hearing under ORS 426.095 apply as described:

41 (1) The judge shall appoint one qualified examiner. If requested, the judge shall appoint one
42 additional qualified examiner. A request for an additional examiner under this subsection must be
43 made in writing and must be made by the [*allegedly mentally ill*] person **alleged to have a mental**
44 **illness** or the attorney for the [*allegedly mentally ill*] person.

45 (2) To be qualified for purposes of this section, an examiner must [*meet all of the following*]

1 *qualifications*]:

2 (a) [*The person must*] Agree to be an examiner.

3 (b) [*The person must*] Be one of the following:

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

6 (B) Certified as a mental health examiner qualified to make examinations for involuntary com-
7 mitment proceedings by the authority.

8 (3) The authority may establish, by rule, requirements for certification as a mental health ex-
9 aminer for purposes of [*this subparagraph*] **subsection (2)(b)(B) of this section.**

10 [(3)] (4) The cost of examiners under this section shall be paid as provided under ORS 426.250.

11 **SECTION 24.** ORS 426.120 is amended to read:

12 426.120. (1) [*Persons*] **Examiners** appointed under ORS 426.110 [*to conduct the examination*] shall
13 do the following:

14 (a) Examine the person as to mental condition;

15 (b) Initiate the examination process prior to the hearing. Any failure to comply with this par-
16 agraph shall not, in itself, constitute sufficient grounds to challenge the examination conducted by
17 an examiner;

18 (c) Make their separate reports in writing, under oath, to the court; and

19 (d) Upon completion of the hearing, file the reports with the clerk of the court.

20 (2) The following is a nonexclusive list of requirements relating to the content of examination
21 reports prepared under subsection (1) of this section:

22 (a) If the [*examining persons*] **examiners** find, and show by their reports, that the person ex-
23 amined is a [*mentally ill*] person **with mental illness**, the reports shall include a recommendation
24 as to the type of treatment facility best calculated to help the person recover from mental illness.

25 (b) Each report shall also advise the court whether in the opinion of the examiner the [*mentally*
26 *ill*] person **with mental illness** would cooperate with and benefit from a program of voluntary
27 treatment.

28 (c) Reports shall contain the information required by the Oregon Health Authority by rule. The
29 authority shall adopt rules necessary to carry out this paragraph.

30 (3) The examiner shall be allowed access to physicians, nurses or social workers and to medical
31 records compiled during the current involuntary prehearing period of detention and the investi-
32 gation report. Records and communications described in this subsection and **related** communications
33 [*related thereto*] are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

34 **SECTION 25.** ORS 426.123 is amended to read:

35 426.123. (1) Whenever specifically required under ORS 426.070, 426.072, 426.180 or 426.234, a
36 person shall be given a warning that observations of the person by the staff of the facility where
37 the person is in custody may be used as evidence in subsequent court proceedings to determine
38 whether the person should be or should continue to be committed as a [*mentally ill*] person **with**
39 **mental illness.**

40 (2) The warning described under subsection (1) of this section shall be given both orally and in
41 writing.

42 (3) Failure to give a warning under this section does not in itself constitute grounds for the
43 exclusion of evidence that would otherwise be admissible in a proceeding.

44 **SECTION 26.** ORS 426.125 is amended to read:

45 426.125. The following qualifications, requirements and other provisions relating to a conditional

1 release under ORS 426.130 apply as described:

2 (1) A court may only order conditional release if all of the following occur:

3 (a) The conditional release is requested by the legal guardian, relative or friend of the [*mentally*
4 *ill*] person **with mental illness**.

5 (b) The [*person*] **legal guardian, relative or friend** requesting the conditional release requests
6 to be allowed to care for the [*mentally ill*] person during the period of commitment in a place sat-
7 isfactory to the judge.

8 (c) The [*person*] **legal guardian, relative or friend** requesting the release establishes all of the
9 following to the satisfaction of the court:

10 (A) **The ability of the legal guardian, relative or friend** to care for the [*mentally ill*] person.

11 (B) That there are adequate financial resources available for the care of the [*mentally ill*] per-
12 son.

13 (2) If the court determines to allow conditional release, the court shall order that the [*mentally*
14 *ill*] person be conditionally released and placed in the care of the requester. The court shall estab-
15 lish any terms and conditions on the conditional release that the court determines appropriate.

16 (3) Any conditional release ordered under this section is subject to the provisions under ORS
17 426.275.

18 **SECTION 27.** ORS 426.127 is amended to read:

19 426.127. The following provisions are applicable to outpatient commitment under ORS 426.130
20 as described:

21 (1) The Oregon Health Authority may only place a person in an outpatient commitment if an
22 adequate treatment facility is available.

23 (2) **At the time of the hearing under ORS 426.095, the community mental health program**
24 **director, or a designee for the director, for the county in which the hearing takes place shall**
25 **set the** conditions for the outpatient commitment [*shall be set at the time of the hearing under ORS*
26 *426.095 by the community mental health program director, or a designee for the director, for the county*
27 *in which the hearing takes place*]. The conditions shall include, but not be limited to, the following:

28 (a) Provision for outpatient care.

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

30 (3) A copy of the conditions shall be given to all of the [*persons*] **individuals and entities** de-
31 scribed in ORS 426.278.

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

34 (5) The community mental health program director or designee, for the county where a person
35 is on outpatient commitment, may modify the conditions for outpatient commitment when a modifi-
36 cation is in the best interest of the person. The community mental health program director or
37 designee shall send notification of such changes and the reasons for the changes to all those who
38 received a copy of the original conditions under ORS 426.278.

39 **NOTE:** Section 28 was deleted by amendment. Subsequent sections were not renumbered.

40 **SECTION 29.** ORS 426.135 is amended to read:

41 426.135. If a person determined to be [*mentally ill*] **a person with mental illness** as provided
42 in ORS 426.130 appeals the determination or **the** disposition [*based thereon*], and is determined to
43 be financially eligible for appointed counsel at state expense, upon request of the person or upon its
44 own motion, the court shall appoint suitable legal counsel to represent the person. The compen-
45 sation for legal counsel and costs and expenses necessary to the appeal shall be determined and paid

1 by the public defense services executive director as provided in ORS 135.055 if the circuit court is
 2 the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the
 3 appellate court. The compensation, costs and expenses shall be paid as provided in ORS 138.500.

4 **SECTION 30.** ORS 426.140 is amended to read:

5 426.140. (1) [No] **A person, [not] other than a person** incarcerated upon a criminal charge, who
 6 has been adjudged **to be** a [mentally ill] person **with mental illness** or [one] against whom com-
 7 mitment proceedings have been instituted [shall] **may not** be confined in any prison, jail or other
 8 enclosure where those charged with a crime or a violation of a municipal ordinance are
 9 incarcerated, unless the person represents an immediate and serious danger to staff or physical fa-
 10 cilities of a hospital or other facility approved by the Oregon Health Authority for the care, custody
 11 and treatment of the person.

12 (2) [No allegedly mentally ill] **A person alleged to have a mental illness** who has been taken
 13 into custody [shall] **may not** be confined, either before or after the commitment hearing, without
 14 an attendant in direct charge of the person[; and, if]. **If the person is** not confined in a community
 15 hospital, the sheriff or community mental health program director having the person in custody shall
 16 select [some suitable person] **an appropriate individual** to act as attendant in quarters **that are**
 17 suitable for the comfortable, safe and humane confinement of the person and approved by the au-
 18 thority.

19 **SECTION 31.** ORS 426.150 is amended to read:

20 426.150. (1) Upon receipt of the order of commitment, the Oregon Health Authority or its
 21 designee shall take the [mentally ill] person **with mental illness** into its custody, and [insure] **en-**
 22 **sure** the safekeeping and proper care of the person until [delivery is made] **the person is delivered**
 23 to an assigned treatment facility or [its] **to a representative of the assigned treatment facility.**
 24 The representative of the [treating facility to which the person has been] assigned **treatment**
 25 **facility**, accompanied by any assistants the authority or its designee may deem necessary, shall
 26 proceed to the place where the person is [to be delivered into] **in** custody, and upon demand shall
 27 be given custody of the [mentally ill] person, together with the certified record required by ORS
 28 426.170. The representative shall issue appropriate receipts [therefor] and immediately [proceed to]
 29 transport the [committed mentally ill] person safely to the [facility to which the person has been as-
 30 signed by the authority] **assigned treatment facility** and [there make delivery of] **deliver** the person
 31 and the record to the director or a designated employee of the facility. In taking custody of the
 32 person, the authority, its designee[, or the representative of the facility has all the powers provided
 33 by ORS 133.225 and 161.255 and may require the assistance of any peace officer or other [person]
 34 **authorized individual.**

35 (2) The committing judge, upon approval of the examining physicians or other qualified
 36 [persons] **professionals** as recommended by the authority and upon request of a **legal** guardian,
 37 friend or relative of the [mentally ill] person **with mental illness**, may authorize the **legal** guardian,
 38 friend or relative to transport the person to the [designated] **assigned** facility when the committing
 39 judge determines that means of transportation would not be detrimental to the welfare of the [men-
 40 tally ill] person or to the public.

41 **SECTION 32.** ORS 426.155 is amended to read:

42 426.155. (1) The provisions of this section apply to the release of information about a person who
 43 is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
 44 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

45 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.502 (2) and notwithstanding

1 any other provision of ORS 426.005 to 426.390, a facility or nonhospital facility where a person is
 2 held shall establish procedures for releasing information as required under subsections (3) and (4)
 3 of this section.

4 (3)(a) If a person described in subsection (1) of this section authorizes disclosure as provided in
 5 subsection (5) of this section, upon request of a member of the family of the person, or any other
 6 [*person designated by*] **designee of** the person, a facility or nonhospital facility where the person is
 7 held shall provide the family member or the designee with the following information:

8 (A) The person's diagnosis;

9 (B) The person's prognosis;

10 (C) The medications prescribed for the person and the side effects of medications prescribed, if
 11 any;

12 (D) The person's progress;

13 (E) Information about any civil commitment process, including the date, time and location of the
 14 person's commitment hearing; and

15 (F) Where and when the person may be visited.

16 (b) If a request for information is made under this subsection and the person [*described in sub-*
 17 *section (1) of this section*] is unable to authorize disclosure as provided in subsection (5) of this sec-
 18 tion, the [*person requesting information*] **requester** shall be provided notice of the presence of the
 19 person [*described in subsection (1) of this section*] in any facility or nonhospital facility. Information
 20 shall not be provided under this paragraph if the physician of the person [*described in subsection (1)*
 21 *of this section*] determines that it would not be in the person's best interest to provide the informa-
 22 tion or if providing the information is prohibited by federal law.

23 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to
 24 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person's
 25 next of kin, or any other [*person designated by*] **designee of** the person, of the person's admission,
 26 unless the person requests that this information not be provided. The facility or nonhospital facility
 27 shall make reasonable attempts to notify the person's next of kin, or any other [*person designated*
 28 *by*] **designee of** the person, of the person's release, transfer, serious illness, injury or death upon
 29 request of the family member or designee, unless the person requests that this information not be
 30 provided. The person shall be advised by the facility or nonhospital facility that the person has the
 31 right to request that this information not be provided.

32 (5) The person who is held in custody shall be notified by the facility or nonhospital facility that
 33 information about the person has been requested. Except as provided in subsection (3) of this sec-
 34 tion, the consent of the person who is held is required for release of information under subsections
 35 (3) and (4) of this section. If, when initially informed of the request for information, the person is
 36 unable to give voluntary and informed consent to authorize the release of information, notation of
 37 the attempt shall be made in the person's treatment record and daily efforts shall be made to secure
 38 the person's consent or refusal of authorization.

39 (6) Notwithstanding any other provision of this section, an individual eligible to receive infor-
 40 mation under subsection (3) of this section may not receive information unless the individual first
 41 agrees to make no further disclosure of the information. The agreement may be made orally.

42 (7) A facility or nonhospital facility that releases information under subsection (3) or (4) of this
 43 section shall:

44 (a) Notify the person who is held to whom, when and what information was released; and

45 (b) Note in the medical record of the person who is held:

1 (A) The basis for finding that the person gave voluntary and informed consent;

2 (B) The oral or written consent of the person who is held;

3 (C) To whom, when and what information was released;

4 (D) The agreement to the requirements of subsection (6) of this section by the [*person who re-*
5 *quested information*] **requester**; and

6 (E) Any determination made by the person's physician under subsection (3)(b) of this section
7 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

8 (8) A facility or nonhospital facility, including the staff of such facilities and nonhospital facili-
9 ties, that releases information under this section or rules adopted under ORS 426.236 may not be
10 held civilly or criminally liable for damages caused or alleged to be caused by the release of infor-
11 mation or the failure to release information as long as the release was done in good faith and in
12 compliance with subsections (3) and (4) of this section or rules adopted under ORS 426.236.

13 (9) The provisions of subsections (3) and (4) of this section do not limit the ability or obligation
14 of facilities, nonhospital facilities, physicians, mental health care providers or licensed mental health
15 professionals to provide information as otherwise allowed or required by law.

16 **SECTION 33.** ORS 426.160 is amended to read:

17 426.160. (1) The court having jurisdiction over any proceeding conducted pursuant to ORS
18 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.385 and
19 426.395 may not disclose any part of the record of the proceeding to any person except:

20 (a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the
21 minimum information necessary, as defined in ORS 181.740, to the Department of State Police for
22 persons described in ORS 181.740 (1)(a) or (b) to enable the department to access and maintain the
23 information and transmit the information to the federal government as required under federal law;

24 (b) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;

25 (c) On request of the person subject to the proceeding;

26 (d) On request of the person's legal representative or the attorney for the person or the state;

27 or

28 (e) Pursuant to court order.

29 (2) In any proceeding described in subsection (1) of this section that is before the Supreme Court
30 or the Court of Appeals, the limitations on disclosure imposed by this section apply to the appellate
31 court record and to the trial court record while it is in the appellate court's custody. The appellate
32 court may disclose information from the trial or appellate court record in a decision, as defined in
33 ORS 19.450, provided that the court uses initials, an alias or some other convention for protecting
34 against public disclosure the identity of the [*allegedly mentally ill*] person **subject to the**
35 **proceeding**.

36 **SECTION 34.** ORS 426.170 is amended to read:

37 426.170. If any person is adjudged [*mentally ill*] **to have a mental illness** and **is** ordered com-
38 mitted to the Oregon Health Authority, a copy of the complete record in the case, certified to by
39 the court clerk or court administrator, shall be given to the health officer of the county, or to the
40 sheriff, for delivery to the director of the facility to which such [*mentally ill*] person is assigned. The
41 record shall include the name, residence, nativity, sex and age of [*such mentally ill*] **the** person and
42 all other information that may be required by the rules and regulations promulgated by the au-
43 thority.

44 **SECTION 35.** ORS 426.223 is amended to read:

45 426.223. In retaking custody of a [*mentally ill*] person **with mental illness** who has been com-

mitted to the Oregon Health Authority under ORS 426.130 and who has, without lawful authority, left the custody of the facility to which the person has been assigned under ORS 426.060, or in the case of [*an allegedly mentally ill*] a person **alleged to have a mental illness** who is in custody under ORS 426.070, 426.095, 426.228 to 426.235 or 426.237 at a hospital or nonhospital facility and who has, without lawful authority, left the hospital or nonhospital facility, the facility director or designee has all the powers provided by ORS 133.225 and 161.255 and may require the assistance of any peace officer or other [*person*] **authorized individual**.

SECTION 35a. ORS 426.225 is amended to read:

426.225. (1) If any person who has been committed to the Oregon Health Authority under ORS 426.127 or 426.130 [(1)(b)(B)] **(1)(a)(B)** or (C) requests, during this period of commitment, voluntary admission to a state hospital, the superintendent shall cause the person to be examined immediately by a physician. If the physician finds the person to be in need of immediate care or treatment for mental illness, the person shall be voluntarily admitted upon request of the person.

(2) If any person who has been committed to the authority under ORS 426.127 or 426.130 [(1)(b)(B)] **(1)(a)(B)** or (C) requests, during this period of commitment, voluntary admission to a facility approved by the authority, the administrator of the facility shall cause the person to be examined immediately by a physician. If the physician finds the person to be in need of immediate care or treatment for mental illness, and the authority grants approval, the person shall be voluntarily admitted upon request of the person.

SECTION 36. ORS 426.228 is amended to read:

426.228. (1) A peace officer may take into custody a person who the officer has probable cause to believe is dangerous to self or to any other person and is in need of immediate care, custody or treatment for mental illness. As directed by the community mental health program director, a peace officer shall remove a person taken into custody under this section to the nearest hospital or nonhospital facility approved by the Oregon Health Authority. The officer shall prepare a written report and deliver it to the treating physician. The report shall state:

(a) The reason for custody;

(b) The date, time and place the person was taken into custody; and

(c) The name of the community mental health program director and a telephone number where the director may be reached at all times.

(2) A peace officer shall take a person into custody when the community mental health program director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to believe that the person is imminently dangerous to self or to any other person. As directed by the community mental health program director, the peace officer shall remove the person to a hospital or nonhospital facility approved by the authority. The community mental health program director shall prepare a written report that the peace officer shall deliver to the treating physician. The report shall state:

(a) The reason for custody;

(b) The date, time and place the person was taken into custody; and

(c) The name of the community mental health program director and a telephone number where the director may be reached at all times.

(3) If more than one hour will be required to transport the person to the hospital or nonhospital facility from the location where the person was taken into custody, the peace officer shall obtain, if possible, a certificate from a physician licensed by the Oregon Medical Board stating that the travel will not be detrimental to the person's physical health and that the person is dangerous to

1 self or to any other person and is in need of immediate care or treatment for mental illness. The
 2 physician shall have personally examined the [*allegedly mentally ill*] person within 24 hours prior to
 3 signing the certificate.

4 (4) When a peace officer or other authorized [*person*] **individual**, acting under this section, de-
 5 livers a person to a hospital or nonhospital facility, a physician licensed by the Oregon Medical
 6 Board shall examine the person immediately. If the physician finds the person to be in need of
 7 emergency care or treatment for mental illness, the physician shall proceed under ORS 426.232,
 8 otherwise the person shall not be retained in custody. If the person is to be released from custody,
 9 the peace officer or the community mental health program director shall return the person to the
 10 place where the person was taken into custody unless the person declines that service.

11 (5) A peace officer may transfer a person in custody under this section to the custody of [*a*
 12 *person*] **an individual** authorized by the county governing body under ORS 426.233 (3). The peace
 13 officer may meet the authorized [*person*] **individual** at any location that is in accordance with ORS
 14 426.140 to effect the transfer. When transferring a person in custody to an authorized [*person*] **in-**
 15 **dividual**, the peace officer shall deliver the report required under subsections (1) and (2) of this
 16 section to the authorized [*person*] **individual**.

17 (6) [*A person*] **An individual** authorized under ORS 426.233 (3) shall take a person into custody
 18 when directed to do so by a peace officer or by a community mental health program director under
 19 ORS 426.233.

20 (7) [*A person*] **An individual** authorized under ORS 426.233 (3) shall perform the duties of the
 21 peace officer or the community mental health program director required by this section and ORS
 22 426.233 if the peace officer or the director has not already done so.

23 (8) [*A person*] **An individual** authorized under ORS 426.233 (3) may transfer a person in custody
 24 under this section to the custody of another [*person*] **individual** authorized under ORS 426.233 (3)
 25 or a peace officer. The [*authorized person*] **individual** transferring custody may meet another au-
 26 thorized [*person*] **individual** or a peace officer at any location that is in accordance with ORS
 27 426.140 to effect the transfer.

28 (9)(a) When a peace officer takes a person into custody under this section, and the peace officer
 29 reasonably suspects that the person is a foreign national, the peace officer shall inform the person
 30 of the person's right to communicate with an official from the consulate of the person's country.

31 (b) A peace officer is not civilly or criminally liable for failure to provide the information re-
 32 quired by this subsection. Failure to provide the information required by this subsection does not
 33 in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a
 34 proceeding.

35 **SECTION 37.** ORS 426.231 is amended to read:

36 426.231. (1) A physician licensed by the Oregon Medical Board may hold a person for transpor-
 37 tation to a treatment facility for up to 12 hours in a health care facility licensed under ORS chapter
 38 [431] **441** and approved by the Oregon Health Authority if:

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

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

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

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

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

45 (b) An admitting physician at the receiving facility has consented to the transporting of the

1 person for examination and admission if appropriate; and

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

4 (3) The written statement required by subsection (2) of this section authorizes a peace officer,
5 [a person] **an individual** authorized under ORS 426.233 or the designee of a community mental
6 health program director to transport a person to the treatment facility indicated on the statement.

7 **SECTION 38.** ORS 426.232 is amended to read:

8 426.232. (1) [When] **If** a physician licensed to practice medicine by the Oregon Medical Board
9 believes a person who is brought to a hospital or nonhospital facility by a peace officer under ORS
10 426.228[a person] **or by an individual** authorized under ORS 426.233, or **believes** a person who is
11 at a hospital or nonhospital facility, is dangerous to self or to any other person and is in need of
12 emergency care or treatment for mental illness, the physician may do one of the following:

13 (a) After consulting with a physician or a qualified mental health professional, as defined by rule
14 of the Oregon Health Authority, detain the person and cause the person to be admitted or, if the
15 person is already admitted, cause the person to be retained in a hospital where the physician has
16 admitting privileges or is on staff. Neither the physician nor the qualified mental health professional
17 may be related by blood or marriage to the person.

18 (b) Approve the person for emergency care or treatment at a nonhospital facility approved by
19 the authority.

20 (2) When approving a person for emergency care or treatment at a nonhospital facility under
21 this section, the physician shall notify immediately the community mental health program director
22 in the county where the person was taken into custody and maintain the person, if the person is
23 being held at a hospital, for as long as is feasible given the needs of the person for mental or
24 physical health or safety. However, under no circumstances may the person be held for longer than
25 five judicial days.

26 **SECTION 39.** ORS 426.233 is amended to read:

27 426.233. (1)(a) A community mental health program director operating under ORS 430.610 to
28 430.695 or a designee [thereof] **of the director**, under authorization of a county governing body, may
29 take one of the actions listed in paragraph (b) of this subsection when the community mental health
30 program director or designee has probable cause to believe a person:

31 (A) Is dangerous to self or to any other person and is in need of immediate care, custody or
32 treatment for mental illness; or

33 (B)(i) Is a [mentally ill] person **with mental illness** placed on conditional release under ORS
34 426.125, outpatient commitment under ORS 426.127 or trial visit under ORS 426.273; and

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

38 (b) The community mental health program director or designee under the circumstances set out
39 in paragraph (a) of this subsection may:

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

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

45 (C) Notify [a person] **an individual** authorized under subsection (3) of this section to take the

1 person into custody and direct the authorized *[person]* **individual** to remove the person in custody
2 to a hospital or nonhospital facility approved by the authority;

3 (D) Direct *[a person]* **an individual** authorized under subsection (3) of this section to transport
4 a person in custody from a hospital or a nonhospital facility approved by the authority to another
5 hospital or nonhospital facility approved by the authority as provided under ORS 426.235; or

6 (E) Direct *[a person]* **an individual** authorized under subsection (3) of this section to transport
7 a person in custody from a facility approved by the authority to another facility approved by the
8 authority as provided under ORS 426.060.

9 (2) A designee under subsection (1) of this section must be recommended by the community
10 mental health program director, meet the standards established by rule of the authority and be ap-
11 proved by the county governing body before assuming the authority permitted under subsection (1)
12 of this section.

13 (3) The county governing body may, upon recommendation by the community mental health
14 program director, authorize any *[person]* **individual** to provide custody and secure transportation
15 services for a person in custody under ORS 426.228. In authorizing *[a person]* **an individual** under
16 this subsection, the county governing body shall grant the *[person]* **individual** the authority to do
17 the following:

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

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

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

23 (d) Transfer a person in custody to another *[person]* **individual** authorized under this subsection
24 or a peace officer;

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

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

30 (4) *[A person]* **An individual** authorized under subsection (3) of this section must be recom-
31 mended by the community mental health program director, meet the standards established by rule
32 of the authority and be approved by the governing body before assuming the authority granted under
33 this section.

34 (5) The costs of transporting a person *[as authorized]* under ORS 426.060, 426.228 or 426.235 by
35 *[a person]* **an individual** authorized under subsection (3) of this section shall be the responsibility
36 of the county whose peace officer or community mental health program director directs the au-
37 thorized *[person]* **individual** to take custody of a person and to transport the person to a facility
38 approved by the authority, but the county shall not be responsible for costs that exceed the amount
39 provided by the state for that transportation. *[A person]* **An individual** authorized to act under
40 subsection (3) of this section shall charge the cost of emergency medical transportation to, and
41 collect that cost from, the person, third party payers *[or otherwise legally responsible persons or*
42 *agencies]* **or other legally or financially responsible individuals or entities** in the same manner
43 that costs for the transportation of other persons are charged and collected.

44 **SECTION 40.** ORS 426.234 is amended to read:

45 426.234. (1) At the time a person **alleged to have a mental illness** is admitted to or retained

1 in a hospital or nonhospital facility under ORS 426.232 or 426.233, a physician, nurse or qualified
2 mental health professional at the hospital or nonhospital facility shall:

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

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

6 (c) Immediately examine the [*allegedly mentally ill*] person;

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

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

15 (2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the
16 physician shall contact the community mental health program director of the county in which the
17 person resides, if the county of residence is different from the county in which the hospital is lo-
18 cated. The community mental health program director may request that the physician notify the
19 circuit court in the county in which the person resides. If the community mental health program
20 director does not make the request [*authorized by this paragraph*], the physician shall notify, imme-
21 diately and in writing, the circuit court in the county in which the person is hospitalized.

22 (b) At the time the person is admitted to a hospital under ORS 426.232 after being brought to
23 the hospital by a peace officer under ORS 426.228, the physician shall contact the community mental
24 health program director of the county in which the person is hospitalized. The community mental
25 health program director of the county in which the person is hospitalized may request that the
26 physician notify the circuit court in the county in which the person is hospitalized. If the community
27 mental health program director does not make the request [*authorized by this paragraph*], the phy-
28 sician shall notify, immediately and in writing, the circuit court in the county in which the person
29 was taken into custody.

30 (c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the physician responsible
31 for a person admitted or retained under ORS 426.232 determines that the person is not dangerous
32 to self or [*others*] **to any other person** and is not in need of emergency care or treatment for mental
33 illness, the physician may release the person from the detention authorized by ORS 426.232. The
34 physician shall immediately notify the circuit court notified under this subsection and the commu-
35 nity mental health program director of the person's release from detention.

36 (3)(a) At the time the person is admitted to or retained in a nonhospital facility under ORS
37 426.233, the community mental health program director in the county where the person was taken
38 into custody shall contact the community mental health program director of the county in which the
39 person resides, if the county of residence is different from the county in which the person was taken
40 into custody. The community mental health program director of the county in which the person re-
41 sides may request that the community mental health program director of the county in which the
42 person was taken into custody notify the circuit court in the county where the person resides.
43 Otherwise, the community mental health program director of the county in which the person was
44 taken into custody shall notify, immediately and in writing, the circuit court in the county in which
45 the person was taken into custody.

1 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health
 2 program director, after consultation with a physician, determines that a person admitted or retained
 3 under ORS 426.233 is not dangerous to self or *[others]* **to any other person** and is not in need of
 4 immediate care, custody or treatment for mental illness, the community mental health program di-
 5 rector may release the person from detention. The community mental health program director shall
 6 immediately notify the circuit court originally notified under paragraph (a) of this subsection of the
 7 person's release from detention.

8 (4) When the judge of the circuit court receives notice under subsection (2) or (3) of this section,
 9 the judge immediately shall commence proceedings under ORS 426.070 to 426.130. In a county having
 10 a population of 100,000 or more, and when feasible in a county with a lesser population, the com-
 11 munity mental health program director or designee who directs the peace officer or other authorized
 12 *[person]* **individual** to take a person into custody under ORS 426.233 shall not also conduct the in-
 13 vestigation as provided for under ORS 426.074. Except when a person is being held under ORS
 14 426.237 (1)(b), a person shall not be held under ORS 426.232 or 426.233 for more than five judicial
 15 days without a hearing being held under ORS 426.070 to 426.130.

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

20 **SECTION 41.** ORS 426.235 is amended to read:

21 426.235. (1) The community mental health program director may transfer a person in custody
 22 under ORS 426.232, 426.233 or 426.237 (1)(b) to a hospital or nonhospital facility approved by the
 23 Oregon Health Authority at any time during the period of detention.

24 (2) A person in custody at a hospital may be transferred from the hospital only with the consent
 25 of the treating physician and when the director of a nonhospital facility approved by the authority
 26 agrees to admit the person.

27 (3) A person in custody at a nonhospital facility approved by the authority may be transferred
 28 to a hospital approved by the authority only when a physician with admitting privileges agrees to
 29 admit the person.

30 (4) In transporting a person between a hospital and nonhospital facility under this section, the
 31 community mental health program director has all the powers provided in ORS 133.225 and 161.255
 32 and may compel the assistance of any peace officer or other *[person]* **authorized individual**.

33 (5) When a person is transferred under this section, the community mental health program di-
 34 rector shall notify immediately the court notified under ORS 426.234 (2) or (3) of the fact of the
 35 transfer and of the location of the person.

36 **NOTE:** Section 42 was deleted by amendment. Subsequent sections were not renumbered.

37 **SECTION 43.** ORS 426.241 is amended to read:

38 426.241. (1) The cost of emergency psychiatric care, custody and treatment related to or result-
 39 ing from such psychiatric condition, provided by a hospital or other facility approved by the Oregon
 40 Health Authority and the community mental health program director of the county in which the
 41 facility is located, except a state *[mental]* hospital, for *[an allegedly mentally ill]* **a person alleged**
 42 **to have a mental illness who is** admitted or detained under ORS 426.070, 426.140, 426.228, 426.232
 43 or 426.233, or for a *[mentally ill]* person **with mental illness who is** admitted or detained under ORS
 44 426.150, 426.223, 426.273, 426.275 or 426.292, shall be paid by the county of which the person is a
 45 resident from state funds provided *[it]* **to the county** for this purpose. The county is responsible for

1 the cost when state funds [*available therefor*] **provided to the county** are exhausted. The hospital
 2 or other facility shall charge to and collect from the person, third party payers or other [*persons*
 3 *or agencies otherwise legally responsible therefor,*] **legally or financially responsible individuals or**
 4 **entities** the costs of the emergency care, custody and treatment, as it would for any other patient,
 5 and any funds received shall be applied as an offset to the cost of the services provided under this
 6 section.

7 (2) If any person is admitted to or detained in a state [*mental*] hospital under ORS 426.070,
 8 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency care, custody or treatment, the
 9 authority shall charge to and collect from the person, third party payers or other [*persons or agen-*
 10 *cies otherwise legally responsible therefor,*] **legally or financially responsible individuals or enti-**
 11 **ties** the costs as it would for other patients of the state [*mental*] hospitals under the provisions of
 12 ORS 179.610 to 179.770.

13 (3) If any person is adjudged [*mentally ill*] **to have a mental illness** under the provisions of ORS
 14 426.130, and the person receives care and treatment in a state [*mental*] hospital, the person, third
 15 party payers or other [*persons or agencies otherwise legally responsible therefor,*] **legally or finan-**
 16 **cially responsible individuals or entities** shall be required to pay for the costs of the
 17 hospitalization at the state hospital, as provided by ORS 179.610 to 179.770, if financially able to do
 18 so.

19 (4) For purposes of this section and ORS 426.310, “resident” means resident of the county in
 20 which the person maintains a current mailing address or, if the person does not maintain a current
 21 mailing address within the state, the county in which the person is found, or the county in which
 22 a court-committed [*mentally ill*] person has been conditionally released.

23 (5)(a) The authority may deny payment for part or all of the emergency psychiatric services
 24 provided by a hospital or nonhospital facility under ORS 426.232, 426.233 or 426.237 when the au-
 25 thority finds, upon review, that the [*allegedly mentally ill person’s*] condition **of the person alleged**
 26 **to have a mental illness** did not meet the admission criteria in ORS 426.232 (1), 426.233 (1) or
 27 426.237 (1)(b)(A). The payer responsible under this section shall make a request for denial of payment
 28 for emergency psychiatric services provided under ORS 426.232, 426.233 or 426.237 in writing to the
 29 authority.

30 (b) The authority may require the following to provide the authority with any information that
 31 the authority determines is necessary to review a request for denial of payment made under this
 32 subsection or to conduct a review of emergency psychiatric services for the purpose of planning or
 33 defining authority rules:

34 (A) A hospital or nonhospital facility approved under ORS 426.228 to 426.235 or 426.237.

35 (B) A physician or a person providing emergency psychiatric services under ORS 426.228 to
 36 426.235 or 426.237.

37 (c) The authority shall adopt rules necessary to carry out the purposes of this subsection.

38 **SECTION 44.** ORS 426.250, as amended by section 4, chapter 25, Oregon Laws 2012, is amended
 39 to read:

40 426.250. The following is a nonexclusive list of responsibilities for payment of various costs re-
 41 lated to commitment proceedings under this chapter as described:

42 (1) Any physician or qualified [*person*] **professional** recommended by the Oregon Health Au-
 43 thority who is employed under ORS 426.110 to make an examination as to the mental condition of
 44 a person alleged to [*be mentally ill*] **have a mental illness** shall be allowed a fee as the court in its
 45 discretion determines reasonable for the examination.

1 (2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal
 2 cases, and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to
 3 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in
 4 ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the
 5 witness is responsible for payment of the cost of the subpoena and payment for the attendance of
 6 the witness at a hearing. When the witness has been subpoenaed on behalf of [*an allegedly mentally*
 7 *ill*] **a person alleged to have a mental illness** who is represented by appointed counsel, the fees
 8 and costs allowed for that witness shall be paid pursuant to ORS 135.055. If the costs of witnesses
 9 subpoenaed by the [*allegedly mentally ill*] person are paid as provided under this subsection, the
 10 procedure for subpoenaing witnesses shall comply with ORS 136.570.

11 (3) If a person with a right to a counsel under ORS 426.100 is determined to be financially eli-
 12 gible for appointed counsel at state expense, the public defense services executive director shall
 13 determine and pay, as provided in ORS 135.055, the reasonable expenses related to the represen-
 14 tation of the person and compensation for legal counsel. The expenses and compensation so allowed
 15 shall be paid by the public defense services executive director from funds available for the purpose.

16 (4) The authority shall pay the costs of expenses incurred under ORS 426.100 by the Attorney
 17 General's office. Any costs for district attorneys or other counsel appointed to assume responsibility
 18 for presenting the state's case shall be paid by the county where the commitment hearing is held,
 19 subject to reimbursement under ORS 426.310.

20 (5) All costs incurred in connection with a proceeding under ORS 426.180, including the costs
 21 of transportation, commitment and delivery of the person, shall be paid by the county of which the
 22 person is a resident. If the person is not a resident of this state, then the costs incurred in con-
 23 nection with the proceeding shall be paid by the county from which the emergency admission was
 24 made.

25 (6) All costs incurred in connection with a proceeding under ORS 426.180 for the commitment
 26 of a person from a reservation, including the cost of transportation, commitment and delivery of the
 27 person, shall be paid by the governing body of the reservation of which the person is a resident.

28 **SECTION 45.** ORS 426.255 is amended to read:

29 426.255. Costs of hearings conducted pursuant to ORS 426.307, and the fees for physicians and
 30 other [*qualified persons*] **examiners** shall be charged to the county of the person's residence in the
 31 same manner provided by ORS 426.310, whether the hearing is held in the county of residence or
 32 county of the treating facility.

33 **SECTION 46.** ORS 426.273 is amended to read:

34 426.273. (1) During a period of commitment of a patient under ORS 426.130, the Oregon Health
 35 Authority may grant a trial visit to the patient for a period of time and under any conditions the
 36 authority shall establish. The authority shall only grant a trial visit under this section if the trial
 37 visit is agreed to by the community mental health program director, or the designee of the director,
 38 for the county in which the person would reside.

39 (2) When in the opinion of the authority, the committed person can be appropriately served by
 40 outpatient care during the period of commitment, the outpatient care may be required as a condition
 41 for trial visit for a period which, when added to the inpatient treatment period, shall not exceed the
 42 period of commitment. If outpatient care is required as a condition for a trial visit, the conditions
 43 shall include a designation of a facility, service or other provider to provide care or treatment.

44 (3) A copy of the conditions for trial visit shall be given to all of the [*persons*] **individuals or**
 45 **entities** listed in ORS 426.278.

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

2 (5) The director of the community mental health program, or designee, of the county in which
3 a person who is on trial visit lives while on trial visit may modify the conditions for continued trial
4 visit when such modification is in the best interest of the person. The director shall send notification
5 of such changes and the reasons for the changes to all those who received a copy of the original
6 conditions under ORS 426.278.

7 **SECTION 47.** ORS 426.275 is amended to read:

8 426.275. The following are applicable to placements of [*mentally ill*] persons **with mental illness**
9 that are made as conditional release under ORS 426.125, outpatient commitments under ORS 426.127
10 or trial visits under ORS 426.273 as described:

11 (1) If the [*person*] **individual** responsible under this subsection determines that [*the mentally ill*]
12 a person **with mental illness** is failing to adhere to the terms and conditions of the placement, the
13 responsible [*person*] **individual** shall notify the court having jurisdiction that the [*mentally ill*] per-
14 son **with mental illness** is not adhering to the terms and conditions of the placement. If the
15 placement is an outpatient commitment under ORS 426.127 or a trial visit under ORS 426.273, the
16 notifications shall include a copy of the conditions for the placement. The [*person*] **individual** re-
17 sponsible for notifying the court under this subsection is as follows:

18 (a) For conditional releases under ORS 426.125, the guardian, relative or friend in whose care
19 the [*mentally ill*] person **with mental illness** is conditionally released.

20 (b) For outpatient commitments under ORS 426.127, the community mental health program di-
21 rector, or designee of the director, of the county in which the person on outpatient commitment
22 lives.

23 (c) For trial visits under ORS 426.273, the community mental health program director, or
24 designee of the director, of the county in which the person on trial visit is to receive outpatient
25 treatment.

26 (2) On its own motion, the court with jurisdiction of a [*mentally ill*] person **with mental illness**
27 on [*such*] placement may cause the person to be brought before it for a hearing to determine
28 whether the person is or is not adhering to the terms and conditions of the placement. The person
29 shall have the same rights with respect to notice, detention stay, hearing and counsel as for a
30 hearing held under ORS 426.095. The court shall hold the hearing within five judicial days of the
31 date the [*mentally ill*] person **with mental illness** receives notice under this section. The court may
32 allow postponement and detention during postponement as provided under ORS 426.095.

33 (3) Pursuant to the determination of the court upon hearing under this section, a person on
34 placement shall either continue the placement on the same or modified conditions or shall be re-
35 turned to the Oregon Health Authority for involuntary care and treatment on an inpatient basis
36 subject to discharge at the end of the commitment period or as otherwise provided under this
37 chapter.

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

43 (5) The court may proceed as provided in ORS 426.307 or this section when the court:

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

45 (b) Determines that the person is a [*mentally ill person*] **person with mental illness** on condi-

1 tional release under ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under ORS
2 426.273.

3 **SECTION 48.** ORS 426.278 is amended to read:

4 426.278. **The Oregon Health Authority shall provide to each of** the following [*persons shall*
5 *be given*] **individuals or entities** a copy of the conditions of [*a placement of a mentally ill person that*
6 *is made as*] an outpatient commitment under ORS 426.127 or [*as*] a trial visit under ORS 426.273:

7 (1) The committed person;

8 (2) The community mental health program director, or designee of the director, of the county in
9 which the committed person is to receive outpatient treatment;

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

12 (4) The court of current commitment; and

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

16 **SECTION 49.** ORS 426.292 is amended to read:

17 426.292. Nothing in this chapter and ORS 430.397 to 430.401 prohibits the Oregon Health Au-
18 thority from releasing a person from a hospital or other facility in which the person is being treated
19 prior to the expiration of the period of commitment under ORS 426.130 when, in the opinion of the
20 director of the facility or treating physician, the person is no longer [*mentally ill*] **a person with**
21 **mental illness.**

22 **SECTION 50.** ORS 426.297 is amended to read:

23 426.297. (1) The expenses of a proceeding under ORS 426.295 (2) shall be paid by the person **with**
24 **mental illness**, unless it appears from the affidavit of the person or other evidence that the person
25 is unable to pay the expenses. If the person is unable to pay, the expenses of the proceedings shall
26 be paid by the county of which the [*mentally ill*] person was a resident at the time of admission. If
27 the county of residence cannot be established, the county from which the person was admitted shall
28 pay the expenses.

29 (2) The expenses of the proceeding under ORS 426.295 (3) shall be paid by the petitioner.

30 (3) Any physician employed by the court to make an examination as to the mental condition of
31 a person subject to a competency proceeding under ORS 426.295 or 426.380 to 426.390 shall be al-
32 lowed a reasonable professional fee by order of the court. Witnesses summoned and giving testimony
33 shall receive the same fees as are paid in ORS 44.415 (2).

34 **SECTION 51.** ORS 426.300 is amended to read:

35 426.300. (1) The Oregon Health Authority shall, by filing a written certificate with the last
36 committing court and the court of residence, discharge [*any patient*] **an individual** from court com-
37 mitment, except one held upon an order of a court or judge having criminal jurisdiction in an action
38 or proceeding arising out of criminal offense, [*when in its opinion*] **if the authority finds that** the
39 individual is no longer a [*mentally ill*] person **with mental illness** or [*when in its opinion*] **that** the
40 transfer of the individual to a voluntary status is in the **individual's** best interest [*of the treatment*
41 *of the patient*].

42 (2) The authority may sign applications for public assistance on behalf of those [*patients*] **indi-**
43 **viduals** who may be eligible for public assistance **upon discharge.**

44 **SECTION 52.** ORS 426.301 is amended to read:

45 426.301. (1) At the end of the 180-day period of commitment, any person whose status has not

1 been changed to voluntary shall be released unless the Oregon Health Authority certifies to the
2 court in the county where the treating facility is located that the person is still [*mentally ill*] a
3 **person with mental illness** and is in need of further treatment. The authority, pursuant to its
4 rules, may delegate to the director of the treating facility the responsibility for making the certif-
5 ication. The director of the treating facility shall consult with the community mental health program
6 director of the county of residence prior to making the certification. If the certification is made, the
7 person will not be released, but the director of the treating facility shall immediately issue a copy
8 of the certification to the person and to the community mental health program director of the county
9 of residence.

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

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

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

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

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

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

23 (e) That the person may protest either orally or in writing by signing the form accompanying
24 the certification [;].

25 (f) That the person is entitled to have a physician or other qualified [*person*] **professional** as
26 recommended by the authority, other than a member of the staff at the facility where the person is
27 confined, examine the person and report to the court the results of the examination.

28 [*f*] (g) That the person may subpoena witnesses and offer evidence on behalf of the person at
29 the hearing.

30 [*g*] (h) That if the person is without funds to retain legal counsel or an examining physician
31 or qualified [*person*] **professional** as recommended by the authority, the court will appoint legal
32 counsel, a physician or other qualified [*person*] **professional**.

33 (4) Nothing in subsection (3) of this section requires the giving of the warning under ORS
34 426.123.

35 (5) [*The person*] **When** serving the certification **upon the person, the authority** shall read and
36 deliver the certification to the person and ask whether the person protests a further period of
37 commitment. The person may protest further commitment either orally or by signing a simple protest
38 form to be given to the person with the certification. If the person does not protest a further period
39 of commitment within 14 days of service of the certification, the authority or facility shall so notify
40 the court and the court shall, without further hearing, order the commitment of the person for an
41 additional indefinite period of time up to 180 days.

42 **SECTION 53.** ORS 426.307 is amended to read:

43 426.307. If [*the*] a person **with mental illness** requests a hearing under ORS 426.301 or if the
44 court proceeds under ORS 426.275 (5), the following provisions apply [*as described*]:

45 (1) The hearing shall be conducted as promptly as possible and at a time and place as the court

1 may direct.

2 (2) If the person requests a continuance in order to prepare for the hearing or to obtain legal
3 counsel to represent the person, the court may grant postponement and detention during
4 postponement as provided under ORS 426.095.

5 (3) The person has the right to representation by or appointment of counsel as provided under
6 ORS 426.100 subject to ORS 135.055, 151.216 and 151.219.

7 (4) If the person requests an examination by a physician or other qualified [*person*] **professional**
8 as recommended by the Oregon Health Authority and is without funds to retain a physician or other
9 qualified [*person*] **professional** for purposes of the examination, the court shall appoint a physician
10 or other qualified [*person*] **professional**, other than a member of the staff from the facility where
11 the person is confined, to examine the person at no expense to the person and to report to the court
12 the results of the examination.

13 (5) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 do not apply to the use of medical
14 records from the current period of commitment or to testimony related to such records or period
15 of commitment in connection with hearings under this section. The court may consider as evidence
16 such reports and testimony.

17 (6) The court shall then conduct a hearing and after hearing the evidence and reviewing the
18 recommendations of the treating and examining physicians or other qualified [*persons*]
19 **professionals**, the court shall determine whether the person is still a [*mentally ill person*] **person**
20 **with mental illness** and **is** in need of further treatment. If in the opinion of the court the individual
21 is still a [*mentally ill person*] **person with mental illness** by clear and convincing evidence and **is**
22 in need of further treatment, the court may order commitment to the authority for an additional
23 indefinite period of time up to 180 days.

24 (7) At the end of the 180-day period, the person shall be released unless the authority or facility
25 again certifies to the committing court that the person is still a [*mentally ill*] person **with mental**
26 **illness** and **is** in need of further treatment, in which event the procedures set forth in ORS 426.301
27 to 426.307 shall be followed.

28 **SECTION 54.** ORS 426.310 is amended to read:

29 426.310. (1) If [*the mentally ill*] a person **with mental illness** is a resident of some other county
30 in this state, the county making the commitment shall be reimbursed by the county of which the
31 person is a resident. All reasonable and actual expenses incurred and paid by the county by reason
32 of the care, custody, treatment, investigation, examination and commitment hearing shall, upon
33 presentation of a copy of the order of the judge making the examination and commitment, together
34 with a properly itemized and certified claim covering the expense, be promptly paid to the county
35 by the county of which the person was a resident. The expenses reimbursed under this subsection
36 shall include any expenses incurred to pay for representation of the state's interest under ORS
37 426.100 and 426.250.

38 (2) If [*an allegedly mentally ill*] a person **alleged to have a mental illness** is a resident of some
39 other county in this state, a county attempting a commitment shall be reimbursed by the county of
40 which the person is a resident, as defined in ORS 426.241, for all actual, reasonable expenses in-
41 curred and paid by the county attempting commitment by reason of the care, custody, treatment,
42 investigation, examination and commitment hearing. The expenses reimbursed under this subsection
43 shall include any expenses incurred to pay for representation of the state's interest under ORS
44 426.100 and 426.250.

45 **SECTION 55.** ORS 426.320 is amended to read:

1 426.320. When a [*mentally ill*] person **with mental illness** is assigned to or transferred to a state
 2 [*mental*] hospital, all **of the** actual and necessary expenses **of transporting the person to the**
 3 **hospital that are** incurred by the agent or attendant from the state hospital, [*and*] the assistants
 4 of the agent or attendant[, *together with those of*] **and** the person [*for transportation to the hospital*],
 5 shall be paid by the state in the manner provided in ORS 426.330.

6 **SECTION 56.** ORS 426.335 is amended to read:

7 426.335. The following limitations on liability [*and circumstances*] are applicable to [*situations*]
 8 **actions and proceedings** within this chapter and ORS 430.397 to 430.401:

9 (1) [*None of the following shall*] **The following individuals may not** in any way be held
 10 criminally or civilly liable for the [*making of the notification*] **initiation of commitment procedures**
 11 under ORS 426.070, provided the [*person*] **individual** acts in good faith, on probable cause and
 12 without malice:

13 (a) The community mental health program director or designee of the director.

14 (b) The two petitioning persons.

15 (c) The county health officer.

16 (d) Any magistrate.

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

18 (f) Any physician attending the [*allegedly mentally ill*] person **alleged to have a mental**
 19 **illness.**

20 (g) [*The*] **Any** physician [*attached to a*] **associated with the** hospital or institution [*wherein the*
 21 *allegedly mentally ill*] **where the** person **alleged to have a mental illness** is a patient.

22 (2) The [*person*] **community mental health program director or the designee of the director**
 23 conducting the investigation under ORS 426.070 and 426.074 shall not be held criminally or civilly
 24 liable for conducting the investigation, provided the investigator acts in good faith, on probable
 25 cause and without malice.

26 (3) The [*person*] **individual** representing the state's interest under ORS 426.100 shall not be held
 27 criminally or civilly liable for performing responsibilities under ORS 426.100 as long as the
 28 [*person*] **individual** acts in good faith and without malice.

29 (4) [*No person*] **An examiner** appointed under ORS 426.110 [*to conduct an examination under*
 30 *ORS 426.120 shall*] **may not** be held criminally or civilly liable for actions pursuant to ORS 426.120
 31 if the examiner acts in good faith and without malice.

32 (5) [*No*] **A** physician, hospital or judge [*shall*] **may not** be held criminally or civilly liable for
 33 actions pursuant to ORS 426.228, 426.231, 426.232, 426.234 or 426.235 if the physician, hospital or
 34 judge acts in good faith, on probable cause and without malice.

35 (6) [*No*] **A** peace officer, [*person*] **individual** authorized under ORS 426.233, community mental
 36 health director or designee, hospital or other facility, physician or judge [*shall*] **may not** in any way
 37 be held criminally or civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual
 38 or facility acts in good faith, on probable cause and without malice.

39 (7) Any **legal** guardian, relative or friend of a [*mentally ill*] person **with mental illness** who
 40 assumes responsibility for the [*mentally ill*] person under a conditional release under ORS 426.125
 41 shall not be liable for any damages that [*are sustained by any person on account of*] **result from** the
 42 misconduct of the [*mentally ill*] person while on conditional release if the **legal** guardian, relative
 43 or friend acts in good faith and without malice.

44 (8) The [*persons*] **individuals** designated in this subsection [*shall*] **may not** be liable for **personal**
 45 **injuries or other** damages that [*are sustained by any person or property on account of*] **result from**

1 the misconduct of a [*mentally ill*] person **with mental illness** while the [*mentally ill*] person is on
2 outpatient commitment under ORS 426.127 if the designated [*person*] **individual** acts without willful
3 and wanton neglect of duty. This subsection is applicable to all of the following:

4 (a) The community mental health program director and the designee of the director for the
5 county in which the committed person resides.

6 (b) The superintendent or director of any staff of any facility where the [*mentally ill*] person
7 **with mental illness** receives treatment during the outpatient commitment.

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

9 (d) The physician and the facility [*granting an outpatient commitment*] **providing care or treat-**
10 **ment** to a [*patient*] **person on outpatient commitment**.

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

12 (a) [*None of*] The following [*shall*] **individuals and entities may not** be liable for a [*patient's*]
13 **person's** expenses while on trial visit:

14 (A) The physician and the facility [*granting a trial visit*] **providing care or treatment** to a
15 [*patient*] **person on a trial visit**;

16 (B) The superintendent or director of the facility [*granting*] **providing care or treatment to a**
17 **person on** a trial visit;

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

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

20 (b) The [*following persons shall*] **individuals designated in this paragraph may** not be liable
21 for damages that [*are sustained by any person on account of*] **result from** the misconduct of [*such*]
22 [*patient while*] **a person with mental illness while** on trial visit if the [*person*] **designated indi-**
23 **vidual** acts without willful and wanton neglect of duty:

24 (A) The community mental health program director for the county in which the person resides;

25 (B) The superintendent, director or chief medical officer of any facility [*granting a trial visit*]
26 **providing care or treatment** to a patient **on a trial visit**;

27 (C) The physician responsible for the patient's **care or treatment during a** trial visit;

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

29 (E) The employees and agents of [*persons listed in*] **individuals or facilities under** this para-
30 graph.

31 **SECTION 57.** ORS 426.370 is amended to read:

32 426.370. A community mental health program director or designee may withhold information
33 obtained during an investigation under ORS 426.070, 426.228, 426.232, 426.233 or 426.234 if the com-
34 munity mental health program director determines:

35 (1) That information was not included in its investigation report or otherwise used in a material
36 way to support a determination by the community mental health program director that there was
37 probable cause to believe a person was a [*mentally ill*] person **with mental illness**; and

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

39 **SECTION 58.** ORS 426.385 is amended to read:

40 426.385. (1) Every [*mentally ill*] person **with mental illness** committed to the Oregon Health
41 Authority shall have the right to:

42 (a) Communicate freely in person and by reasonable access to telephones;

43 (b) Send and receive sealed mail, except that this right may be limited for security reasons in
44 state institutions as described in ORS 426.010;

45 (c) Wear the clothing of the person;

- 1 (d) Keep personal possessions, including toilet articles;
2 (e) Religious freedom;
3 (f) A private storage area with free access thereto;
4 (g) Be furnished with a reasonable supply of writing materials and stamps;
5 (h) A written treatment plan, kept current with the progress of the person;
6 (i) Be represented by counsel whenever the substantial rights of the person may be affected;
7 (j) Petition for a writ of habeas corpus;
8 (k) Not be required to perform routine labor tasks of the facility except those essential for
9 treatment;
10 (L) Be given reasonable compensation for all work performed other than personal housekeeping
11 duties;
12 (m) Daily access to fresh air and the outdoors, except that this right may be limited when it
13 would create significant risk of harm to the person or others;
14 (n) Such other rights as may be specified by rule; and
15 (o) Exercise all civil rights in the same manner and with the same effect as one not admitted
16 to the facility, including, but not limited to, the right to dispose of real property, execute instru-
17 ments, make purchases, enter contractual relationships, and vote, unless the person has been adju-
18 dicated incompetent and has not been restored to legal capacity. Disposal of personal property in
19 possession of the person in a state institution described in ORS 426.010 is subject to limitation for
20 security reasons.
- 21 (2)(a) A person must be immediately informed, [*verbally*] **orally** and in writing, of any limitation:
22 (A) Of the right to send or receive sealed mail under subsection (1)(b) of this section;
23 (B) Regarding the disposal of personal property under subsection (1)(o) of this section; and
24 (C) Of the right to daily access to fresh air and the outdoors under subsection (1)(m) of this
25 section.
- 26 (b) Any limitation under this subsection and the reasons for the limitation must be stated in the
27 person's written treatment plan.
- 28 (c) The person has the right to challenge any limitation under this subsection pursuant to rules
29 adopted by the authority. The person must be informed, [*verbally*] **orally** and in writing, of this
30 right.
- 31 (3) [*Mentally ill persons*] **A person with mental illness** committed to the authority shall have
32 the right to be free from potentially unusual or hazardous treatment procedures, including
33 convulsive therapy, unless [*they have*] **the person has** given [*their*] express and informed consent
34 or authorized the treatment pursuant to ORS 127.700 to 127.737. This right may be denied to [*such*
35 *persons*] **a person** for good cause as defined in administrative rule only by the director of the facility
36 in which the person is confined, but only after consultation with and approval of an independent
37 examining physician. Any denial shall be entered into the [*patient's*] **person's** treatment record and
38 shall include the reasons for the denial. [*No patient shall*] **A person with mental illness may not**
39 be subjected to psychosurgery, as defined in ORS 677.190 (21)(b).
- 40 (4) Mechanical restraints shall not be applied to a person admitted to a facility unless it is de-
41 termined by the chief medical officer of the facility or designee to be required by the medical needs
42 of the person. Every use of a mechanical restraint and the reasons [*therefor*] **for using a mechan-**
43 **ical restraint** shall be made a part of the clinical record of the person over the signature of the
44 chief medical officer of the facility or designee.
- 45 (5) Nothing in this section prevents the authority from acting to exclude contraband from its

1 facilities and to prevent possession or use of contraband in its facilities.

2 (6) As used in this section:

3 (a) “Contraband” has the meaning given that term in ORS 162.135.

4 (b) “Security reasons” means the protection of the [*mentally ill*] person **with mental illness**
5 from serious and immediate harm and the protection of others from threats or harassment as defined
6 by rule of the authority.

7 **SECTION 59.** ORS 428.310 is amended to read:

8 428.310. The Department of Human Services or the Oregon Health Authority may execute and
9 terminate a compact on behalf of the State of Oregon with any state, territory or possession of the
10 United States, the District of Columbia and the Commonwealth of Puerto Rico joining therein, in the
11 form substantially as follows:

12 _____
13
14 The contracting states solemnly agree that:

15 ARTICLE I

16 The party states find that the proper and expeditious treatment of [*the mentally ill and mentally*
17 *deficient*] **persons with mental illness or intellectual disabilities** can be facilitated by cooperative
18 action, to the benefit of the patients, their families, and society as a whole. Further, the party states
19 find that the necessity of and desirability for furnishing such care and treatment bears no primary
20 relation to the residence or citizenship of the patient but that, on the contrary, the controlling fac-
21 tors of community safety and humanitarianism require that facilities and services be made available
22 for all who are in need of them. Consequently, it is the purpose of this compact and of the party
23 states to provide the necessary legal basis for the institutionalization or other appropriate care and
24 treatment of [*the mentally ill and mentally deficient*] **persons with mental illness or intellectual**
25 **disabilities** under a system that recognizes the paramount importance of patient welfare and to es-
26 tablish the responsibilities of the party states in terms of such welfare.

27 ARTICLE II

28 As used in this compact:

29 (a) “Sending state” shall mean a party state from which a patient is transported pursuant to the
30 provisions of the compact or from which it is contemplated that a patient may be so sent.

31 (b) “Receiving state” shall mean a party state to which a patient is transported pursuant to the
32 provisions of the compact or to which it is contemplated that a patient may be so sent.

33 (c) “Institution” shall mean any hospital or other facility maintained by a party state or political
34 subdivision thereof for the care and treatment of mental illness or [*mental deficiency*] **intellectual**
35 **disabilities**.

36 (d) “Patient” shall mean any person subject to or eligible as determined by the laws of the
37 sending state, for institutionalization or other care, treatment or supervision pursuant to the pro-
38 visions of this compact.

39 (e) “After-care” shall mean care, treatment and services provided a patient, as defined herein,
40 on convalescent status or conditional release.

41 (f) “Mental illness” shall mean mental disease to such extent that a person so afflicted requires
42 care and treatment for his own welfare, or the welfare of others, or of the community.

43 (g) [*“Mental deficiency”*] **“Intellectual disability”** shall mean [*mental deficiency*] **intellectual**
44 **disability** as defined by appropriate clinical authorities to such extent that a person so afflicted is
45 incapable of managing himself and his affairs, but shall not include mental illness as defined herein.

1 (h) "State" shall mean any state, territory or possession of the United States, the District of
2 Columbia and the Commonwealth of Puerto Rico.

3 ARTICLE III

4 (a) Whenever a person physically present in any party state shall be in need of
5 institutionalization by reason of mental illness or [*mental deficiency*] **intellectual disability**, the
6 person shall be eligible for care and treatment in an institution in that state irrespective of the
7 residence, settlement or citizenship qualifications of the person.

8 (b) The provisions of paragraph (a) of this article to the contrary notwithstanding, any patient
9 may be transferred to an institution in another state whenever there are factors based upon clinical
10 determinations indicating that the care and treatment of said patient would be facilitated or im-
11 proved thereby. Any such institutionalization may be for the entire period of care and treatment or
12 for any portion or portions thereof. The factors referred to in this paragraph shall include the
13 patient's full record with due regard for the location of the patient's family, character of the illness
14 and probable duration thereof, and such other factors as shall be considered appropriate.

15 (c) No state shall be obliged to receive any patient pursuant to the provisions of paragraph (b)
16 of this article unless the sending state has given advance notice of its intention to send the patient;
17 furnished all available medical and other pertinent records concerning the patient; given the quali-
18 fied medical or other appropriate clinical authorities of the receiving state an opportunity to ex-
19 amine the patient if said authorities so wish; and unless the receiving state shall agree to accept
20 the patient.

21 (d) In the event that the laws of the receiving state establish a system of priorities for the ad-
22 mission of patients, an interstate patient under this compact shall receive the same priority as a
23 local patient and shall be taken in the same order and at the same time that the patient would be
24 taken if the patient were a local patient.

25 (e) Pursuant to this compact, the determination as to the suitable place of institutionalization
26 for a patient may be reviewed at any time and such further transfer of the patient may be made as
27 seems likely to be in the best interest of the patient.

28 ARTICLE IV

29 (a) Whenever, pursuant to the laws of the state in which a patient is physically present, it shall
30 be determined that the patient should receive after-care or supervision, such care or supervision
31 may be provided in a receiving state. If the medical or other appropriate clinical authorities having
32 responsibility for the care and treatment of the patient in the sending state shall have reason to
33 believe that after-care in another state would be in the best interest of the patient and would not
34 jeopardize the public safety, they shall request the appropriate authorities in the receiving state to
35 investigate the desirability of affording the patient such after-care in said receiving state, and such
36 investigation shall be made with all reasonable speed. The request for investigation shall be ac-
37 companied by complete information concerning the patient's intended place of residence and the
38 identity of the person in whose charge it is proposed to place the patient, the complete medical
39 history of the patient, and such other documents as may be pertinent.

40 (b) If the medical or other appropriate clinical authorities having responsibility for the care and
41 treatment of the patient in the sending state and the appropriate authorities in the receiving state
42 find that the best interest of the patient would be served thereby, and if the public safety would not
43 be jeopardized thereby, the patient may receive after-care or supervision in the receiving state.

44 (c) In supervising, treating or caring for a patient on after-care pursuant to the terms of this
45 article, a receiving state shall employ the same standards of visitation, examination, care and

1 treatment that it employs for similar local patients.

2 ARTICLE V

3 Whenever a dangerous or potentially dangerous patient escapes from an institution in any party
4 state, that state shall promptly notify all appropriate authorities within and without the jurisdiction
5 of the escape in a manner reasonably calculated to facilitate the speedy apprehension of the escapee.
6 Immediately upon the apprehension and identification of any such dangerous or potentially danger-
7 ous patient, the patient shall be detained in the state where found pending disposition in accordance
8 with law.

9 ARTICLE VI

10 The duly accredited officers of any state party to this compact, upon the establishment of their
11 authority and the identity of the patient, shall be permitted to transport any patient being moved
12 pursuant to this compact through any and all states party to this compact, without interference.

13 ARTICLE VII

14 (a) No person shall be deemed a patient of more than one institution at any given time. Com-
15 pletion of transfer of any patient to an institution in a receiving state shall have the effect of mak-
16 ing the person a patient of the institution in the receiving state.

17 (b) The sending state shall pay all costs of and incidental to the transportation of any patient
18 pursuant to this compact, but any two or more party states may, by making a specific agreement for
19 that purpose, arrange for a different allocation of costs as among themselves.

20 (c) No provision of this compact shall be construed to alter or affect any internal relationships
21 among the departments, agencies and officers of and in the government of a party state, or between
22 a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

23 (d) Nothing in this compact shall be construed to prevent any party state or subdivision thereof
24 from asserting any right against any person, agency or other entity in regard to costs for which
25 such party state or subdivision thereof may be responsible pursuant to any provision of this com-
26 pact.

27 (e) Nothing in this compact shall be construed to invalidate any reciprocal agreement between
28 a party state and a nonparty state relating to institutionalization, care or treatment of [*the mentally*
29 *ill or mentally deficient*] **persons with mental illness or intellectual disabilities**, or any statutory
30 authority pursuant to which such agreements may be made.

31 ARTICLE VIII

32 (a) Nothing in this compact shall be construed to abridge, diminish, or in any way impair the
33 rights, duties and responsibilities of any patient's guardian on the guardian's own behalf or in re-
34 spect of any patient for whom the guardian may serve, except that where the transfer of any patient
35 to another jurisdiction makes advisable the appointment of a supplemental or substitute guardian,
36 any court of competent jurisdiction in the receiving state may make such supplemental or substitute
37 appointment and the court which appointed the previous guardian shall upon being duly advised of
38 the new appointment, and upon the satisfactory completion of such accounting and other acts as
39 such court may by law require, relieve the previous guardian of power and responsibility to what-
40 ever extent shall be appropriate in the circumstances; provided, however, that in the case of any
41 patient having settlement in the sending state, the court of competent jurisdiction in the sending
42 state shall have the sole discretion to relieve a guardian appointed by it or continue the power and
43 responsibility of the guardian, whichever it shall deem advisable. The court in the receiving state
44 may, in its discretion, confirm or reappoint the person or persons previously serving as guardian in
45 the sending state in lieu of making a supplemental or substitute appointment.

1 (b) The term “guardian” as used in paragraph (a) of this article shall include any guardian,
2 trustee, legal committee, conservator or other person or agency however denominated who is
3 charged by law with responsibility for the property of a patient.

4 ARTICLE IX

5 (a) No provision of this compact except Article V shall apply to any person institutionalized
6 while under sentence in a penal or correctional institution or while subject to trial on a criminal
7 charge, or whose institutionalization is due to the commission of an offense for which, in the absence
8 of mental illness or [*mental deficiency*] **intellectual disability**, said person would be subject to
9 incarceration in a penal or correctional institution.

10 (b) To every extent possible, it shall be the policy of states party to this compact that no patient
11 shall be placed or detained in any prison, jail or lockup, but such patient shall, with all expedition,
12 be taken to a suitable institutional facility for mental illness or [*mental deficiency*] **intellectual**
13 **disability**.

14 ARTICLE X

15 (a) Each party state shall appoint a “compact administrator” who, on behalf of the state of the
16 compact administrator, shall act as general coordinator of activities under the compact in the state
17 of the compact administrator and who shall receive copies of all reports, correspondence, and other
18 documents relating to any patient processed under the compact by the state of the compact admin-
19 istrator either in the capacity of sending or receiving state. The compact administrator or the duly
20 designated representative of the compact administrator shall be the official with whom other party
21 states shall deal in any matter relating to the compact or any patient processed thereunder.

22 (b) The compact administrators of the respective party states shall have power to promulgate
23 reasonable rules and regulations to carry out more effectively the terms and provisions of this
24 compact.

25 ARTICLE XI

26 The duly constituted administrative authorities of any two or more party states may enter into
27 supplementary agreements for the provision of any service or facility or for the maintenance of any
28 institution on a joint or cooperative basis whenever the states concerned shall find that such
29 agreements will improve services, facilities, or institutional care and treatment in the fields of
30 mental illness or [*mental deficiency*] **intellectual disability**. No such supplementary agreement shall
31 be construed so as to relieve any party state of any obligation which it otherwise would have under
32 other provisions of this compact.

33 ARTICLE XII

34 This compact shall enter into full force and effect as to any state when entered into according
35 to law and such state shall thereafter be a party thereto with any and all states legally joining
36 therein.

37 ARTICLE XIII

38 (a) A state party to this compact may withdraw therefrom as provided by law and such
39 renunciation shall be by the same authority which executed it. Such withdrawal shall take effect
40 one year after notice thereof has been communicated officially and in writing to the governors and
41 compact administrators of all other party states. However, the withdrawal of any state shall not
42 change the status of any patient who has been sent to said state or sent out of said state pursuant
43 to the provisions of the compact.

44 (b) Withdrawal from any agreement permitted by Article VII (b) as to costs or from any sup-
45 plementary agreement made pursuant to Article XI shall be in accordance with the terms of such

1 agreement.

2 ARTICLE XIV

3 This compact shall be liberally construed so as to effectuate the purposes thereof. The pro-
 4 visions of this compact shall be severable and if any phrase, clause, sentence or provision of this
 5 compact is declared to be contrary to the constitution of any party state or of the United States or
 6 the applicability thereof to any government, agency, person or circumstance is held invalid, the va-
 7 lidity of the remainder of this compact and the applicability thereof to any government, agency,
 8 person or circumstance shall not be affected thereby. If this compact shall be held contrary to the
 9 constitution of any state party thereto, the compact shall remain in full force and effect as to the
 10 remaining states and in full force and effect as to the state affected as to all severable matters.

11 _____
 12
 13 **SECTION 60.** ORS 480.225 is amended to read:

14 480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

15 (a) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
 16 of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A
 17 person who has been so convicted is eligible under this subsection following the expiration of seven
 18 years after the date of final and unconditional discharge from all imprisonment, probation and parole
 19 resulting from the conviction.

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

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

25 (d) The person has not been determined to be [*mentally ill*] **a person with mental illness** under
 26 ORS 426.130 or to have an intellectual disability under ORS 427.290. A person who previously has
 27 been so determined is eligible under this subsection if, at the time of application for such a certif-
 28 icate, the person produces a certified copy of a full discharge from the proper state hospital. The
 29 Oregon Health Authority shall provide the State Fire Marshal with direct electronic access to the
 30 authority's database of information identifying persons meeting the criteria of this section who were
 31 committed or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall
 32 enter into an agreement describing the access to information under this subsection.

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

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

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

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

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

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

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

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

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

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

17 **SECTION 61.** ORS 677.225 is amended to read:

18 677.225. (1) A person's license issued under this chapter is suspended automatically if:

19 (a) The licensee is adjudged to be [*mentally ill*] **a person with mental illness under ORS**
20 **426.130** or is admitted on a voluntary basis to a treatment facility for mental illness that affects the
21 ability of the licensee to safely practice medicine and if the licensee's residence in the hospital ex-
22 ceeds 25 consecutive days; or

23 (b) The licensee is an inmate in a penal institution.

24 (2)(a) The clerk of the court ordering commitment or incarceration under subsection (1)(a) or (b)
25 of this section shall cause to be mailed to the Oregon Medical Board, as soon as possible, a certified
26 copy of the court order. No fees are chargeable by the clerk for performing the duties prescribed
27 by this paragraph.

28 (b) The administrator of the hospital to which a person with a license issued under this chapter
29 has voluntarily applied for admission shall cause to be mailed to the board as soon as possible, a
30 certified copy of the record of the voluntary admission of such person.

31 (c) Written evidence received from the supervisory authority of a penal or mental institution
32 that the licensee is an inmate or patient therein is prima facie evidence for the purpose of sub-
33 section (1)(a) or (b) of this section.

34 (3) A suspension under this section may be terminated by the board when:

35 (a)(A) The board receives evidence satisfactory to the board that the licensee is not [*mentally*
36 *ill*] **a person with mental illness as defined in ORS 426.005**; or

37 (B) The board receives evidence satisfactory to the board that the licensee is no longer
38 incarcerated; and

39 (b) The board is satisfied, with due regard for the public interest, that the licensee's privilege
40 to practice may be restored.

41 **SECTION 62.** ORS 680.205 is amended to read:

42 680.205. (1) An expanded practice dental hygienist may render all services within the scope of
43 practice of dental hygiene, as defined in ORS 679.010, without the supervision of a dentist and as
44 authorized by the expanded practice dental hygienist permit to:

45 (a) Patients or residents of the following facilities or programs who, due to age, infirmity or

1 disability, are unable to receive regular dental hygiene treatment:

2 (A) Nursing homes as defined in ORS 678.710;

3 (B) Adult foster homes as defined in ORS 443.705;

4 (C) Residential care facilities as defined in ORS 443.400;

5 (D) Adult congregate living facilities as defined in ORS 441.525;

6 (E) Mental health residential programs administered by the Oregon Health Authority;

7 (F) Facilities for [*mentally ill*] persons **with mental illness**, as those terms are defined in ORS
8 426.005;

9 (G) Facilities for persons with developmental disabilities, as those terms are defined in ORS
10 427.005;

11 (H) Local correctional facilities and juvenile detention facilities as those terms are defined in
12 ORS 169.005, regional correctional facilities as defined in ORS 169.620, youth correction facilities
13 as defined in ORS 420.005, youth care centers as defined in ORS 420.855, and Department of Cor-
14 rections institutions as defined in ORS 421.005; or

15 (I) Public and nonprofit community health clinics.

16 (b) Adults who are homebound.

17 (c) Students or enrollees of nursery schools and day care programs and their siblings under 18
18 years of age, Job Corps and similar employment training facilities, primary and secondary schools,
19 including private schools and public charter schools, and persons entitled to benefits under the
20 Women, Infants and Children Program.

21 (d) Patients in hospitals, medical clinics, medical offices or offices operated or staffed by nurse
22 practitioners, physician assistants or midwives.

23 (e) Patients whose income is less than the federal poverty level.

24 (f) Other populations that the Oregon Board of Dentistry determines are underserved or lack
25 access to dental hygiene services.

26 (2) At least once each calendar year, an expanded practice dental hygienist shall refer each
27 patient or resident to a dentist who is available to treat the patient or resident.

28 (3) An expanded practice dental hygienist may render the services described in paragraphs (a)
29 to (d) of this subsection to the patients described in subsection (1) of this section if the expanded
30 practice dental hygienist has entered into an agreement in a format approved by the board with a
31 dentist licensed under ORS chapter 679. The agreement must set forth the agreed-upon scope of the
32 dental hygienist's practice with regard to:

33 (a) Administering local anesthesia;

34 (b) Administering temporary restorations without excavation;

35 (c) Prescribing prophylactic antibiotics and nonsteroidal anti-inflammatory drugs specified in the
36 agreement; and

37 (d) Overall dental risk assessment and referral parameters.

38 (4) This section does not authorize an expanded practice dental hygienist to administer nitrous
39 oxide except under the indirect supervision of a dentist licensed under ORS chapter 679.

40 (5) An expanded practice dental hygienist may assess the need for and appropriateness of
41 sealants, apply sealants and write prescriptions for all applications of fluoride in which fluoride is
42 applied or supplied to patients.

43 (6) An expanded practice dental hygienist must also procure all other permits or certificates
44 required by the board under ORS 679.250.

45 **SECTION 63.** ORS 421.245 is amended to read:

1 authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

2 ARTICLE IV

3 PROCEDURES AND RIGHTS

4 (1) Whenever the duly constituted authorities in a state party to this compact, and which has
5 entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an
6 inmate to, an institution within the territory of another party state is necessary or desirable in or-
7 der to provide adequate quarters and care or an appropriate program of rehabilitation or treatment,
8 said officials may direct that the confinement be within an institution within the territory of said
9 other party state, the receiving state to act in that regard solely as agent for the sending state.

10 (2) The appropriate officials of any state party to this compact shall have access, at all reason-
11 able times, to any institution in which it has a contractual right to confine inmates for the purpose
12 of inspecting the facilities thereof and visiting such of its inmates as may be confined in the insti-
13 tution.

14 (3) Inmates confined in an institution pursuant to the terms of this compact shall at all times
15 be subject to the jurisdiction of the sending state and may at any time be removed therefrom for
16 transfer to a prison or other institution within the sending state, for transfer to another institution
17 in which the sending state may have a contractual or other right to confine inmates, for release on
18 probation or parole, for discharge, or for any other purpose permitted by the laws of the sending
19 state; provided, that the sending state shall continue to be obligated to such payments as may be
20 required pursuant to the terms of any contract entered into under the terms of Article III.

21 (4) Each receiving state shall provide regular reports to each sending state on the inmates of
22 that sending state in institutions pursuant to this compact including a conduct record of each inmate
23 and certify said record to the official designated by the sending state, in order that each inmate
24 may have official review of his or her record in determining and altering the disposition of said in-
25 mate in accordance with the law which may obtain in the sending state and in order that the same
26 may be a source of information for the sending state.

27 (5) All inmates who may be confined in an institution pursuant to the provisions of this compact
28 shall be treated in a reasonable and humane manner and shall be treated equally with such similar
29 inmates of the receiving state as may be confined in the same institution. The fact of confinement
30 in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate
31 would have had if confined in an appropriate institution of the sending state.

32 (6) Any hearing or hearings to which an inmate confined pursuant to this compact may be en-
33 titled by the laws of the sending state may be had before the appropriate authorities of the sending
34 state, or of the receiving state if authorized by the sending state. The receiving state shall provide
35 adequate facilities for such hearings as may be conducted by the appropriate officials of a sending
36 state. In the event such hearing or hearings are had before officials of the receiving state, the gov-
37 erning law shall be that of the sending state and a record of the hearing or hearings as prescribed
38 by the sending state shall be made. Said record together with any recommendations of the hearing
39 officials shall be transmitted forthwith to the official or officials before whom the hearing would
40 have been had if it had taken place in the sending state. In any and all proceedings had pursuant
41 to the provisions of this subsection, the officials of the receiving state shall act solely as agents of
42 the sending state and no final determination shall be made in any matter except by the appropriate
43 officials of the sending state.

44 (7) Any inmate confined pursuant to this compact shall be released within the territory of the
45 sending state unless the inmate, and the sending and receiving states, shall agree upon release in

1 some other place. The sending state shall bear the cost of such return to its territory.

2 (8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to
3 participate in and derive any benefits or incur or be relieved of any obligations or have such obli-
4 gations modified or the status of the inmate changed on account of any action or proceeding in
5 which the inmate could have participated if confined in any appropriate institution of the sending
6 state located within such state.

7 (9) The parent, guardian, trustee, or other person or persons entitled under the laws of the
8 sending state to act for, advise, or otherwise function with respect to any inmate shall not be de-
9 prived of or restricted in the exercise of any power in respect of any inmate confined pursuant to
10 the terms of this compact.

11 ARTICLE V

12 ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

13 (1) Any decision of the sending state in respect of any matter over which it retains jurisdiction
14 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state,
15 but if at the time the sending state seeks to remove an inmate from an institution in the receiving
16 state there is pending against the inmate within such state any criminal charge or if the inmate is
17 formally accused of having committed within such state a criminal offense, the inmate shall not be
18 returned without the consent of the receiving state until discharged from prosecution or other form
19 of proceeding, imprisonment or detention for such offense. The duly accredited officers of the send-
20 ing state shall be permitted to transport inmates pursuant to this compact through any and all states
21 party to this compact without interference.

22 (2) An inmate who escapes from an institution in which the inmate is confined pursuant to this
23 compact shall be deemed a fugitive from the sending state and from the state in which the institu-
24 tion is situated. In the case of an escape to a jurisdiction other than the sending or receiving state,
25 the responsibility for institution of extradition or rendition proceedings shall be that of the sending
26 state, but nothing contained in this compact shall be construed to prevent or affect the activities
27 of officers and agencies of any jurisdiction directed toward the apprehension and return of an
28 escapee.

29 ARTICLE VI

30 FEDERAL AID

31 Any state party to this compact may accept federal aid for use in connection with any institu-
32 tion or program, the use of which is or may be affected by this compact or any contract pursuant
33 hereto and any inmate in a receiving state pursuant to this compact may participate in any such
34 federally aided program or activity for which the sending and receiving states have made contrac-
35 tual provision; provided, that if such program or activity is not part of the customary correctional
36 regimen the express consent of the appropriate official of the sending state shall be required there-
37 for.

38 ARTICLE VII

39 ENTRY INTO FORCE

40 This compact shall enter into force and become effective and binding upon the states so acting
41 when it has been enacted into law by any two states. Thereafter, this compact shall enter into force
42 and become effective and binding as to any other of said states upon similar action by such state.

43 ARTICLE VIII

44 WITHDRAWAL AND TERMINATION

45 This compact shall continue in force and remain binding upon a party state until it shall have

1 enacted a statute repealing the same and providing for the sending of formal written notice of
2 withdrawal from the compact to the appropriate officials of all other party states. An actual with-
3 drawal shall not take effect until one year after the notices provided in said statute have been sent.
4 Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder
5 prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing
6 state shall remove to its territory, at its own expense, such inmates as it may have confined pursu-
7 ant to the provisions of this compact.

8 ARTICLE IX

9 OTHER ARRANGEMENTS UNAFFECTED

10 Nothing contained in this compact shall be construed to abrogate or impair any agreement or
11 other arrangement which a party state may have with a nonparty state for the confinement, reha-
12 bilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the
13 making of cooperative institutional arrangements.

14 ARTICLE X

15 CONSTRUCTION AND SEVERABILITY

16 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
17 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
18 participating state or of the United States or the applicability thereof to any government, agency,
19 person or circumstance is held invalid, the validity of the remainder of this compact and the appli-
20 cability thereof to any government, agency, person or circumstance shall not be affected thereby.
21 If this compact shall be held contrary to the constitution of any state participating therein, the
22 compact shall remain in full force and effect as to the remaining states and in full force and effect
23 as to the state affected as to all severable matters.

24
25
26 **SECTION 64.** ORS 421.284 is amended to read:

27 421.284. The Western Interstate Corrections Compact hereby is enacted into law and entered
28 into on behalf of this state with all other states legally joining therein in a form substantially as
29 follows:
30

31
32 ARTICLE I

33 PURPOSE AND POLICY

34 The party states, desiring by common action to improve their institutional facilities and provide
35 programs of sufficiently high quality for the confinement, treatment and rehabilitation of various
36 types of offenders, declare that it is the policy of each of the party states to provide such facilities
37 and programs on a basis of cooperation with one another, thereby serving the best interests of such
38 offenders and of society. The purpose of this compact is to provide for the development and exe-
39 cution of such programs of cooperation for the confinement, treatment and rehabilitation of
40 offenders.

41 ARTICLE II

42 DEFINITIONS

43 As used in this compact, unless the context clearly requires otherwise:

44 (a) "State" means a state of the United States or, subject to the limitation contained in Article
45 VII, Guam.

1 (b) "Sending state" means a state party to this compact in which conviction was had.

2 (c) "Receiving state" means a state party to this compact to which an inmate is sent for con-
3 finement other than a state in which conviction was had.

4 (d) "Inmate" means a male or female offender who is under sentence to or confined in a prison
5 or other correctional institution.

6 (e) "Institution" means any prison, reformatory or other correctional facility (including but not
7 limited to a facility for [*the mentally ill or mentally defective*] **persons with mental illness or in-**
8 **tellectual disabilities**) in which inmates may lawfully be confined.

9 ARTICLE III

10 CONTRACTS

11 (a) Each party state may make one or more contracts with any one or more of the other party
12 states for the confinement of inmates on behalf of a sending state in institutions situated within
13 receiving states. Any such contract shall provide for:

14 1. Its duration.

15 2. Payments to be made to the receiving state by the sending state for inmate maintenance, ex-
16 traordinary medical and dental expenses, and any participation in or receipt by inmates of
17 rehabilitative or correctional services, facilities, programs or treatment not reasonably included as
18 part of normal maintenance.

19 3. Participation in programs of inmate employment, if any; the disposition or crediting of any
20 payments received by inmates on account thereof; and the crediting of proceeds from or disposal of
21 any products resulting therefrom.

22 4. Delivery and retaking of inmates.

23 5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities
24 and rights of the sending and receiving states.

25 (b) Prior to the construction or completion of construction of any institution or addition thereto
26 by a party state, any other party state or states may contract therewith for the enlargement of the
27 planned capacity of the institution or addition thereto, or for the inclusion therein of particular
28 equipment or structures, and for the reservation of a specific percentum of the capacity of the in-
29 stitution to be kept available for use by inmates of the sending state or states so contracting. Any
30 sending state so contracting may, to the extent that monies are legally available therefor, pay to the
31 receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision
32 of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in
33 installments as provided in the contract.

34 (c) The terms and provisions of this compact shall be a part of any contract entered into by the
35 authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

36 ARTICLE IV

37 PROCEDURES AND RIGHTS

38 (a) Whenever the duly constituted judicial or administrative authorities in a state party to this
39 compact, and which has entered into a contract pursuant to Article III, shall decide that confine-
40 ment in, or transfer of an inmate to, an institution within the territory of another party state is
41 necessary in order to provide adequate quarters and care or desirable in order to provide an ap-
42 propriate program of rehabilitation or treatment, said officials may direct that the confinement be
43 within an institution within the territory of said other party state, the receiving state to act in that
44 regard solely as agent for the sending state.

45 (b) The appropriate officials of any state party to this compact shall have access, at all reason-

1 able times, to any institution in which it has a contractual right to confine inmates for the purpose
2 of inspecting the facilities thereof and visiting such of its inmates as may be confined in the insti-
3 tution.

4 (c) Inmates confined in an institution pursuant to the terms of this compact shall at all times
5 be subject to the jurisdiction of the sending state and may at any time be removed therefrom for
6 transfer to a prison or other institution within the sending state, for transfer to another institution
7 in which the sending state may have a contractual or other right to confine inmates, for release on
8 probation or parole, for discharge, or for any other purpose permitted by the laws of the sending
9 state; provided that the sending state shall continue to be obligated to such payments as may be
10 required pursuant to the terms of any contract entered into under the terms of Article III.

11 (d) Each receiving state shall provide regular reports to each sending state on the inmates of
12 that sending state in institutions pursuant to this compact including a conduct record of each inmate
13 and certify said record to the official designated by the sending state, in order that each inmate
14 may have the benefit of his or her record in determining and altering the disposition of said inmate
15 in accordance with the law which may obtain in the sending state and in order that the same may
16 be a source of information for the sending state.

17 (e) All inmates who may be confined in an institution pursuant to the provisions of this compact
18 shall be treated in a reasonable and humane manner and shall be cared for and treated equally with
19 such similar inmates of the receiving state as may be confined in the same institution. The fact of
20 confinement in a receiving state shall not deprive any inmate so confined of any legal rights which
21 said inmate would have had if confined in an appropriate institution of the sending state.

22 (f) Any hearing or hearings to which an inmate confined pursuant to this compact may be enti-
23 tled by the laws of the sending state may be had before the appropriate authorities of the sending
24 state, or of the receiving state if authorized by the sending state. The receiving state shall provide
25 adequate facilities for such hearings as may be conducted by the appropriate officials of a sending
26 state. In the event such hearing or hearings are had before officials of the receiving state, the gov-
27 erning law shall be that of the sending state and a record of the hearing or hearings as prescribed
28 by the sending state shall be made. Said record together with any recommendations of the hearing
29 officials shall be transmitted forthwith to the official or officials before whom the hearing would
30 have been had if it had taken place in the sending state. In any and all proceedings had pursuant
31 to the provisions of this subdivision, the officials of the receiving state shall act solely as agents
32 of the sending state and no final determination shall be made in any matter except by the appro-
33 priate officials of the sending state. Costs of records made pursuant to this subdivision shall be
34 borne by the sending state.

35 (g) Any inmate confined pursuant to this compact shall be released within the territory of the
36 sending state unless the inmate, and the sending and receiving states, shall agree upon release in
37 some other place. The sending state shall bear the cost of such return to its territory.

38 (h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to
39 participate in and derive any benefits or incur or be relieved of any obligations or have such obli-
40 gations modified or the status of the inmate changed on account of any action or proceeding in
41 which the inmate could have participated if confined in any appropriate institution of the sending
42 state located within such state.

43 (i) The parent, guardian, trustee, or other person or persons entitled under the laws of the
44 sending state to act for, advise, or otherwise function with respect to any inmate shall not be de-
45 prived of or restricted in the exercise of any power in respect of any inmate confined pursuant to

1 the terms of this compact.

2 ARTICLE V

3 ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

4 (a) Any decision of the sending state in respect of any matter over which it retains jurisdiction
5 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state,
6 but if at the time the sending state seeks to remove an inmate from an institution in the receiving
7 state there is pending against the inmate within such state any criminal charge or if the inmate is
8 suspected of having committed within such state a criminal offense, the inmate shall not be returned
9 without the consent of the receiving state until discharged from prosecution or other form of pro-
10 ceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state
11 shall be permitted to transport inmates pursuant to this compact through any and all states party
12 to this compact without interference.

13 (b) An inmate who escapes from an institution in which the inmate is confined pursuant to this
14 compact shall be deemed a fugitive from the sending state and from the state in which the institu-
15 tion is situated. In the case of an escape to a jurisdiction other than the sending or receiving state,
16 the responsibility for institution of extradition proceedings shall be that of the sending state, but
17 nothing contained herein shall be construed to prevent or affect the activities of officers and agen-
18 cies of any jurisdiction directed toward the apprehension and return of an escapee.

19 ARTICLE VI

20 FEDERAL AID

21 Any state party to this compact may accept federal aid for use in connection with any institu-
22 tion or program, the use of which is or may be affected by this compact or any contract pursuant
23 hereto and any inmate in a receiving state pursuant to this compact may participate in any such
24 federally aided program or activity for which the sending and receiving states have made contrac-
25 tual provision provided that if such program or activity is not part of the customary correctional
26 regimen the express consent of the appropriate official of the sending state shall be required there-
27 for.

28 ARTICLE VII

29 ENTRY INTO FORCE

30 This compact shall enter into force and become effective and binding upon the state so acting
31 when it has been enacted into law by any two contiguous states from among the states of Alaska,
32 Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon,
33 Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be
34 deemed contiguous to each other; to any and all of the states of California, Oregon and Washington;
35 and to Guam. Thereafter, this compact shall enter into force and become effective and binding as
36 to any other of said states, or any other state contiguous to at least one party state upon similar
37 action by such state. Guam may become party to this compact by taking action similar to that pro-
38 vided for joinder by any other eligible party state and upon the consent of Congress to such joinder.
39 For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California,
40 Oregon and Washington.

41 ARTICLE VIII

42 WITHDRAWAL AND TERMINATION

43 This compact shall continue in force and remain binding upon a party state until it shall have
44 enacted a statute repealing the same and providing for the sending of formal written notice of
45 withdrawal from the compact to the appropriate officials of all other party states. An actual with-

1 drawal shall not take effect until two years after the notices provided in said statute have been sent.
2 Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder
3 prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing
4 state shall remove to its territory, at its own expense, such inmates as it may have confined pursu-
5 ant to the provisions of this compact.

6 ARTICLE IX

7 OTHER ARRANGEMENTS UNAFFECTED

8 Nothing contained in this compact shall be construed to abrogate or impair any agreement or
9 other arrangement which a party state may have with a nonparty state for the confinement, reha-
10 bilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the
11 making of cooperative institutional arrangements.

12 ARTICLE X

13 CONSTRUCTION AND SEVERABILITY

14 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
15 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
16 participating state or of the United States or the applicability thereof to any government, agency,
17 person or circumstance is held invalid, the validity of the remainder of this compact and the appli-
18 cability thereof to any government, agency, person or circumstance shall not be affected thereby.
19 If this compact shall be held contrary to the constitution of any state participating therein, the
20 compact shall remain in full force and effect as to the remaining states and in full force and effect
21 as to the state affected as to all severable matters.

22
23
24 **SECTION 65.** ORS 421.296 is amended to read:

25 421.296. The Interstate Forest Fire Suppression Compact is enacted into law and entered into
26 on behalf of this state with all other states legally joining therein in a form substantially as follows:
27

28
29 ARTICLE I

30 Purpose

31 The purpose of this compact is to provide for the development and execution of programs to
32 facilitate the use of offenders in the forest fire suppression efforts of the party states for the ulti-
33 mate protection of life, property and natural resources in the party states. The purpose of this
34 compact is also, in emergent situations, to allow a sending state to cross state lines with an inmate
35 when, because of weather or road conditions, it is necessary to cross state lines to facilitate the
36 transport of an inmate.

37 ARTICLE II

38 Definitions

39 (1) "Sending state" means a state party to this compact from which a fire suppression unit is
40 traveling.

41 (2) "Receiving state" means a state party to this compact to which a fire suppression unit is
42 traveling.

43 (3) "Inmate" means a male or female offender who is under sentence to or confined in a prison
44 or other correctional institution.

45 (4) "Institution" means any prison, reformatory, honor camp or other correctional facility, ex-

cept facilities for *[the mentally ill or mentally handicapped]* **persons with mental illness or intellectual disabilities**, in which inmates may lawfully be confined.

(5) "Fire suppression unit" means a group of inmates selected by the sending states, corrections personnel and any other persons deemed necessary for the transportation, supervision, care, security and discipline of inmates to be used in forest fire suppression efforts in the receiving state.

(6) "Forest fire" means any fire burning in any land designated by a party state or the federal land management agencies as forestland.

ARTICLE III

Contracts

(1) Each party state may make one or more contracts with any one or more of the other party states for the assistance of one or more fire suppression units in forest fire suppression efforts. Any such contract shall provide for matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(2) The terms and provisions of this compact shall be part of any contract entered into by the authority of, or pursuant to, this compact. Nothing in any such contract may be inconsistent with this compact.

ARTICLE IV

Procedures and Rights

(1) Each party state shall appoint a liaison for the coordination and deployment of the fire suppression units of each party state.

(2) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, which has entered into a contract pursuant to this compact, decide that the assistance of a fire suppression unit of a party state is required for forest fire suppression efforts, the authorities may request the assistance of one or more fire suppression units of any state party to this compact through an appointed liaison.

(3) Inmates who are members of a fire suppression unit shall at all times be subject to the jurisdiction of the sending state and at all times shall be under the ultimate custody of corrections officers duly accredited by the sending state.

(4) The receiving state must make adequate arrangements for the confinement of inmates who are members of a fire suppression unit of a sending state in the event corrections officers duly accredited by the sending state make a discretionary determination that an inmate requires institutional confinement.

(5) Cooperative efforts shall be made by corrections officers and personnel of the receiving state located at a fire camp with the corrections officers and other personnel in the establishment and maintenance of fire suppression unit base camps.

(6) All inmates who are members of a fire suppression unit of a sending state shall be cared for and treated equally with such similar inmates of the receiving state.

(7) Further, in emergent situations, a sending state shall be granted authority and all the protections of this compact to cross state lines with an inmate when, because of road conditions, it is necessary to facilitate the transport of an inmate.

ARTICLE V

Acts Not Reviewable

in Receiving State: Extradition

(1) If while located within the territory of a receiving state there occurs against the inmate within such state any criminal charge or if the inmate is suspected of committing within such state

1 a criminal offense, the inmate shall not be returned without the consent of the receiving state until
2 discharged from prosecution or other form of proceeding, imprisonment or detention for such offense.
3 The duly accredited officers of the sending state shall be permitted to transport inmates pursuant
4 to this compact through any and all states party to this compact without interference.

5 (2) An inmate member of a fire suppression unit of the sending state who is deemed to have
6 escaped by a duly accredited corrections officer of a sending state shall be under the jurisdiction
7 of both the sending state and the receiving state. Nothing contained in this Article shall be con-
8 strued to prevent or affect the activities of officers and guards of any jurisdiction directed toward
9 the apprehension and return of an escapee.

10 ARTICLE VI

11 Entry into Force

12 This compact shall enter into force and become effective and binding upon approval of this
13 compact by at least two of the states from among the States of Idaho, Oregon and Washington.

14 ARTICLE VII

15 Withdrawal and Termination

16 This compact shall continue in force and remain binding upon a party state until it shall have
17 enacted a statute repealing the same and providing for the sending of formal written notice of
18 withdrawal from the compact to the appropriate officials of all other party states.

19 ARTICLE VIII

20 Other Arrangements Unaffected

21 Nothing contained in this compact shall be construed to abrogate or impair any agreement
22 which a party state may have with a nonparty state for the confinement, rehabilitation or treatment
23 of inmates nor to repeal any other laws of a party state authorizing the making of cooperative in-
24 stitutional arrangements.

25 ARTICLE IX

26 Construction and Severability

27 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
28 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
29 participating state or of the United States or the applicability thereof to any government, agency,
30 person or circumstance is held invalid, the validity of the remainder of this compact and the appli-
31 cability thereof to any government, agency, person or circumstance shall not be affected thereby.
32 If this compact shall be held contrary to the constitution of any state participating therein, the
33 compact shall remain in full force and effect as to the remaining states and in full force and effect
34 as to the state affected as to all severable matters.

35 _____
36
37 **SECTION 66.** ORS 426.500 is amended to read:

38 426.500. For the purpose of carrying out the policy and intent of ORS 426.490 to 426.500, the
39 Oregon Health Authority shall:

40 (1) Adopt rules for the administration of ORS 426.490 to 426.500;

41 (2) Prepare a written discharge plan for each person with a chronic mental illness who is a
42 patient at a state [*mental institution*] **hospital** or who is committed to the authority pursuant to ORS
43 426.005 to 426.223 and 426.241 to 426.380;

44 (3) Ensure that case managers are provided for each person with a chronic mental illness de-
45 scribed in subsection (2) of this section; and

1 (4) Disburse from any available funds:

2 (a) Funds for one LINC model in the area served by F. H. Dammasch State Hospital and one
3 LINC model in the area served by the Oregon State Hospital licensed under ORS 443.415;

4 (b) Discretionary funds for services necessary to implement a discharge plan, including but not
5 limited to transportation, medication, recreation and socialization; and

6 (c) Funds to provide day treatment services, community psychiatric inpatient services, and work
7 activity services for persons with chronic mental illness when needed.

8 **SECTION 67.** Section 5, chapter 826, Oregon Laws 2009, as amended by sections 18 and 18a,
9 chapter 826, Oregon Laws 2009, and section 32, chapter 658, Oregon Laws 2011, is amended to read:

10 **Sec. 5.** (1) A person barred from transporting, shipping, possessing or receiving a firearm may
11 file a petition with the Psychiatric Security Review Board for relief from the bar if:

12 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);

13 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f); or

14 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18
15 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.

16 (2) The petitioner shall serve a copy of the petition on:

17 (a) The Department of Human Services and the Oregon Health Authority; and

18 (b) The district attorney in each county in which:

19 (A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a
20 court as [*mentally ill*] **a person with mental illness**, under ORS 426.130;

21 (B) The person was committed by a court to the Department of Human Services, or adjudicated
22 by a court as in need of commitment for residential care, treatment and training, under ORS 427.290;

23 (C) The person was found guilty except for insanity under ORS 161.295;

24 (D) The person was found responsible except for insanity under ORS 419C.411; or

25 (E) The person was found by a court to lack fitness to proceed under ORS 161.370.

26 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make
27 written findings of fact and conclusions of law on the issues before the board and issue a final order.

28 (4) The state and any person or entity described in subsection (2) of this section may appear and
29 object to and present evidence relevant to the relief sought by the petitioner.

30 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
31 based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the
32 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
33 in a manner that is dangerous to public safety and that granting the relief would not be contrary
34 to the public interest.

35 (6) If the board grants the relief requested in the petition, the board shall provide to the De-
36 partment of State Police the minimum information necessary, as defined in ORS 181.740, to enable
37 the department to:

38 (a) Maintain the information and transmit the information to the federal government as required
39 under federal law; and

40 (b) Maintain a record of the person's relief from the disqualification to possess or receive a
41 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e) or (f).

42 (7) The petitioner may petition for judicial review of a final order of the board. The petition
43 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
44 view shall be conducted de novo and without a jury.

45 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by

1 the Court of Appeals shall be conducted in accordance with ORS 183.500.

2 (9) A person may file a petition for relief under this section no more than once every two years.

3 (10) The board shall adopt procedural rules to carry out the provisions of this section.

4 (11) As used in this section, “state mental health determination” means:

5 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;

6 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-
7 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
8 Security Review Board thereafter;

9 (c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that
10 a person is [*mentally ill*] **a person with mental illness**, under ORS 426.130; or

11 (d) A commitment by a court to the Department of Human Services, or an adjudication by a
12 court that a person is in need of commitment for residential care, treatment and training, under ORS
13 427.290.

14
15 **APPLICABILITY**

16
17 **SECTION 68. Sections 1a and 1b of this 2013 Act and the amendments to ORS 21.010,**
18 **109.322, 135.775, 166.250, 166.291, 166.470, 179.473, 408.570, 419C.529, 421.245, 421.284, 421.296,**
19 **426.005, 426.010, 426.060, 426.070, 426.072, 426.074, 426.075, 426.090, 426.095, 426.100, 426.110,**
20 **426.120, 426.123, 426.125, 426.127, 426.130, 426.135, 426.140, 426.150, 426.155, 426.160, 426.170,**
21 **426.223, 426.225, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235, 426.237, 426.241, 426.250,**
22 **426.255, 426.273, 426.275, 426.278, 426.292, 426.297, 426.300, 426.301, 426.307, 426.310, 426.320,**
23 **426.335, 426.370, 426.385, 426.500, 428.310, 480.225, 677.225 and 680.205 and section 5, chapter 826,**
24 **Oregon Laws 2009, by sections 1, 1c to 5, 7, 9 and 11 to 67 of this 2013 Act apply to determi-**
25 **nations or adjudications under ORS 426.070, 426.228 to 426.235, 426.237, 426.300, 426.301 to**
26 **426.307 or 426.380 of whether a person is a person with mental illness that are made on or**
27 **after the effective date of this 2013 Act.**

28
29 **CAPTIONS**

30
31 **SECTION 69. The unit captions used in this 2013 Act are provided only for the conven-**
32 **ience of the reader and do not become part of the statutory law of this state or express any**
33 **legislative intent in the enactment of this 2013 Act.**