

D R A F T

SUMMARY

Requires that person with mental illness committed to custody of Oregon Health Authority be placed in outpatient commitment if adequate treatment facility is available. Updates terminology.

A BILL FOR AN ACT

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

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

SECTION 1. ORS 426.127 is amended to read:

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

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

(2) **At the time of the hearing under ORS 426.095, the community mental health program director, or a designee for the director, for the county in which the hearing takes place shall set the** conditions for the

1 outpatient commitment [*shall be set at the time of the hearing under ORS*
2 *426.095 by the community mental health program director, or a designee for the*
3 *director, for the county in which the hearing takes place*]. The conditions shall
4 include, but not be limited to, the following:

5 (a) Provision for outpatient care.

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

8 (3) A copy of the conditions shall be given to all of the [*persons*] **indi-**
9 **viduals and entities** described in ORS 426.278.

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

12 (5) The community mental health program director or designee, for the
13 county where a person is on outpatient commitment, may modify the condi-
14 tions for outpatient commitment when a modification is in the best interest
15 of the person. The community mental health program director or designee
16 shall send notification of such changes and the reasons for the changes to
17 all those who received a copy of the original conditions under ORS 426.278.

18 **SECTION 2.** ORS 426.130 is amended to read:

19 426.130. (1) After hearing all of the evidence, and reviewing the findings
20 of the [*examining persons*] **examiners**, the court shall determine whether the
21 person [*is mentally ill*] **has a mental illness and is in need of**
22 **treatment**. If, in the opinion of the court, the person [*is*]:

23 (a) [*Not mentally ill*] **Does not have a mental illness**, the person shall
24 be discharged [*forthwith*].

25 (b) [*Mentally ill*] **Is a person with mental illness** based upon clear and
26 convincing evidence, the court:

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

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

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

1 (B) May order conditional release under this subparagraph subject to the
2 qualifications and requirements under ORS 426.125. If the court orders
3 conditional release under this subparagraph, the court shall establish [a] **the**
4 period of commitment for the conditional release.

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

10 (i) The court shall establish [a] **the** period of commitment.

11 (ii) The authority [*may*] **shall** place the committed person in outpatient
12 commitment under ORS 426.127 **if an adequate treatment facility is**
13 **available.**

14 (D) Shall order that the person be prohibited from purchasing or pos-
15 sessed a firearm if, in the opinion of the court, there is a reasonable like-
16 lihood the person would constitute a danger to self or others or to the
17 community at large as a result of the person's mental or psychological state
18 as demonstrated by past behavior or participation in incidents involving
19 unlawful violence or threats of unlawful violence, or by reason of a single
20 incident of extreme, violent, unlawful conduct. When a court makes an order
21 under this subparagraph, the court shall cause a copy of the order to be de-
22 livered to the sheriff of the county who will enter the information into the
23 Law Enforcement Data System.

24 (2) A court that orders a conditional release or a commitment under this
25 section shall establish a period of commitment for the person subject to the
26 order. Any period of commitment ordered for commitment or conditional re-
27 lease under this section shall be for a period of time not to exceed 180 days.

28 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a)
29 and if the notice included a request under ORS 426.070 (2)(d)(B), the court
30 shall notify the two persons of the court's determination under subsection
31 (1) of this section.

1 **UPDATED TERMINOLOGY AND CONFORMING AMENDMENTS**

2
3 **SECTION 3.** ORS 21.010 is amended to read:

4 21.010. (1) Except as provided in this section, the appellant in an appeal
5 or the petitioner in a judicial review in the Supreme Court or the Court of
6 Appeals shall pay a filing fee of \$355 in the manner prescribed by ORS 19.265.
7 The respondent in such case and any other person appearing in the appeal,
8 upon entering first appearance or filing first brief in the court, shall pay to
9 the State Court Administrator a filing fee of \$355. The party entitled to costs
10 and disbursements on such appeal shall recover from the opponent the
11 amount so paid.

12 (2) Filing and appearance fees may not be assessed in appeals from habeas
13 corpus proceedings under ORS 34.710, post-conviction relief proceedings un-
14 der ORS 138.650, juvenile court under ORS 419A.200, the involuntary com-
15 mitment of persons determined to be [*mentally ill*] **persons with mental**
16 **illness** under ORS 426.135 or persons determined to have an intellectual
17 disability under ORS 427.295 or orders of the State Board of Parole and
18 Post-Prison Supervision or on judicial review of orders entered under ORS
19 161.315 to 161.351 by the Psychiatric Security Review Board or the Oregon
20 Health Authority.

21 (3) Filing and appearance fees shall be assessed in an appeal from an ap-
22 peal to a circuit court from a justice court or municipal court in an action
23 alleging commission of a state offense designated as a violation or an action
24 alleging violation of a city charter or ordinance, but not in an action alleg-
25 ing commission of a state crime.

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

29 (5) The filing and appearance fees established by this section apply to
30 cases of original jurisdiction in the Supreme Court.

31 **SECTION 4.** ORS 109.322 is amended to read:

1 109.322. (1) If a parent has been adjudged [*mentally ill or mentally*
2 *retarded*] **to be a person with mental illness under ORS 426.130 or a**
3 **person with an intellectual disability who is in need of commitment**
4 **for residential care, treatment and training under ORS 427.290**, and re-
5 mains so at the time of the adoption proceedings, or if a parent is imprisoned
6 in a state or federal prison under a sentence for a term of not less than three
7 years and has actually served three years, the petitioner, in accordance with
8 ORS 109.330, shall serve on the parent, if the parent has not consented in
9 writing to the adoption, a summons and a motion and order to show cause
10 why the adoption of the child should not be ordered without the parent's
11 consent.

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

19 (3) Upon hearing, if the court finds that the adoption is in the best in-
20 terests of the child, the consent of the parent who is imprisoned or adjudged
21 [*mentally ill or mentally retarded*] **to be a person with mental illness or**
22 **an intellectual disability** is not required, and the court may proceed re-
23 gardless of the objection of the parent.

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

26 **SECTION 5.** ORS 135.775 is amended to read:

27 135.775. The Agreement on Detainers is hereby enacted into law and en-
28 tered into by this state with all other jurisdictions legally joining therein in
29 the form substantially as follows:

30 _____
31 **AGREEMENT ON DETAINERS**

1 The contracting states solemnly agree that:

2 ARTICLE I

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

15 ARTICLE II

16 As used in this agreement:

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

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

24 (c) "Receiving state" shall mean the state in which trial is to be had on
25 an indictment, information or complaint pursuant to Article III or Article
26 IV of this agreement.

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

29 ARTICLE III

30 (a) Whenever a person has entered upon a term of imprisonment in a
31 penal or correctional institution of a party state, and whenever during the

1 continuance of the term of imprisonment there is pending in any other party
2 state any untried indictment, information or complaint on the basis of which
3 a detainer has been lodged against the prisoner, the prisoner shall be
4 brought to trial within 180 days after the prisoner shall have caused to be
5 delivered to the prosecuting officer and the appropriate court of the prose-
6 cuting officer's jurisdiction written notice of the place of imprisonment and
7 the request of the prisoner for a final disposition to be made of the
8 indictment, information or complaint: Provided, that for good cause shown
9 in open court, the prisoner or the counsel of the prisoner being present, the
10 court having jurisdiction of the matter may grant any necessary or reason-
11 able continuance. The request of the prisoner shall be accompanied by a
12 certificate of the appropriate official having custody of the prisoner, stating
13 the term of commitment under which the prisoner is being held, the time
14 already served, the time remaining to be served on the sentence, the amount
15 of good time earned, the time of parole eligibility of the prisoner, and any
16 decisions of the state parole agency relating to the prisoner.

17 (b) The written notice and request for final disposition referred to in
18 paragraph (a) of this Article shall be given or sent by the prisoner to the
19 warden or other official having custody of the prisoner, who shall promptly
20 forward it together with the certificate to the prosecuting official and court
21 by registered or certified mail, return receipt requested.

22 (c) The warden or other official having custody of the prisoner shall
23 promptly inform the prisoner of the source and contents of any detainer
24 lodged against the prisoner and shall also inform the prisoner of the right
25 to make a request for final disposition of the indictment, information or
26 complaint on which the detainer is based.

27 (d) Any request for final disposition made by a prisoner pursuant to par-
28 agraph (a) of this Article shall operate as a request for final disposition of
29 all untried indictments, informations or complaints on the basis of which
30 detainees have been lodged against the prisoner from the state to whose
31 prosecuting official the request for final disposition is specifically directed.

1 The warden or other official having custody of the prisoner shall forthwith
2 notify all appropriate prosecuting officers and courts in the several juris-
3 dictions within the state to which the prisoner's request for final disposition
4 is being sent of the proceeding being initiated by the prisoner. Any notifi-
5 cation sent pursuant to this paragraph shall be accompanied by copies of the
6 prisoner's written notice, request and the certificate. If trial is not had on
7 any indictment, information or complaint contemplated hereby prior to the
8 return of the prisoner to the original place of imprisonment, such indictment,
9 information or complaint shall not be of any further force or effect, and the
10 court shall enter an order dismissing the same with prejudice.

11 (e) Any request for final disposition made by a prisoner pursuant to par-
12 agraph (a) of this Article shall also be deemed to be a waiver of extradition
13 with respect to any charge or proceeding contemplated thereby or included
14 therein by reason of paragraph (d) of this Article, and a waiver of extradition
15 to the receiving state to serve any sentence there imposed upon the prisoner,
16 after completion of the term of imprisonment in the sending state. The re-
17 quest for final disposition shall also constitute a consent by the prisoner to
18 the production of the body of the prisoner in any court where the presence
19 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
21 place of imprisonment in accordance with the provisions of this agreement.
22 Nothing in this paragraph shall prevent the imposition of a concurrent sen-
23 tence if otherwise permitted by law.

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

27 ARTICLE IV

28 (a) The appropriate officer of the jurisdiction in which an untried
29 indictment, information or complaint is pending shall be entitled to have a
30 prisoner against whom the officer has lodged a detainer and who is serving
31 a term of imprisonment in any party state made available in accordance with

1 paragraph (a) of Article V of this agreement upon presentation of a written
2 request for temporary custody or availability to the appropriate authorities
3 of the state in which the prisoner is incarcerated: Provided, that the court
4 having jurisdiction of such indictment, information or complaint shall have
5 duly approved, recorded and transmitted the request; And provided further,
6 that there shall be a period of 30 days after receipt by the appropriate au-
7 thorities before the request be honored, within which period the governor
8 of the sending state may disapprove the request for temporary custody or
9 availability, either upon the own motion of the governor or upon motion of
10 the prisoner.

11 (b) Upon receipt of the officer's written request as provided in paragraph
12 (a) of this Article, the appropriate authorities having the prisoner in custody
13 shall furnish the officer with a certificate stating the term of commitment
14 under which the prisoner is being held, the time already served, the time
15 remaining to be served on the sentence, the amount of good time earned, the
16 time of parole eligibility of the prisoner and any decisions of the state parole
17 agency relating to the prisoner. Such authorities simultaneously shall fur-
18 nish all other officers and appropriate courts in the receiving state who have
19 lodged detainers against the prisoner with similar certificates and with no-
20 tices informing them of the request for custody or availability and of the
21 reasons therefor.

22 (c) In respect of any proceeding made possible by this Article, trial shall
23 be commenced within 120 days of the arrival of the prisoner in the receiving
24 state, but for good cause shown in open court, the prisoner or the counsel
25 of the prisoner being present, the court having jurisdiction of the matter may
26 grant any necessary or reasonable continuance.

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

1 such delivery.

2 (e) If trial is not had on any indictment, information or complaint con-
3 templated hereby prior to the prisoner's being returned to the original place
4 of imprisonment pursuant to paragraph (e) of Article V of this agreement,
5 such indictment, information or complaint shall not be of any further force
6 or effect, and the court shall enter an order dismissing the same with prej-
7 udice.

8 ARTICLE V

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

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

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

24 (2) A duly certified copy of the indictment, information or complaint on
25 the basis of which the detainer has been lodged and on the basis of which
26 the request for temporary custody of the prisoner has been made.

27 (c) If the appropriate authority shall refuse or fail to accept temporary
28 custody of such prisoner, or in the event that an action on the indictment,
29 information or complaint on the basis of which the detainer has been lodged
30 is not brought to trial within the period provided in Article III or Article
31 IV of this agreement, the appropriate court of the jurisdiction where the

1 indictment, information or complaint has been pending shall enter an order
2 dismissing the same with prejudice, and any detainer based thereon shall
3 cease to be of any force or effect.

4 (d) The temporary custody referred to in this agreement shall be only for
5 the purpose of permitting prosecution on the charge or charges contained in
6 one or more untried indictments, informations or complaints which form the
7 basis of the detainer or detainers or for prosecution on any other charge or
8 charges arising out of the same transaction. Except for attendance of the
9 prisoner at court and while being transported to or from any place at which
10 the presence of the prisoner may be required, the prisoner shall be held in
11 a suitable jail or other facility regularly used for persons awaiting prose-
12 cution.

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

15 (f) During the continuance of temporary custody or while the prisoner is
16 otherwise being made available for trial as required by this agreement, time
17 being served on the sentence shall continue to run but good time shall be
18 earned by the prisoner only if, and to the extent that, the law and practice
19 of the jurisdiction which imposed the sentence may allow.

20 (g) For all purposes other than that for which temporary custody as pro-
21 vided in this agreement is exercised, the prisoner shall be deemed to remain
22 in the custody of and subject to the jurisdiction of the sending state and any
23 escape from temporary custody may be dealt with in the same manner as an
24 escape from the original place of imprisonment or in any other manner per-
25 mitted by law.

26 (h) From the time that a party state receives custody of a prisoner pur-
27 suant to this agreement until such prisoner is returned to the territory and
28 custody of the sending state, the state in which the one or more untried
29 indictments, informations or complaints are pending or in which trial is be-
30 ing had shall be responsible for the prisoner and shall also pay all costs of
31 transporting, caring for, keeping and returning the prisoner. The provisions

1 of this paragraph shall govern unless the states concerned shall have entered
2 into a supplementary agreement providing for a different allocation of costs
3 and responsibilities as between or among themselves. Nothing contained in
4 this paragraph shall be construed to alter or affect any internal relationship
5 among the departments, agencies and officers of and in the government of a
6 party state, or between a party state and its subdivisions, as to the payment
7 of costs, or responsibilities therefor.

8 ARTICLE VI

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

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

16 ARTICLE VII

17 Each state party to this agreement shall designate an officer who, acting
18 jointly with like officers of other party states, shall promulgate rules and
19 regulations to carry out more effectively the terms and provisions of this
20 agreement, and who shall provide within and without the state, information
21 necessary to the effective operation of this agreement.

22 ARTICLE VIII

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

30 ARTICLE IX

31 This agreement shall be liberally construed so as to effectuate its pur-

1 poses. The provisions of this agreement shall be severable and if any phrase,
2 clause, sentence or provision of this agreement is declared to be contrary to
3 the constitution of any party state or of the United States or the applica-
4 bility thereof to any government, agency, person or circumstance is held in-
5 valid, the validity of the remainder of this agreement and the applicability
6 thereof to any government, agency, person or circumstance shall not be af-
7 fected thereby. If this agreement shall be held contrary to the constitution
8 of any state party to this agreement, the agreement shall remain in full force
9 and effect as to the remaining states and in full force and effect as to the
10 state affected as to all severable matters.

11

12 **SECTION 6.** ORS 166.250 is amended to read:

13 166.250. (1) Except as otherwise provided in this section or ORS 166.260,
14 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470 or section 5, chapter
15 826, Oregon Laws 2009, a person commits the crime of unlawful possession
16 of a firearm if the person knowingly:

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

18 (b) Possesses a handgun that is concealed and readily accessible to the
19 person within any vehicle; or

20 (c) Possesses a firearm and:

21 (A) Is under 18 years of age;

22 (B)(i) While a minor, was found to be within the jurisdiction of the ju-
23 venile court for having committed an act which, if committed by an adult,
24 would constitute a felony or a misdemeanor involving violence, as defined
25 in ORS 166.470; and

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

28 (C) Has been convicted of a felony;

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

30 (E) Was found to be [*mentally ill*] **a person with mental illness** and
31 subject to an order under ORS 426.130 that the person be prohibited from

1 purchasing or possessing a firearm as a result of that mental illness; or

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

4 (2) This section does not prohibit:

5 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of
6 this section, from possessing a firearm:

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

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

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

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

23 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a
24 handgun is readily accessible within the meaning of this section if the
25 handgun is within the passenger compartment of the vehicle.

26 (b) If a vehicle, other than a vehicle described in paragraph (c) of this
27 subsection, has no storage location that is outside the passenger compart-
28 ment of the vehicle, a handgun is not readily accessible within the meaning
29 of this section if:

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

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

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

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

7 (B) The handgun is equipped with a trigger lock or other locking mech-
8 anism that prevents the discharge of the firearm.

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

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

12 166.250. (1) Except as otherwise provided in this section or ORS 166.260,
13 166.270, 166.274, 166.291, 166.292 or 166.410 to 166.470, a person commits the
14 crime of unlawful possession of a firearm if the person knowingly:

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

16 (b) Possesses a handgun that is concealed and readily accessible to the
17 person within any vehicle; or

18 (c) Possesses a firearm and:

19 (A) Is under 18 years of age;

20 (B)(i) While a minor, was found to be within the jurisdiction of the ju-
21 venile court for having committed an act which, if committed by an adult,
22 would constitute a felony or a misdemeanor involving violence, as defined
23 in ORS 166.470; and

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

26 (C) Has been convicted of a felony;

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

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

31 (F) Has been found guilty except for insanity under ORS 161.295 of a

1 felony.

2 (2) This section does not prohibit:

3 (a) A minor, who is not otherwise prohibited under subsection (1)(c) of
4 this section, from possessing a firearm:

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

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

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

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

21 (4)(a) Except as provided in paragraphs (b) and (c) of this subsection, a
22 handgun is readily accessible within the meaning of this section if the
23 handgun is within the passenger compartment of the vehicle.

24 (b) If a vehicle, other than a vehicle described in paragraph (c) of this
25 subsection, has no storage location that is outside the passenger compart-
26 ment of the vehicle, a handgun is not readily accessible within the meaning
27 of this section if:

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

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

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

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

5 (B) The handgun is equipped with a trigger lock or other locking mech-
6 anism that prevents the discharge of the firearm.

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

8 **SECTION 8.** ORS 166.291 is amended to read:

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

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

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

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

20 (c) Is a resident of the county;

21 (d) Has no outstanding warrants for arrest;

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

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

24 (A) Completion of any hunter education or hunter safety course approved
25 by the State Department of Fish and Wildlife or a similar agency of another
26 state if handgun safety was a component of the course;

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

29 (C) Completion of any firearms safety or training course or class available
30 to the general public offered by law enforcement, community college, or pri-
31 vate or public institution or organization or firearms training school utiliz-

1 ing instructors certified by the National Rifle Association or a law
2 enforcement agency if handgun safety was a component of the course;

3 (D) Completion of any law enforcement firearms safety or training course
4 or class offered for security guards, investigators, reserve law enforcement
5 officers or any other law enforcement officers if handgun safety was a com-
6 ponent of the course;

7 (E) Presents evidence of equivalent experience with a handgun through
8 participation in organized shooting competition or military service;

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

11 (G) Completion of any firearms training or safety course or class con-
12 ducted by a firearms instructor certified by a law enforcement agency or the
13 National Rifle Association if handgun safety was a component of the course;

14 (g) Has never been convicted of a felony or found guilty, except for in-
15 sanity under ORS 161.295, of a felony;

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

19 (i) Has not been committed to the Oregon Health Authority under ORS
20 426.130;

21 (j) Has not been found to be [*mentally ill*] **a person with mental illness**
22 and is not subject to an order under ORS 426.130 that the person be prohib-
23 ited from purchasing or possessing a firearm as a result of that mental ill-
24 ness;

25 (k) Has been discharged from the jurisdiction of the juvenile court for
26 more than four years if, while a minor, the person was found to be within
27 the jurisdiction of the juvenile court for having committed an act that, if
28 committed by an adult, would constitute a felony or a misdemeanor involving
29 violence, as defined in ORS 166.470;

30 (L) Has not been convicted of an offense involving controlled substances
31 or participated in a court-supervised drug diversion program, except this

1 disability does not operate to exclude a person if:

2 (A) The person has been convicted only once of violating ORS 475.864 (3)
3 and has not completed a court-supervised drug diversion program under ORS
4 135.907; or

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

7 (m) Is not subject to a citation issued under ORS 163.735 or an order is-
8 sued under ORS 30.866, 107.700 to 107.735 or 163.738;

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

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

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

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

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

26 (b) The applicant must submit to fingerprinting and photographing by the
27 sheriff. The sheriff shall fingerprint and photograph the applicant and shall
28 conduct any investigation necessary to corroborate the requirements listed
29 under subsection (1) of this section. If a nationwide criminal records check
30 is necessary, the sheriff shall request the Department of State Police to
31 conduct the check, including fingerprint identification, through the Federal

1 Bureau of Investigation. The Federal Bureau of Investigation shall return
2 the fingerprint cards used to conduct the criminal records check and may
3 not keep any record of the fingerprints. The Department of State Police shall
4 report the results of the fingerprint-based criminal records check to the
5 sheriff. The Department of State Police shall also furnish the sheriff with
6 any information about the applicant that the Department of State Police may
7 have in its possession including, but not limited to, manual or computerized
8 criminal offender information.

9 (4) Application forms for concealed handgun licenses shall be supplied by
10 the sheriff upon request. The forms shall be uniform throughout this state
11 in substantially the following form:

12

13 APPLICATION FOR LICENSE TO CARRY
14 CONCEALED HANDGUN

14

15

Date_____

16

I hereby declare as follows:

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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 com-

1 pleted a court-supervised drug diversion program. There are no outstanding
2 warrants for my arrest and I am not free on any form of pretrial release. I
3 have not been committed to the Oregon Health Authority under ORS 426.130,
4 nor have I been found [*mentally ill*] **to be a person with mental illness** and
5 presently subject to an order prohibiting me from purchasing or possessing
6 a firearm because of mental illness. If any of the previous conditions do ap-
7 ply to me, I have been granted relief or wish to petition for relief from the
8 disability under ORS 166.274 or 166.293 or section 5, chapter 826, Oregon
9 Laws 2009, or 18 U.S.C. 925(c) or have had the records expunged. I am not
10 subject to a citation issued under ORS 163.735 or an order issued under ORS
11 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable
12 discharge from the Armed Forces of the United States. I am not required to
13 register as a sex offender in any state. I understand I will be fingerprinted
14 and photographed.

15

16 Legal name _____
17 Age _____ Date of birth _____
18 Place of birth _____
19 Social Security number _____

20 (Disclosure of your Social Security account number is voluntary. Solicita-
21 tion of the number is authorized under ORS 166.291. It will be used only as
22 a means of identification.)

23

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

27 1. _____
28 2. _____

29

30 Height _____ Weight _____
31 Hair color _____ Eye color _____

1 Current address _____

2 (List residence addresses for the
3 past three years on the back.)
4

5 City _____ County _____ Zip _____

6 Phone _____

7

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

11 _____

12 (Signature of Applicant)

13

14 Character references.

15 _____

16 Name Address

17 _____

18 Name Address

19

20 Approved _____ Disapproved _____ by _____

21

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

23 Date _____ Fee Paid _____

24 License No. _____

25 _____

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

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

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

31 (C) \$15 to the sheriff for the duplication of a license because of loss or

1 change of address.

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

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

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

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

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

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

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

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

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

26 **SECTION 9.** ORS 166.291, as amended by section 10, chapter 826, Oregon
27 Laws 2009, and section 34, chapter 547, Oregon Laws 2011, is amended to
28 read:

29 166.291. (1) The sheriff of a county, upon a person's application for an
30 Oregon concealed handgun license, upon receipt of the appropriate fees and
31 after compliance with the procedures set out in this section, shall issue the

1 person a concealed handgun license if the person:

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

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

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

9 (c) Is a resident of the county;

10 (d) Has no outstanding warrants for arrest;

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

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

13 (A) Completion of any hunter education or hunter safety course approved
14 by the State Department of Fish and Wildlife or a similar agency of another
15 state if handgun safety was a component of the course;

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

18 (C) Completion of any firearms safety or training course or class available
19 to the general public offered by law enforcement, community college, or pri-
20 vate or public institution or organization or firearms training school utiliz-
21 ing instructors certified by the National Rifle Association or a law
22 enforcement agency if handgun safety was a component of the course;

23 (D) Completion of any law enforcement firearms safety or training course
24 or class offered for security guards, investigators, reserve law enforcement
25 officers or any other law enforcement officers if handgun safety was a com-
26 ponent of the course;

27 (E) Presents evidence of equivalent experience with a handgun through
28 participation in organized shooting competition or military service;

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

31 (G) Completion of any firearms training or safety course or class con-

1 ducted by a firearms instructor certified by a law enforcement agency or the
2 National Rifle Association if handgun safety was a component of the course;

3 (g) Has never been convicted of a felony or found guilty, except for in-
4 sanity under ORS 161.295, of a felony;

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

8 (i) Has not been committed to the Oregon Health Authority under ORS
9 426.130;

10 (j) Has not been found to be [*mentally ill*] **a person with mental illness**
11 and is not subject to an order under ORS 426.130 that the person be prohib-
12 ited from purchasing or possessing a firearm as a result of that mental ill-
13 ness;

14 (k) Has been discharged from the jurisdiction of the juvenile court for
15 more than four years if, while a minor, the person was found to be within
16 the jurisdiction of the juvenile court for having committed an act that, if
17 committed by an adult, would constitute a felony or a misdemeanor involving
18 violence, as defined in ORS 166.470;

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

22 (A) The person has been convicted only once of violating ORS 475.864 (3)
23 and has not completed a court-supervised drug diversion program under ORS
24 135.907; or

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

27 (m) Is not subject to a citation issued under ORS 163.735 or an order is-
28 sued under ORS 30.866, 107.700 to 107.735 or 163.738;

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

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

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

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

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

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

28 (4) Application forms for concealed handgun licenses shall be supplied by
29 the sheriff upon request. The forms shall be uniform throughout this state
30 in substantially the following form:

31

1 APPLICATION FOR LICENSE TO CARRY
2 CONCEALED HANDGUN

3 Date_____

4 I hereby declare as follows:

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

1 stand I will be fingerprinted and photographed.

2

3 Legal name _____

4 Age _____ Date of birth _____

5 Place of birth _____

6 Social Security number _____

7 (Disclosure of your Social Security account number is voluntary. Solicita-
8 tion of the number is authorized under ORS 166.291. It will be used only as
9 a means of identification.)

10

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

14 1. _____

15 2. _____

16

17 Height _____ Weight _____

18 Hair color _____ Eye color _____

19

20 Current address _____

21

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

22

23

24 City _____ County _____ Zip _____

25 Phone _____

26

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

30

31

(Signature of Applicant)

1 Character references.

2 _____

3 Name: Address

4 _____

5 Name: Address

6

7 Approved ____ Disapproved ____ by ____

8

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

10 Date _____ Fee Paid _____

11 License No. _____

12 _____

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

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

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

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

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

22 (6) No civil or criminal liability shall attach to the sheriff or any au-
23 thorized representative engaged in the receipt and review of, or an investi-
24 gation connected with, any application for, or in the issuance, denial or
25 revocation of, any license under ORS 166.291 to 166.295 as a result of the
26 lawful performance of duties under those sections.

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

31 (8) The county sheriff may waive the residency requirement in subsection

1 (1)(c) of this section for a resident of a contiguous state who has a compel-
2 ling business interest or other legitimate demonstrated need.

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

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

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

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

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

13 **SECTION 10.** ORS 166.470 is amended to read:

14 166.470. (1) Unless relief has been granted under ORS 166.274 or section
15 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or the expunction laws
16 of this state or an equivalent law of another jurisdiction, a person may not
17 intentionally sell, deliver or otherwise transfer any firearm when the
18 transferor knows or reasonably should know that the recipient:

19 (a) Is under 18 years of age;

20 (b) Has been convicted of a felony;

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

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

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

24 (f) After January 1, 1990, was found to be [*mentally ill*] **a person with**
25 **mental illness** and subject to an order under ORS 426.130 that the person
26 be prohibited from purchasing or possessing a firearm as a result of that
27 mental illness;

28 (g) Has been convicted of a misdemeanor involving violence or found
29 guilty except for insanity under ORS 161.295 of a misdemeanor involving vi-
30 olence within the previous four years. As used in this paragraph,
31 “misdemeanor involving violence” means a misdemeanor described in ORS

1 163.160, 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 fel-
3 ony.

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

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

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

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

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

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

15 166.470. (1) Unless relief has been granted under ORS 166.274 or 18 U.S.C.
16 925(c) or the expunction laws of this state or an equivalent law of another
17 jurisdiction, a person may not intentionally sell, deliver or otherwise trans-
18 fer any firearm when the transferor knows or reasonably should know that
19 the recipient:

20 (a) Is under 18 years of age;

21 (b) Has been convicted of a felony;

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

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

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

25 (f) After January 1, 1990, was found to be [*mentally ill*] **a person with**
26 **mental illness** and subject to an order under ORS 426.130 that the person
27 be prohibited from purchasing or possessing a firearm as a result of that
28 mental illness;

29 (g) Has been convicted of a misdemeanor involving violence or found
30 guilty except for insanity under ORS 161.295 of a misdemeanor involving vi-
31 olence within the previous four years. As used in this paragraph,

1 “misdemeanor involving violence” means a misdemeanor described in ORS
2 163.160, 163.187, 163.190, 163.195 or 166.155 (1)(b); or

3 (h) Has been found guilty except for insanity under ORS 161.295 of a fel-
4 ony.

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

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

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

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

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

14 **SECTION 12.** ORS 179.473 is amended to read:

15 179.473. (1) Whenever the health and welfare of the person and the effi-
16 cient administration of the institution require the transfer of an inmate of
17 a Department of Corrections institution or a youth offender in a youth cor-
18 rection facility to another institution:

19 (a) The Department of Corrections or the Oregon Youth Authority, with
20 the consent of the Department of Human Services, may transfer a person at
21 any institution under its jurisdiction to an institution for persons with
22 mental retardation, or, with the consent of the Oregon Health and Science
23 University, to the Oregon Health and Science University.

24 (b) The Department of Corrections may transfer an inmate of a Depart-
25 ment of Corrections institution to a state [*mental*] hospital listed in ORS
26 426.010 for evaluation and treatment pursuant to rules adopted jointly by the
27 Department of Corrections and the Oregon Health Authority.

28 (c) The Oregon Youth Authority may transfer a youth offender or other
29 person confined in a youth correction facility to a hospital or facility des-
30 ignated by the Oregon Health Authority for evaluation and treatment pur-
31 suant to rules adopted jointly by the Oregon Youth Authority and the

1 Oregon Health Authority.

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

7 (2) A youth offender in a youth correction facility may not be transferred
8 to a Department of Corrections institution under subsection (1) of this sec-
9 tion. A youth offender in a youth correction facility who has been trans-
10 ferred to another institution may not be transferred from such other
11 institution to a Department of Corrections institution.

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

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

15 (b) Provide that a transfer of an inmate or a youth offender to the Oregon
16 Health Authority for stabilization and evaluation for treatment may not ex-
17 ceed 30 days unless the transfer is extended pursuant to a hearing required
18 by paragraph (c) of this subsection.

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

20 (A) The Oregon Health Authority determines that administrative com-
21 mitment for treatment for a mental illness is necessary or advisable or that
22 the authority needs more than 30 days to stabilize or evaluate the inmate
23 or youth offender for treatment; and

24 (B) The inmate or youth offender does not consent to the administrative
25 commitment or an extension of the transfer.

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

28 (A) Written notice to the inmate or youth offender that an administrative
29 commitment to a state [*mental*] hospital listed in ORS 426.010 or a hospital
30 or facility designated by the Oregon Health Authority or an extension of the
31 transfer is being considered. The notice required by this subparagraph must

1 be provided far enough in advance of the hearing to permit the inmate or
2 youth offender to prepare for the hearing.

3 (B) Disclosure to the inmate or youth offender, at the hearing, of the ev-
4 idence that is being relied upon for the administrative commitment or the
5 extension of the transfer.

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

8 (D) An opportunity, at the hearing, for the inmate or youth offender to
9 present the testimony of witnesses and to confront and cross-examine wit-
10 nesses called by the state. The opportunity required by this subparagraph
11 may be denied upon a finding by the decision maker of good cause for not
12 permitting the inmate or youth offender to present the testimony of witnesses
13 or confront or cross-examine witnesses called by the state.

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

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

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

21 (H) Effective and timely notice of the procedures required by subpara-
22 graphs (A) to (G) of this paragraph.

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

27 (f) Provide that the duration of an administrative commitment pursuant
28 to an administrative commitment hearing be no more than 180 days unless
29 the administrative commitment is renewed in a subsequent administrative
30 commitment hearing. Notwithstanding this paragraph, an administrative
31 commitment may not continue beyond the term of incarceration to which the

1 inmate was sentenced or beyond the period of time that the youth offender
2 may be placed in a youth correction facility.

3 **SECTION 13.** ORS 408.570 is amended to read:

4 408.570. When a veteran who has been adjudged [*mentally ill*] **under ORS**
5 **426.130 to be a person with mental illness** is eligible for treatment in a
6 United States veterans facility and commitment is necessary for the proper
7 care and treatment of such veteran, the Oregon Health Authority or com-
8 munity mental health program director, as provided under ORS 426.060, may,
9 upon receipt of a certificate of eligibility from the United States Department
10 of Veterans Affairs, assign the person to the United States Department of
11 Veterans Affairs for care, custody and treatment in a United States veterans
12 facility. Upon admission to any such facility, the veteran shall be subject to
13 the rules and regulations of the United States Department of Veterans Af-
14 fairs and provisions of ORS 426.060 to 426.395 and related rules and regu-
15 lations of the Oregon Health Authority. The chief officer of such facility
16 shall be vested with the same powers exercised by superintendents of state
17 hospitals for persons with mental illness within this state with reference to
18 the retention, transfer, trial visit or discharge of the veteran so assigned.
19 The commitment of a veteran to a veterans facility within this state by a
20 court of another state under a similar provision of law has the same force
21 and effect as if the veteran was committed to a veterans facility within that
22 other state.

23 **SECTION 14.** ORS 419C.529 is amended to read:

24 419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411
25 (2), if the court finds by a preponderance of the evidence that the young
26 person, at the time of disposition, has a serious mental condition or has a
27 mental disease or defect other than a serious mental condition and presents
28 a substantial danger to others, requiring conditional release or commitment
29 to a hospital or facility designated on an individual case basis by the De-
30 partment of Human Services or the Oregon Health Authority as provided in
31 subsection (6) of this section, the court shall order the young person placed

1 under the jurisdiction of the Psychiatric Security Review Board.

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

7 (a) If the court finds that the young person is not a proper subject for
8 conditional release, the court shall order the young person committed to a
9 secure hospital or a secure intensive community inpatient facility designated
10 on an individual case basis by the department or the authority, as provided
11 in subsection (6) of this section, for custody, supervision and treatment
12 pending a hearing before the juvenile panel in accordance with ORS
13 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542 and shall order the young
14 person placed under the jurisdiction of the board.

15 (b) If the court finds that the young person can be adequately controlled
16 with supervision and treatment services if conditionally released and that
17 necessary supervision and treatment services are available, the court may
18 order the young person conditionally released, subject to those supervisory
19 orders of the court that are in the best interests of justice and the young
20 person. The court shall designate a qualified mental health or developmental
21 disabilities treatment provider or state, county or local agency to supervise
22 the young person on release, subject to those conditions as the court directs
23 in the order for conditional release. Prior to the designation, the court shall
24 notify the qualified mental health or developmental disabilities treatment
25 provider or agency to whom conditional release is contemplated and provide
26 the qualified mental health or developmental disabilities treatment provider
27 or agency an opportunity to be heard before the court. After receiving an
28 order entered under this paragraph, the qualified mental health or develop-
29 mental disabilities treatment provider or agency designated shall assume
30 supervision of the young person subject to the direction of the juvenile
31 panel. The qualified mental health or developmental disabilities treatment

1 provider or agency designated as supervisor shall report in writing no less
2 than once per month to the juvenile panel concerning the supervised young
3 person's compliance with the conditions of release.

4 (c) For purposes of determining whether to order commitment to a hos-
5 pital or facility or conditional release, the primary concern of the court is
6 the protection of society.

7 (3) In determining whether a young person should be conditionally re-
8 leased, the court may order examinations or evaluations deemed necessary.

9 (4) Upon placing a young person on conditional release and ordering the
10 young person placed under the jurisdiction of the board, the court shall no-
11 tify the juvenile panel in writing of the court's conditional release order, the
12 supervisor designated and all other conditions of release pending a hearing
13 before the juvenile panel in accordance with ORS 419C.532, 419C.535,
14 419C.538, 419C.540 and 419C.542.

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

16 (a) Determine whether the parent or guardian of the young person is able
17 and willing to assist the young person in obtaining necessary mental health
18 or developmental disabilities services and is willing to acquiesce in the de-
19 cisions of the juvenile panel. If the court finds that the parent or guardian:

20 (A) Is able and willing to do so, the court shall order the parent or
21 guardian to sign an irrevocable consent form in which the parent agrees to
22 any placement decision made by the juvenile panel.

23 (B) Is unable or unwilling to do so, the court shall order that the young
24 person be placed in the legal custody of the Department of Human Services
25 for the purpose of obtaining necessary developmental disabilities services or
26 mental health services.

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

31 (c) Include in the order a list of the persons who wish to be notified of

1 any board hearing concerning the young person.

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

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

6 (6) When the department designates a facility for the commitment of a
7 [*developmentally disabled*] young person **with a developmental disability**
8 under this section, or the authority designates a hospital or facility for
9 commitment of a [*mentally ill*] young person **with mental illness** under this
10 section, the department and the authority shall take into account the care
11 and treatment needs of the young person, the resources available to the de-
12 partment or the authority and the safety of the public.

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

14 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires
15 otherwise:

16 [(a) “Authority” means the Oregon Health Authority.]

17 [(b)] (a) “Community mental health program director” means the director
18 of an entity that provides the services described in ORS 430.630 (3) to (5).

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

23 [(d)] (c) “Facility” means a state mental hospital, community hospital,
24 residential facility, detoxification center, day treatment facility or such other
25 facility as the authority determines suitable[, *any of which may provide*] **that**
26 **provides** diagnosis and evaluation, medical care, detoxification, social ser-
27 vices or rehabilitation [*for committed mentally ill persons*] **to persons com-**
28 **mitted to the Oregon Health Authority under ORS 426.130.**

29 [(e) “Mentally ill person” means a person who, because of a mental disor-
30 der, is one or more of the following:]

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

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

3 *[(C) A person:]*

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

5 *[(ii) Who, within the previous three years, has twice been placed in a hos-*
6 *pital or approved inpatient facility by the authority or the Department of Hu-*
7 *man Services under ORS 426.060;]*

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

11 *[(iv) Who, unless treated, will continue, to a reasonable medical probability,*
12 *to physically or mentally deteriorate so that the person will become a person*
13 *described under either subparagraph (A) or (B) of this paragraph or both.]*

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

17 **(e) “Person with mental illness” means a person who, because of a**
18 **mental disorder, is one or more of the following:**

19 **(A) Dangerous to self or others.**

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

22 **(C) A person:**

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

24 **(ii) Who, within the previous three years, has twice been placed in**
25 **a hospital or approved inpatient facility by the authority or the De-**
26 **partment of Human Services under ORS 426.060;**

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

31 **(iv) Who, unless treated, will continue, to a reasonable medical**

1 **probability, to physically or mentally deteriorate so that the person**
2 **will become a person described under either subparagraph (A) or (B)**
3 **of this paragraph or both.**

4 [(g)] (f) “Prehearing period of detention” means a period of time calcu-
5 lated from the initiation of custody during which a person may be detained
6 under ORS 426.228, 426.231, 426.232 or 426.233.

7 (2) Whenever a community mental health program director, director of the
8 facility, superintendent of a state hospital or administrator of a facility is
9 referred to, the reference includes any designee such person has designated
10 to act on the person’s behalf in the exercise of duties.

11 **SECTION 16.** ORS 426.010 is amended to read:

12 426.010. Except as otherwise ordered by the Oregon Health Authority
13 pursuant to ORS 179.325, the Oregon State Hospital campuses in Salem,
14 Marion County, and in Junction City, Lane County, and the Blue Mountain
15 Recovery Center in Pendleton, Umatilla County, shall be used as state hos-
16 pitals for the care and treatment of [*mentally ill*] persons **with mental ill-**
17 **ness** who are assigned to the care of such institutions by the authority or
18 who have previously been committed to such institutions.

19 **SECTION 17.** ORS 426.060 is amended to read:

20 426.060. (1) Commitments to the Oregon Health Authority shall be made
21 only by the judge of a circuit court in a county of this state.

22 (2) The following is a nonexclusive list of powers the authority may ex-
23 ercise concerning the placement of persons committed or persons receiving
24 emergency care and treatment under ORS 426.070, 426.228 to 426.235 or
25 426.237:

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

30 (b) At any time, for good cause and in the best interest of the [*mentally*
31 *ill*] person **with mental illness**, the authority may transfer a committed

1 person from one facility to another. When transferring a person under this
2 paragraph, the authority shall make the transfer:

3 (A) If the transfer is from a facility in one class to a facility of the same
4 class, as provided by rule of the authority;

5 (B) If the transfer is from a facility in one class to a facility in a less
6 restrictive class, by following the procedures for trial visits under ORS
7 426.273; and

8 (C) If the transfer is from a facility in one class to a facility in a more
9 restrictive class, by following the procedures under ORS 426.275.

10 (c) At any time, for good cause and in the best interest of the [*mentally*
11 *ill*] person **with mental illness**, the authority may transfer a person re-
12 ceiving emergency care and treatment under ORS 426.070 or 426.228 to
13 426.235, or intensive treatment under ORS 426.237, between hospitals and
14 nonhospital facilities approved by the authority to provide emergency care
15 or treatment as defined by rule of the authority.

16 (d) Pursuant to its rules, the authority may delegate to a community
17 mental health program director the responsibility for assignment of [*mentally*
18 *ill*] persons **with mental illness** to suitable facilities or transfer between
19 such facilities under conditions which the authority may define.

20 **SECTION 18.** ORS 426.070 is amended to read:

21 426.070. (1) Any of the following may initiate commitment procedures
22 under this section by giving the notice described under subsection (2) of this
23 section:

24 (a) Two persons;

25 (b) The county health officer; or

26 (c) Any magistrate.

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

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

30 (b) It must be given to the community mental health program director or
31 a designee of the director in the county where the [*allegedly mentally ill*]

1 person **alleged to have a mental illness** resides;

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

5 (d) If the commitment proceeding is initiated by two persons under sub-
6 section (1)(a) of this section, it may include a request that the court notify
7 the two persons:

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

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

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

12 (3) Upon receipt of a notice under subsections (1) and (2) of this section
13 or when notified by a circuit court that the court received notice under ORS
14 426.234, the community mental health program director, or designee of the
15 director, shall:

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

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

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

29 (4) Upon completion, a recommendation based upon the investigation re-
30 port under ORS 426.074 shall be promptly submitted to the court. If the
31 community mental health program director determines that probable cause

1 does not exist to believe that a person released from detention under ORS
 2 426.234 (2)(c) or (3)(b) is a [*mentally ill*] person **with mental illness**, the
 3 community mental health program director shall not submit a recommen-
 4 dation to the court.

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

6 (a) If the court, following the investigation, concludes that there is
 7 probable cause to believe that the person investigated is a [*mentally ill*]
 8 person **with mental illness**, it shall, through the issuance of a citation as
 9 provided in ORS 426.090, cause the person to be brought before it at a time
 10 and place as it may direct, for a hearing under ORS 426.095 to determine
 11 whether the person is [*mentally ill*] **a person with mental illness**. The
 12 person shall be given the opportunity to appear voluntarily at the hearing
 13 unless the person fails to appear or unless the person is detained pursuant
 14 to paragraph (b) of this subsection.

15 (b)(A) [*The judge may cause the allegedly mentally ill person to be taken*
 16 *into custody pending the investigation or hearing by issuing a warrant of de-*
 17 *tention under this subsection. A judge may only issue a warrant under this*
 18 *subsection]* If the court finds that there is probable cause to believe that
 19 failure to take the person into custody **pending the investigation or**
 20 **hearing** would pose serious harm or danger to the person or to others,.]

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

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

31 (i) The person's rights with regard to representation by or appointment

1 of counsel as described in ORS 426.100;

2 (ii) The warning under ORS 426.123; and

3 (iii) The person's right, if the community mental health program director,
4 sheriff or designee reasonably suspects that the person is a foreign national,
5 to communicate with an official from the consulate of the person's country.

6 A community mental health program director, sheriff or designee is not
7 civilly or criminally liable for failure to provide the information required by
8 this sub-subparagraph. Failure to provide the information required by this
9 sub-subparagraph does not in itself constitute grounds for the exclusion of
10 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
12 person prior to the hearing as it considers necessary.

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

16 **SECTION 19.** ORS 426.072 is amended to read:

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

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

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

24 (c) By a physician under ORS 426.232.

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

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

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

1 (c) All methods of treatment, including the prescription and adminis-
2 tration of drugs, shall be the sole responsibility of the treating physician.
3 However, the person shall not be subject to electroshock therapy or unduly
4 hazardous treatment and shall receive usual and customary treatment in ac-
5 cordance with medical standards in the community;

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

10 (e) The treating physician shall give the person the warning under ORS
11 426.123 at times the treating physician determines the person will reasonably
12 understand the notice. This paragraph only requires the notice to be given
13 as often as the physician determines is necessary to assure that the person
14 is given an opportunity to be aware of the notice.

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

18 **SECTION 20.** ORS 426.074 is amended to read:

19 426.074. The following is applicable to an investigation initiated by a
20 community mental health program director, or a designee of the director, as
21 part of commitment procedures under ORS 426.070 and 426.228 to 426.235:

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

26 (a) If the [*allegedly mentally ill*] person can be located, the investigator
27 shall contact the person within three judicial days from the date the com-
28 munity mental health program director or a designee receives a notice under
29 ORS 426.070 alleging that the person [*is mentally ill*] **has a mental illness**
30 **and is in need of treatment.**

31 (b) Within 15 days from the date the community mental health program

1 director or a designee receives a notice under ORS 426.070 [*alleging that a*
2 *person is mentally ill*], one of the following shall occur:

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

4 (B) An application for extension shall be made to the court under para-
5 graph (c) of this subsection.

6 (c) The community mental health program director, a designee or the in-
7 vestigator may file for an extension of the time under paragraph (b) of this
8 subsection only if one of the following occurs:

9 (A) A treatment option less restrictive than involuntary in-patient com-
10 mitment is actively being pursued.

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

13 (d) A court may grant an extension under paragraph (c) of this subsection
14 for a time and upon the terms and conditions the court considers appropri-
15 ate.

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

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

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

28 (c) The investigator shall be allowed access to physicians, nurses or social
29 workers and to medical records compiled during the current involuntary
30 prehearing period of detention to determine probable cause and to develop
31 alternatives to commitment. If commitment is proposed because the person

1 appears to be a [*mentally ill*] person **with mental illness** as defined in ORS
2 426.005 (1)(e)(C), the investigator shall be allowed access to medical records
3 necessary to verify the existence of criteria described in ORS 426.005
4 (1)(e)(C). The investigator shall include pertinent parts of the medical record
5 in the investigation report. Records and communications described in this
6 paragraph and **related** communications [*related thereto*] are not privileged
7 under ORS 40.230, 40.235, 40.240 or 40.250.

8 (3) A copy of the investigation report shall be provided as soon as possi-
9 ble, but in no event later than 24 hours prior to the hearing, to the [*allegedly*
10 *mentally ill*] person and to [*that*] **the** person's counsel. Copies shall likewise
11 be provided to counsel assisting the court, to the examiners and to the court
12 for use in questioning witnesses.

13 **SECTION 21.** ORS 426.075 is amended to read:

14 426.075. This section establishes procedures that are required to be fol-
15 lowed before the hearing if a court, under ORS 426.070, orders a hearing
16 under ORS 426.095. The following apply as described:

17 (1) The court shall be fully advised of all drugs and other treatment
18 known to have been administered to the [*allegedly mentally ill*] person **al-**
19 **leged to have a mental illness** that may substantially affect the ability of
20 the person to prepare for or function effectively at the hearing. The follow-
21 ing shall advise the court as required by this subsection:

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

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

26 (2) The court shall appoint examiners under ORS 426.110 sufficiently [*long*
27 *before*] **in advance of** the hearing so that [*they*] **the examiners** may begin
28 their preparation for the hearing. The records established by the Oregon
29 Health Authority by rule and the investigation report shall be made avail-
30 able to the examiners at least 24 hours before the hearing in order that the
31 examiners may review the medical record and have an opportunity to inquire

1 of the medical personnel concerning the treatment of the [*allegedly mentally*
2 *ill person relating to*] **person alleged to have a mental illness during** the
3 detention period prior to the hearing.

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

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

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

12 426.090. The judge shall [*cause a citation to*] issue a **citation** to the
13 [*allegedly mentally ill*] person **alleged to have a mental illness** stating the
14 nature of the information filed concerning the person and the specific rea-
15 sons the person is believed to be [*mentally ill*] **a person with mental**
16 **illness**. The citation shall further contain a notice of the time and place of
17 the commitment hearing, the right to legal counsel, the right to have legal
18 counsel appointed if the person is unable to afford legal counsel, and, if re-
19 quested, to have legal counsel immediately appointed, the right to subpoena
20 witnesses in behalf of the person to the hearing and other information as the
21 court may direct. The citation shall be served upon the person by delivering
22 a duly certified copy of the original thereof to the person in person prior to
23 the hearing. The person shall have an opportunity to consult with legal
24 counsel prior to being brought before the court.

25 **SECTION 23.** ORS 426.095 is amended to read:

26 426.095. The following is applicable to a commitment hearing held by a
27 court under ORS 426.070:

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

31 (2) The court shall hold the hearing at the time established according to

1 the following:

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

5 (b) Except as provided by paragraph (c) of this subsection, if a person is
6 detained by a warrant of detention under ORS 426.070, a hearing shall be
7 held within five judicial days of the commencement of detention.

8 (c) If requested under this paragraph, the court, for good cause, may
9 postpone the hearing for not more than five judicial days in order to allow
10 preparation for the hearing. The court may make orders for the care and
11 custody of the person during a postponement as it deems necessary. If a
12 person is detained before a hearing under ORS 426.070, 426.180, 426.228,
13 426.232 or 426.233 and the hearing is postponed under this paragraph, the
14 court, for good cause, may allow the person to be detained during the
15 postponement if the postponement is requested by the person or the legal
16 counsel of the person. Any of the following may request a postponement
17 under this paragraph:

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

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

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

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

25 (a) Witnesses.

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

27 (c) The examining physicians or other qualified [*persons*] **professionals**
28 recommended by the Oregon Health Authority who have examined the per-
29 son.

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

1 (a) Medical records for the current involuntary prehearing period of de-
2 tention.

3 (b) Statements attributed by the maker of the medical records or the in-
4 vestigation report to witnesses concerning their own observations in the
5 absence of objection or if such [*persons*] **individuals** are produced as wit-
6 nesses at the hearing available for cross-examination.

7 (c) The testimony of any treating physicians, nurses or social workers for
8 the prehearing period of detention. Any treating physician, nurse or social
9 worker who is subpoenaed as a witness for the proceeding shall testify as
10 an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and
11 40.425 and is subject to treatment as an expert witness in the payment of
12 witness fees and costs.

13 (d) The investigation report prepared under ORS 426.074. Subject to the
14 following, the investigation report shall be introduced in evidence:

15 (A) Introduction of the report under this paragraph does not require the
16 consent of the [*allegedly mentally ill*] person **alleged to have a mental ill-**
17 **ness**.

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

22 (C) Neither the investigation report nor any part thereof shall be intro-
23 duced into evidence under this paragraph unless the investigator is present
24 during the proceeding to be cross-examined or unless the presence of the
25 investigator is waived by the [*allegedly mentally ill*] person **alleged to have**
26 **a mental illness** or counsel for the [*allegedly mentally ill*] person.

27 **SECTION 24.** ORS 426.100 is amended to read:

28 426.100. (1) At the time the [*allegedly mentally ill*] person **alleged to have**
29 **a mental illness** is brought before the court, the court shall advise the
30 person of the following:

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

- 1 (b) The nature of the proceedings;
- 2 (c) The possible results of the proceedings;
- 3 (d) The right to subpoena witnesses; and
- 4 (e) The person's rights regarding representation by or appointment of
- 5 counsel.

6 (2) Subsection (3) of this section establishes the rights of [*allegedly men-*
7 *tally ill*] persons **alleged to have a mental illness** in each of the following
8 circumstances:

9 (a) When the person is held by warrant of detention issued under ORS
10 426.070.

11 (b) In commitment hearings under ORS 426.095.

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

14 (d) In recommitment hearings under ORS 426.307.

15 (3) When provided under subsection (2) of this section, [*an allegedly*
16 *mentally ill*] a person **alleged to have a mental illness** has the following
17 rights relating to representation by or appointment of counsel:

18 (a) The right to obtain suitable legal counsel possessing skills and expe-
19 rience commensurate with the nature of the allegations and complexity of
20 the case during the proceedings.

21 (b) If the person is determined to be financially eligible for appointed
22 counsel at state expense, the court will appoint legal counsel to represent
23 the person. If [*a person is appointed*] counsel **is appointed** at state expense,
24 payment of expenses and compensation relating to legal counsel shall be
25 made as provided under ORS 426.250.

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

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

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

5 (f) In all cases suitable legal counsel shall be present at the hearing and
6 may be present at examination and may examine all witnesses offering tes-
7 timony, and otherwise represent the person.

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

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

13 (A) Recommitment proceedings under ORS 426.307; or

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

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

17 (c) In lieu of the district attorney under paragraph (b) of this subsection,
18 a counsel designated by the governing body of a county shall take the re-
19 sponsibility. A county governing body may designate counsel to take re-
20 sponsibility under this paragraph either for single proceedings or for all such
21 proceedings the county will be obligated to pay for under ORS 426.250. If a
22 county governing body elects to proceed under this paragraph, the county
23 governing body shall so notify the district attorney. The expenses of an at-
24 torney appointed under this paragraph shall be paid as provided under ORS
25 426.250.

26 **SECTION 25.** ORS 426.110 is amended to read:

27 426.110. The following requirements relating to the appointment of exam-
28 iners for purposes of a hearing under ORS 426.095 apply as described:

29 (1) The judge shall appoint one qualified examiner. If requested, the judge
30 shall appoint one additional qualified examiner. A request for an additional
31 examiner under this subsection must be made in writing and must be made

1 by the [*allegedly mentally ill*] person **alleged to have a mental illness** or
2 the attorney for the [*allegedly mentally ill*] person.

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

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

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

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

9 (B) Certified as a mental health examiner qualified to make examinations
10 for involuntary commitment proceedings by the authority.

11 (3) The authority may establish, by rule, requirements for certification
12 as a mental health examiner for purposes of [*this subparagraph*] **subsection**
13 **(2)(b)(B) of this section.**

14 [(3)] (4) The cost of examiners under this section shall be paid as provided
15 under ORS 426.250.

16 **SECTION 26.** ORS 426.120 is amended to read:

17 426.120. (1) [*Persons*] **Examiners** appointed under ORS 426.110 [*to conduct*
18 *the examination*] shall do the following:

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

20 (b) Initiate the examination process prior to the hearing. Any failure to
21 comply with this paragraph shall not, in itself, constitute sufficient grounds
22 to challenge the examination conducted by an examiner;

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

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

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

28 (a) If the [*examining persons*] **examiners** find, and show by their reports,
29 that the person examined is a [*mentally ill*] person **with mental illness**, the
30 reports shall include a recommendation as to the type of treatment facility
31 best calculated to help the person recover from mental illness.

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

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

7 (3) The examiner shall be allowed access to physicians, nurses or social
8 workers and to medical records compiled during the current involuntary
9 prehearing period of detention and the investigation report. Records and
10 communications described in this subsection and **related** communications
11 [*related thereto*] are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

12 **SECTION 27.** ORS 426.123 is amended to read:

13 426.123. (1) Whenever specifically required under ORS 426.070, 426.072,
14 426.180 or 426.234, a person shall be given a warning that observations of the
15 person by the staff of the facility where the person is in custody may be used
16 as evidence in subsequent court proceedings to determine whether the person
17 should be or should continue to be committed as a [*mentally ill*] person **with**
18 **mental illness**.

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

21 (3) Failure to give a warning under this section does not in itself consti-
22 tute grounds for the exclusion of evidence that would otherwise be admissi-
23 ble in a proceeding.

24 **SECTION 28.** ORS 426.125 is amended to read:

25 426.125. The following qualifications, requirements and other provisions
26 relating to a conditional release under ORS 426.130 apply as described:

27 (1) A court may only order conditional release if all of the following oc-
28 cur:

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

31 (b) The [*person*] **legal guardian, relative or friend** requesting the con-

1 ditional release requests to be allowed to care for the [*mentally ill*] person
2 during the period of commitment in a place satisfactory to the judge.

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

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

7 (B) That there are adequate financial resources available for the care of
8 the [*mentally ill*] person.

9 (2) If the court determines to allow conditional release, the court shall
10 order that the [*mentally ill*] person be conditionally released and placed in
11 the care of the requester. The court shall establish any terms and conditions
12 on the conditional release that the court determines appropriate.

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

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

16 426.135. If a person determined to be [*mentally ill*] **a person with mental**
17 **illness** as provided in ORS 426.130 appeals the determination or **the** dispo-
18 sition [*based thereon*], and is determined to be financially eligible for ap-
19 pointed counsel at state expense, upon request of the person or upon its own
20 motion, the court shall appoint suitable legal counsel to represent the per-
21 son. The compensation for legal counsel and costs and expenses necessary
22 to the appeal shall be determined and paid by the public defense services
23 executive director as provided in ORS 135.055 if the circuit court is the ap-
24 pellate court or as provided in ORS 138.500 if the Court of Appeals or Su-
25 preme Court is the appellate court. The compensation, costs and expenses
26 shall be paid as provided in ORS 138.500.

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

28 426.140. (1) [*No*] **A** person, [*not*] **other than a person** incarcerated upon
29 a criminal charge, who has been adjudged **to be** a [*mentally ill*] person **with**
30 **mental illness** or [*one*] against whom commitment proceedings have been
31 instituted [*shall*] **may not** be confined in any prison, jail or other enclosure

1 where those charged with a crime or a violation of a municipal ordinance
2 are incarcerated, unless the person represents an immediate and serious
3 danger to staff or physical facilities of a hospital or other facility approved
4 by the Oregon Health Authority for the care, custody and treatment of the
5 person.

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

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

15 426.150. (1) Upon receipt of the order of commitment, the Oregon Health
16 Authority or its designee shall take the [*mentally ill*] person **with mental**
17 **illness** into its custody, and [*insure*] **ensure** the safekeeping and proper care
18 of the person until [*delivery is made*] **the person is delivered** to an assigned
19 treatment facility or [*its*] **to a representative of the assigned treatment**
20 **facility**. The representative of the [*treating facility to which the person has*
21 *been*] assigned **treatment facility**, accompanied by any assistants the au-
22 thority or its designee may deem necessary, shall proceed to the place where
23 the person is [*to be delivered into*] **in** custody, and upon demand shall be
24 given custody of the [*mentally ill*] person, together with the certified record
25 required by ORS 426.170. The representative shall issue appropriate receipts
26 [*therefor*] and immediately [*proceed to*] transport the [*committed mentally ill*]
27 person safely to the [*facility to which the person has been assigned by the*
28 *authority*] **assigned treatment facility** and [*there make delivery of*] **deliver**
29 the person and the record to the director or a designated employee of the
30 facility. In taking custody of the person, the authority, its designee[,] or the
31 representative of the facility has all the powers provided by ORS 133.225 and

1 161.255 and may require the assistance of any peace officer or other
2 *[person]* **authorized individual**.

3 (2) The committing judge, upon approval of the examining physicians or
4 other qualified *[persons]* **professionals** as recommended by the authority and
5 upon request of a **legal** guardian, friend or relative of the *[mentally ill]* per-
6 son **with mental illness**, may authorize the **legal** guardian, friend or rela-
7 tive to transport the person to the *[designated]* **assigned** facility when the
8 committing judge determines that means of transportation would not be
9 detrimental to the welfare of the *[mentally ill]* person or to the public.

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

11 426.155. (1) The provisions of this section apply to the release of infor-
12 mation about a person who is held in custody either pending a commitment
13 proceeding under ORS 426.070, 426.140, 426.228, 426.232, 426.233 or 426.237
14 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

15 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.502 (2)
16 and notwithstanding any other provision of ORS 426.005 to 426.390, a facility
17 or nonhospital facility where a person is held shall establish procedures for
18 releasing information as required under subsections (3) and (4) of this sec-
19 tion.

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

26 (A) The person's diagnosis;

27 (B) The person's prognosis;

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

30 (D) The person's progress;

31 (E) Information about any civil commitment process, including the date,

1 time and location of the person's commitment hearing; and

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

3 (b) If a request for information is made under this subsection and the
4 person [*described in subsection (1) of this section*] is unable to authorize dis-
5 closure as provided in subsection (5) of this section, the [*person requesting*
6 *information*] **requester** shall be provided notice of the presence of the person
7 [*described in subsection (1) of this section*] in any facility or nonhospital fa-
8 cility. Information shall not be provided under this paragraph if the physi-
9 cian of the person [*described in subsection (1) of this section*] determines that
10 it would not be in the person's best interest to provide the information or
11 if providing the information is prohibited by federal law.

12 (4) Upon the admission of any person to a facility or nonhospital facility
13 under ORS 426.005 to 426.390, the facility or nonhospital facility shall make
14 reasonable attempts to notify the person's next of kin, or any other [*person*
15 *designated by*] **designee of** the person, of the person's admission, unless the
16 person requests that this information not be provided. The facility or non-
17 hospital facility shall make reasonable attempts to notify the person's next
18 of kin, or any other [*person designated by*] **designee of** the person, of the
19 person's release, transfer, serious illness, injury or death upon request of the
20 family member or designee, unless the person requests that this information
21 not be provided. The person shall be advised by the facility or nonhospital
22 facility that the person has the right to request that this information not
23 be provided.

24 (5) The person who is held in custody shall be notified by the facility or
25 nonhospital facility that information about the person has been requested.
26 Except as provided in subsection (3) of this section, the consent of the person
27 who is held is required for release of information under subsections (3) and
28 (4) of this section. If, when initially informed of the request for information,
29 the person is unable to give voluntary and informed consent to authorize the
30 release of information, notation of the attempt shall be made in the person's
31 treatment record and daily efforts shall be made to secure the person's con-

1 sent or refusal of authorization.

2 (6) Notwithstanding any other provision of this section, an individual el-
3 igible to receive information under subsection (3) of this section may not
4 receive information unless the individual first agrees to make no further
5 disclosure of the information. The agreement may be made orally.

6 (7) A facility or nonhospital facility that releases information under sub-
7 section (3) or (4) of this section shall:

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

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

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

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

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

15 (D) The agreement to the requirements of subsection (6) of this section
16 by the [*person who requested information*] **requester**; and

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

20 (8) A facility or nonhospital facility, including the staff of such facilities
21 and nonhospital facilities, that releases information under this section or
22 rules adopted under ORS 426.236 may not be held civilly or criminally liable
23 for damages caused or alleged to be caused by the release of information or
24 the failure to release information as long as the release was done in good
25 faith and in compliance with subsections (3) and (4) of this section or rules
26 adopted under ORS 426.236.

27 (9) The provisions of subsections (3) and (4) of this section do not limit
28 the ability or obligation of facilities, nonhospital facilities, physicians, men-
29 tal health care providers or licensed mental health professionals to provide
30 information as otherwise allowed or required by law.

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

1 426.160. (1) The court having jurisdiction over any proceeding conducted
2 pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to
3 426.292, 426.300 to 426.309, 426.385 and 426.395 may not disclose any part of
4 the record of the proceeding to any person except:

5 (a) The court shall, pursuant to rules adopted by the Department of State
6 Police, transmit the minimum information necessary, as defined in ORS
7 181.740, to the Department of State Police for persons described in ORS
8 181.740 (1)(a) or (b) to enable the department to access and maintain the in-
9 formation and transmit the information to the federal government as re-
10 quired under federal law;

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

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

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

15 (e) Pursuant to court order.

16 (2) In any proceeding described in subsection (1) of this section that is
17 before the Supreme Court or the Court of Appeals, the limitations on dis-
18 closure imposed by this section apply to the appellate court record and to
19 the trial court record while it is in the appellate court's custody. The ap-
20 pellate court may disclose information from the trial or appellate court re-
21 cord in a decision, as defined in ORS 19.450, provided that the court uses
22 initials, an alias or some other convention for protecting against public dis-
23 closure the identity of the [*allegedly mentally ill*] person **subject to the**
24 **proceeding**.

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

26 426.170. If any person is adjudged [*mentally ill*] **to have a mental illness**
27 **and is** ordered committed to the Oregon Health Authority, a copy of the
28 complete record in the case, certified to by the court clerk or court admin-
29 istrator, shall be given to the health officer of the county, or to the sheriff,
30 for delivery to the director of the facility to which such [*mentally ill*] person
31 is assigned. The record shall include the name, residence, nativity, sex and

1 age of [*such mentally ill*] **the** person and all other information that may be
2 required by the rules and regulations promulgated by the authority.

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

4 426.223. In retaking custody of a [*mentally ill*] person **with mental illness**
5 who has been committed to the Oregon Health Authority under ORS 426.130
6 and who has, without lawful authority, left the custody of the facility to
7 which the person has been assigned under ORS 426.060, or in the case of [*an*
8 *allegedly mentally ill*] a person **alleged to have a mental illness** who is in
9 custody under ORS 426.070, 426.095, 426.228 to 426.235 or 426.237 at a hospital
10 or nonhospital facility and who has, without lawful authority, left the hos-
11 pital or nonhospital facility, the facility director or designee has all the
12 powers provided by ORS 133.225 and 161.255 and may require the assistance
13 of any peace officer or other [*person*] **authorized individual**.

14 **SECTION 36.** ORS 426.228 is amended to read:

15 426.228. (1) A peace officer may take into custody a person who the officer
16 has probable cause to believe is dangerous to self or to any other person and
17 is in need of immediate care, custody or treatment for mental illness. As di-
18 rected by the community mental health program director, a peace officer
19 shall remove a person taken into custody under this section to the nearest
20 hospital or nonhospital facility approved by the Oregon Health Authority.
21 The officer shall prepare a written report and deliver it to the treating
22 physician. The report shall state:

- 23 (a) The reason for custody;
24 (b) The date, time and place the person was taken into custody; and
25 (c) The name of the community mental health program director and a
26 telephone number where the director may be reached at all times.

27 (2) A peace officer shall take a person into custody when the community
28 mental health program director, pursuant to ORS 426.233, notifies the peace
29 officer that the director has probable cause to believe that the person is
30 imminently dangerous to self or to any other person. As directed by the
31 community mental health program director, the peace officer shall remove

1 the person to a hospital or nonhospital facility approved by the authority.
2 The community mental health program director shall prepare a written re-
3 port that the peace officer shall deliver to the treating physician. The report
4 shall state:

5 (a) The reason for custody;

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

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

9 (3) If more than one hour will be required to transport the person to the
10 hospital or nonhospital facility from the location where the person was taken
11 into custody, the peace officer shall obtain, if possible, a certificate from a
12 physician licensed by the Oregon Medical Board stating that the travel will
13 not be detrimental to the person's physical health and that the person is
14 dangerous to self or to any other person and is in need of immediate care
15 or treatment for mental illness. The physician shall have personally exam-
16 ined the [*allegedly mentally ill*] person within 24 hours prior to signing the
17 certificate.

18 (4) When a peace officer or other authorized [*person*] **individual**, acting
19 under this section, delivers a person to a hospital or nonhospital facility, a
20 physician licensed by the Oregon Medical Board shall examine the person
21 immediately. If the physician finds the person to be in need of emergency
22 care or treatment for mental illness, the physician shall proceed under ORS
23 426.232, otherwise the person shall not be retained in custody. If the person
24 is to be released from custody, the peace officer or the community mental
25 health program director shall return the person to the place where the per-
26 son was taken into custody unless the person declines that service.

27 (5) A peace officer may transfer a person in custody under this section
28 to the custody of [*a person*] **an individual** authorized by the county govern-
29 ing body under ORS 426.233 (3). The peace officer may meet the authorized
30 [*person*] **individual** at any location that is in accordance with ORS 426.140
31 to effect the transfer. When transferring a person in custody to an authorized

1 [person] **individual**, the peace officer shall deliver the report required under
2 subsections (1) and (2) of this section to the authorized [person] **individual**.

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

6 (7) [A person] **An individual** authorized under ORS 426.233 (3) shall per-
7 form the duties of the peace officer or the community mental health program
8 director required by this section and ORS 426.233 if the peace officer or the
9 director has not already done so.

10 (8) [A person] **An individual** authorized under ORS 426.233 (3) may
11 transfer a person in custody under this section to the custody of another
12 [person] **individual** authorized under ORS 426.233 (3) or a peace officer. The
13 [authorized person] **individual** transferring custody may meet another au-
14 thorized [person] **individual** or a peace officer at any location that is in ac-
15 cordance with ORS 426.140 to effect the transfer.

16 (9)(a) When a peace officer takes a person into custody under this section,
17 and the peace officer reasonably suspects that the person is a foreign na-
18 tional, the peace officer shall inform the person of the person's right to
19 communicate with an official from the consulate of the person's country.

20 (b) A peace officer is not civilly or criminally liable for failure to provide
21 the information required by this subsection. Failure to provide the infor-
22 mation required by this subsection does not in itself constitute grounds for
23 the exclusion of evidence that would otherwise be admissible in a proceeding.

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

25 426.231. (1) A physician licensed by the Oregon Medical Board may hold
26 a person for transportation to a treatment facility for up to 12 hours in a
27 health care facility licensed under ORS chapter [431] **441** and approved by
28 the Oregon Health Authority if:

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

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

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

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

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

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

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

10 (3) The written statement required by subsection (2) of this section au-
11 thORIZES a peace officer, [*a person*] **an individual** authorized under ORS
12 426.233 or the designee of a community mental health program director to
13 transport a person to the treatment facility indicated on the statement.

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

15 426.232. (1) [*When*] **If** a physician licensed to practice medicine by the
16 Oregon Medical Board believes a person who is brought to a hospital or
17 nonhospital facility by a peace officer under ORS 426.228[, *a person*] **or by**
18 **an individual** authorized under ORS 426.233, or **believes** a person who is
19 at a hospital or nonhospital facility, is dangerous to self or to any other
20 person and is in need of emergency care or treatment for mental illness, the
21 physician may do one of the following:

22 (a) After consulting with a physician or a qualified mental health pro-
23 fessional, as defined by rule of the Oregon Health Authority, detain the
24 person and cause the person to be admitted or, if the person is already ad-
25 mitted, cause the person to be retained in a hospital where the physician has
26 admitting privileges or is on staff. Neither the physician nor the qualified
27 mental health professional may be related by blood or marriage to the per-
28 son.

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

31 (2) When approving a person for emergency care or treatment at a non-

1 hospital facility under this section, the physician shall notify immediately
2 the community mental health program director in the county where the
3 person was taken into custody and maintain the person, if the person is be-
4 ing held at a hospital, for as long as is feasible given the needs of the person
5 for mental or physical health or safety. However, under no circumstances
6 may the person be held for longer than five judicial days.

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

8 426.233. (1)(a) A community mental health program director operating
9 under ORS 430.610 to 430.695 or a designee [*thereof*] **of the director**, under
10 authorization of a county governing body, may take one of the actions listed
11 in paragraph (b) of this subsection when the community mental health pro-
12 gram director or designee has probable cause to believe a person:

13 (A) Is dangerous to self or to any other person and is in need of imme-
14 diate care, custody or treatment for mental illness; or

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

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

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

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

27 (B) Authorize involuntary admission of, or, if already admitted, cause to
28 be involuntarily retained in a nonhospital facility approved by the authority,
29 a person approved for care or treatment at a nonhospital facility by a phy-
30 sician under ORS 426.232;

31 (C) Notify [*a person*] **an individual** authorized under subsection (3) of

1 this section to take the person into custody and direct the authorized
2 [*person*] **individual** to remove the person in custody to a hospital or non-
3 hospital facility approved by the authority;

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

8 (E) Direct [*a person*] **an individual** authorized under subsection (3) of this
9 section to transport a person in custody from a facility approved by the au-
10 thority to another facility approved by the authority as provided under ORS
11 426.060.

12 (2) A designee under subsection (1) of this section must be recommended
13 by the community mental health program director, meet the standards es-
14 tablished by rule of the authority and be approved by the county governing
15 body before assuming the authority permitted under subsection (1) of this
16 section.

17 (3) The county governing body may, upon recommendation by the com-
18 munity mental health program director, authorize any [*person*] **individual** to
19 provide custody and secure transportation services for a person in custody
20 under ORS 426.228. In authorizing [*a person*] **an individual** under this sub-
21 section, the county governing body shall grant the [*person*] **individual** the
22 authority to do the following:

23 (a) Accept custody from a peace officer of a person in custody under ORS
24 426.228;

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

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

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

31 (e) Transfer a person in custody from a hospital or nonhospital facility

1 to another hospital facility or nonhospital facility when directed to do so by
2 the community mental health program director; and

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

5 (4) [A *person*] **An individual** authorized under subsection (3) of this sec-
6 tion must be recommended by the community mental health program direc-
7 tor, meet the standards established by rule of the authority and be approved
8 by the governing body before assuming the authority granted under this
9 section.

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

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

24 426.234. (1) At the time a person **alleged to have a mental illness** is
25 admitted to or retained in a hospital or nonhospital facility under ORS
26 426.232 or 426.233, a physician, nurse or qualified mental health professional
27 at the hospital or nonhospital facility shall:

28 (a) Inform the person of the person's right to representation by or ap-
29 pointment of counsel as described in ORS 426.100;

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

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

1 (d) Set forth, in writing, the condition of the person and the need for
2 emergency care or treatment; and

3 (e) If the physician, nurse or qualified mental health professional rea-
4 sonably suspects that the person is a foreign national, inform the person of
5 the person's right to communicate with an official from the consulate of the
6 person's country. A physician, nurse or qualified mental health professional
7 is not civilly or criminally liable for failure to provide the information re-
8 quired by this paragraph. Failure to provide the information required by this
9 paragraph does not in itself constitute grounds for the exclusion of evidence
10 that would otherwise be admissible in a proceeding.

11 (2)(a) At the time the person is admitted to or retained in a hospital under
12 ORS 426.232, the physician shall contact the community mental health pro-
13 gram director of the county in which the person resides, if the county of
14 residence is different from the county in which the hospital is located. The
15 community mental health program director may request that the physician
16 notify the circuit court in the county in which the person resides. If the
17 community mental health program director does not make the request [*au-*
18 *thorized by this paragraph*], the physician shall notify, immediately and in
19 writing, the circuit court in the county in which the person is hospitalized.

20 (b) At the time the person is admitted to a hospital under ORS 426.232
21 after being brought to the hospital by a peace officer under ORS 426.228, the
22 physician shall contact the community mental health program director of the
23 county in which the person is hospitalized. The community mental health
24 program director of the county in which the person is hospitalized may re-
25 quest that the physician notify the circuit court in the county in which the
26 person is hospitalized. If the community mental health program director does
27 not make the request [*authorized by this paragraph*], the physician shall no-
28 tify, immediately and in writing, the circuit court in the county in which the
29 person was taken into custody.

30 (c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the
31 physician responsible for a person admitted or retained under ORS 426.232

1 determines that the person is not dangerous to self or [*others*] **to any other**
2 **person** and is not in need of emergency care or treatment for mental illness,
3 the physician may release the person from the detention authorized by ORS
4 426.232. The physician shall immediately notify the circuit court notified
5 under this subsection and the community mental health program director of
6 the person's release from detention.

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

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

29 (4) When the judge of the circuit court receives notice under subsection
30 (2) or (3) of this section, the judge immediately shall commence proceedings
31 under ORS 426.070 to 426.130. In a county having a population of 100,000 or

1 more, and when feasible in a county with a lesser population, the community
2 mental health program director or designee who directs the peace officer or
3 other authorized [*person*] **individual** to take a person into custody under
4 ORS 426.233 shall not also conduct the investigation as provided for under
5 ORS 426.074. Except when a person is being held under ORS 426.237 (1)(b),
6 a person shall not be held under ORS 426.232 or 426.233 for more than five
7 judicial days without a hearing being held under ORS 426.070 to 426.130.

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

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

14 426.235. (1) The community mental health program director may transfer
15 a person in custody under ORS 426.232, 426.233 or 426.237 (1)(b) to a hospital
16 or nonhospital facility approved by the Oregon Health Authority at any time
17 during the period of detention.

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

21 (3) A person in custody at a nonhospital facility approved by the author-
22 ity may be transferred to a hospital approved by the authority only when a
23 physician with admitting privileges agrees to admit the person.

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

28 (5) When a person is transferred under this section, the community mental
29 health program director shall notify immediately the court notified under
30 ORS 426.234 (2) or (3) of the fact of the transfer and of the location of the
31 person.

1 **SECTION 42.** ORS 426.237 is amended to read:

2 426.237. (1) During a prehearing period of detention as provided in ORS
3 426.070, 426.140, 426.232 or 426.233, the community mental health program
4 director shall do one of the following:

5 (a) Recommend, in an investigation report as provided in ORS 426.074,
6 that the circuit court not proceed further in the matter if the community
7 mental health program director does not believe the person is a [*mentally*
8 *ill*] person **with mental illness**.

9 (b) No later than three judicial days after initiation of a prehearing pe-
10 riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233,
11 certify the detained person for a 14-day period of intensive treatment if:

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

15 (B) The community mental health program director in the county where
16 the person resides verbally approves the arrangements for payment for the
17 services at the hospital or nonhospital facility; and

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

20 (i) Is approved by the authority and the community mental health pro-
21 gram director in the county where the person resides; and

22 (ii) Can, in the opinion of the community mental health program director
23 and the psychiatrist, provide intensive care or treatment for mental illness
24 necessary and sufficient to meet the emergency psychiatric needs of the
25 person.

26 (c) Recommend, in an investigation report as provided in ORS 426.074,
27 that the circuit court hold a hearing under ORS 426.070 to 426.130 if the
28 community mental health program director has probable cause to believe the
29 person is a [*mentally ill*] person **with mental illness**.

30 (2)(a) If the circuit court adopts the recommendation of the community
31 mental health program director under subsection (1)(a) of this section, the

1 circuit court shall enter an order releasing the person and dismissing the
2 case. Unless the person agrees to voluntary treatment, if the person is being
3 detained in a:

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

6 (B) Hospital, the treating physician shall make discharge plans and dis-
7 charge the person.

8 (b) Upon release of the person, the community mental health program
9 director shall attempt to notify the person's next of kin if the person con-
10 sents to the notification.

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

13 (A) Deliver immediately a certificate to the court having jurisdiction un-
14 der ORS 426.060; and

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

17 (b) The certificate required by paragraph (a) of this subsection shall in-
18 clude:

19 (A) A written statement under oath by the community mental health
20 program director and the psychiatrist that they have probable cause to be-
21 lieve the person is a [*mentally ill*] person **with mental illness** in need of
22 care or treatment for mental illness;

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

26 (C) A notice of the person's right to an attorney and that an attorney
27 will be appointed by the court or as otherwise obtained under ORS 426.100
28 (3);

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

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

3 (c) Immediately upon receipt of a certificate under paragraph (a) of this
4 subsection, the court shall notify the person's attorney or appoint an attor-
5 ney for the person if the person cannot afford one. Within 24 hours of the
6 time the certificate is delivered to the court, the person's attorney shall re-
7 view the certificate with the person. If the person and the person's attorney
8 consent to the certification within one judicial day of the time the certificate
9 is delivered to the circuit court and, except as provided in subsection (4) of
10 this section, the court shall postpone the hearing required by ORS 426.070
11 to 426.130 for 14 days.

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

14 (A) Except as otherwise provided in this paragraph, all methods of treat-
15 ment, including the prescription and administration of drugs, shall be the
16 sole responsibility of the treating physician. However, the person shall not
17 be subject to electroshock therapy or unduly hazardous treatment and shall
18 receive usual and customary treatment in accordance with medical standards
19 in the community.

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

26 (C) If the person is in a hospital and the community mental health pro-
27 gram director locates a nonhospital facility, approved by the authority, that,
28 in the opinion of the community mental health program director and the
29 treating physician, can provide care or treatment for mental illness neces-
30 sary and sufficient to meet the emergency psychiatric needs of the person,
31 the treating physician shall discharge the person from the hospital and the

1 community mental health program director shall remove the person to the
2 nonhospital facility for the remainder of the 14-day intensive treatment pe-
3 riod. If, however, in the opinion of the treating physician, the person's con-
4 dition requires the person to receive medical care or treatment, the physician
5 shall retain the person in the hospital.

6 (D) If the person is in a nonhospital facility, the community mental health
7 program director shall transfer the person to a hospital approved by the au-
8 thority under the following conditions:

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

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

13 (E) If the person is transferred as provided in subparagraph (C) or (D) of
14 this paragraph, the community mental health program director shall notify
15 the circuit court, in the county where the certificate was filed, of the lo-
16 cation of the person. The person may appeal the transfer as provided by rules
17 of the authority.

18 (e) If the person is in a hospital, the treating physician may discharge the
19 person at any time during the 14-day period. The treating physician shall
20 confer with the community mental health program director and the person's
21 next of kin, if the person consents to the consultation, prior to discharging
22 the person. Immediately upon discharge of the person, the treating physician
23 shall notify the court in the county in which the certificate was filed ini-
24 tially.

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

1 (g) The person may agree to voluntary treatment at any time during the
2 14-day period. When a person agrees to voluntary treatment under this par-
3 agraph, the community mental health program director immediately shall
4 notify the court in the county in which the certificate was filed initially.

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

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

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

12 (a) The person consenting to 14 days of treatment or the community
13 mental health program director requests a hearing. The hearing shall be held
14 without unreasonable delay. In no case shall the person be held in a hospital
15 or nonhospital facility longer than five judicial days after the request for a
16 hearing is made without a hearing being held under ORS 426.070 to 426.130.

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

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

21 426.241. (1) The cost of emergency psychiatric care, custody and treatment
22 related to or resulting from such psychiatric condition, provided by a hospi-
23 tal or other facility approved by the Oregon Health Authority and the com-
24 munity mental health program director of the county in which the facility
25 is located, except a state [*mental*] hospital, for [*an allegedly mentally ill*] a
26 person **alleged to have a mental illness who is** admitted or detained under
27 ORS 426.070, 426.140, 426.228, 426.232 or 426.233, or for a [*mentally ill*] person
28 **with mental illness who is** admitted or detained under ORS 426.150,
29 426.223, 426.273, 426.275 or 426.292, shall be paid by the county of which the
30 person is a resident from state funds provided [*it*] **to the county** for this
31 purpose. The county is responsible for the cost when state funds [*available*

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

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

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

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

27 (5)(a) The authority may deny payment for part or all of the emergency
28 psychiatric services provided by a hospital or nonhospital facility under ORS
29 426.232, 426.233 or 426.237 when the authority finds, upon review, that the
30 [*allegedly mentally ill person’s*] condition **of the person alleged to have a**
31 **mental illness** did not meet the admission criteria in ORS 426.232 (1),

1 426.233 (1) or 426.237 (1)(b)(A). The payer responsible under this section shall
2 make a request for denial of payment for emergency psychiatric services
3 provided under ORS 426.232, 426.233 or 426.237 in writing to the authority.

4 (b) The authority may require the following to provide the authority with
5 any information that the authority determines is necessary to review a re-
6 quest for denial of payment made under this subsection or to conduct a re-
7 view of emergency psychiatric services for the purpose of planning or
8 defining authority rules:

9 (A) A hospital or nonhospital facility approved under ORS 426.228 to
10 426.235 or 426.237.

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

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

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

17 426.250. The following is a nonexclusive list of responsibilities for pay-
18 ment of various costs related to commitment proceedings under this chapter
19 as described:

20 (1) Any physician or qualified [*person*] **professional** recommended by the
21 Oregon Health Authority who is employed under ORS 426.110 to make an
22 examination as to the mental condition of a person alleged to [*be mentally*
23 *ill*] **have a mental illness** shall be allowed a fee as the court in its dis-
24 cretion determines reasonable for the examination.

25 (2) Witnesses subpoenaed to give testimony shall receive the same fees
26 as are paid in criminal cases, and are subject to compulsory attendance in
27 the same manner as provided in ORS 136.567 to 136.603. The attendance of
28 out-of-state witnesses may be secured in the same manner as provided in ORS
29 136.623 to 136.637. The party who subpoenas the witness or requests the court
30 to subpoena the witness is responsible for payment of the cost of the
31 subpoena and payment for the attendance of the witness at a hearing. When

1 the witness has been subpoenaed on behalf of [*an allegedly mentally ill*] a
2 person **alleged to have a mental illness** who is represented by appointed
3 counsel, the fees and costs allowed for that witness shall be paid pursuant
4 to ORS 135.055. If the costs of witnesses subpoenaed by the [*allegedly men-*
5 *tally ill*] person are paid as provided under this subsection, the procedure for
6 subpoenaing witnesses shall comply with ORS 136.570.

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

14 (4) The authority shall pay the costs of expenses incurred under ORS
15 426.100 by the Attorney General's office. Any costs for district attorneys or
16 other counsel appointed to assume responsibility for presenting the state's
17 case shall be paid by the county where the commitment hearing is held,
18 subject to reimbursement under ORS 426.310.

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

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

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

30 426.255. Costs of hearings conducted pursuant to ORS 426.307, and the fees
31 for physicians and other [*qualified persons*] **examiners** shall be charged to

1 the county of the person's residence in the same manner provided by ORS
2 426.310, whether the hearing is held in the county of residence or county of
3 the treating facility.

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

5 426.273. (1) During a period of commitment of a patient under ORS
6 426.130, the Oregon Health Authority may grant a trial visit to the patient
7 for a period of time and under any conditions the authority shall establish.
8 The authority shall only grant a trial visit under this section if the trial
9 visit is agreed to by the community mental health program director, or the
10 designee of the director, for the county in which the person would reside.

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

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

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

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

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

29 426.275. The following are applicable to placements of *[mentally ill]* per-
30 sons **with mental illness** that are made as conditional release under ORS
31 426.125, outpatient commitments under ORS 426.127 or trial visits under ORS

1 426.273 as described:

2 (1) If the [*person*] **individual** responsible under this subsection determines
3 that [*the mentally ill*] a person **with mental illness** is failing to adhere to
4 the terms and conditions of the placement, the responsible [*person*] **individ-**
5 **ual** shall notify the court having jurisdiction that the [*mentally ill*] person
6 **with mental illness** is not adhering to the terms and conditions of the
7 placement. If the placement is an outpatient commitment under ORS 426.127
8 or a trial visit under ORS 426.273, the notifications shall include a copy of
9 the conditions for the placement. The [*person*] **individual** responsible for
10 notifying the court under this subsection is as follows:

11 (a) For conditional releases under ORS 426.125, the guardian, relative or
12 friend in whose care the [*mentally ill*] person **with mental illness** is condi-
13 tionally released.

14 (b) For outpatient commitments under ORS 426.127, the community mental
15 health program director, or designee of the director, of the county in which
16 the person on outpatient commitment lives.

17 (c) For trial visits under ORS 426.273, the community mental health pro-
18 gram director, or designee of the director, of the county in which the person
19 on trial visit is to receive outpatient treatment.

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

29 (3) Pursuant to the determination of the court upon hearing under this
30 section, a person on placement shall either continue the placement on the
31 same or modified conditions or shall be returned to the Oregon Health Au-

1 thority for involuntary care and treatment on an inpatient basis subject to
2 discharge at the end of the commitment period or as otherwise provided un-
3 der this chapter.

4 (4) If the person on placement is living in a county other than the county
5 of the court that established the current period of commitment under ORS
6 426.130 during which the trial visit, conditional release or outpatient com-
7 mitment takes place, the court establishing the current period of commitment
8 shall transfer jurisdiction to the appropriate court of the county in which
9 the person is living while on the placement and the court receiving the
10 transfer shall accept jurisdiction.

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

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

14 (b) Determines that the person is a [*mentally ill person*] **person with**
15 **mental illness** on conditional release under ORS 426.125, outpatient com-
16 mitment under ORS 426.127 or trial visit under ORS 426.273.

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

18 426.278. **The Oregon Health Authority shall provide to each of the**
19 following [*persons shall be given*] **individuals or entities** a copy of the
20 conditions of [*a placement of a mentally ill person that is made as*] an out-
21 patient commitment under ORS 426.127 or [*as*] a trial visit under ORS
22 426.273:

23 (1) The committed person;

24 (2) The community mental health program director, or designee of the
25 director, of the county in which the committed person is to receive outpa-
26 tient treatment;

27 (3) The director of any facility, service or other provider designated to
28 provide care or treatment;

29 (4) The court of current commitment; and

30 (5) The appropriate court of the county in which the committed person
31 lives during the commitment period if the person is living in a different

1 county than the county of the court that made the current commitment.

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

3 426.292. Nothing in this chapter and ORS 430.397 to 430.401 prohibits the
4 Oregon Health Authority from releasing a person from a hospital or other
5 facility in which the person is being treated prior to the expiration of the
6 period of commitment under ORS 426.130 when, in the opinion of the director
7 of the facility or treating physician, the person is no longer [*mentally ill*] a
8 **person with mental illness.**

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

10 426.297. (1) The expenses of a proceeding under ORS 426.295 (2) shall be
11 paid by the person **with mental illness**, unless it appears from the affidavit
12 of the person or other evidence that the person is unable to pay the expenses.
13 If the person is unable to pay, the expenses of the proceedings shall be paid
14 by the county of which the [*mentally ill*] person was a resident at the time
15 of admission. If the county of residence cannot be established, the county
16 from which the person was admitted shall pay the expenses.

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

19 (3) Any physician employed by the court to make an examination as to
20 the mental condition of a person subject to a competency proceeding under
21 ORS 426.295 or 426.380 to 426.390 shall be allowed a reasonable professional
22 fee by order of the court. Witnesses summoned and giving testimony shall
23 receive the same fees as are paid in ORS 44.415 (2).

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

25 426.300. (1) The Oregon Health Authority shall, by filing a written cer-
26 tificate with the last committing court and the court of residence, discharge
27 [*any patient*] **an individual** from court commitment, except one held upon
28 an order of a court or judge having criminal jurisdiction in an action or
29 proceeding arising out of criminal offense, [*when in its opinion*] **if the au-**
30 **thority finds that** the individual is no longer a [*mentally ill*] person **with**
31 **mental illness** or [*when in its opinion*] **that** the transfer of the individual

1 to a voluntary status is in the **individual's** best interest [*of the treatment*
2 *of the patient*].

3 (2) The authority may sign applications for public assistance on behalf
4 of those [*patients*] **individuals** who may be eligible for public assistance
5 **upon discharge**.

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

7 426.301. (1) At the end of the 180-day period of commitment, any person
8 whose status has not been changed to voluntary shall be released unless the
9 Oregon Health Authority certifies to the court in the county where the
10 treating facility is located that the person is still [*mentally ill*] **a person**
11 **with mental illness** and **is** in need of further treatment. The authority,
12 pursuant to its rules, may delegate to the director of the treating facility the
13 responsibility for making the certification. The director of the treating fa-
14 cility shall consult with the community mental health program director of
15 the county of residence prior to making the certification. If the certification
16 is made, the person will not be released, but the director of the treating fa-
17 cility shall immediately issue a copy of the certification to the person and
18 to the community mental health program director of the county of residence.

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

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

24 (a) That the authority or facility has requested that commitment be con-
25 tinued for an additional period of time.

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

29 (c) That the person may protest this further **period of** commitment within
30 14 days, and if the person does not **protest the further commitment**,
31 commitment will be continued for an indefinite period of time up to 180 days.

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

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

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

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

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

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

18 (5) [The person] **When** serving the certification **upon the person, the**
19 **authority** shall read and deliver the certification to the person and ask
20 whether the person protests a further period of commitment. The person may
21 protest further commitment either orally or by signing a simple protest form
22 to be given to the person with the certification. If the person does not protest
23 a further period of commitment within 14 days of service of the certification,
24 the authority or facility shall so notify the court and the court shall, without
25 further hearing, order the commitment of the person for an additional in-
26 definite period of time up to 180 days.

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

28 426.307. If [the] a person **with mental illness** requests a hearing under
29 ORS 426.301 or if the court proceeds under ORS 426.275 (5), the following
30 provisions apply [as described]:

31 (1) The hearing shall be conducted as promptly as possible and at a time

1 and place as the court may direct.

2 (2) If the person requests a continuance in order to prepare for the hear-
3 ing or to obtain legal counsel to represent the person, the court may grant
4 postponement and detention during postponement as provided under ORS
5 426.095.

6 (3) The person has the right to representation by or appointment of
7 counsel as provided under ORS 426.100 subject to ORS 135.055, 151.216 and
8 151.219.

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

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

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

30 (7) At the end of the 180-day period, the person shall be released unless
31 the authority or facility again certifies to the committing court that the

1 person is still a [*mentally ill*] person **with mental illness** and **is** in need of
2 further treatment, in which event the procedures set forth in ORS 426.301 to
3 426.307 shall be followed.

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

5 426.310. (1) If [*the mentally ill*] a person **with mental illness** is a resident
6 of some other county in this state, the county making the commitment shall
7 be reimbursed by the county of which the person is a resident. All reasonable
8 and actual expenses incurred and paid by the county by reason of the care,
9 custody, treatment, investigation, examination and commitment hearing
10 shall, upon presentation of a copy of the order of the judge making the ex-
11 amination and commitment, together with a properly itemized and certified
12 claim covering the expense, be promptly paid to the county by the county
13 of which the person was a resident. The expenses reimbursed under this
14 subsection shall include any expenses incurred to pay for representation of
15 the state's interest under ORS 426.100 and 426.250.

16 (2) If [*an allegedly mentally ill*] a person **alleged to have a mental ill-**
17 **ness** is a resident of some other county in this state, a county attempting a
18 commitment shall be reimbursed by the county of which the person is a
19 resident, as defined in ORS 426.241, for all actual, reasonable expenses in-
20 curred and paid by the county attempting commitment by reason of the care,
21 custody, treatment, investigation, examination and commitment hearing. The
22 expenses reimbursed under this subsection shall include any expenses in-
23 curred to pay for representation of the state's interest under ORS 426.100 and
24 426.250.

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

26 426.320. When a [*mentally ill*] person **with mental illness** is assigned to
27 or transferred to a state [*mental*] hospital, all **of the** actual and necessary
28 expenses **of transporting the person to the hospital that are** incurred by
29 the agent or attendant from the state hospital, [*and*] the assistants of the
30 agent or attendant[, *together with those of*] **and** the person [*for transportation*
31 *to the hospital*], shall be paid by the state in the manner provided in ORS

1 426.330.

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

3 426.335. The following limitations on liability [*and circumstances*] are ap-
4 plicable to [*situations*] **actions and proceedings** within this chapter and
5 ORS 430.397 to 430.401:

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

11 (a) The community mental health program director or designee of the di-
12 rector.

13 (b) The two petitioning persons.

14 (c) The county health officer.

15 (d) Any magistrate.

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

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

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

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

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

31 (4) [*No person*] **An examiner** appointed under ORS 426.110 [*to conduct an*

1 *examination under ORS 426.120 shall*] **may not** be held criminally or civilly
2 liable for actions pursuant to ORS 426.120 if the examiner acts in good faith
3 and without malice.

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

8 (6) [No] A peace officer, [*person*] **individual** authorized under ORS
9 426.233, community mental health director or designee, hospital or other fa-
10 cility, physician or judge [*shall*] **may not** in any way be held criminally or
11 civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual
12 or facility acts in good faith, on probable cause and without malice.

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

19 (8) The [*persons*] **individuals** designated in this subsection [*shall*] **may**
20 not be liable for **personal injuries or other** damages that [*are sustained by*
21 *any person or property on account of*] **result from** the misconduct of a
22 [*mentally ill*] person **with mental illness** while the [*mentally ill*] person is
23 on outpatient commitment under ORS 426.127 if the designated [*person*] **in-**
24 **dividual** acts without willful and wanton neglect of duty. This subsection is
25 applicable to all of the following:

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

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

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

1 (d) The physician and the facility [*granting an outpatient commitment*]
2 **providing care or treatment** to a [*patient*] **person on outpatient com-**
3 **mitment.**

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

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

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

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

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

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

13 (b) The [*following persons shall*] **individuals designated in this para-**
14 **graph may** not be liable for damages that [*are sustained by any person on*
15 *account of*] **result from** the misconduct of [*such patient while*] **a person with**
16 **mental illness while** on trial visit if the [*person*] **designated individual**
17 acts without willful and wanton neglect of duty:

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

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

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

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

26 (E) The employees and agents of [*persons listed in*] **individuals or facil-**
27 **ities under** this paragraph.

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

29 426.370. A community mental health program director or designee may
30 withhold information obtained during an investigation under ORS 426.070,
31 426.228, 426.232, 426.233 or 426.234 if the community mental health program

1 director determines:

2 (1) That information was not included in its investigation report or oth-
3 erwise used in a material way to support a determination by the community
4 mental health program director that there was probable cause to believe a
5 person was a [*mentally ill*] person **with mental illness**; and

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

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

9 426.385. (1) Every [*mentally ill*] person **with mental illness** committed to
10 the Oregon Health Authority shall have the right to:

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

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

14 (c) Wear the clothing of the person;

15 (d) Keep personal possessions, including toilet articles;

16 (e) Religious freedom;

17 (f) A private storage area with free access thereto;

18 (g) Be furnished with a reasonable supply of writing materials and
19 stamps;

20 (h) A written treatment plan, kept current with the progress of the per-
21 son;

22 (i) Be represented by counsel whenever the substantial rights of the per-
23 son may be affected;

24 (j) Petition for a writ of habeas corpus;

25 (k) Not be required to perform routine labor tasks of the facility except
26 those essential for treatment;

27 (L) Be given reasonable compensation for all work performed other than
28 personal housekeeping duties;

29 (m) Daily access to fresh air and the outdoors, except that this right may
30 be limited when it would create significant risk of harm to the person or
31 others;

1 (n) Such other rights as may be specified by rule; and

2 (o) Exercise all civil rights in the same manner and with the same effect
3 as one not admitted to the facility, including, but not limited to, the right
4 to dispose of real property, execute instruments, make purchases, enter con-
5 tractual relationships, and vote, unless the person has been adjudicated in-
6 competent and has not been restored to legal capacity. Disposal of personal
7 property in possession of the person in a state institution described in ORS
8 426.010 is subject to limitation for security reasons.

9 (2)(a) A person must be immediately informed, [*verbally*] **orally** and in
10 writing, of any limitation:

11 (A) Of the right to send or receive sealed mail under subsection (1)(b) of
12 this section;

13 (B) Regarding the disposal of personal property under subsection (1)(o)
14 of this section; and

15 (C) Of the right to daily access to fresh air and the outdoors under sub-
16 section (1)(m) of this section.

17 (b) Any limitation under this subsection and the reasons for the limita-
18 tion must be stated in the person's written treatment plan.

19 (c) The person has the right to challenge any limitation under this sub-
20 section pursuant to rules adopted by the authority. The person must be in-
21 formed, [*verbally*] **orally** and in writing, of this right.

22 (3) [*Mentally ill persons*] **A person with mental illness** committed to the
23 authority shall have the right to be free from potentially unusual or haz-
24 ardous treatment procedures, including convulsive therapy, unless [*they*
25 *have*] **the person has** given [*their*] express and informed consent or author-
26 ized the treatment pursuant to ORS 127.700 to 127.737. This right may be
27 denied to [*such persons*] **a person** for good cause as defined in administrative
28 rule only by the director of the facility in which the person is confined, but
29 only after consultation with and approval of an independent examining phy-
30 sician. Any denial shall be entered into the [*patient's*] **person's** treatment
31 record and shall include the reasons for the denial. [*No patient shall*] **A**

1 **person with mental illness may not** be subjected to psychosurgery, as de-
2 fined in ORS 677.190 (21)(b).

3 (4) Mechanical restraints shall not be applied to a person admitted to a
4 facility unless it is determined by the chief medical officer of the facility or
5 designee to be required by the medical needs of the person. Every use of a
6 mechanical restraint and the reasons [*therefor*] **for using a mechanical**
7 **restraint** shall be made a part of the clinical record of the person over the
8 signature of the chief medical officer of the facility or designee.

9 (5) Nothing in this section prevents the authority from acting to exclude
10 contraband from its facilities and to prevent possession or use of contraband
11 in its facilities.

12 (6) As used in this section:

13 (a) "Contraband" has the meaning given that term in ORS 162.135.

14 (b) "Security reasons" means the protection of the [*mentally ill*] person
15 **with mental illness** from serious and immediate harm and the protection
16 of others from threats or harassment as defined by rule of the authority.

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

18 428.310. The Department of Human Services or the Oregon Health Au-
19 thority may execute and terminate a compact on behalf of the State of
20 Oregon with any state, territory or possession of the United States, the
21 District of Columbia and the Commonwealth of Puerto Rico joining therein,
22 in the form substantially as follows:

23

24 The contracting states solemnly agree that:

25

ARTICLE I

26 The party states find that the proper and expeditious treatment of [*the*
27 *mentally ill and mentally deficient*] **persons with mental illness or intel-**
28 **lectual disabilities** can be facilitated by cooperative action, to the benefit
29 of the patients, their families, and society as a whole. Further, the party
30 states find that the necessity of and desirability for furnishing such care and
31 treatment bears no primary relation to the residence or citizenship of the

1 patient but that, on the contrary, the controlling factors of community safety
2 and humanitarianism require that facilities and services be made available
3 for all who are in need of them. Consequently, it is the purpose of this
4 compact and of the party states to provide the necessary legal basis for the
5 institutionalization or other appropriate care and treatment of [*the mentally*
6 *ill and mentally deficient*] **persons with mental illness or intellectual**
7 **disabilities** under a system that recognizes the paramount importance of
8 patient welfare and to establish the responsibilities of the party states in
9 terms of such welfare.

10 ARTICLE II

11 As used in this compact:

12 (a) "Sending state" shall mean a party state from which a patient is
13 transported pursuant to the provisions of the compact or from which it is
14 contemplated that a patient may be so sent.

15 (b) "Receiving state" shall mean a party state to which a patient is
16 transported pursuant to the provisions of the compact or to which it is con-
17 templated that a patient may be so sent.

18 (c) "Institution" shall mean any hospital or other facility maintained by
19 a party state or political subdivision thereof for the care and treatment of
20 mental illness or [*mental deficiency*] **intellectual disabilities**.

21 (d) "Patient" shall mean any person subject to or eligible as determined
22 by the laws of the sending state, for institutionalization or other care,
23 treatment or supervision pursuant to the provisions of this compact.

24 (e) "After-care" shall mean care, treatment and services provided a pa-
25 tient, as defined herein, on convalescent status or conditional release.

26 (f) "Mental illness" shall mean mental disease to such extent that a per-
27 son so afflicted requires care and treatment for his own welfare, or the
28 welfare of others, or of the community.

29 (g) [*"Mental deficiency"*] **"Intellectual disability"** shall mean [*mental*
30 *deficiency*] **intellectual disability** as defined by appropriate clinical author-
31 ities to such extent that a person so afflicted is incapable of managing him-

1 self and his affairs, but shall not include mental illness as defined herein.

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

4 ARTICLE III

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

10 (b) The provisions of paragraph (a) of this article to the contrary not-
11 withstanding, any patient may be transferred to an institution in another
12 state whenever there are factors based upon clinical determinations indicat-
13 ing that the care and treatment of said patient would be facilitated or im-
14 proved thereby. Any such institutionalization may be for the entire period
15 of care and treatment or for any portion or portions thereof. The factors
16 referred to in this paragraph shall include the patient's full record with due
17 regard for the location of the patient's family, character of the illness and
18 probable duration thereof, and such other factors as shall be considered ap-
19 propriate.

20 (c) No state shall be obliged to receive any patient pursuant to the pro-
21 visions of paragraph (b) of this article unless the sending state has given
22 advance notice of its intention to send the patient; furnished all available
23 medical and other pertinent records concerning the patient; given the quali-
24 fied medical or other appropriate clinical authorities of the receiving state
25 an opportunity to examine the patient if said authorities so wish; and unless
26 the receiving state shall agree to accept the patient.

27 (d) In the event that the laws of the receiving state establish a system
28 of priorities for the admission of patients, an interstate patient under this
29 compact shall receive the same priority as a local patient and shall be taken
30 in the same order and at the same time that the patient would be taken if
31 the patient were a local patient.

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

5 ARTICLE IV

6 (a) Whenever, pursuant to the laws of the state in which a patient is
7 physically present, it shall be determined that the patient should receive
8 after-care or supervision, such care or supervision may be provided in a re-
9 ceiving state. If the medical or other appropriate clinical authorities having
10 responsibility for the care and treatment of the patient in the sending state
11 shall have reason to believe that after-care in another state would be in the
12 best interest of the patient and would not jeopardize the public safety, they
13 shall request the appropriate authorities in the receiving state to investigate
14 the desirability of affording the patient such after-care in said receiving
15 state, and such investigation shall be made with all reasonable speed. The
16 request for investigation shall be accompanied by complete information con-
17 cerning the patient's intended place of residence and the identity of the
18 person in whose charge it is proposed to place the patient, the complete
19 medical history of the patient, and such other documents as may be perti-
20 nent.

21 (b) If the medical or other appropriate clinical authorities having re-
22 sponsibility for the care and treatment of the patient in the sending state
23 and the appropriate authorities in the receiving state find that the best in-
24 terest of the patient would be served thereby, and if the public safety would
25 not be jeopardized thereby, the patient may receive after-care or supervision
26 in the receiving state.

27 (c) In supervising, treating or caring for a patient on after-care pursuant
28 to the terms of this article, a receiving state shall employ the same standards
29 of visitation, examination, care and treatment that it employs for similar
30 local patients.

31 ARTICLE V

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

8 ARTICLE VI

9 The duly accredited officers of any state party to this compact, upon the
10 establishment of their authority and the identity of the patient, shall be
11 permitted to transport any patient being moved pursuant to this compact
12 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
15 any given time. Completion of transfer of any patient to an institution in a
16 receiving state shall have the effect of making the person a patient of the
17 institution in the receiving state.

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

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

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

30 (e) Nothing in this compact shall be construed to invalidate any recipro-
31 cal agreement between a party state and a nonparty state relating to

1 institutionalization, care or treatment of [*the mentally ill or mentally defi-*
2 *cient*] **persons with mental illness or intellectual disabilities**, or any
3 statutory authority pursuant to which such agreements may be made.

4 ARTICLE VIII

5 (a) Nothing in this compact shall be construed to abridge, diminish, or in
6 any way impair the rights, duties and responsibilities of any patient's
7 guardian on the guardian's own behalf or in respect of any patient for whom
8 the guardian may serve, except that where the transfer of any patient to
9 another jurisdiction makes advisable the appointment of a supplemental or
10 substitute guardian, any court of competent jurisdiction in the receiving
11 state may make such supplemental or substitute appointment and the court
12 which appointed the previous guardian shall upon being duly advised of the
13 new appointment, and upon the satisfactory completion of such accounting
14 and other acts as such court may by law require, relieve the previous
15 guardian of power and responsibility to whatever extent shall be appropriate
16 in the circumstances; provided, however, that in the case of any patient
17 having settlement in the sending state, the court of competent jurisdiction
18 in the sending state shall have the sole discretion to relieve a guardian ap-
19 pointed by it or continue the power and responsibility of the guardian,
20 whichever it shall deem advisable. The court in the receiving state may, in
21 its discretion, confirm or reappoint the person or persons previously serving
22 as guardian in the sending state in lieu of making a supplemental or sub-
23 stitute appointment.

24 (b) The term "guardian" as used in paragraph (a) of this article shall in-
25 clude any guardian, trustee, legal committee, conservator or other person or
26 agency however denominated who is charged by law with responsibility for
27 the property of a patient.

28 ARTICLE IX

29 (a) No provision of this compact except Article V shall apply to any per-
30 son institutionalized while under sentence in a penal or correctional insti-
31 tution or while subject to trial on a criminal charge, or whose

1 institutionalization is due to the commission of an offense for which, in the
2 absence of mental illness or [*mental deficiency*] **intellectual disability**, said
3 person would be subject to incarceration in a penal or correctional institu-
4 tion.

5 (b) To every extent possible, it shall be the policy of states party to this
6 compact that no patient shall be placed or detained in any prison, jail or
7 lockup, but such patient shall, with all expedition, be taken to a suitable
8 institutional facility for mental illness or [*mental deficiency*] **intellectual**
9 **disability**.

10 ARTICLE X

11 (a) Each party state shall appoint a “compact administrator” who, on
12 behalf of the state of the compact administrator, shall act as general coor-
13 dinator of activities under the compact in the state of the compact adminis-
14 trator and who shall receive copies of all reports, correspondence, and other
15 documents relating to any patient processed under the compact by the state
16 of the compact administrator either in the capacity of sending or receiving
17 state. The compact administrator or the duly designated representative of the
18 compact administrator shall be the official with whom other party states
19 shall deal in any matter relating to the compact or any patient processed
20 thereunder.

21 (b) The compact administrators of the respective party states shall have
22 power to promulgate reasonable rules and regulations to carry out more ef-
23 fectively the terms and provisions of this compact.

24 ARTICLE XI

25 The duly constituted administrative authorities of any two or more party
26 states may enter into supplementary agreements for the provision of any
27 service or facility or for the maintenance of any institution on a joint or
28 cooperative basis whenever the states concerned shall find that such agree-
29 ments will improve services, facilities, or institutional care and treatment in
30 the fields of mental illness or [*mental deficiency*] **intellectual disability**. No
31 such supplementary agreement shall be construed so as to relieve any party

1 state of any obligation which it otherwise would have under other provisions
2 of this compact.

3 ARTICLE XII

4 This compact shall enter into full force and effect as to any state when
5 entered into according to law and such state shall thereafter be a party
6 thereto with any and all states legally joining therein.

7 ARTICLE XIII

8 (a) A state party to this compact may withdraw therefrom as provided by
9 law and such renunciation shall be by the same authority which executed it.
10 Such withdrawal shall take effect one year after notice thereof has been
11 communicated officially and in writing to the governors and compact ad-
12 ministrators of all other party states. However, the withdrawal of any state
13 shall not change the status of any patient who has been sent to said state
14 or sent out of said state pursuant to the provisions of the compact.

15 (b) Withdrawal from any agreement permitted by Article VII (b) as to
16 costs or from any supplementary agreement made pursuant to Article XI
17 shall be in accordance with the terms of such agreement.

18 ARTICLE XIV

19 This compact shall be liberally construed so as to effectuate the purposes
20 thereof. The provisions of this compact shall be severable and if any phrase,
21 clause, sentence or provision of this compact is declared to be contrary to
22 the constitution of any party state or of the United States or the applica-
23 bility thereof to any government, agency, person or circumstance is held in-
24 valid, the validity of the remainder of this compact and the applicability
25 thereof to any government, agency, person or circumstance shall not be af-
26 fected thereby. If this compact shall be held contrary to the constitution of
27 any state party thereto, the compact shall remain in full force and effect as
28 to the remaining states and in full force and effect as to the state affected
29 as to all severable matters.

30

31 **SECTION 60.** ORS 480.225 is amended to read:

1 480.225. (1) A person is eligible for a certificate of possession under ORS
2 480.235 if:

3 (a) The person has not been convicted, or found guilty except for insanity
4 under ORS 161.295, of a misdemeanor involving violence, as defined in ORS
5 166.470, within the previous four years. A person who has been so convicted
6 is eligible under this subsection following the expiration of seven years after
7 the date of final and unconditional discharge from all imprisonment, pro-
8 bation and parole resulting from the conviction.

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

11 (c) The person is not a fugitive from justice, has no outstanding warrants
12 for arrest and is not free on any form of pretrial release for any offenses
13 listed in paragraphs (a) and (b) of this subsection.

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

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

26 (f) The person does not use a fictitious name or make a material misrep-
27 resentation in application for such a certificate.

28 (g)(A) The person has not been convicted of, and is not under indictment
29 for, a criminal offense involving a controlled substance as defined in ORS
30 475.005, other than the offense of driving under the influence of intoxicants.

31 (B) Notwithstanding subparagraph (A) of this paragraph, a person who

1 has had a certificate denied or revoked due to conviction of a criminal of-
2 fense involving a controlled substance is eligible under this section following
3 the expiration of seven years after the date of final and unconditional dis-
4 charge from all imprisonment, probation and parole resulting from the con-
5 viction.

6 (h) The person has been discharged from the jurisdiction of the juvenile
7 court for more than four years for an act that, if committed by an adult,
8 would constitute a felony or a misdemeanor involving violence, as defined
9 in ORS 166.470.

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

12 (j) The person has passed an examination administered by the State Fire
13 Marshal that assesses the person's knowledge of safety in the transportation
14 and storage of explosives as required under federal and state laws and reg-
15 ulations pertaining to explosives. The State Fire Marshal shall examine
16 each applicant prior to issuance of a certificate of possession to the appli-
17 cant. The State Fire Marshal may by rule establish and collect an examina-
18 tion fee in an amount necessary to cover the cost of administering the
19 examination.

20 (k) The person certifies on the application for a certificate of possession
21 that all explosives in the person's possession will be used, stored and trans-
22 ported in accordance with federal, state and local requirements.

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

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

28 **SECTION 61.** ORS 677.225 is amended to read:

29 677.225. (1) A person's license issued under this chapter is suspended au-
30 tomatically if:

31 (a) The licensee is adjudged to be [*mentally ill*] **a person with mental**

1 **illness under ORS 426.130** or is admitted on a voluntary basis to a treat-
2 ment facility for mental illness that affects the ability of the licensee to
3 safely practice medicine and if the licensee's residence in the hospital ex-
4 ceeds 25 consecutive days; or

5 (b) The licensee is an inmate in a penal institution.

6 (2)(a) The clerk of the court ordering commitment or incarceration under
7 subsection (1)(a) or (b) of this section shall cause to be mailed to the Oregon
8 Medical Board, as soon as possible, a certified copy of the court order. No
9 fees are chargeable by the clerk for performing the duties prescribed by this
10 paragraph.

11 (b) The administrator of the hospital to which a person with a license
12 issued under this chapter has voluntarily applied for admission shall cause
13 to be mailed to the board as soon as possible, a certified copy of the record
14 of the voluntary admission of such person.

15 (c) Written evidence received from the supervisory authority of a penal
16 or mental institution that the licensee is an inmate or patient therein is
17 prima facie evidence for the purpose of subsection (1)(a) or (b) of this section.

18 (3) A suspension under this section may be terminated by the board when:

19 (a)(A) The board receives evidence satisfactory to the board that the
20 licensee is not [*mentally ill*] **a person with mental illness as defined in**
21 **ORS 426.005**; or

22 (B) The board receives evidence satisfactory to the board that the licensee
23 is no longer incarcerated; and

24 (b) The board is satisfied, with due regard for the public interest, that the
25 licensee's privilege to practice may be restored.

26 **SECTION 62.** ORS 680.205 is amended to read:

27 680.205. (1) An expanded practice dental hygienist may render all services
28 within the scope of practice of dental hygiene, as defined in ORS 679.010,
29 without the supervision of a dentist and as authorized by the expanded
30 practice dental hygienist permit to:

31 (a) Patients or residents of the following facilities or programs who, due

1 to age, infirmity or disability, are unable to receive regular dental hygiene
2 treatment:

3 (A) Nursing homes as defined in ORS 678.710;

4 (B) Adult foster homes as defined in ORS 443.705;

5 (C) Residential care facilities as defined in ORS 443.400;

6 (D) Adult congregate living facilities as defined in ORS 441.525;

7 (E) Mental health residential programs administered by the Oregon
8 Health Authority;

9 (F) Facilities for [*mentally ill*] persons **with mental illness**, as those
10 terms are defined in ORS 426.005;

11 (G) Facilities for persons with developmental disabilities, as those terms
12 are defined in ORS 427.005;

13 (H) Local correctional facilities and juvenile detention facilities as those
14 terms are defined in ORS 169.005, regional correctional facilities as defined
15 in ORS 169.620, youth correction facilities as defined in ORS 420.005, youth
16 care centers as defined in ORS 420.855, and Department of Corrections in-
17 stitutions as defined in ORS 421.005; or

18 (I) Public and nonprofit community health clinics.

19 (b) Adults who are homebound.

20 (c) Students or enrollees of nursery schools and day care programs and
21 their siblings under 18 years of age, Job Corps and similar employment
22 training facilities, primary and secondary schools, including private schools
23 and public charter schools, and persons entitled to benefits under the
24 Women, Infants and Children Program.

25 (d) Patients in hospitals, medical clinics, medical offices or offices oper-
26 ated or staffed by nurse practitioners, physician assistants or midwives.

27 (e) Patients whose income is less than the federal poverty level.

28 (f) Other populations that the Oregon Board of Dentistry determines are
29 underserved or lack access to dental hygiene services.

30 (2) At least once each calendar year, an expanded practice dental
31 hygienist shall refer each patient or resident to a dentist who is available

1 to treat the patient or resident.

2 (3) An expanded practice dental hygienist may render the services de-
3 scribed in paragraphs (a) to (d) of this subsection to the patients described
4 in subsection (1) of this section if the expanded practice dental hygienist has
5 entered into an agreement in a format approved by the board with a dentist
6 licensed under ORS chapter 679. The agreement must set forth the agreed-
7 upon scope of the dental hygienist's practice with regard to:

8 (a) Administering local anesthesia;

9 (b) Administering temporary restorations without excavation;

10 (c) Prescribing prophylactic antibiotics and nonsteroidal anti-
11 inflammatory drugs specified in the agreement; and

12 (d) Overall dental risk assessment and referral parameters.

13 (4) This section does not authorize an expanded practice dental hygienist
14 to administer nitrous oxide except under the indirect supervision of a dentist
15 licensed under ORS chapter 679.

16 (5) An expanded practice dental hygienist may assess the need for and
17 appropriateness of sealants, apply sealants and write prescriptions for all
18 applications of fluoride in which fluoride is applied or supplied to patients.

19 (6) An expanded practice dental hygienist must also procure all other
20 permits or certificates required by the board under ORS 679.250.

21 **SECTION 63.** ORS 421.245 is amended to read:

22 421.245. The Interstate Corrections Compact is enacted into law and en-
23 tered into by this state with all other jurisdictions legally joining therein in
24 the form substantially as follows:

25

26

ARTICLE I

27

PURPOSE AND POLICY

28

29

30

31

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and

1 programs on a basis of cooperation with one another, thereby serving the
2 best interests of such offenders and of society and effecting economies in
3 capital expenditures and operational costs. The purpose of this compact is
4 to provide for the mutual development and execution of such programs of
5 cooperation for the confinement, treatment and rehabilitation of offenders
6 with the most economical use of human and material resources.

7 ARTICLE II

8 DEFINITIONS

9 As used in this compact, unless the context clearly requires otherwise:

10 (1) "State" means a state of the United States, the United States of
11 America, a territory or possession of the United States, the District of
12 Columbia, the Commonwealth of Puerto Rico.

13 (2) "Sending state" means a state party to this compact in which con-
14 viction or court commitment was had.

15 (3) "Receiving state" means a state party to this compact to which an
16 inmate is sent for confinement other than a state in which conviction or
17 court commitment was had.

18 (4) "Inmate" means a male or female offender who is committed, under
19 sentence to or confined in a penal or correctional institution.

20 (5) "Institution" means any penal or correctional facility, including but
21 not limited to a facility for [*the mentally ill or mentally defective*] **persons**
22 **with mental illness or intellectual disabilities**, in which inmates as de-
23 fined in subsection (4) of this Article may lawfully be confined.

24 ARTICLE III

25 CONTRACTS

26 (1) Each party state may make one or more contracts with any one or
27 more of the other party states for the confinement of inmates on behalf of
28 a sending state in institutions situated within receiving states. Any such
29 contract shall provide for:

30 (a) Its duration.

31 (b) Payments to be made to the receiving state by the sending state for

1 inmate maintenance, extraordinary medical and dental expenses, and any
2 participation in or receipt by inmates of rehabilitative or correctional ser-
3 vices, facilities, programs or treatment not reasonably included as part of
4 normal maintenance.

5 (c) Participation in programs of inmate employment, if any, the disposi-
6 tion or crediting of any payments received by inmates on account thereof,
7 and the crediting of proceeds from or disposal of any products resulting
8 therefrom.

9 (d) Delivery and retaking of inmates.

10 (e) Such other matters as may be necessary and appropriate to fix the
11 obligations, responsibilities and rights of the sending and receiving states.

12 (2) The terms and provisions of this compact shall be a part of any con-
13 tract entered into by the authority of or pursuant thereto, and nothing in
14 any such contract shall be inconsistent therewith.

15 ARTICLE IV

16 PROCEDURES AND RIGHTS

17 (1) Whenever the duly constituted authorities in a state party to this
18 compact, and which has entered into a contract pursuant to Article III, shall
19 decide that confinement in, or transfer of an inmate to, an institution within
20 the territory of another party state is necessary or desirable in order to
21 provide adequate quarters and care or an appropriate program of rehabili-
22 tation or treatment, said officials may direct that the confinement be within
23 an institution within the territory of said other party state, the receiving
24 state to act in that regard solely as agent for the sending state.

25 (2) The appropriate officials of any state party to this compact shall have
26 access, at all reasonable times, to any institution in which it has a contrac-
27 tual right to confine inmates for the purpose of inspecting the facilities
28 thereof and visiting such of its inmates as may be confined in the institution.

29 (3) Inmates confined in an institution pursuant to the terms of this com-
30 pact shall at all times be subject to the jurisdiction of the sending state and
31 may at any time be removed therefrom for transfer to a prison or other in-

1 stitution within the sending state, for transfer to another institution in
2 which the sending state may have a contractual or other right to confine
3 inmates, for release on probation or parole, for discharge, or for any other
4 purpose permitted by the laws of the sending state; provided, that the send-
5 ing state shall continue to be obligated to such payments as may be required
6 pursuant to the terms of any contract entered into under the terms of Article
7 III.

8 (4) Each receiving state shall provide regular reports to each sending
9 state on the inmates of that sending state in institutions pursuant to this
10 compact including a conduct record of each inmate and certify said record
11 to the official designated by the sending state, in order that each inmate may
12 have official review of his or her record in determining and altering the
13 disposition of said inmate in accordance with the law which may obtain in
14 the sending state and in order that the same may be a source of information
15 for the sending state.

16 (5) All inmates who may be confined in an institution pursuant to the
17 provisions of this compact shall be treated in a reasonable and humane
18 manner and shall be treated equally with such similar inmates of the re-
19 ceiving state as may be confined in the same institution. The fact of con-
20 finement in a receiving state shall not deprive any inmate so confined of any
21 legal rights which said inmate would have had if confined in an appropriate
22 institution of the sending state.

23 (6) Any hearing or hearings to which an inmate confined pursuant to this
24 compact may be entitled by the laws of the sending state may be had before
25 the appropriate authorities of the sending state, or of the receiving state if
26 authorized by the sending state. The receiving state shall provide adequate
27 facilities for such hearings as may be conducted by the appropriate officials
28 of a sending state. In the event such hearing or hearings are had before of-
29 ficials of the receiving state, the governing law shall be that of the sending
30 state and a record of the hearing or hearings as prescribed by the sending
31 state shall be made. Said record together with any recommendations of the

1 hearing officials shall be transmitted forthwith to the official or officials
2 before whom the hearing would have been had if it had taken place in the
3 sending state. In any and all proceedings had pursuant to the provisions of
4 this subsection, the officials of the receiving state shall act solely as agents
5 of the sending state and no final determination shall be made in any matter
6 except by the appropriate officials of the sending state.

7 (7) Any inmate confined pursuant to this compact shall be released within
8 the territory of the sending state unless the inmate, and the sending and
9 receiving states, shall agree upon release in some other place. The sending
10 state shall bear the cost of such return to its territory.

11 (8) Any inmate confined pursuant to the terms of this compact shall have
12 any and all rights to participate in and derive any benefits or incur or be
13 relieved of any obligations or have such obligations modified or the status
14 of the inmate changed on account of any action or proceeding in which the
15 inmate could have participated if confined in any appropriate institution of
16 the sending state located within such state.

17 (9) The parent, guardian, trustee, or other person or persons entitled un-
18 der the laws of the sending state to act for, advise, or otherwise function
19 with respect to any inmate shall not be deprived of or restricted in the ex-
20 ercise of any power in respect of any inmate confined pursuant to the terms
21 of this compact.

22 ARTICLE V

23 ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

24 (1) Any decision of the sending state in respect of any matter over which
25 it retains jurisdiction pursuant to this compact shall be conclusive upon and
26 not reviewable within the receiving state, but if at the time the sending state
27 seeks to remove an inmate from an institution in the receiving state there
28 is pending against the inmate within such state any criminal charge or if the
29 inmate is formally accused of having committed within such state a criminal
30 offense, the inmate shall not be returned without the consent of the receiving
31 state until discharged from prosecution or other form of proceeding,

1 imprisonment or detention for such offense. The duly accredited officers of
2 the sending state shall be permitted to transport inmates pursuant to this
3 compact through any and all states party to this compact without interfer-
4 ence.

5 (2) An inmate who escapes from an institution in which the inmate is
6 confined pursuant to this compact shall be deemed a fugitive from the send-
7 ing state and from the state in which the institution is situated. In the case
8 of an escape to a jurisdiction other than the sending or receiving state, the
9 responsibility for institution of extradition or rendition proceedings shall be
10 that of the sending state, but nothing contained in this compact shall be
11 construed to prevent or affect the activities of officers and agencies of any
12 jurisdiction directed toward the apprehension and return of an escapee.

13 ARTICLE VI

14 FEDERAL AID

15 Any state party to this compact may accept federal aid for use in con-
16 nection with any institution or program, the use of which is or may be af-
17 fected by this compact or any contract pursuant hereto and any inmate in
18 a receiving state pursuant to this compact may participate in any such
19 federally aided program or activity for which the sending and receiving
20 states have made contractual provision; provided, that if such program or
21 activity is not part of the customary correctional regimen the express con-
22 sent of the appropriate official of the sending state shall be required there-
23 for.

24 ARTICLE VII

25 ENTRY INTO FORCE

26 This compact shall enter into force and become effective and binding upon
27 the states so acting when it has been enacted into law by any two states.
28 Thereafter, this compact shall enter into force and become effective and
29 binding as to any other of said states upon similar action by such state.

30 ARTICLE VIII

31 WITHDRAWAL AND TERMINATION

1 This compact shall continue in force and remain binding upon a party
2 state until it shall have enacted a statute repealing the same and providing
3 for the sending of formal written notice of withdrawal from the compact to
4 the appropriate officials of all other party states. An actual withdrawal shall
5 not take effect until one year after the notices provided in said statute have
6 been sent. Such withdrawal shall not relieve the withdrawing state from its
7 obligations assumed hereunder prior to the effective date of withdrawal. Be-
8 fore the effective date of withdrawal, a withdrawing state shall remove to
9 its territory, at its own expense, such inmates as it may have confined pur-
10 suant to the provisions of this compact.

11 ARTICLE IX

12 OTHER ARRANGEMENTS UNAFFECTED

13 Nothing contained in this compact shall be construed to abrogate or im-
14 pair any agreement or other arrangement which a party state may have with
15 a nonparty state for the confinement, rehabilitation or treatment of inmates
16 nor to repeal any other laws of a party state authorizing the making of co-
17 operative institutional arrangements.

18 ARTICLE X

19 CONSTRUCTION AND SEVERABILITY

20 The provisions of this compact shall be liberally construed and shall be
21 severable. If any phrase, clause, sentence or provision of this compact is de-
22 clared to be contrary to the constitution of any participating state or of the
23 United States or the applicability thereof to any government, agency, person
24 or circumstance is held invalid, the validity of the remainder of this compact
25 and the applicability thereof to any government, agency, person or circum-
26 stance shall not be affected thereby. If this compact shall be held contrary
27 to the constitution of any state participating therein, the compact shall re-
28 main in full force and effect as to the remaining states and in full force and
29 effect as to the state affected as to all severable matters.

30

31 **SECTION 64.** ORS 421.284 is amended to read:

1 421.284. The Western Interstate Corrections Compact hereby is enacted
2 into law and entered into on behalf of this state with all other states legally
3 joining therein in a form substantially as follows:

4
5 ARTICLE I

6 PURPOSE AND POLICY

7 The party states, desiring by common action to improve their institutional
8 facilities and provide programs of sufficiently high quality for the confine-
9 ment, treatment and rehabilitation of various types of offenders, declare that
10 it is the policy of each of the party states to provide such facilities and
11 programs on a basis of cooperation with one another, thereby serving the
12 best interests of such offenders and of society. The purpose of this compact
13 is to provide for the development and execution of such programs of coop-
14 eration for the confinement, treatment and rehabilitation of offenders.

15 ARTICLE II

16 DEFINITIONS

17 As used in this compact, unless the context clearly requires otherwise:

18 (a) "State" means a state of the United States or, subject to the limitation
19 contained in Article VII, Guam.

20 (b) "Sending state" means a state party to this compact in which con-
21 viction was had.

22 (c) "Receiving state" means a state party to this compact to which an
23 inmate is sent for confinement other than a state in which conviction was
24 had.

25 (d) "Inmate" means a male or female offender who is under sentence to
26 or confined in a prison or other correctional institution.

27 (e) "Institution" means any prison, reformatory or other correctional fa-
28 cility (including but not limited to a facility for *[the mentally ill or mentally*
29 *defective]* **persons with mental illness or intellectual disabilities**) in
30 which inmates may lawfully be confined.

31 ARTICLE III

CONTRACTS

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(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.
2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.
3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.
4. Delivery and retaking of inmates.
5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that monies are legally available therefor, pay to the receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

(c) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in

1 any such contract shall be inconsistent therewith.

2 ARTICLE IV

3 PROCEDURES AND RIGHTS

4 (a) Whenever the duly constituted judicial or administrative authorities
5 in a state party to this compact, and which has entered into a contract
6 pursuant to Article III, shall decide that confinement in, or transfer of an
7 inmate to, an institution within the territory of another party state is nec-
8 essary in order to provide adequate quarters and care or desirable in order
9 to provide an appropriate program of rehabilitation or treatment, said offi-
10 cials may direct that the confinement be within an institution within the
11 territory of said other party state, the receiving state to act in that regard
12 solely as agent for the sending state.

13 (b) The appropriate officials of any state party to this compact shall have
14 access, at all reasonable times, to any institution in which it has a contrac-
15 tual right to confine inmates for the purpose of inspecting the facilities
16 thereof and visiting such of its inmates as may be confined in the institution.

17 (c) Inmates confined in an institution pursuant to the terms of this com-
18 pact shall at all times be subject to the jurisdiction of the sending state and
19 may at any time be removed therefrom for transfer to a prison or other in-
20 stitution within the sending state, for transfer to another institution in
21 which the sending state may have a contractual or other right to confine
22 inmates, for release on probation or parole, for discharge, or for any other
23 purpose permitted by the laws of the sending state; provided that the sending
24 state shall continue to be obligated to such payments as may be required
25 pursuant to the terms of any contract entered into under the terms of Article
26 III.

27 (d) Each receiving state shall provide regular reports to each sending
28 state on the inmates of that sending state in institutions pursuant to this
29 compact including a conduct record of each inmate and certify said record
30 to the official designated by the sending state, in order that each inmate may
31 have the benefit of his or her record in determining and altering the dispo-

1 sition of said inmate in accordance with the law which may obtain in the
2 sending state and in order that the same may be a source of information for
3 the sending state.

4 (e) All inmates who may be confined in an institution pursuant to the
5 provisions of this compact shall be treated in a reasonable and humane
6 manner and shall be cared for and treated equally with such similar inmates
7 of the receiving state as may be confined in the same institution. The fact
8 of confinement in a receiving state shall not deprive any inmate so confined
9 of any legal rights which said inmate would have had if confined in an ap-
10 propriate institution of the sending state.

11 (f) Any hearing or hearings to which an inmate confined pursuant to this
12 compact may be entitled by the laws of the sending state may be had before
13 the appropriate authorities of the sending state, or of the receiving state if
14 authorized by the sending state. The receiving state shall provide adequate
15 facilities for such hearings as may be conducted by the appropriate officials
16 of a sending state. In the event such hearing or hearings are had before of-
17 ficials of the receiving state, the governing law shall be that of the sending
18 state and a record of the hearing or hearings as prescribed by the sending
19 state shall be made. Said record together with any recommendations of the
20 hearing officials shall be transmitted forthwith to the official or officials
21 before whom the hearing would have been had if it had taken place in the
22 sending state. In any and all proceedings had pursuant to the provisions of
23 this subdivision, the officials of the receiving state shall act solely as agents
24 of the sending state and no final determination shall be made in any matter
25 except by the appropriate officials of the sending state. Costs of records
26 made pursuant to this subdivision shall be borne by the sending state.

27 (g) Any inmate confined pursuant to this compact shall be released within
28 the territory of the sending state unless the inmate, and the sending and
29 receiving states, shall agree upon release in some other place. The sending
30 state shall bear the cost of such return to its territory.

31 (h) Any inmate confined pursuant to the terms of this compact shall have

1 any and all rights to participate in and derive any benefits or incur or be
2 relieved of any obligations or have such obligations modified or the status
3 of the inmate changed on account of any action or proceeding in which the
4 inmate could have participated if confined in any appropriate institution of
5 the sending state located within such state.

6 (i) The parent, guardian, trustee, or other person or persons entitled un-
7 der the laws of the sending state to act for, advise, or otherwise function
8 with respect to any inmate shall not be deprived of or restricted in the ex-
9 ercise of any power in respect of any inmate confined pursuant to the terms
10 of this compact.

11 ARTICLE V

12 ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

13 (a) Any decision of the sending state in respect of any matter over which
14 it retains jurisdiction pursuant to this compact shall be conclusive upon and
15 not reviewable within the receiving state, but if at the time the sending state
16 seeks to remove an inmate from an institution in the receiving state there
17 is pending against the inmate within such state any criminal charge or if the
18 inmate is suspected of having committed within such state a criminal offense,
19 the inmate shall not be returned without the consent of the receiving state
20 until discharged from prosecution or other form of proceeding, imprisonment
21 or detention for such offense. The duly accredited officers of the sending
22 state shall be permitted to transport inmates pursuant to this compact
23 through any and all states party to this compact without interference.

24 (b) An inmate who escapes from an institution in which the inmate is
25 confined pursuant to this compact shall be deemed a fugitive from the send-
26 ing state and from the state in which the institution is situated. In the case
27 of an escape to a jurisdiction other than the sending or receiving state, the
28 responsibility for institution of extradition proceedings shall be that of the
29 sending state, but nothing contained herein shall be construed to prevent or
30 affect the activities of officers and agencies of any jurisdiction directed to-
31 ward the apprehension and return of an escapee.

1 ARTICLE VI

2 FEDERAL AID

3 Any state party to this compact may accept federal aid for use in con-
4 nection with any institution or program, the use of which is or may be af-
5 fected by this compact or any contract pursuant hereto and any inmate in
6 a receiving state pursuant to this compact may participate in any such
7 federally aided program or activity for which the sending and receiving
8 states have made contractual provision provided that if such program or ac-
9 tivity is not part of the customary correctional regimen the express consent
10 of the appropriate official of the sending state shall be required therefor.

11 ARTICLE VII

12 ENTRY INTO FORCE

13 This compact shall enter into force and become effective and binding upon
14 the state so acting when it has been enacted into law by any two contiguous
15 states from among the states of Alaska, Arizona, California, Colorado,
16 Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah,
17 Washington and Wyoming. For the purposes of this article, Alaska and
18 Hawaii shall be deemed contiguous to each other; to any and all of the states
19 of California, Oregon and Washington; and to Guam. Thereafter, this com-
20 pact shall enter into force and become effective and binding as to any other
21 of said states, or any other state contiguous to at least one party state upon
22 similar action by such state. Guam may become party to this compact by
23 taking action similar to that provided for joinder by any other eligible party
24 state and upon the consent of Congress to such joinder. For the purposes of
25 this article, Guam shall be deemed contiguous to Alaska, Hawaii, California,
26 Oregon and Washington.

27 ARTICLE VIII

28 WITHDRAWAL AND TERMINATION

29 This compact shall continue in force and remain binding upon a party
30 state until it shall have enacted a statute repealing the same and providing
31 for the sending of formal written notice of withdrawal from the compact to

1 the appropriate officials of all other party states. An actual withdrawal shall
2 not take effect until two years after the notices provided in said statute have
3 been sent. Such withdrawal shall not relieve the withdrawing state from its
4 obligations assumed hereunder prior to the effective date of withdrawal. Be-
5 fore the effective date of withdrawal, a withdrawing state shall remove to
6 its territory, at its own expense, such inmates as it may have confined pur-
7 suant 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 im-
11 pair any agreement or other arrangement which a party state may have with
12 a nonparty state for the confinement, rehabilitation or treatment of inmates
13 nor to repeal any other laws of a party state authorizing the making of co-
14 operative institutional arrangements.

15 ARTICLE X

16 CONSTRUCTION AND SEVERABILITY

17 The provisions of this compact shall be liberally construed and shall be
18 severable. If any phrase, clause, sentence or provision of this compact is de-
19 clared to be contrary to the constitution of any participating state or of the
20 United States or the applicability thereof to any government, agency, person
21 or circumstance is held invalid, the validity of the remainder of this compact
22 and the applicability thereof to any government, agency, person or circum-
23 stance shall not be affected thereby. If this compact shall be held contrary
24 to the constitution of any state participating therein, the compact shall re-
25 main in full force and effect as to the remaining states and in full force and
26 effect as to the state affected as to all severable matters.

27

28 **SECTION 65.** ORS 421.296 is amended to read:

29 421.296. The Interstate Forest Fire Suppression Compact is enacted into
30 law and entered into on behalf of this state with all other states legally
31 joining therein in a form substantially as follows:

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ARTICLE I

Purpose

The purpose of this compact is to provide for the development and execution of programs to facilitate the use of offenders in the forest fire suppression efforts of the party states for the ultimate protection of life, property and natural resources in the party states. The purpose of this compact is also, in emergent situations, to allow a sending state to cross state lines with an inmate when, because of weather or road conditions, it is necessary to cross state lines to facilitate the transport of an inmate.

ARTICLE II

Definitions

(1) "Sending state" means a state party to this compact from which a fire suppression unit is traveling.

(2) "Receiving state" means a state party to this compact to which a fire suppression unit is traveling.

(3) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(4) "Institution" means any prison, reformatory, honor camp or other correctional facility, except 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

1 more of the other party states for the assistance of one or more fire sup-
2 pression units in forest fire suppression efforts. Any such contract shall
3 provide for matters as may be necessary and appropriate to fix the obli-
4 gations, responsibilities and rights of the sending and receiving states.

5 (2) The terms and provisions of this compact shall be part of any contract
6 entered into by the authority of, or pursuant to, this compact. Nothing in
7 any such contract may be inconsistent with this compact.

8 ARTICLE IV

9 Procedures and Rights

10 (1) Each party state shall appoint a liaison for the coordination and de-
11 ployment of the fire suppression units of each party state.

12 (2) Whenever the duly constituted judicial or administrative authorities
13 in a state party to this compact, which has entered into a contract pursuant
14 to this compact, decide that the assistance of a fire suppression unit of a
15 party state is required for forest fire suppression efforts, the authorities may
16 request the assistance of one or more fire suppression units of any state
17 party to this compact through an appointed liaison.

18 (3) Inmates who are members of a fire suppression unit shall at all times
19 be subject to the jurisdiction of the sending state and at all times shall be
20 under the ultimate custody of corrections officers duly accredited by the
21 sending state.

22 (4) The receiving state must make adequate arrangements for the con-
23 finement of inmates who are members of a fire suppression unit of a sending
24 state in the event corrections officers duly accredited by the sending state
25 make a discretionary determination that an inmate requires institutional
26 confinement.

27 (5) Cooperative efforts shall be made by corrections officers and personnel
28 of the receiving state located at a fire camp with the corrections officers and
29 other personnel in the establishment and maintenance of fire suppression
30 unit base camps.

31 (6) All inmates who are members of a fire suppression unit of a sending

1 state shall be cared for and treated equally with such similar inmates of the
2 receiving state.

3 (7) Further, in emergent situations, a sending state shall be granted au-
4 thority and all the protections of this compact to cross state lines with an
5 inmate when, because of road conditions, it is necessary to facilitate the
6 transport of an inmate.

7 ARTICLE V

8 Acts Not Reviewable

9 in Receiving State: Extradition

10 (1) If while located within the territory of a receiving state there occurs
11 against the inmate within such state any criminal charge or if the inmate
12 is suspected of committing within such state a criminal offense, the inmate
13 shall not be returned without the consent of the receiving state until dis-
14 charged from prosecution or other form of proceeding, imprisonment or de-
15 tention for such offense. The duly accredited officers of the sending state
16 shall be permitted to transport inmates pursuant to this compact through
17 any and all states party to this compact without interference.

18 (2) An inmate member of a fire suppression unit of the sending state who
19 is deemed to have escaped by a duly accredited corrections officer of a
20 sending state shall be under the jurisdiction of both the sending state and
21 the receiving state. Nothing contained in this Article shall be construed to
22 prevent or affect the activities of officers and guards of any jurisdiction di-
23 rected toward the apprehension and return of an escapee.

24 ARTICLE VI

25 Entry into Force

26 This compact shall enter into force and become effective and binding upon
27 approval of this compact by at least two of the states from among the States
28 of Idaho, Oregon and Washington.

29 ARTICLE VII

30 Withdrawal and Termination

31 This compact shall continue in force and remain binding upon a party

1 state until it shall have enacted a statute repealing the same and providing
2 for the sending of formal written notice of withdrawal from the compact to
3 the appropriate officials of all other party states.

4 ARTICLE VIII

5 Other Arrangements Unaffected

6 Nothing contained in this compact shall be construed to abrogate or im-
7 pair any agreement which a party state may have with a nonparty state for
8 the confinement, rehabilitation or treatment of inmates nor to repeal any
9 other laws of a party state authorizing the making of cooperative institu-
10 tional arrangements.

11 ARTICLE IX

12 Construction and Severability

13 The provisions of this compact shall be liberally construed and shall be
14 severable. If any phrase, clause, sentence or provision of this compact is de-
15 clared to be contrary to the constitution of any participating state or of the
16 United States or the applicability thereof to any government, agency, person
17 or circumstance is held invalid, the validity of the remainder of this compact
18 and the applicability thereof to any government, agency, person or circum-
19 stance shall not be affected thereby. If this compact shall be held contrary
20 to the constitution of any state participating therein, the compact shall re-
21 main in full force and effect as to the remaining states and in full force and
22 effect as to the state affected as to all severable matters.

23
24 SECTION 66. ORS 426.500 is amended to read:

25 426.500. For the purpose of carrying out the policy and intent of ORS
26 426.490 to 426.500, the Oregon Health Authority shall:

27 (1) Adopt rules for the administration of ORS 426.490 to 426.500;

28 (2) Prepare a written discharge plan for each person with a chronic
29 mental illness who is a patient at a state [*mental institution*] **hospital** or
30 who is committed to the authority pursuant to ORS 426.005 to 426.223 and
31 426.241 to 426.380;

1 (3) Ensure that case managers are provided for each person with a
2 chronic mental illness described in subsection (2) of this section; and

3 (4) Disburse from any available funds:

4 (a) Funds for one LINC model in the area served by F. H. Dammasch
5 State Hospital and one LINC model in the area served by the Oregon State
6 Hospital licensed under ORS 443.415;

7 (b) Discretionary funds for services necessary to implement a discharge
8 plan, including but not limited to transportation, medication, recreation and
9 socialization; and

10 (c) Funds to provide day treatment services, community psychiatric inpa-
11 tient services, and work activity services for persons with chronic mental
12 illness when needed.

13 **SECTION 67.** Section 5, chapter 826, Oregon Laws 2009, as amended by
14 sections 18 and 18a, chapter 826, Oregon Laws 2009, and section 32, chapter
15 658, Oregon Laws 2011, is amended to read:

16 **Sec. 5.** (1) A person barred from transporting, shipping, possessing or
17 receiving a firearm may file a petition with the Psychiatric Security Review
18 Board for relief from the bar if:

19 (a) The person is barred from possessing a firearm under ORS 166.250
20 (1)(c)(D) or (E);

21 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e)
22 or (f); or

23 (c) The person is barred from possessing, receiving, shipping or trans-
24 porting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state
25 mental health determination.

26 (2) The petitioner shall serve a copy of the petition on:

27 (a) The Department of Human Services and the Oregon Health Authority;
28 and

29 (b) The district attorney in each county in which:

30 (A) The person was committed by a court to the Oregon Health Authority,
31 or adjudicated by a court as [*mentally ill*] **a person with mental illness,**

1 under ORS 426.130;

2 (B) The person was committed by a court to the Department of Human
3 Services, or adjudicated by a court as in need of commitment for residential
4 care, treatment and training, under ORS 427.290;

5 (C) The person was found guilty except for insanity under ORS 161.295;

6 (D) The person was found responsible except for insanity under ORS
7 419C.411; or

8 (E) The person was found by a court to lack fitness to proceed under ORS
9 161.370.

10 (3) Following receipt of the petition, the board shall conduct a contested
11 case hearing, make written findings of fact and conclusions of law on the
12 issues before the board and issue a final order.

13 (4) The state and any person or entity described in subsection (2) of this
14 section may appear and object to and present evidence relevant to the relief
15 sought by the petitioner.

16 (5) The board shall grant the relief requested in the petition if the
17 petitioner demonstrates, based on the petitioner's reputation, the petitioner's
18 record, the circumstances surrounding the firearm disability and any other
19 evidence in the record, that the petitioner will not be likely to act in a
20 manner that is dangerous to public safety and that granting the relief would
21 not be contrary to the public interest.

22 (6) If the board grants the relief requested in the petition, the board shall
23 provide to the Department of State Police the minimum information neces-
24 sary, as defined in ORS 181.740, to enable the department to:

25 (a) Maintain the information and transmit the information to the federal
26 government as required under federal law; and

27 (b) Maintain a record of the person's relief from the disqualification to
28 possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470
29 (1)(e) or (f).

30 (7) The petitioner may petition for judicial review of a final order of the
31 board. The petition shall be filed in the circuit court of a county described

1 in subsection (2)(b) of this section. The review shall be conducted de novo
2 and without a jury.

3 (8) A petitioner may take an appeal from the circuit court to the Court
4 of Appeals. Review by the Court of Appeals shall be conducted in accordance
5 with ORS 183.500.

6 (9) A person may file a petition for relief under this section no more than
7 once every two years.

8 (10) The board shall adopt procedural rules to carry out the provisions
9 of this section.

10 (11) As used in this section, “state mental health determination” means:

11 (a) A finding by a court that a person lacks fitness to proceed under ORS
12 161.370;

13 (b) A finding that a person is guilty except for insanity of a crime under
14 ORS 161.295 or responsible except for insanity of an act under ORS 419C.411
15 or any determination by the Psychiatric Security Review Board thereafter;

16 (c) A commitment by a court to the Oregon Health Authority, or an ad-
17 judication by a court that a person is [*mentally ill*] **a person with mental**
18 **illness**, under ORS 426.130; or

19 (d) A commitment by a court to the Department of Human Services, or
20 an adjudication by a court that a person is in need of commitment for resi-
21 dential care, treatment and training, under ORS 427.290.

22

23

CAPTIONS

24

25 **SECTION 68. The unit captions used in this 2013 Act are provided**
26 **only for the convenience of the reader and do not become part of the**
27 **statutory law of this state or express any legislative intent in the**
28 **enactment of this 2013 Act.**

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