

# D R A F T

## SUMMARY

Directs Attorney General to include, on batterers' intervention program standards advisory committee, psychologist or psychiatrist with relevant experience. Specifies requirements for program standards.

Specifies requirements for retention of sexual assault forensic evidence kits by law enforcement agencies. Directs Department of Justice to create informational materials for victims of sexual assault describing services payable by Sexual Assault Victims' Emergency Medical Response Fund.

Requires health care providers to, upon request, provide Psychiatric Security Review Board with medical records of person under jurisdiction of board. Modifies procedures by which person found guilty except for insanity and on conditional release may be ordered returned to state hospital or other facility.

Modifies elements of, and exceptions to, crime involving unlawful operation of unmanned aircraft system.

## A BILL FOR AN ACT

1  
2 Relating to public safety; creating new provisions; and amending ORS  
3 147.395, 147.397, 161.336, 161.390, 180.700 and 837.365.

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

5 **SECTION 1.** ORS 180.700 is amended to read:

6 180.700. (1) The Attorney General shall appoint an advisory committee  
7 composed at least of representatives from local supervisory authorities,  
8 batterers' intervention programs and domestic violence victims' advocacy  
9 groups. **In addition, the advisory committee must include at least one**  
10 **psychologist or psychiatrist with experience working with batterers'**  
11 **intervention programs.**

12 (2) The Attorney General, in consultation with the advisory committee,  
13 shall adopt rules that establish standards for batterers' intervention pro-

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

1 grams. The rules adopted must include, but are not limited to:

2 [(1)] (a) Standards for contacts between the defendant and the victim;

3 [(2)] (b) Standards for the dissemination of otherwise confidential med-  
4 ical, mental health and treatment records;

5 [(3)] (c) Standards that protect to the greatest extent practicable the  
6 confidentiality of defendants who are participating in domestic violence de-  
7 ferred sentencing agreements;

8 [(4)] (d) A requirement that the designated batterers' intervention pro-  
9 gram must report to the defendant's local supervisory authority any criminal  
10 assaults, threats to harm the victim or any substantial violation of the  
11 program's rules by the defendant; and

12 [(5)] (e) Standards for batterers' intervention programs that are most  
13 likely to end domestic violence and increase victims' safety.

14 **(3) The standards established by the rules described in subsection**  
15 **(2) of this section must apply to all genders, be evidence-based and be**  
16 **designed to reduce recidivism.**

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

19 **SECTION 2.** ORS 147.397 is amended to read:

20 147.397. (1) Subject to the availability of funds from gifts, grants and do-  
21 nations in the Sexual Assault Victims' Emergency Medical Response Fund,  
22 the Department of Justice shall pay the costs of:

23 (a) A complete medical assessment obtained by the victim of a sexual as-  
24 sault if the victim obtains the medical assessment no later than 84 hours  
25 after the sexual assault.

26 (b) A partial medical assessment obtained by the victim of a sexual as-  
27 sault if the victim obtains the medical assessment no later than seven days  
28 after the sexual assault.

29 (2) The department may not deny payment under this section for any of  
30 the following reasons:

31 (a) The victim of a sexual assault has not reported the assault to a law

1 enforcement agency.

2 (b) The identity of a victim of a sexual assault is not readily available  
3 to the department because forensic evidence has been collected from the  
4 victim and preserved in a manner intended to protect the victim's identity.

5 (3) The department shall develop a form that the victim of a sexual as-  
6 sult must complete if the victim wants the department to pay for a medical  
7 assessment as provided in subsection (1) of this section. The department shall  
8 make copies of the form available to providers of medical assessments. The  
9 form must inform the victim that:

10 (a) A complete or partial medical assessment can be obtained regardless  
11 of whether the victim reports the assault to a law enforcement agency; and

12 (b) A complete or partial medical assessment can be performed and evi-  
13 dence collected in a manner intended to protect the victim's identity.

14 (4) When the victim of a sexual assault completes the form developed by  
15 the department under subsection (3) of this section, the victim shall submit  
16 the form to the provider of the medical assessment. The provider shall submit  
17 the form with a bill for the medical assessment to the department. A provider  
18 who submits a bill under this subsection may not bill the victim or the  
19 victim's insurance carrier for the medical assessment except to the extent  
20 that the department is unable to pay the bill due to lack of funds or declines  
21 to pay the bill.

22 (5) Providers of medical assessments that seek reimbursement under this  
23 section shall:

24 (a) Maintain records of medical assessments that protect the identity of  
25 victims of sexual assault and keep confidential the identity of victims who  
26 have not reported the sexual assault to a law enforcement agency;

27 (b) Store **sexual assault** forensic evidence [*collection*] kits and transfer  
28 custody of the kits to a law enforcement agency having jurisdiction over the  
29 geographic area where the provider is located; and

30 (c) Cooperate with law enforcement agencies to develop and implement  
31 procedures that protect the identities of victims while allowing retrieval and

1 assessment of **sexual assault forensic** evidence [*collection*] kits and related  
2 evidence.

3 (6) Law enforcement agencies that receive evidence [*collection kits*] as  
4 provided by subsection (5) of this section shall preserve [*the kits and any*  
5 *related evidence for at least six months.*]:

6 **(a) A sexual assault forensic evidence kit for no less than 60 years**  
7 **after collection of the evidence; and**

8 **(b) Any related evidence for at least six months.**

9 (7) A provider may not charge the department more for a complete med-  
10 ical assessment or a partial medical assessment than the maximum amounts  
11 established by the department by rule for the assessments.

12 (8) The victim of a sexual assault may obtain a medical assessment and  
13 complete and submit a form under this section regardless of whether the  
14 victim reports the sexual assault to a law enforcement agency.

15 (9) This section does not require the department to pay any costs of  
16 treatment for injuries resulting from the sexual assault.

17 **(10) The department shall create, and make available to medical**  
18 **assessment providers, informational materials describing the services**  
19 **payable by the fund as described in subsection (1) of this section. A**  
20 **provider shall ensure that the informational materials are made**  
21 **available to sexual assault victims.**

22 [(10)] (11) The department may adopt rules necessary to carry out the  
23 provisions of this section.

24 **SECTION 3.** ORS 147.395 is amended to read:

25 147.395. As used in ORS 147.397:

26 (1) "Complete medical assessment" means an assessment that consists of:

27 (a) A medical examination;

28 (b) The collection of forensic evidence using an evidence collection kit  
29 approved by the Department of State Police; and

30 (c) The offering and, if requested, provision of emergency contraception,  
31 sexually transmitted disease prevention and, for a victim who is 17 years of

1 age or younger, prescriptions for emergency contraception.

2 (2) "Medical assessment" means a complete or partial medical assessment.

3 (3) "Partial medical assessment" means an assessment that consists of:

4 (a) A medical examination; and

5 (b) The offering and, if requested, provision of emergency contraception,  
6 sexually transmitted disease prevention and, for a victim who is 17 years of  
7 age or younger, prescriptions for emergency contraception.

8 (4) **"Sexual assault forensic evidence kit" has the meaning given**  
9 **that term in ORS 181A.323.**

10 **SECTION 4.** ORS 161.390 is amended to read:

11 161.390. (1) The Oregon Health Authority shall adopt rules for the as-  
12 signment of persons to state mental hospitals or secure intensive community  
13 inpatient facilities under ORS 161.365 and 161.370 and for establishing stan-  
14 dards for evaluation and treatment of persons committed to a state hospital  
15 or a secure intensive community inpatient facility or ordered to a community  
16 mental health program under ORS 161.315 to 161.351.

17 (2) When the Psychiatric Security Review Board requires the preparation  
18 of a predischarge or preconditional release plan before a hearing or as a  
19 condition of granting discharge or conditional release for a person committed  
20 under ORS 161.315 to 161.351 to a state hospital or a secure intensive com-  
21 munity inpatient facility for custody, care and treatment, the authority is  
22 responsible for and shall prepare the plan.

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

27 (4)(a) The board shall maintain and keep current the medical, social and  
28 criminal history of all persons committed to its jurisdiction. The  
29 confidentiality of records maintained by the board shall be determined pur-  
30 suant to ORS 192.338, 192.345 and 192.355.

31 (b) **Except as otherwise provided by law, upon request of the board,**

1 **a state hospital, a community mental health program and any other**  
2 **health care service provider shall provide the board with all medical**  
3 **records pertaining to a person committed to the jurisdiction of the**  
4 **board.**

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

7 **SECTION 5.** ORS 161.336 is amended to read:

8 161.336. (1)(a) When a person is conditionally released under ORS 161.315  
9 to 161.351, the person is subject to those supervisory orders of the Psychiat-  
10 ric Security Review Board as are in the best interests of justice, the pro-  
11 tection of society and the welfare of the person.

12 (b) An order of conditional release entered by the board may designate  
13 any person or state, county or local agency capable of supervising the person  
14 upon release, subject to the conditions described in the order of conditional  
15 release.

16 (c) Prior to the designation, the board shall notify the person or state,  
17 county or local agency to whom conditional release is contemplated and  
18 provide the person or state, county or local agency an opportunity to be  
19 heard.

20 (d) After receiving an order entered under this section, the person or  
21 state, county or local agency designated in the order shall assume super-  
22 vision of the person in accordance with the conditions described in the order  
23 and any modifications of the conditions ordered by the board.

24 (2) Conditions of release contained in orders entered under this section  
25 may be modified from time to time and conditional releases may be termi-  
26 nated as provided in ORS 161.351.

27 (3)(a) As a condition of release, the person may be required to report to  
28 any state or local mental health facility for evaluation. Whenever medical,  
29 psychiatric or psychological treatment is recommended, the order may re-  
30 quire the person, as a condition of release, to cooperate with and accept the  
31 treatment from the facility.

1 (b) The facility to which the person has been referred for evaluation shall  
2 perform the evaluation and submit a written report of its findings to the  
3 board. If the facility finds that treatment of the person is appropriate, it  
4 shall include its recommendations for treatment in the report to the board.

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

7 (d) Copies of all reports submitted to the board pursuant to this section  
8 shall be furnished to the person and the person's counsel. The confidentiality  
9 of these reports is determined pursuant to ORS 192.338, 192.345 and 192.355.

10 (e) The facility shall comply with the conditional release order and any  
11 modifications of the conditions ordered by the board.

12 (4)(a) *[If at any time while the person is under the jurisdiction of the board*  
13 *it appears to the board or its chairperson that the person has violated the terms*  
14 *of the conditional release or that the mental health of the individual has*  
15 *changed, the board or its chairperson may order the person returned for eval-*  
16 *uation or treatment to a state hospital or, if the person is under 18 years of*  
17 *age, to a secure intensive community inpatient facility. A written order of the*  
18 *board, or its chairperson on behalf of the board, is sufficient warrant for any*  
19 *law enforcement officer to take into custody such person and transport the*  
20 *person accordingly. A sheriff, municipal police officer, constable, parole and*  
21 *probation officer, prison official or other peace officer shall execute the order,*  
22 *and the person shall be returned as soon as practicable to the state hospital*  
23 *or secure intensive community inpatient facility designated in the order.]* **A**  
24 **supervising entity may, in the manner described in this paragraph,**  
25 **issue a written or electronic order for the return of a person on con-**  
26 **ditional release to a state hospital or other facility designated by the**  
27 **supervising entity or, if the person is under 18 years of age, to a secure**  
28 **intensive community inpatient facility. The order may instead be is-**  
29 **sued by a person designated by the supervising entity if the desig-**  
30 **nation is made as part of a written policy. The order may be issued if**  
31 **the supervising entity or designee determines that the person has vi-**

1 **olated the terms of conditional release, or if the mental health of the**  
2 **person has changed such that the supervising entity or designee rea-**  
3 **sonably believes that the person may no longer be fit for conditional**  
4 **release. Unless the order provides otherwise, the order shall be exe-**  
5 **cuted by a peace officer. The order constitutes full authority for the**  
6 **arrest and detention of the person and all laws applicable to warrants**  
7 **and arrests apply to the order.**

8 (b) [*The community mental health program director*] **A peace officer**, the  
9 director of the facility providing treatment to a person on conditional  
10 release[, *any peace officer*] or any person responsible for the supervision of  
11 a person on conditional release may take a person on conditional release into  
12 custody, or request that the person be taken into custody, if there is rea-  
13 sonable cause to believe the person is a substantial danger to others because  
14 of a [*qualifying*] mental disorder and that the person is in need of immediate  
15 care, custody or treatment. [*Any person taken into custody pursuant to this*  
16 *subsection shall be transported as soon as practicable to a state hospital or,*  
17 *if the person is under 18 years of age, to a secure intensive community inpa-*  
18 *tient facility.*]

19 (c) **When a person is taken into custody by a peace officer under**  
20 **this subsection, the agency employing the peace officer shall transport**  
21 **the person as soon as practicable to a state hospital or other facility**  
22 **designated by the supervising entity. The person may be detained in**  
23 **jail only so long as is necessary to secure appropriate transportation**  
24 **to a state hospital or other designated facility. A peace officer may**  
25 **not be held civilly or criminally liable for taking a person into lawful**  
26 **custody under this subsection.**

27 [(c)] (d) Within 20 days following the return of the person to a state  
28 hospital or secure intensive community inpatient facility under this sub-  
29 section, the board shall conduct a hearing. The board shall provide notice  
30 of the hearing to the person, the attorney representing the person and the  
31 Attorney General. The state must prove by a preponderance of the evidence



1 the person's unfitness for conditional release. The hearing shall be conducted  
2 in accordance with ORS 161.346.

3 **(e) As used in this subsection, "supervising entity" means the**  
4 **board, the chairperson or executive director of the board or the com-**  
5 **munity mental health program director.**

6 (5)(a) Any person conditionally released under this section may apply to  
7 the board for discharge from or modification of an order of conditional re-  
8 lease on the ground that the person is no longer affected by a qualifying  
9 mental disorder or, if still so affected, no longer presents a substantial dan-  
10 ger to others and no longer requires supervision, medication, care or treat-  
11 ment. Notice of the hearing on an application for discharge or modification  
12 of an order of conditional release shall be made to the Attorney General.  
13 The applicant, at the hearing pursuant to this subsection, must prove by a  
14 preponderance of the evidence the applicant's fitness for discharge or mod-  
15 ification of the order of conditional release. Applications by the person for  
16 discharge or modification of conditional release may not be filed more often  
17 than once every six months.

18 (b) Upon application by any person or agency responsible for supervision  
19 or treatment pursuant to an order of conditional release, the board shall  
20 conduct a hearing to determine if the conditions of release shall be contin-  
21 ued, modified or terminated. The application shall be accompanied by a re-  
22 port setting forth the facts supporting the application.

23 (6) A person who has spent five years on conditional release shall be  
24 brought before the board for hearing within 30 days before the expiration  
25 of the five-year period. The board shall review the person's status and de-  
26 termine whether the person should be discharged from the jurisdiction of the  
27 board.

28 **SECTION 6.** ORS 837.365 is amended to read:

29 837.365. (1) Except as provided in subsection [(2)] **(3)** of this section, a  
30 person may not intentionally, knowingly or recklessly operate or cause to  
31 be operated an unmanned aircraft system that is:

1 (a) Capable of firing a bullet or projectile; or

2 (b) **Specifically designed or modified to cause, and is presently ca-**  
3 **pable of causing, serious physical injury as defined in ORS 161.015.**

4 [*otherwise operate or cause to be operated an unmanned aircraft system in a*  
5 *manner that causes the system to function as a dangerous weapon as defined*  
6 *in ORS 161.015.*]

7 (2)(a) Except as provided in paragraphs (b) and (c) of this subsection, vi-  
8 olation of subsection (1) of this section is a Class A misdemeanor.

9 (b) **Violation of subsection (1) of this section is a Class C felony** if  
10 the person intentionally, knowingly or recklessly operates an unmanned  
11 aircraft system [*to fire*] **and the unmanned aircraft system fires** a bullet  
12 or projectile. [*or otherwise operates an unmanned aircraft system in a manner*  
13 *that causes the system to function as a dangerous weapon as defined in ORS*  
14 *161.015, violation of subsection (1) of this section is a Class C felony.*]

15 (c) **Violation of subsection (1) of this section is a Class B felony** if  
16 the person intentionally, knowingly or recklessly operates an unmanned  
17 aircraft system [*to fire*] **and the unmanned aircraft system:**

18 (A)(i) **Fires** a bullet or projectile; or

19 (ii) **Is specifically designed or modified to cause, and is presently**  
20 **capable of causing, serious physical injury as defined in ORS 161.015;**  
21 **and**

22 (B) **Causes serious physical injury, as defined in ORS 161.015, to**  
23 **another person.** [*or otherwise operates an unmanned aircraft system in a*  
24 *manner that causes the system to function as a dangerous weapon as defined*  
25 *in ORS 161.015, and the operation of the unmanned aircraft system causes se-*  
26 *rious physical injury to another person as both terms are defined in ORS*  
27 *161.015, violation of subsection (1) of this section is a Class B felony.*]

28 (3) Subsection (1) of this section does not apply if:

29 (a) The person uses the unmanned aircraft system to release, discharge,  
30 propel or eject a nonlethal projectile for purposes other than to injure or  
31 kill persons or animals;

1 (b) The person uses the unmanned aircraft system for nonrecreational  
2 purposes in compliance with specific authorization from the Federal Aviation  
3 Administration;

4 (c) The person notifies the Oregon Department of Aviation, the Oregon  
5 State Police and any other agency that issues a permit or license for the  
6 activity requiring the use of the unmanned aircraft system of the time and  
7 location at which the person intends to use an unmanned aircraft system  
8 that is capable of releasing, discharging, propelling or ejecting a projectile  
9 at least five days before the person uses the system;

10 (d) If the person intends to use an unmanned aircraft system that is ca-  
11 pable of releasing, discharging, propelling or ejecting a projectile in an area  
12 open to the public, the person provides reasonable notice to the public of the  
13 time and location at which the person intends to use the unmanned aircraft  
14 system; and

15 (e) The person maintains a liability insurance policy in an amount not  
16 less than \$1 million that covers injury resulting from use of the unmanned  
17 aircraft system.

18 (4) The notification requirement of subsection (3)(c) of this section does  
19 not apply to:

20 (a) A career school licensed under ORS 345.010 to 345.450;

21 (b) A community college as defined in ORS 341.005;

22 (c) [*An education service district as defined in ORS 334.003*] **A school**;

23 (d) The Oregon Health and Science University;

24 (e) A public university listed in ORS 352.002; or

25 (f) An institution that is exempt from ORS 348.594 to 348.615 under ORS  
26 348.597 (2).

27 (5) Notwithstanding subsection (3) of this section, a person may not use  
28 an unmanned aircraft system that is capable of releasing, discharging, pro-  
29 pelling or ejecting a projectile for purposes of crowd management.

30 **(6) As used in this section, “school” means a public or private in-**  
31 **stitution of learning providing instruction at levels kindergarten**

1 **through grade 12, or their equivalents.**

2 **SECTION 7. The amendments to ORS 837.365 by section 6 of this**  
3 **2018 Act apply to offenses committed on or after the effective date of**  
4 **this 2018 Act.**

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