

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO  
SENATE BILL 65**

1 In line 2 of the printed bill, after “Board” insert “; creating new pro-  
2 visions; amending ORS 21.010, 90.630, 137.223, 137.750, 144.641, 151.216,  
3 161.326, 161.327, 161.332, 161.336, 161.341, 161.346, 161.348, 161.349, 161.351,  
4 161.390, 161.395, 161.400, 162.135, 162.155, 163.476, 163.479, 163A.105, 163A.210,  
5 163A.215, 181A.290, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and  
6 810.375 and section 7, chapter 708, Oregon Laws 2013; and declaring an  
7 emergency”.

8 Delete lines 4 through 15 and insert:

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

10 “161.346. (1) When the Psychiatric Security Review Board [*or the Oregon*  
11 *Health Authority*] conducts a hearing under ORS 161.315 to 161.351, the  
12 [*agency conducting the hearing*] **board** shall enter an order and make findings  
13 in support of the order. If the [*agency*] **board** finds that a person under the  
14 jurisdiction of the [*agency*] **board**:

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

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

1       “(c) Has not recovered from the mental disease or defect, is a substantial  
2 danger to others and cannot adequately be controlled if conditionally re-  
3 leased on supervision, the [agency] **board** shall order the person committed  
4 to, or retained in, a state hospital, or if the person is under 18 years of age,  
5 a secure intensive community inpatient facility, for care, custody and treat-  
6 ment.

7       “[(2)(a) *Except as otherwise provided in ORS 161.349, the Psychiatric Se-*  
8 *curity Review Board shall exercise exclusive jurisdiction over a tier one*  
9 *offender until the board discharges the person from the jurisdiction of the*  
10 *board or the maximum period of jurisdiction expires.*]

11       “[(b) *When the board orders a tier two offender committed to a state hos-*  
12 *pital, or a secure intensive community inpatient facility, under ORS 161.315*  
13 *to 161.351, the order shall transfer jurisdiction over the person to the Oregon*  
14 *Health Authority.*]

15       “[(c) *When the authority orders a tier two offender conditionally released*  
16 *under ORS 161.315 to 161.351, the order shall transfer jurisdiction over the*  
17 *person to the board.*]

18       “[(d) *The authority shall assume jurisdiction over a tier two offender when*  
19 *the person is returned to a state hospital, or to a secure intensive community*  
20 *inpatient facility, under ORS 161.336 (4).*]

21       “[(3)] (2) To assist the [agency] **board** in making the determination de-  
22 scribed in subsection (1) of this section, the [agency exercising jurisdiction  
23 over the person] **board** may, at any time, appoint a psychiatrist or licensed  
24 psychologist to examine the person and to submit a report to the [agency]  
25 **board**. The report must include an opinion as to the mental condition of the  
26 person, whether the person presents a substantial danger to others and  
27 whether the person could be adequately controlled with treatment as a con-  
28 dition of release.

29       “[(4)] (3) The [agency exercising jurisdiction over the person] **board** may  
30 make the determination regarding discharge or conditional release based

1 upon the written reports submitted pursuant to this section. If [*the authority*  
2 *or*] any member of the board desires further information from the examining  
3 psychiatrist or licensed psychologist who submitted the report, the [*agency*]  
4 **board** shall summon the person to give testimony. The [*agency*] **board** shall  
5 consider all evidence available to it that is material, relevant and reliable  
6 regarding the issues before the [*agency*] **board**. The evidence may include but  
7 is not limited to the record of trial, the information supplied by the attorney  
8 representing the state or by any other interested party, including the person,  
9 and information concerning the person's mental condition and the entire  
10 psychiatric and criminal history of the person. All evidence of a type com-  
11 monly relied upon by reasonably prudent persons in the conduct of their se-  
12 rious affairs shall be admissible at hearings. Testimony shall be taken upon  
13 oath or affirmation of the witness from whom received. The officer presiding  
14 at the hearing shall administer oaths or affirmations to witnesses.

15 “[~~(5)~~] (4) The [*agency exercising jurisdiction over the person*] **board** shall  
16 furnish to the person about whom the hearing is being conducted, the at-  
17 torney representing the person, the Attorney General, the district attorney  
18 and the court or department of the county from which the person was com-  
19 mitted written notice of any hearing pending under this section within a  
20 reasonable time prior to the hearing. The notice shall include:

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

22 “(b) The nature of the hearing and the specific action for which a hearing  
23 has been requested, the issues to be considered at the hearing and a refer-  
24 ence to the particular sections of the statutes and rules involved.

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

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

28 “[~~(6)~~] (5) Prior to the commencement of the hearing, the [*agency*] **board**  
29 shall serve personally or by mail a written notice to each party as provided  
30 in ORS 183.413 (2).

1        “[7] (6) At the hearing, the person about whom the hearing is being held  
2 shall have the right:

3        “(a) To appear at all proceedings held pursuant to this section, except for  
4 deliberations.

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

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

7        “(d) To be represented by suitable legal counsel possessing skills and ex-  
8 perience commensurate with the nature and complexity of the case, to con-  
9 sult with counsel prior to the hearing and, if financially eligible, to have  
10 suitable counsel appointed at state expense.

11       “(e) To examine all information, documents and reports that the [agency]  
12 **board** considers. If then available to the [agency] **board**, the information,  
13 documents and reports shall be disclosed to the person so as to allow exam-  
14 ination prior to the hearing.

15       “[8] (7) A record shall be kept of all hearings conducted under ORS  
16 161.315 to 161.351, except for deliberations.

17       “[9] (8) Upon request of any party, or on motion of the [agency con-  
18 ducting the hearing] **board**, the hearing may be continued for a reasonable  
19 period not to exceed 60 days to obtain additional information or testimony  
20 or for other good cause shown.

21       “[10] (9) Within 15 days following the conclusion of the hearing, the  
22 [agency] **board** shall provide to the person, the attorney representing the  
23 person, the Attorney General or other attorney representing the state, if any,  
24 written notice of the order entered by the [agency] **board**.

25       “[11] (10) The burden of proof on all issues at hearings under ORS  
26 161.315 to 161.351 shall be by a preponderance of the evidence.

27       “[12] (11) If the [agency conducting the hearing] **board** determines that  
28 the person about whom the hearing is being held is financially eligible, the  
29 [agency] **board** shall appoint suitable counsel to represent the person.  
30 Counsel so appointed shall be an attorney who satisfies the professional

1 qualifications established by the Public Defense Services Commission under  
2 ORS 151.216. The public defense services executive director shall determine  
3 and allow fair compensation for counsel appointed under this subsection and  
4 the reasonable expenses of the person in respect to the hearing. Compensa-  
5 tion payable to appointed counsel shall not be less than the applicable  
6 compensation level established under ORS 151.216. The compensation and  
7 expenses so allowed shall be paid by the public defense services executive  
8 director from funds available for the purpose.

9 “[~~13~~] (12) The Attorney General may represent the state at contested  
10 hearings under ORS 161.315 to 161.351 unless the district attorney of the  
11 county from which the person was committed elects to represent the state.  
12 The district attorney of the county from which the person was committed  
13 shall cooperate with the Attorney General in securing the material necessary  
14 for presenting a contested hearing. If the district attorney elects to represent  
15 the state, the district attorney shall give timely written notice of such  
16 election to the Attorney General, the [*agency conducting the hearing*] **board**  
17 and the attorney representing the person.

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

19 “161.336. (1)(a) When a person is conditionally released under ORS 161.315  
20 to 161.351, the person is subject to those supervisory orders of the Psychiat-  
21 ric Security Review Board as are in the best interests of justice, the pro-  
22 tection of society and the welfare of the person.

23 “(b) An order of conditional release entered by the board [*or the Oregon*  
24 *Health Authority*] may designate any person or state, county or local agency  
25 capable of supervising the person upon release, subject to the conditions  
26 described in the order of conditional release.

27 “(c) Prior to the designation, the [*agency conducting the hearing*] **board**  
28 shall notify the person or state, county or local agency to whom conditional  
29 release is contemplated and provide the person or state, county or local  
30 agency an opportunity to be heard.

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

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

8 “(3)(a) As a condition of release, the person may be required to report to  
9 any state or local mental health facility for evaluation. Whenever medical,  
10 psychiatric or psychological treatment is recommended, the order may re-  
11 quire the person, as a condition of release, to cooperate with and accept the  
12 treatment from the facility.

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

17 “(c) Whenever treatment is provided by the facility, it shall furnish re-  
18 ports to the board on a regular basis concerning the progress of the person.

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

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

24 “(4)(a) If at any time while the person is under the jurisdiction of the  
25 board it appears to the board or its chairperson that the person has violated  
26 the terms of the conditional release or that the mental health of the indi-  
27 vidual has changed, the board or its chairperson may order the person re-  
28 turned for evaluation or treatment to a state hospital or, if the person is  
29 under 18 years of age, to a secure intensive community inpatient facility. A  
30 written order of the board, or its chairperson on behalf of the board, is suf-

1   ficient warrant for any law enforcement officer to take into custody such  
2   person and transport the person accordingly. A sheriff, municipal police of-  
3   ficer, constable, parole and probation officer, prison official or other peace  
4   officer shall execute the order, and the person shall be returned as soon as  
5   practicable to the state hospital or secure intensive community inpatient  
6   facility designated in the order.

7       “(b) The community mental health program director, the director of the  
8   facility providing treatment to a person on conditional release, any peace  
9   officer or any person responsible for the supervision of a person on condi-  
10   tional release may take a person on conditional release into custody or re-  
11   quest that the person be taken into custody if there is reasonable cause to  
12   believe the person is a substantial danger to others because of mental disease  
13   or defect and that the person is in need of immediate care, custody or  
14   treatment. Any person taken into custody pursuant to this subsection shall  
15   be transported as soon as practicable to a state hospital or, if the person is  
16   under 18 years of age, to a secure intensive community inpatient facility.

17       “(c) Within 20 days following the return of the person to a state hospital  
18   or secure intensive community inpatient facility under this subsection, the  
19   [agency having jurisdiction over the person] **board** shall conduct a hearing.  
20   The [agency] **board** shall provide notice of the hearing to the person, the  
21   attorney representing the person and the Attorney General. The state must  
22   prove by a preponderance of the evidence the person’s unfitness for condi-  
23   tional release. The hearing shall be conducted in accordance with ORS  
24   161.346.

25       “(5)(a) Any person conditionally released under this section may apply to  
26   the board for discharge from or modification of an order of conditional re-  
27   lease on the ground that the person is no longer affected by mental disease  
28   or defect or, if still so affected, no longer presents a substantial danger to  
29   others and no longer requires supervision, medication, care or treatment.  
30   Notice of the hearing on an application for discharge or modification of an

1 order of conditional release shall be made to the Attorney General. The ap-  
2 plicant, at the hearing pursuant to this subsection, must prove by a prepon-  
3 derance of the evidence the applicant's fitness for discharge or modification  
4 of the order of conditional release. Applications by the person for discharge  
5 or modification of conditional release may not be filed more often than once  
6 every six months.

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

12 “(6) A person who has spent five years on conditional release shall be  
13 brought before the board for hearing within 30 days before the expiration  
14 of the five-year period. The board shall review the person's status and de-  
15 termine whether the person should be discharged from the jurisdiction of the  
16 board.

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

18 “161.341. (1) If at any time after a person is committed under ORS 161.315  
19 to 161.351 to a state hospital or a secure intensive community inpatient fa-  
20 cility, the superintendent of the hospital or the director of the secure inten-  
21 sive community inpatient facility is of the opinion that the person is no  
22 longer affected by mental disease or defect, or, if so affected, no longer pre-  
23 sents a substantial danger to others or that the person continues to be af-  
24 fected by mental disease or defect and continues to be a danger to others,  
25 but that the person can be controlled with proper care, medication, super-  
26 vision and treatment if conditionally released, the superintendent or director  
27 shall apply to the [*agency having jurisdiction over the person*] **Psychiatric**  
28 **Security Review Board** for an order of discharge or conditional release.  
29 The application shall be accompanied by a report setting forth the facts  
30 supporting the opinion of the superintendent or director. If the application



1 is for conditional release, the application must be accompanied by a verified  
2 conditional release plan. The [agency] **board** shall hold a hearing on the  
3 application within 60 days of its receipt. Not less than 20 days prior to the  
4 hearing before the [agency] **board**, copies of the report shall be sent to the  
5 Attorney General.

6 “(2) The attorney representing the state may choose a psychiatrist or li-  
7 censed psychologist to examine the person prior to the initial or any later  
8 decision by the [agency having jurisdiction over the person] **board** on dis-  
9 charge or conditional release. The results of the examination shall be in  
10 writing and filed with the [agency] **board**, and shall include, but need not  
11 be limited to, an opinion as to the mental condition of the person, whether  
12 the person presents a substantial danger to others and whether the person  
13 could be adequately controlled with treatment as a condition of release.

14 “(3) Any person who has been committed to a state hospital, or to a se-  
15 cure intensive community inpatient facility, for custody, care and treatment  
16 under ORS 161.315 to 161.351, or another person acting on the person’s be-  
17 half, may apply to the [agency having jurisdiction over the person] **board** for  
18 an order of discharge or conditional release upon the grounds:

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

20 “(b) That the person, if so affected, no longer presents a substantial dan-  
21 ger to others; or

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

26 “(4) When application is made under subsection (3) of this section, the  
27 [agency having jurisdiction over the person] **board** shall require that a report  
28 from the superintendent of the hospital or the director of the secure inten-  
29 sive community inpatient facility be prepared and transmitted as provided in  
30 subsection (1) of this section. The applicant must prove by a preponderance

1 of the evidence the applicant's fitness for discharge or conditional release  
2 under the standards of subsection (3) of this section, unless more than two  
3 years has passed since the state had the burden of proof on that issue, in  
4 which case the state shall have the burden of proving by a preponderance  
5 of the evidence the applicant's lack of fitness for discharge or conditional  
6 release. Applications for discharge or conditional release under subsection  
7 (3) of this section may not be filed more often than once every six months  
8 commencing with the date of the initial [agency] **board** hearing.

9 “(5) The [agency having jurisdiction over the person] **board** is not required  
10 to hold a hearing on a first application under subsection (3) of this section  
11 any sooner than 90 days after the initial hearing. Hearings resulting from  
12 any subsequent requests shall be held within 60 days of the filing of the ap-  
13 plication.

14 “(6)(a) In no case shall a person committed by the court under ORS  
15 161.327 to a state hospital, or to a secure intensive community inpatient fa-  
16 cility, be held in the hospital or facility for more than 90 days from the date  
17 of the court's commitment order without an initial hearing before the [agency  
18 having jurisdiction over the person] **board** to determine whether the person  
19 should be conditionally released or discharged.

20 “(b) In no case shall a person be held pursuant to this section for a period  
21 of time exceeding two years without a hearing before the [agency] **board** to  
22 determine whether the person should be conditionally released or discharged.

23 “**SECTION 4.** ORS 161.351 is amended to read:

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

1       “(2) For purposes of ORS 161.315 to 161.351, a person affected by a mental  
2 disease or defect in a state of remission is considered to have a mental dis-  
3 ease or defect. A person whose mental disease or defect may, with reasonable  
4 medical probability, occasionally become active and when it becomes active  
5 will render the person a danger to others may not be discharged. The person  
6 shall continue under supervision and treatment necessary to protect the  
7 person and others.

8       “(3) In determining whether a person should be committed to a state  
9 hospital or secure intensive community inpatient facility, conditionally re-  
10 leased or discharged, the board [*and the authority*] shall have as [*their*] **its**  
11 primary concern the protection of society.

12       “**SECTION 5.** ORS 161.390 is amended to read:

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

19       “(2) When the Psychiatric Security Review Board [*or the authority*] re-  
20 quires the preparation of a predischarge or preconditional release plan before  
21 a hearing or as a condition of granting discharge or conditional release for  
22 a person committed under ORS 161.315 to 161.351 to a state hospital or a  
23 secure intensive community inpatient facility for custody, care and treat-  
24 ment, the authority is responsible for and shall prepare the plan.

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

29       “[(4) *Before the authority conducts a hearing under ORS 161.315 to 161.351,*  
30 *the authority shall notify the board. The board may provide the authority with*

1 *conditions of release that the board determines are advisable. If the authority*  
2 *orders the person conditionally released, the authority shall include the con-*  
3 *ditions of release in the order.]*

4 “[5] (4) The board [*and the authority*] shall maintain and keep current  
5 the medical, social and criminal history of all persons committed to [*their*  
6 *respective*] **its** jurisdiction. The confidentiality of records maintained by the  
7 board shall be determined pursuant to ORS 192.501 to 192.505.

8 “[6] (5) The evidentiary phase of a hearing conducted by the board [*or*  
9 *the authority*] under ORS 161.315 to 161.351 is not a deliberation for purposes  
10 of ORS 192.690.

11 **“SECTION 6.** ORS 161.326 is amended to read:

12 “161.326. (1) If the trial court[,] **or** the Psychiatric Security Review Board  
13 [*or the Oregon Health Authority*] determines that a victim desires notification  
14 as described in ORS 161.325 (2), the [*agency having jurisdiction over the per-*  
15 *son*] **board** shall make a reasonable effort to notify the victim of hearings  
16 and orders, conditional release, discharge or escape. Nothing in this sub-  
17 section authorizes the [*agency*] **board** to disseminate information that is  
18 otherwise privileged by law.

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

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

28 “(b) If the [*agency*] **board** determines that the [*agency*] **board** failed to  
29 make a reasonable effort to notify the victim or failed to afford the victim  
30 an opportunity to be heard, except as provided in paragraph (c) of this sub-

1 section, the [agency] **board** shall grant the request for reconsideration. Upon  
2 reconsideration, the [agency] **board** shall consider the statement of the vic-  
3 tim and may consider any other information that was not available to the  
4 [agency] **board** at the previous hearing.

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

7 “(A) After the person has been discharged from the jurisdiction of the  
8 board [*and the authority*];

9 “(B) After the board [*or the authority*] has held a subsequent hearing in-  
10 volving the person; or

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

14 “**SECTION 7.** ORS 161.348 is amended to read:

15 “161.348. (1) When a person over whom the Psychiatric Security Review  
16 Board [*or the Oregon Health Authority*] exercises jurisdiction under ORS  
17 161.315 to 161.351 or 419C.544 is adversely affected or aggrieved by a final  
18 order of the board [*or authority*], the person is entitled to judicial review of  
19 the final order. The person is entitled on judicial review to suitable counsel  
20 possessing skills and experience commensurate with the nature and com-  
21 plexity of the case. If the person is financially eligible, suitable counsel shall  
22 be appointed by the reviewing court in the manner provided in ORS 138.500  
23 (1). If the person is financially eligible, the public defense services executive  
24 director shall determine and pay, as provided in ORS 138.500, the cost of  
25 briefs, any other expenses of the person necessary to the review and com-  
26 pensation for counsel appointed for the person. The costs, expenses and  
27 compensation so allowed shall be paid as provided in ORS 138.500.

28 “(2) The order and the proceedings underlying the order are subject to  
29 review by the Court of Appeals upon petition to that court filed within 60  
30 days of the order for which review is sought. The [*agency that conducted the*

1 *hearing*] **board** shall submit to the court the record of the proceeding or, if  
2 the person agrees, a shortened record. The record may include a certified  
3 true copy of a tape recording of the proceedings at a hearing in accordance  
4 with ORS 161.346. A copy of the record transmitted shall be delivered to the  
5 person by the [*agency*] **board**.

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

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

11 **“SECTION 8.** ORS 161.395 is amended to read:

12 “161.395. (1) Upon request of any party to a hearing before the Psychiatric  
13 Security Review Board [*or the Oregon Health Authority*] under ORS 161.315  
14 to 161.351, the [*agency conducting the hearing*] **board** shall issue, or on its  
15 own motion may issue, subpoenas requiring the attendance and testimony of  
16 witnesses.

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

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

26 “(4) If any person fails to comply with a subpoena issued under sub-  
27 sections (1) or (2) of this section or any party or witness refuses to testify  
28 regarding any matter on which the party or witness may be lawfully inter-  
29 rogated, the judge of the circuit court of any county, on the application of  
30 the [*agency that issued the subpoena*] **board** or of the party requesting the

1 issuance of the subpoena, shall compel obedience by proceedings for con-  
2 tempt as in the case of disobedience of the requirements of a subpoena issued  
3 by the court.

4 “(5) If any person, agency or facility fails to comply with an order of the  
5 board [*or authority*] issued pursuant to subsection (2) of this section, the  
6 judge of a circuit court of any county, on application of the [*agency that is-*  
7 *sued the order*] **board**, shall compel obedience by proceedings for contempt  
8 as in the case of disobedience of the requirements of an order issued by the  
9 court. Contempt for disobedience of an order of the board [*or authority*] shall  
10 be punishable by a fine of \$100.

11 “**SECTION 9.** ORS 161.400 is amended to read:

12 “161.400. If, at any time after the commitment of a person to a state hos-  
13 pital or a secure intensive community inpatient facility under ORS 161.315  
14 to 161.351, the superintendent of the hospital or the director of the facility  
15 is of the opinion that a leave of absence from the hospital or facility would  
16 be therapeutic for the person and that such leave would pose no substantial  
17 danger to others, the superintendent or director may authorize such leave for  
18 up to 48 hours in accordance with rules adopted by the [*agency having ju-*  
19 *risdiction over the person*] **Psychiatric Security Review Board**. However,  
20 the superintendent or director, before authorizing the leave of absence, shall  
21 first notify the [*agency*] **board** for the purposes of ORS 161.326.

22 “**SECTION 10.** ORS 161.332 is amended to read:

23 “161.332. As used in ORS 161.315 to 161.351 and 161.385 to 161.395[:],

24 “[*(1)*] ‘conditional release’ includes, but is not limited to, the monitoring  
25 of mental and physical health treatment.

26 “[*(2)*] ‘Tier one offender’ means a person who has been found guilty except  
27 for insanity of a tier one offense.]

28 “[*(3)*] ‘Tier one offense’ means:]

29 “[*(a)*] Aggravated murder as defined in ORS 163.095;]

30 “[*(b)*] Attempt or conspiracy to commit aggravated murder as defined in

1 *ORS 163.095;*  
2 *“(c) Murder as defined in ORS 163.115;*  
3 *“(d) Attempt or conspiracy to commit murder as defined in ORS 163.115;*  
4 *“(e) Manslaughter in the first degree as defined in ORS 163.118;*  
5 *“(f) Manslaughter in the second degree as defined in ORS 163.125;*  
6 *“(g) Assault in the first degree as defined in ORS 163.185;*  
7 *“(h) Assault in the second degree as defined in ORS 163.175;*  
8 *“(i) Kidnapping in the first degree as defined in ORS 163.235;*  
9 *“(j) Kidnapping in the second degree as defined in ORS 163.225;*  
10 *“(k) Rape in the first degree as defined ORS 163.375;*  
11 *“(L) Rape in the second degree as defined in ORS 163.365;*  
12 *“(m) Sodomy in the first degree as defined in ORS 163.405;*  
13 *“(n) Sodomy in the second degree as defined in ORS 163.395;*  
14 *“(o) Unlawful sexual penetration in the first degree as defined ORS*  
15 *163.411;*  
16 *“(p) Unlawful sexual penetration in the second degree as defined ORS*  
17 *163.408;*  
18 *“(q) Sexual abuse in the first degree as defined in ORS 163.427;*  
19 *“(r) Robbery in the first degree as defined in ORS 164.415;*  
20 *“(s) Robbery in the second degree as defined in ORS 164.405;*  
21 *“(t) Arson in the first degree as defined in ORS 164.325;*  
22 *“(u) Using a child in a display of sexually explicit conduct as defined in*  
23 *ORS 163.670;*  
24 *“(v) Compelling prostitution as defined in ORS 167.017; or]*  
25 *“(w) Aggravated vehicular homicide as defined in ORS 163.149.]*  
26 *“(4) ‘Tier two offender’ means a person who has been found guilty except*  
27 *for insanity only of offenses that are not tier one offenses.]*  
28 **“SECTION 11.** ORS 161.327 is amended to read:  
29 “161.327. (1) Following the entry of a judgment pursuant to ORS 161.319,  
30 if the court finds by a preponderance of the evidence that a person found



1 guilty except for insanity of a felony is affected by mental disease or defect  
2 and presents a substantial danger to others, the court shall enter an order  
3 as follows:

4 “(a) If the court finds that the person is not a proper subject for condi-  
5 tional release, the court shall order the person committed to a state hospital  
6 or, if the person is under 18 years of age, to a secure intensive community  
7 inpatient facility for custody, care and treatment. When the court orders a  
8 person committed under this paragraph, the court shall place the person  
9 under the jurisdiction of[:]

10 “[A)] the Psychiatric Security Review Board[, *if the person is a tier one*  
11 *offender.*]

12 “[B) *The Oregon Health Authority, if the person is a tier two offender.*].

13 “(b) If the court finds that the person can be adequately controlled with  
14 supervision and treatment if conditionally released and that necessary  
15 supervision and treatment are available, the court shall order the person  
16 conditionally released.

17 “(2) When a person is conditionally released under this section, the per-  
18 son is subject to those supervisory orders of the court as are in the best in-  
19 terests of justice, the protection of society and the welfare of the person. The  
20 court shall designate a person or state, county or local agency to supervise  
21 the person upon release, subject to those conditions as the court directs in  
22 the order for conditional release. Prior to the designation, the court shall  
23 notify the person or agency to whom conditional release is contemplated and  
24 provide the person or agency an opportunity to be heard before the court.  
25 After receiving an order entered under subsection (1)(b) of this section, the  
26 person or agency designated shall assume supervision of the person pursuant  
27 to the direction of the Psychiatric Security Review Board. The person or  
28 agency designated as supervisor shall be required to report in writing no less  
29 than once per month to the board concerning the supervised person’s com-  
30 pliance with the conditions of release.

1 “(3) In determining whether a person should be conditionally released, the  
2 court:

3 “(a) May order evaluations, examinations and compliance as provided in  
4 ORS 161.336 (3) and 161.346 [(3)] (2);

5 “(b) Shall order that the person be examined by a local mental health  
6 program designated by the board and a report of the examination be provided  
7 to the court if each felony for which the defendant was found guilty except  
8 for insanity is a Class C felony; and

9 “(c) Shall have as its primary concern the protection of society.

10 “(4) Upon placing a person on conditional release, the court shall notify  
11 the board in writing of the court’s conditional release order, the supervisor  
12 appointed and all other conditions of release, and the person shall be on  
13 conditional release pending hearing before the board. Upon compliance with  
14 this section, the court’s jurisdiction over the person is terminated.

15 “(5) The total period of commitment or conditional release under ORS  
16 161.315 to 161.351 may not exceed the maximum sentence provided by statute  
17 for the crime for which the person was found guilty except for insanity.

18 “(6) An order of the court under this section is a final order appealable  
19 by the person found guilty except for insanity in accordance with ORS 19.205  
20 (5). Notwithstanding ORS 19.255, notice of an appeal under this section shall  
21 be served and filed within 90 days after the order appealed from is entered  
22 in the register. The person shall be entitled on appeal to suitable counsel  
23 possessing skills and experience commensurate with the nature and com-  
24 plexity of the case. If the person is financially eligible, suitable counsel shall  
25 be appointed in the manner provided in ORS 138.500 (1), and the compen-  
26 sation for counsel and costs and expenses of the person necessary to the  
27 appeal shall be determined and paid as provided in ORS 138.500.

28 “(7) Following the entry of an order described in subsection (1) of this  
29 section, the court shall notify the person of the right to appeal and the right  
30 to a hearing before the [*agency exercising jurisdiction over the person*] **board**

1 in accordance with ORS 161.336 (5) and 161.341 (3).

2 **“SECTION 12.** ORS 161.349 is amended to read:

3 “161.349. (1) When a person who is committed to a state hospital or a  
4 secure intensive community inpatient facility under ORS 161.315 to 161.351  
5 is convicted of a crime and sentenced to a term of incarceration and when  
6 the person is sentenced to a term of incarceration as a sanction for violating  
7 the conditions of probation, parole or post-prison supervision, the sentencing  
8 court shall stay execution of the sentence pending the conditional release  
9 or discharge of the person or the expiration of the period of time described  
10 in ORS 161.327 (5). When the person is conditionally released or discharged  
11 by the [*agency having jurisdiction over the person*] **Psychiatric Security**  
12 **Review Board** under ORS 161.315 to 161.351, or when the maximum period  
13 of jurisdiction described in ORS 161.327 (5) expires, the stay shall be lifted  
14 by operation of law and the person shall be delivered to the custody of the  
15 Department of Corrections or the supervisory authority to begin service of  
16 the sentence imposed.

17 “(2) When a person described in subsection (1) of this section is delivered  
18 to the custody of the department or the supervisory authority as described  
19 in this section, the [*agency having jurisdiction over the person while the per-*  
20 *son was committed to a state hospital or a secure intensive community inpa-*  
21 *tient facility*] **board** shall notify the department or the supervisory authority  
22 when the period of time described in ORS 161.327 (5) will expire.

23 “(3) The department or supervisory authority shall notify the [*Psychiatric*  
24 *Security Review*] board when the person has served the term of incarceration  
25 imposed by the court and the board shall resume exercising active jurisdic-  
26 tion over the person in accordance with ORS 161.315 to 161.351.

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

29 **“SECTION 13.** ORS 21.010 is amended to read:

30 “21.010. (1) Except as provided in this section, the appellant in an appeal

1 or the petitioner in a judicial review in the Supreme Court or the Court of  
2 Appeals shall pay a filing fee of \$373 in the manner prescribed by ORS 19.265.  
3 The respondent in such case and any other person appearing in the appeal,  
4 upon entering first appearance or filing first brief in the court, shall pay to  
5 the State Court Administrator a filing fee of \$373. The party entitled to  
6 costs and disbursements on such appeal shall recover from the opponent the  
7 amount so paid.

8 “(2) Filing and appearance fees may not be assessed in appeals from  
9 habeas corpus proceedings under ORS 34.710, post-conviction relief pro-  
10 ceedings under ORS 138.650, juvenile court under ORS 419A.200, the invol-  
11 untary commitment of persons determined to be persons with mental illness  
12 under ORS 426.135 or persons determined to have an intellectual disability  
13 under ORS 427.295 or orders of the State Board of Parole and Post-Prison  
14 Supervision or on judicial review of orders entered under ORS 161.315 to  
15 161.351 by the Psychiatric Security Review Board [*or the Oregon Health Au-*  
16 *thority*].

17 “(3) Filing and appearance fees shall be assessed in an appeal from an  
18 appeal to a circuit court from a justice court or municipal court in an action  
19 alleging commission of a state offense designated as a violation or an action  
20 alleging violation of a city charter or ordinance, but not in an action alleg-  
21 ing commission of a state crime.

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

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

27 **“SECTION 14.** ORS 90.630 is amended to read:

28 “90.630. (1) Except as provided in subsection (4) of this section, the land-  
29 lord may terminate a rental agreement that is a month-to-month or fixed  
30 term tenancy for space for a manufactured dwelling or floating home by

1 giving to the tenant not less than 30 days' notice in writing before the date  
2 designated in the notice for termination if the tenant:

3 “(a) Violates a law or ordinance related to the tenant’s conduct as a  
4 tenant, including but not limited to a material noncompliance with ORS  
5 90.740;

6 “(b) Violates a rule or rental agreement provision related to the tenant’s  
7 conduct as a tenant and imposed as a condition of occupancy, including but  
8 not limited to a material noncompliance with a rental agreement regarding  
9 a program of recovery in drug and alcohol free housing;

10 “(c) Is classified as a level three sex offender under ORS 163A.100 (3);

11 “(d) Is an unclassified adult sex offender designated as predatory prior to  
12 January 1, 2014, or a person whom the State Board of Parole and Post-Prison  
13 Supervision[,] **or** the Psychiatric Security Review Board [*or the Oregon*  
14 *Health Authority*] has classified as a level three sex offender under section  
15 7 (2)(b), chapter 708, Oregon Laws 2013; or

16 “(e) Fails to pay a:

17 “(A) Late charge pursuant to ORS 90.260;

18 “(B) Fee pursuant to ORS 90.302; or

19 “(C) Utility or service charge pursuant to ORS 90.534 or 90.536.

20 “(2) A violation making a tenant subject to termination under subsection  
21 (1) of this section includes a tenant’s failure to maintain the space as re-  
22 quired by law, ordinance, rental agreement or rule, but does not include the  
23 physical condition of the dwelling or home. Termination of a rental agree-  
24 ment based upon the physical condition of a dwelling or home shall only be  
25 as provided in ORS 90.632.

26 “(3) The notice required by subsection (1) of this section shall state facts  
27 sufficient to notify the tenant of the reasons for termination of the tenancy  
28 and state that the tenant may avoid termination by correcting the violation  
29 as provided in subsection (4) of this section.

30 “(4) The tenant may avoid termination of the tenancy by correcting the

1 violation within the 30-day period specified in subsection (1) of this section.  
2 However, if substantially the same act or omission that constituted a prior  
3 violation of which notice was given recurs within six months after the date  
4 of the notice, the landlord may terminate the tenancy upon at least 20 days'  
5 written notice specifying the violation and the date of termination of the  
6 tenancy.

7 “(5) Notwithstanding subsection (3) or (4) of this section, a tenant who  
8 is given a notice of termination under subsection (1)(c) of this section does  
9 not have a right to correct the violation. A notice given to a tenant under  
10 subsection (1)(c) of this section must state that the tenant does not have a  
11 right to avoid the termination.

12 “(6) This section does not limit a landlord’s right to terminate a tenancy  
13 for nonpayment of rent under ORS 90.394 or for other cause under ORS  
14 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying with ORS 105.105 to  
15 105.168.

16 “(7) A tenancy terminates on the date designated in the notice and with-  
17 out regard to the expiration of the period for which, by the terms of the  
18 rental agreement, rents are to be paid. Unless otherwise agreed, rent is  
19 uniformly apportionable from day to day.

20 “(8) Notwithstanding any other provision of this section or ORS 90.394,  
21 90.396 or 90.398, the landlord may terminate the rental agreement for space  
22 for a manufactured dwelling or floating home because of repeated late pay-  
23 ment of rent by giving the tenant not less than 30 days’ notice in writing  
24 before the date designated in that notice for termination and may take pos-  
25 session as provided in ORS 105.105 to 105.168 if:

26 “(a) The tenant has not paid the monthly rent prior to the eighth day of  
27 the rental period as described in ORS 90.394 (2)(a) or the fifth day of the  
28 rental period as described in ORS 90.394 (2)(b) in at least three of the pre-  
29 ceding 12 months and the landlord has given the tenant a nonpayment of rent  
30 termination notice pursuant to ORS 90.394 (2) during each of those three

1 instances of nonpayment;

2 “(b) The landlord warns the tenant of the risk of a 30-day notice for ter-  
3 mination with no right to correct the cause, upon the occurrence of a third  
4 nonpayment of rent termination notice within a 12-month period. The warn-  
5 ing must be contained in at least two nonpayment of rent termination notices  
6 that precede the third notice within a 12-month period or in separate written  
7 notices that are given concurrent with, or a reasonable time after, each of  
8 the two nonpayment of rent termination notices; and

9 “(c) The 30-day notice of termination states facts sufficient to notify the  
10 tenant of the cause for termination of the tenancy and is given to the tenant  
11 concurrent with or after the third or a subsequent nonpayment of rent ter-  
12 mination notice.

13 “(9) Notwithstanding subsection (4) of this section, a tenant who receives  
14 a 30-day notice of termination pursuant to subsection (8) of this section does  
15 not have a right to correct the cause for the notice.

16 “(10) The landlord may give a copy of the notice required by subsection  
17 (8) of this section to any lienholder of the manufactured dwelling or floating  
18 home by first class mail with certificate of mailing or by any other method  
19 allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for  
20 any damages incurred by the tenant as a result of the landlord giving a copy  
21 of the notice in good faith to a lienholder. A lienholder’s rights and obli-  
22 gations regarding an abandoned manufactured dwelling or floating home  
23 shall be as provided under ORS 90.675.

24 **“SECTION 15.** ORS 137.223 is amended to read:

25 “137.223. (1) A person who has been found guilty except for insanity of  
26 an offense for which, if convicted, the person could apply for entry of an  
27 order setting aside the conviction pursuant to ORS 137.225, may by motion  
28 apply to the court for entry of an order setting aside the judgment finding  
29 the person guilty except for insanity of the offense.

30 “(2) A person described in subsection (1) of this section may file the mo-

1 tion to set aside a judgment of guilty except for insanity any time after three  
2 years from the date of entry of the judgment of guilty except for insanity,  
3 provided that:

4 “(a) The person is no longer under the jurisdiction of the Psychiatric  
5 Security Review Board [*or the Oregon Health Authority*]; and

6 “(b) The person has no other findings of guilty except for insanity within  
7 the 10 years prior to filing the motion and no convictions for offenses other  
8 than motor vehicle violations within the 10 years prior to filing the motion.

9 “(3)(a) A copy of the motion and a full set of the defendant’s fingerprints  
10 shall be served upon the office of the prosecuting attorney who prosecuted  
11 the offense and opportunity shall be given to contest the motion. The fin-  
12 gerprint card with the notation ‘motion for setting aside judgment of guilty  
13 except for insanity’ shall be forwarded to the Department of State Police.  
14 Information resulting from the fingerprint search along with the fingerprint  
15 card shall be returned to the prosecuting attorney.

16 “(b) When a prosecuting attorney is served with a copy of a motion to set  
17 aside a judgment of guilty except for insanity under this section, the prose-  
18 cuting attorney shall provide a copy of the motion and notice of the hearing  
19 date to the victim, if any, of the offense by mailing a copy of the motion and  
20 notice to the victim’s last-known address.

21 “(c) When a person files a motion under this section, the person must pay  
22 a fee of \$80 to the Department of State Police. The person shall attach a  
23 certified check payable to the Department of State Police in the amount of  
24 \$80 to the fingerprint card that is served upon the prosecuting attorney. The  
25 office of the prosecuting attorney shall forward the check with the finger-  
26 print card to the Department of State Police.

27 “(d) In addition to the fee established under paragraph (c) of this sub-  
28 section, the person must pay the filing fee established under ORS 21.135.

29 “(4)(a) Upon hearing the motion, the court may require the filing of such  
30 affidavits and may require the taking of such proofs as the court deems



1 proper. The court shall allow the victim, if any, to make a statement at the  
2 hearing.

3 “(b) Except as otherwise provided in paragraph (c) of this subsection, if  
4 the court determines that the circumstances and behavior of the person from  
5 the date of the judgment of guilty except for insanity to the date of the  
6 hearing on the motion warrant the court granting the motion, the court shall  
7 enter an order setting aside the judgment of guilty except for insanity.

8 “(c) Unless the court makes written findings by clear and convincing ev-  
9 idence that granting the motion would not be in the best interests of justice,  
10 the court shall grant the motion and enter an order as provided in paragraph  
11 (b) of this subsection if the defendant was found guilty except for insanity  
12 of an offense described in ORS 137.225 (12) and is otherwise eligible for relief  
13 under this section.

14 “(d) An order entered under this subsection shall state the original arrest  
15 charge and the charge for which the person was found guilty except for in-  
16 sanity. The order shall further state that positive identification has been  
17 established by the Department of State Police and further identified as to  
18 Department of State Police number or submitting agency number.

19 “(5)(a) Upon the entry of an order under subsection (4) of this section:

20 “(A) The person, for purposes of the law, shall be deemed not to have been  
21 previously found guilty except for insanity, and the court shall issue an or-  
22 der sealing the records of the case, including the records of arrest, whether  
23 or not the arrest resulted in a further criminal proceeding.

24 “(B) The court shall inform the person that the person’s right to possess,  
25 purchase or otherwise acquire a firearm remains prohibited under federal  
26 law.

27 “(b) For purposes of this subsection, records of the case do not include  
28 medical records that are in the possession of the Psychiatric Security Review  
29 Board [*or the Oregon Health Authority*], including medical evaluations and  
30 reports submitted from other agencies concerning the status or compliance

1 of the person.

2 “(6) The clerk of the court shall forward a certified copy of the order  
3 entered under subsection (5) of this section to such agencies as directed by  
4 the court. A certified copy shall be sent to the Psychiatric Security Review  
5 Board [*or the Oregon Health Authority, as appropriate*]. Upon entry of the  
6 order, the judgment of guilty except for insanity shall be deemed not to have  
7 been entered, and the person may answer accordingly any questions relating  
8 to its occurrence.

9 “(7) For purposes of any civil action in which truth is an element of a  
10 claim for relief or affirmative defense, the provisions of subsection (6) of this  
11 section providing that the judgment of guilty except for insanity be deemed  
12 not to have been entered do not apply and a party may apply to the court  
13 for an order requiring disclosure of the official records in the case as may  
14 be necessary in the interests of justice.

15 “(8) Upon motion of any prosecutor or defendant in a case involving re-  
16 cords sealed under this section, supported by affidavit showing good cause,  
17 the court with jurisdiction may order the reopening and disclosure of any  
18 records sealed under this section for the limited purpose of assisting the in-  
19 vestigation of the movant. However, such an order has no other effect on the  
20 orders setting aside the judgment of guilty except for insanity.

21 **“SECTION 16.** ORS 137.750 is amended to read:

22 “137.750. (1) When a court sentences a defendant to a term of incarcer-  
23 ation upon conviction of a crime, the court shall order on the record in open  
24 court as part of the sentence imposed that the defendant may be considered  
25 by the executing or releasing authority for any form of temporary leave from  
26 custody, reduction in sentence, work release or program of conditional or  
27 supervised release authorized by law for which the defendant is otherwise  
28 eligible at the time of sentencing, unless the court finds on the record in  
29 open court substantial and compelling reasons to order that the defendant  
30 not be considered for such leave, release or program.

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

4       “(3) As used in this section:

5       “(a) ‘Executing or releasing authority’ means the Department of Cor-  
6 rections, State Board of Parole and Post-Prison Supervision, Oregon Youth  
7 Authority, Psychiatric Security Review Board, [*Oregon Health Authority*,]  
8 sentencing court or supervisory authority.

9       “(b) ‘Supervisory authority’ has the meaning given that term in ORS  
10 144.087.

11       “**SECTION 17.** ORS 144.641 is amended to read:

12       “144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

13       “(1) ‘Dwelling’ has the meaning given that term in ORS 469B.100.

14       “(2) ‘Dwelling’ does not include a residential treatment facility or a  
15 halfway house.

16       “(3) ‘Halfway house’ means a publicly or privately operated profit or  
17 nonprofit residential facility that provides rehabilitative care and treatment  
18 for sex offenders.

19       “(4) ‘Locations where children are the primary occupants or users’ in-  
20 cludes, but is not limited to, public and private elementary and secondary  
21 schools and licensed child care centers.

22       “(5) ‘Sex offender’ means:

23       “(a) A sexually violent dangerous offender as defined in ORS 137.765;

24       “(b) A level three sex offender under ORS 163A.100 (3); or

25       “(c) An unclassified adult sex offender designated as predatory prior to  
26 January 1, 2014, or a person whom the State Board of Parole and Post-Prison  
27 Supervision[,] **or** the Psychiatric Security Review Board [*or the Oregon*  
28 *Health Authority*] has classified as a level three sex offender under section  
29 7 (2)(b), chapter 708, Oregon Laws 2013.

30       “(6) ‘Transitional housing’ means housing intended to be occupied by a

1 sex offender for 45 days or less immediately after release from incarceration.

2 **“SECTION 18.** ORS 151.216 is amended to read:

3 “151.216. (1) The Public Defense Services Commission shall:

4 “(a) Establish and maintain a public defense system that ensures the  
5 provision of public defense services in the most cost-efficient manner con-  
6 sistent with the Oregon Constitution, the United States Constitution and  
7 Oregon and national standards of justice.

8 “(b) Establish an office of public defense services and appoint a public  
9 defense services executive director who serves at the pleasure of the com-  
10 mission.

11 “(c) Submit the budget of the commission and the office of public defense  
12 services to the Legislative Assembly after the budget is submitted to the  
13 commission by the director and approved by the commission. The Chief Jus-  
14 tice of the Supreme Court and the chairperson of the commission shall  
15 present the budget to the Legislative Assembly.

16 “(d) Review and approve any public defense services contract negotiated  
17 by the director before the contract can become effective.

18 “(e) Adopt a compensation plan, classification system and personnel plan  
19 for the office of public defense services that are commensurate with other  
20 state agencies.

21 “(f) Adopt policies, procedures, standards and guidelines regarding:

22 “(A) The determination of financial eligibility of persons entitled to be  
23 represented by appointed counsel at state expense;

24 “(B) The appointment of counsel;

25 “(C) The fair compensation of counsel appointed to represent a person  
26 financially eligible for appointed counsel at state expense;

27 “(D) Appointed counsel compensation disputes;

28 “(E) Any other costs associated with the representation of a person by  
29 appointed counsel in the state courts that are required to be paid by the  
30 state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,

1 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,  
2 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315  
3 or any other provision of law that expressly provides for payment of such  
4 compensation, costs or expenses by the commission;

5 “(F) Professional qualifications for counsel appointed to represent public  
6 defense clients;

7 “(G) Performance for legal representation;

8 “(H) The contracting of public defense services;

9 “(I) Contracting with expert witnesses to allow contracting with out-of-  
10 state expert witnesses only if in-state expert witnesses are not available or  
11 are more expensive than out-of-state expert witnesses; and

12 “(J) Any other matters necessary to carry out the duties of the commis-  
13 sion.

14 “(g) Establish a peer review system for the approval of nonroutine fees  
15 and expenses incurred in cases involving aggravated murder and the crimes  
16 listed in ORS 137.700 and 137.707. The review shall be conducted by a panel  
17 of attorneys who practice in the area of criminal defense.

18 “(h) Establish a complaint process that allows district attorneys, criminal  
19 defense counsel and the public to file complaints concerning the payment  
20 from public funds of nonroutine fees and expenses incurred in cases.

21 “(i) Reimburse the State Court Administrator from funds deposited in the  
22 Public Defense Services Account established by ORS 151.225 for the costs of  
23 personnel and other costs associated with location of eligibility verification  
24 and screening personnel pursuant to ORS 151.489 by the State Court Ad-  
25 ministrator.

26 “(2) Policies, procedures, standards and guidelines adopted by the com-  
27 mission supersede any conflicting rules, policies or procedures of the Public  
28 Defender Committee, State Court Administrator, circuit courts, the Court of  
29 Appeals, the Supreme Court[,] **and** the Psychiatric Security Review Board  
30 [*and the Oregon Health Authority*] related to the exercise of the commission’s

1 administrative responsibilities under this section and transferred duties,  
2 functions and powers as they occur.

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

9 “(4) The commission may not:

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

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

12 “(c) Interfere with the director or any member of the staff of the director  
13 in carrying out professional duties involving the legal representation of  
14 public defense clients.

15 **“SECTION 19.** ORS 162.135 is amended to read:

16 “162.135. As used in ORS 162.135 to 162.205, unless the context requires  
17 otherwise:

18 “(1)(a) ‘Contraband’ means:

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

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

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

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

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

30 “(2) ‘Correctional facility’ means any place used for the confinement of

1 persons charged with or convicted of a crime or otherwise confined under a  
2 court order and includes but is not limited to a youth correction facility.  
3 ‘Correctional facility’ applies to a state hospital or a secure intensive com-  
4 munity inpatient facility only as to persons detained therein charged with  
5 or convicted of a crime, or detained therein after having been found guilty  
6 except for insanity of a crime under ORS 161.290 to 161.370.

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

9 “(4) ‘Custody’ means the imposition of actual or constructive restraint by  
10 a peace officer pursuant to an arrest or court order, but does not include  
11 detention in a correctional facility, youth correction facility or a state hos-  
12 pital.

13 “(5) ‘Escape’ means the unlawful departure of a person from custody or  
14 a correctional facility. ‘Escape’ includes the unauthorized departure or ab-  
15 sence from this state or failure to return to this state by a person who is  
16 under the jurisdiction of the Psychiatric Security Review Board [*or under the*  
17 *jurisdiction of the Oregon Health Authority*] under ORS 161.315 to 161.351.  
18 ‘Escape’ does not include failure to comply with provisions of a conditional  
19 release in ORS 135.245.

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

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

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

23 “(7) ‘State hospital’ means the Oregon State Hospital and any other hos-  
24 pital established by law for similar purposes.

25 “(8) ‘Unauthorized departure’ means the unauthorized departure of a per-  
26 son confined by court order in a youth correction facility or a state hospital  
27 that, because of the nature of the court order, is not a correctional facility  
28 as defined in this section, or the failure to return to custody after any form  
29 of temporary release or transitional leave from a correctional facility.

30 “**SECTION 20.** ORS 162.155 is amended to read:

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

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

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

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

8       “(d) While under the jurisdiction of the Psychiatric Security Review  
9 Board [*or under the jurisdiction of the Oregon Health Authority*] under ORS  
10 161.315 to 161.351, the person departs, is absent from or fails to return to this  
11 state without authorization of the board.

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

13       “**SECTION 21.** ORS 181A.290 is amended to read:

14       “181A.290. (1) The Department of Human Services, the Oregon Health  
15 Authority, the Psychiatric Security Review Board and the Judicial Depart-  
16 ment shall provide the Department of State Police with the minimum infor-  
17 mation necessary to identify persons who:

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

21       “(b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting  
22 the person from purchasing or possessing a firearm;

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

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

28       “(e) Have been found guilty except for insanity of a crime under ORS  
29 161.295 to 161.370;

30       “(f) Have been found responsible except for insanity for an act under ORS



1 419C.411;

2 “(g) Have been placed under the jurisdiction of the Psychiatric Security  
3 Review Board [*or the Oregon Health Authority*] under ORS 161.315 to 161.351;  
4 or

5 “(h) Have been committed to a state hospital or facility under ORS  
6 161.315 to 161.351 or 419C.529 to 419C.544.

7 “(2) Upon receipt of the information described in this section, the De-  
8 partment of State Police shall access and maintain the information and  
9 transmit the information to the federal government as required under federal  
10 law.

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

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

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

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

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

1 this section or any record or file of an originating agency or court.

2 **“SECTION 22.** ORS 183.315 is amended to read:

3 “183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425,  
4 183.440, 183.450, 183.452, 183.458, 183.460, 183.470 and 183.480 do not apply to  
5 local government boundary commissions created pursuant to ORS 199.430,  
6 the Department of Revenue, State Accident Insurance Fund Corporation,  
7 Department of Consumer and Business Services with respect to its functions  
8 under ORS chapters 654 and 656, State Board of Parole and Post-Prison  
9 Supervision[,] **or** Psychiatric Security Review Board [*or Oregon Health Au-*  
10 *thority*] with respect to its functions under ORS 161.315 to 161.351.

11 “(2) This chapter does not apply with respect to actions of the Governor  
12 authorized under ORS chapter 240 and ORS 396.125 or actions of the Adju-  
13 tant General authorized under ORS 396.160 (14).

14 “(3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440,  
15 183.450, 183.452, 183.458 and 183.460 do not apply to the Employment Appeals  
16 Board or the Employment Department.

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

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

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

29 “(b) Seek to visit an inmate confined in a Department of Corrections fa-  
30 cility.

1 “(6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470  
2 and 183.482 (3) do not apply to the Public Utility Commission. Notwith-  
3 standing ORS 183.480 and except as provided in ORS 757.495 and 759.390, only  
4 a party to a hearing before the Public Utility Commission is entitled to seek  
5 judicial review of an order of the commission.

6 “(7) The provisions of this chapter do not apply to the suspension, can-  
7 cellation or termination of an apprenticeship or training agreement under  
8 ORS 660.060.

9 “(8) The provisions of ORS 183.413 to 183.497 do not apply to administra-  
10 tive proceedings conducted under rules adopted by the Secretary of State  
11 under ORS 246.190.

12 **“SECTION 23.** ORS 183.635 is amended to read:

13 “183.635. (1) Except as provided in this section, all agencies must use ad-  
14 ministrative law judges assigned from the Office of Administrative Hearings  
15 established under ORS 183.605 to conduct contested case hearings, without  
16 regard to whether those hearings are subject to the procedural requirements  
17 for contested case hearings.

18 “(2) The following agencies need not use administrative law judges as-  
19 signed from the office:

20 “(a) Attorney General.

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

22 “(c) Bureau of Labor and Industries and the Commissioner of the Bureau  
23 of Labor and Industries.

24 “(d) Department of Corrections.

25 “(e) Department of Education, State Board of Education and Superinten-  
26 dent of Public Instruction.

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

30 “(g) Department of Revenue.

- 1 “(h) Department of State Police.
- 2 “(i) Employment Appeals Board.
- 3 “(j) Employment Relations Board.
- 4 “(k) Energy Facility Siting Council.
- 5 “(L) Fair Dismissal Appeals Board.
- 6 “(m) Governor.
- 7 “(n) Land Conservation and Development Commission.
- 8 “(o) Land Use Board of Appeals.
- 9 “(p) Local government boundary commissions created pursuant to ORS  
10 199.430.
- 11 “(q) Public universities listed in ORS 352.002.
- 12 “(r) Oregon Youth Authority.
- 13 “(s) Psychiatric Security Review Board.
- 14 “[*t*] *The Oregon Health Authority for hearings conducted under ORS*  
15 *161.315 to 161.351.*]
- 16 “[*u*] **(t)** Public Utility Commission.
- 17 “[*v*] **(u)** State Accident Insurance Fund Corporation.
- 18 “[*w*] **(v)** State Apprenticeship and Training Council.
- 19 “[*x*] **(w)** State Board of Parole and Post-Prison Supervision.
- 20 “[*y*] **(x)** State Land Board.
- 21 “[*z*] **(y)** State Treasurer.
- 22 “(3) The Workers’ Compensation Board is exempt from using administra-  
23 tive law judges assigned from the office for any hearing conducted by the  
24 board under ORS chapters 147, 654 and 656. Except as specifically provided  
25 in this subsection, the Department of Consumer and Business Services must  
26 use administrative law judges assigned from the office only for contested  
27 cases arising out of the department’s powers and duties under:
- 28 “(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;
- 29 “(b) ORS chapter 455;
- 30 “(c) ORS chapter 674;

1 “(d) ORS chapters 706 to 716;

2 “(e) ORS chapter 717;

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

4 “(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744,  
5 746, 748 and 750.

6 “(4) Notwithstanding any other provision of law, in any proceeding in  
7 which an agency is required to use an administrative law judge assigned  
8 from the office, an officer or employee of the agency may not conduct the  
9 hearing on behalf of the agency.

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

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

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

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

21 **“SECTION 24.** ORS 192.690 is amended to read:

22 “192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of  
23 [*the Oregon Health Authority conducted under ORS 161.315 to 161.351,*] the  
24 Psychiatric Security Review Board, the State Board of Parole and Post-  
25 Prison Supervision, state agencies conducting hearings on contested cases in  
26 accordance with the provisions of ORS chapter 183, the review by the  
27 Workers’ Compensation Board or the Employment Appeals Board of similar  
28 hearings on contested cases, meetings of the state lawyers assistance com-  
29 mittee operating under the provisions of ORS 9.568, meetings of the personal  
30 and practice management assistance committees operating under the pro-

1 visions of ORS 9.568, the county multidisciplinary child abuse teams required  
2 to review child abuse cases in accordance with the provisions of ORS 418.747,  
3 the child fatality review teams required to review child fatalities in accord-  
4 ance with the provisions of ORS 418.785, the peer review committees in ac-  
5 cordance with the provisions of ORS 441.055, mediation conducted under ORS  
6 36.252 to 36.268, any judicial proceeding, meetings of the Oregon Health and  
7 Science University Board of Directors or its designated committee regarding  
8 candidates for the position of president of the university or regarding sensi-  
9 tive business, financial or commercial matters of the university not custom-  
10 arily provided to competitors related to financings, mergers, acquisitions or  
11 joint ventures or related to the sale or other disposition of, or substantial  
12 change in use of, significant real or personal property, or related to health  
13 system strategies, or to Oregon Health and Science University faculty or  
14 staff committee meetings.

15 “(2) Because of the grave risk to public health and safety that would be  
16 posed by misappropriation or misapplication of information considered dur-  
17 ing such review and approval, ORS 192.610 to 192.690 shall not apply to re-  
18 view and approval of security programs by the Energy Facility Siting  
19 Council pursuant to ORS 469.530.

20 **“SECTION 25.** ORS 278.315 is amended to read:

21 “278.315. (1) The Oregon Health Authority may provide tort liability cov-  
22 erage through the Oregon Department of Administrative Services to any  
23 county or private community care provider that has contracted with the au-  
24 thority to provide supervision, care, treatment or training of persons under  
25 the jurisdiction of the Psychiatric Security Review Board [*or the authority*]  
26 under ORS 161.315 to 161.351. Counties or private community care providers,  
27 and the officers and employees of those counties and providers acting within  
28 the scope of their employment, may be covered to the extent that any tort  
29 claim arises out of the provision of supervision, care, treatment or training  
30 of persons pursuant to the terms of the contract. Tort liability coverage un-

1 der this section must be in writing, and may be part of the contract between  
2 the authority and the county or private community care provider. The cov-  
3 erage provided under this section shall be self-insurance by the State of  
4 Oregon to the limits contained in ORS 30.260 to 30.300.

5 “(2) Counties or private community care providers that have contracted  
6 with the authority to provide supervision, care, treatment or training of  
7 persons under the jurisdiction of the Psychiatric Security Review Board [*or*  
8 *the authority*] under ORS 161.315 to 161.351, and the officers and employees  
9 of those counties and providers, are not agents of the authority for the pur-  
10 poses of ORS 30.260 to 30.300.

11 **“SECTION 26.** ORS 430.695 is amended to read:

12 “430.695. (1) Any program fees, third-party reimbursements, contributions  
13 or funds from any source, except client resources applied toward the cost of  
14 care in group homes for persons with developmental disabilities or mental  
15 illness and client resources and third-party payments for community psychi-  
16 atric inpatient care, received by a community mental health program or a  
17 community developmental disabilities program are not an offset to the costs  
18 of the services and may not be applied to reduce the program’s eligibility for  
19 state funds, providing the funds are expended for mental health or develop-  
20 mental disabilities services approved by the Oregon Health Authority or the  
21 Department of Human Services.

22 “(2) Within the limits of available funds, the authority and the depart-  
23 ment may contract for specialized, statewide and regional services including  
24 but not limited to group homes for persons with developmental disabilities  
25 or mental or emotional disturbances, day and residential treatment programs  
26 for children and adolescents with mental or emotional disturbances and  
27 community services for clients of the Psychiatric Security Review Board [*or*  
28 *the authority*] under ORS 161.315 to 161.351.

29 “(3) Fees and third-party reimbursements, including all amounts paid  
30 pursuant to Title XIX of the Social Security Act by the Department of Hu-

1 man Services or the Oregon Health Authority, for mental health services or  
2 developmental disabilities services and interest earned on those fees and re-  
3 imbursements shall be retained by the community mental health program or  
4 community developmental disabilities program and expended for any service  
5 that meets the standards of ORS 430.630 or 430.664.

6 **“SECTION 27.** ORS 809.419 is amended to read:

7 “809.419. (1)(a) The Department of Transportation shall suspend the driv-  
8 ing privileges of a person if the department requests the person to submit to  
9 examination under ORS 807.340 and the person fails to appear within a rea-  
10 sonable length of time after being notified to do so or fails to satisfactorily  
11 complete the required examination. A suspension under this subsection shall  
12 continue until the examination required by the department is successfully  
13 completed or until the person voluntarily surrenders the person’s driving  
14 privileges to the department based upon the person’s recognition that the  
15 person is no longer competent to drive.

16 “(b) Upon suspension under this subsection, the department may issue an  
17 identification card to the person for identification purposes as described un-  
18 der ORS 807.400.

19 “(2) The department shall suspend the driving privileges of a person if the  
20 department requests the person to obtain medical clearance under ORS  
21 807.070 or 807.090 and the person fails to do so. The suspension under this  
22 subsection shall continue until the required medical clearance is received by  
23 the department or until the person voluntarily surrenders the person’s driv-  
24 ing privileges to the department based upon the person’s recognition that the  
25 person is no longer competent to drive.

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

30 “(b) A suspension under this subsection shall be subject to any conditions



1 the department determines to be necessary and shall continue for a period  
2 determined by the department or until the person voluntarily surrenders the  
3 person's driving privileges to the department based upon the person's recog-  
4 nition that the person is no longer competent to drive.

5 “(c) The department may impose an immediate suspension of driving  
6 privileges of any person described in paragraph (a) of this subsection without  
7 hearing and without receiving a record of the conviction of the person of a  
8 crime if the department has reason to believe that the person may endanger  
9 people or property if the person's driving privileges are not immediately  
10 suspended. A suspension under this paragraph is subject to a post-imposition  
11 hearing under ORS 809.440. A person who is denied eligibility under ORS  
12 807.090 is entitled to a hearing under ORS 809.440.

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

16 “(b) Upon revocation under this subsection, the endorsed license shall be  
17 surrendered to the department.

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

20 “(5) Upon notification by the superintendent of a hospital under ORS  
21 807.700 that a person should not drive, the department shall immediately  
22 suspend the driving privileges of the released person. A suspension under  
23 this subsection is subject to administrative review under ORS 809.440 and  
24 shall continue until such time as the person produces a judicial judgment  
25 of competency or a certificate from the superintendent of the hospital that  
26 the person is competent, or establishes eligibility under ORS 807.090.

27 “(6) Upon notification by a court under ORS 810.375 that a person charged  
28 with a traffic offense has been found guilty except for insanity and commit-  
29 ted to the jurisdiction of the Psychiatric Security Review Board [*or the*  
30 *Oregon Health Authority*] under ORS 161.315 to 161.351, the department shall

1 immediately suspend the driving privileges of the person. A suspension under  
2 this subsection is subject to administrative review under ORS 809.440 and  
3 shall continue until such time as the person establishes eligibility under ORS  
4 807.090.

5 **SECTION 28.** ORS 810.375 is amended to read:

6 “810.375. (1) The judge or clerk of every court of this state having juris-  
7 diction of any traffic offense, including all local and municipal judicial offi-  
8 cers in this state:

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

11 “(b) Shall send the Department of Transportation an abstract of con-  
12 viction for any person who is convicted.

13 “(c) Shall send the department a copy of any final judgment of conviction  
14 of any person that results in mandatory suspension or revocation of driving  
15 privileges or commercial driving privileges under ORS 809.409, 809.411,  
16 809.510 to 809.545 or 813.400.

17 “(d) Shall send the department a copy of any final judgment finding a  
18 person charged with a traffic offense guilty except for insanity and commit-  
19 ted to the jurisdiction of the Psychiatric Security Review Board [*or the*  
20 *Oregon Health Authority*] under ORS 161.315 to 161.351.

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

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

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

28 “(b) Information may not be sent to the department under this section  
29 concerning convictions excluded from ORS 810.370.

30 **SECTION 29.** ORS 163A.105 is amended to read:

1 “163A.105. (1) When a person convicted of a crime described in ORS  
2 163.355 to 163.427 is sentenced to a term of imprisonment in a Department  
3 of Corrections institution for that crime, the State Board of Parole and  
4 Post-Prison Supervision shall assess the person utilizing the risk assessment  
5 methodology described in ORS 163A.100. The board shall apply the results  
6 of the assessment to place the person in one of the levels described in ORS  
7 163A.100 before the person is released from custody.

8 “(2) When a person convicted of a sex crime is sentenced to a term of  
9 incarceration in a jail, or is discharged, released or placed on probation by  
10 the court, the supervisory authority as defined in ORS 144.087 shall assess  
11 the person utilizing the risk assessment methodology described in ORS  
12 163A.100 and apply the results of the assessment to place the person in one  
13 of the levels described in ORS 163A.100 no later than 60 days after the person  
14 is released from jail or discharged, released or placed on probation by the  
15 court.

16 “(3)(a) When a person is found guilty except for insanity of a sex crime,  
17 the Psychiatric Security Review Board [*or the Oregon Health Authority*] shall  
18 assess the person utilizing the risk assessment methodology described in ORS  
19 163A.100 and apply the results of the assessment to place the person in one  
20 of the levels described in ORS 163A.100 no later than 60 days after the person  
21 is:

22 “(A) Placed on conditional release by the Psychiatric Security Review  
23 Board [*or the Oregon Health Authority*];

24 “(B) Discharged from the jurisdiction of the Psychiatric Security Review  
25 Board [*or the Oregon Health Authority*];

26 “(C) Placed on conditional release by the court pursuant to ORS 161.327;  
27 or

28 “(D) Discharged by the court pursuant to ORS 161.329.

29 “(b) If the State Board of Parole and Post-Prison Supervision previously  
30 completed a risk assessment and assigned a classification level described in

1 ORS 163A.100 for a person described in paragraph (a) of this subsection, the  
2 Psychiatric Security Review Board [*or the Oregon Health Authority*] need not  
3 complete a reassessment for an initial classification.

4 “(c) The court shall notify the Psychiatric Security Review Board when  
5 the court conditionally releases or discharges a person described in para-  
6 graph (a) of this subsection.

7 “(d) The Psychiatric Security Review Board [*or the Oregon Health Au-*  
8 *thority*] shall notify the State Board of Parole and Post-Prison Supervision  
9 no later than seven days after the Psychiatric Security Review Board [*or the*  
10 *authority*] conditionally releases or discharges a person who has a prior sex  
11 crime conviction that obligates the person to report as a sex offender, unless  
12 the person has also been found guilty except for insanity of a sex crime that  
13 obligates the person to report as a sex offender.

14 “(4) Within 60 days after the event triggering the obligation to make an  
15 initial report, the State Board of Parole and Post-Prison Supervision shall  
16 assess a person utilizing the risk assessment methodology described in ORS  
17 163A.100 and apply the results of the assessment to place the person in one  
18 of the levels described in ORS 163A.100 if the person:

19 “(a) Has been convicted in another United States court of a crime:

20 “(A) That would constitute a sex crime if committed in this state; or

21 “(B) For which the person would have to register as a sex offender in that  
22 court’s jurisdiction, or as required under federal law, regardless of whether  
23 the crime would constitute a sex crime in this state; or

24 “(b) Has been convicted of a sex crime and was sentenced to a term of  
25 imprisonment in a Department of Corrections institution for that sex crime,  
26 but was not subjected to a risk assessment utilizing the risk assessment  
27 methodology described in ORS 163A.100 before release under subsection (1)  
28 of this section.

29 “(5) When the State Board of Parole and Post-Prison Supervision, the  
30 Psychiatric Security Review Board[, *the Oregon Health Authority*] or a su-

1 pervisory authority applies the results of a risk assessment to place a person  
2 in one of the levels described in ORS 163A.100, the agency shall notify the  
3 Department of State Police of the results of the risk assessment within three  
4 business days after the agency’s classification. Upon receipt, the Department  
5 of State Police shall enter the results of the risk assessment into the Law  
6 Enforcement Data System.

7 **“SECTION 30.** Section 7, chapter 708, Oregon Laws 2013, as amended by  
8 section 27, chapter 820, Oregon Laws 2015, is amended to read:

9 **“Sec. 7.** (1) As used in this section and [*sections 19 to 21 of this 2015*  
10 *Act*] **163A.200 to 163A.210:**

11 “(a) ‘Event triggering the obligation to make an initial report’ has the  
12 meaning given that term in ORS [*181.802*] **163A.110.**

13 “(b) ‘Existing registrant’ means a person for whom the event triggering  
14 the obligation to make an initial report under ORS [*181.806 (3)(a)(A), 181.807*  
15 *(4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or (3)(a)(A)*] **163A.010 (3)(a)(A),**  
16 **163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A)** occurs be-  
17 fore January 1, 2014.

18 “(2)(a) No later than December 1, 2018, the State Board of Parole and  
19 Post-Prison Supervision shall classify existing registrants in one of the levels  
20 described in ORS [*181.800*] **163A.100.** No later than February 1, 2019, the  
21 Department of State Police shall enter the results of the classifications de-  
22 scribed in this section into the Law Enforcement Data System.

23 “(b) The board shall classify an existing registrant as a level three sex  
24 offender under ORS [*181.800*] **163A.100 (3),** if:

25 “(A) The person was previously designated a predatory sex offender and  
26 the designation was made after the person was afforded notice and an op-  
27 portunity to be heard as to all factual questions at a meaningful time and  
28 in a meaningful manner; or

29 “(B) The person is a sexually violent dangerous offender under ORS  
30 137.765.

1       “(c) The Psychiatric Security Review Board may complete the risk as-  
2       sessment of an existing registrant who is under the jurisdiction of the Psy-  
3       chiatric Security Review Board [*or the Oregon Health Authority*], regardless  
4       of whether the person has been found guilty except for insanity of a sex  
5       crime or was previously convicted of a sex crime, if the State Board of Parole  
6       and Post-Prison Supervision and the Psychiatric Security Review Board mu-  
7       tually agree that the Psychiatric Security Review Board has adequate re-  
8       sources to perform the assessment and that the performance of the  
9       assessment by the Psychiatric Security Review Board would assist in classi-  
10      fying the existing registrant in a more timely manner.

11      “(3) As soon as practicable following the classification of an existing  
12      registrant under this section, the classifying board shall notify the person  
13      of the classification by mail.

14      “(4)(a) An existing registrant who seeks review of a classification made  
15      under this section may petition the classifying board for review. The petition  
16      may be filed no later than 60 days after the board provides the notice de-  
17      scribed in subsection (3) of this section.

18      “(b) Upon receipt of a petition described in this subsection, the classifying  
19      board shall afford the person an opportunity to be heard as to all factual  
20      questions related to the classification.

21      “(c) After providing the person with notice and an opportunity to be  
22      heard in accordance with this subsection, the board shall classify the person  
23      in accordance with the classifications described in ORS [*181.800*] **163A.100**,  
24      based on all of the information available to the classifying board.

25      “(5) The boards shall adopt rules to carry out the provisions of this sec-  
26      tion.

27      “(6) An existing registrant may not petition for reclassification or relief  
28      from the obligation to report as a sex offender as provided in ORS [*181.821*]  
29      **163A.125** until either all existing registrants have been classified in one of  
30      the levels described in ORS [*181.800*] **163A.100** or December 1, 2018, which-

1 ever occurs first.

2 “(7) Notwithstanding ORS [181.837] **163A.225** or any other provision of  
3 law, the Department of State Police may until December 1, 2018, continue  
4 to use the Internet to make information available to the public concerning  
5 any adult sex offender designated as predatory as authorized by the law in  
6 effect on December 31, 2013.

7 “(8) If the State Board of Parole and Post-Prison Supervision or the Psy-  
8 chiatric Security Review Board does not classify an existing registrant under  
9 ORS [181.800] **163A.100** because the person has failed or refused to partic-  
10 ipate in a sex offender risk assessment as directed by the State Board of  
11 Parole and Post-Prison Supervision or the Psychiatric Security Review  
12 Board, the person is, by operation of law, classified as a level three sex  
13 offender under ORS [181.800] **163A.100** (3) as of January 1, 2019.

14 **“SECTION 31.** ORS 163A.210 is amended to read:

15 “163A.210. Notwithstanding ORS 419A.257 or any other provision of law,  
16 the Oregon Youth Authority and the juvenile department may disclose and  
17 provide copies of reports and other materials relating to a child, ward, youth  
18 or youth offender’s history and prognosis to the Psychiatric Security Review  
19 Board[, *the Oregon Health Authority*] or the State Board of Parole and  
20 Post-Prison Supervision in order to determine whether to reclassify the per-  
21 son as a level one or a level two sex offender or relieve the person from the  
22 obligation to report as a sex offender, as described in ORS 163A.125, or  
23 whether to classify a person who is an existing registrant into one of the  
24 three levels described in ORS 163A.100, as required by section 7, chapter 708,  
25 Oregon Laws 2013.

26 **“SECTION 32.** ORS 163A.215 is amended to read:

27 “163A.215. (1)(a) A notifying agency or a supervising agency shall release,  
28 upon request, any information that may be necessary to protect the public  
29 concerning sex offenders who reside in a specific area or concerning a spe-  
30 cific sex offender.

1 “(b) A notifying agency or a supervising agency may release sex offender  
2 information to a law enforcement agency if the notifying agency or super-  
3 vising agency determines that the release of information is in the public in-  
4 terest.

5 “(c) In addition to the release of information described in this subsection  
6 and ORS 137.540, 144.260 and 441.373, a notifying agency or a supervising  
7 agency may release sex offender information to the public in accordance with  
8 subsections (2) to (4) of this section.

9 “(2) If the sex offender is classified as a level three sex offender under  
10 ORS 163A.100 (3):

11 “(a) The Department of State Police shall release sex offender information  
12 on a website maintained by the department; and

13 “(b) The supervising agency or a notifying agency may release sex  
14 offender information to:

15 “(A) A person that resides with the sex offender;

16 “(B) A person with whom the sex offender has a significant relationship;

17 “(C) Residential neighbors and churches, community parks, schools and  
18 child care centers, convenience stores, businesses and other places that  
19 children or other potential victims may frequent;

20 “(D) A long term care facility, as defined in ORS 442.015, or a residential  
21 care facility, as defined in ORS 443.400, if the agency knows that the sex  
22 offender is seeking admission to the facility; and

23 “(E) Local or regional media sources.

24 “(3) Notwithstanding subsection (2)(a) of this section, the Department of  
25 State Police may not use the Internet to make available to the public infor-  
26 mation concerning a sex offender classified as a level three sex offender un-  
27 der ORS 163A.100 (3) while the person is under the supervision of the  
28 Psychiatric Security Review Board [*or the Oregon Health Authority*], unless  
29 the department is authorized to do so by a request of the supervising agency.

30 “(4) If the sex offender is classified as a level two sex offender under ORS



1 163A.100 (2), the supervising agency or a notifying agency may release sex  
2 offender information to the persons or entities described in subsection  
3 (2)(b)(A) to (D) of this section.

4 “(5) If the sex offender is classified as a level one sex offender under ORS  
5 163A.100 (1), the supervising agency or a notifying agency may release sex  
6 offender information to a person described in subsection (2)(b)(A) of this  
7 section.

8 “(6) As used in this section:

9 “(a) ‘Notifying agency’ means the Department of State Police, a city po-  
10 lice department, a county sheriff’s office or a police department established  
11 by a university under ORS 352.121.

12 “(b) ‘Sex offender information’ means information that the Department  
13 of State Police determines by rule is appropriate for release to the public.

14 “(c) ‘Supervising agency’ means a governmental entity responsible for  
15 supervising a person required to report as a sex offender under ORS 163A.010  
16 or 163A.015.

17 **“SECTION 33.** ORS 163.476 is amended to read:

18 “163.476. (1) A person commits the crime of unlawfully being in a location  
19 where children regularly congregate if the person:

20 “(a)(A) Has been designated a sexually violent dangerous offender under  
21 ORS 137.765;

22 “(B) Has been classified as a level three sex offender under ORS 163A.100  
23 (3), is an unclassified adult sex offender designated as predatory prior to  
24 January 1, 2014, or is a person whom the State Board of Parole and Post-  
25 Prison Supervision[,] **or** the Psychiatric Security Review Board [*or the*  
26 *Oregon Health Authority*] has classified as a level three sex offender under  
27 section 7 (2)(b), chapter 708, Oregon Laws 2013, and does not have written  
28 approval from the State Board of Parole and Post-Prison Supervision or the  
29 person’s supervisory authority or supervising officer to be in or upon the  
30 specific premises;

1 “(C) Has been sentenced as a dangerous offender under ORS 161.725 upon  
2 conviction of a sex crime; or

3 “(D) Has been given a similar designation or been sentenced under a  
4 similar law of another jurisdiction; and

5 “(b) Knowingly enters or remains in or upon premises where persons un-  
6 der 18 years of age regularly congregate.

7 “(2) As used in this section:

8 “(a) ‘Premises where persons under 18 years of age regularly congregate’  
9 means schools, child care centers, playgrounds, other places intended for use  
10 primarily by persons under 18 years of age and places where persons under  
11 18 years of age gather for regularly scheduled educational and recreational  
12 programs.

13 “(b) ‘Sex crime’ has the meaning given that term in ORS 163A.005.

14 “(3) Unlawfully being in a location where children regularly congregate  
15 is a Class A misdemeanor.

16 **“SECTION 34.** ORS 163.479 is amended to read:

17 “163.479. (1) A person commits the crime of unlawful contact with a child  
18 if the person:

19 “(a)(A) Has been designated a sexually violent dangerous offender under  
20 ORS 137.765;

21 “(B) Has been classified as a level three sex offender under ORS 163A.100  
22 (3);

23 “(C) Is an unclassified adult sex offender designated as predatory prior  
24 to January 1, 2014, or a person whom the State Board of Parole and Post-  
25 Prison Supervision[,] **or** the Psychiatric Security Review Board [*or the*  
26 *Oregon Health Authority*] has classified as a level three sex offender under  
27 section 7 (2)(b), chapter 708, Oregon Laws 2013;

28 “(D) Has been sentenced as a dangerous offender under ORS 161.725 upon  
29 conviction of a sex crime; or

30 “(E) Has been given a similar designation or been sentenced under a

1 similar law of another jurisdiction; and

2 “(b) Knowingly contacts a child with the intent to commit a crime or for  
3 the purpose of arousing or satisfying the sexual desires of the person or an-  
4 other person.

5 “(2) As used in this section:

6 “(a) ‘Child’ means a person under 18 years of age.

7 “(b) ‘Contact’ means to communicate in any manner.

8 “(c) ‘Sex crime’ has the meaning given that term in ORS 163A.005.

9 “(3) Unlawful contact with a child is a Class C felony.

10 **“SECTION 35. (1) The amendments to ORS 21.010, 90.630, 137.223,**  
11 **137.750, 144.641, 151.216, 161.326, 161.327, 161.332, 161.336, 161.341, 161.346,**  
12 **161.348, 161.349, 161.351, 161.390, 161.395, 161.400, 162.135, 162.155, 163.476,**  
13 **163.479, 163A.105, 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690,**  
14 **278.315, 430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon**  
15 **Laws 2013, by sections 1 to 34 of this 2017 Act become operative on July**  
16 **1, 2018.**

17 **“(2) The Psychiatric Security Review Board and the Oregon Health**  
18 **Authority may take any action before the operative date specified in**  
19 **subsection (1) of this section to enable the board and the authority to**  
20 **exercise, on and after the operative date specified in subsection (1) of**  
21 **this section, the duties, functions and powers conferred on the board**  
22 **and authority by the amendments to ORS 21.010, 90.630, 137.223, 137.750,**  
23 **144.641, 151.216, 161.326, 161.327, 161.332, 161.336, 161.341, 161.346, 161.348,**  
24 **161.349, 161.351, 161.390, 161.395, 161.400, 162.135, 162.155, 163.476, 163.479,**  
25 **163A.105, 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690, 278.315,**  
26 **430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon Laws**  
27 **2013, by sections 1 to 34 of this 2017 Act.**

28 **“(3) On the operative date specified in subsection (1) of this section,**  
29 **the Psychiatric Security Review Board shall exercise jurisdiction over**  
30 **all offenders committed to a state hospital or secure intensive com-**

1 munity inpatient facility under ORS 161.315 to 161.351.

2 **“SECTION 36. This 2017 Act being necessary for the immediate**  
3 **preservation of the public peace, health and safety, an emergency is**  
4 **declared to exist, and this 2017 Act takes effect on its passage.”.**

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