

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. (1)(a) The Psychiatric Security Review Board may**  
10 **develop a restorative justice program to assist the recovery of crime**  
11 **victims when a person is found guilty except for insanity of a crime**  
12 **or responsible except for insanity for an act.**

13 **“(b) The board may enter into a contract with a nonprofit educa-**  
14 **tional institution or other nonprofit organization that provides for the**  
15 **administration of the restorative justice program by the institution**  
16 **or organization.**

17 **“(2) Any documents or oral communications created, submitted or**  
18 **provided for use in the restorative justice program are confidential,**  
19 **exempt from public disclosure and:**

20 **“(a) May not be disclosed to or used by board members.**

21 **“(b) May not be used or disclosed by restorative justice program**

1 **staff, volunteers or participants for any purpose unrelated to the pro-**  
2 **gram.**

3 **“(c) Are not admissible as evidence in any subsequent administra-**  
4 **tive or judicial proceeding, including board proceedings and deliber-**  
5 **ations.**

6 **“(3) The board may adopt rules to carry out the provisions of this**  
7 **section.**

8 **“SECTION 2.** ORS 161.346 is amended to read:

9 “161.346. (1) When the Psychiatric Security Review Board [*or the Oregon*  
10 *Health Authority*] conducts a hearing under ORS 161.315 to 161.351, the  
11 [*agency conducting the hearing*] **board** shall enter an order and make findings  
12 in support of the order. If the [*agency*] **board** finds that a person under the  
13 jurisdiction of the [*agency*] **board**:

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

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

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

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

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

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

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

11      “[(3)] **(2)** To assist the [agency] **board** in making the determination de-  
12      scribed in subsection (1) of this section, the [agency exercising jurisdiction  
13      over the person] **board** may, at any time, appoint a psychiatrist or licensed  
14      psychologist to examine the person and to submit a report to the [agency]  
15      **board**. The report must include an opinion as to the mental condition of the  
16      person, whether the person presents a substantial danger to others and  
17      whether the person could be adequately controlled with treatment as a con-  
18      dition of release.

19      “[(4)] **(3)** The [agency exercising jurisdiction over the person] **board** may  
20      make the determination regarding discharge or conditional release based  
21      upon the written reports submitted pursuant to this section. If [the authority  
22      or] any member of the board desires further information from the examining  
23      psychiatrist or licensed psychologist who submitted the report, the [agency]  
24      **board** shall summon the person to give testimony. The [agency] **board** shall  
25      consider all evidence available to it that is material, relevant and reliable  
26      regarding the issues before the [agency] **board**. The evidence may include but  
27      is not limited to the record of trial, the information supplied by the attorney  
28      representing the state or by any other interested party, including the person,  
29      and information concerning the person’s mental condition and the entire  
30      psychiatric and criminal history of the person. All evidence of a type com-

1 monly relied upon by reasonably prudent persons in the conduct of their se-  
2 rious affairs shall be admissible at hearings. Testimony shall be taken upon  
3 oath or affirmation of the witness from whom received. The officer presiding  
4 at the hearing shall administer oaths or affirmations to witnesses.

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

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

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

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

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

18 “[6] (5) Prior to the commencement of the hearing, the [*agency*] **board**  
19 shall serve personally or by mail a written notice to each party as provided  
20 in ORS 183.413 (2).

21 “[7] (6) At the hearing, the person about whom the hearing is being held  
22 shall have the right:

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

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

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

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

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

5       “[(8)] (7) A record shall be kept of all hearings conducted under ORS  
6 161.315 to 161.351, except for deliberations.

7       “[(9)] (8) Upon request of any party, or on motion of the [agency con-  
8 ducting the hearing] **board**, the hearing may be continued for a reasonable  
9 period not to exceed 60 days to obtain additional information or testimony  
10 or for other good cause shown.

11       “[(10)] (9) Within 15 days following the conclusion of the hearing, the  
12 [agency] **board** shall provide to the person, the attorney representing the  
13 person, the Attorney General or other attorney representing the state, if any,  
14 written notice of the order entered by the [agency] **board**.

15       “[(11)] (10) The burden of proof on all issues at hearings under ORS  
16 161.315 to 161.351 shall be by a preponderance of the evidence.

17       “[(12)] (11) If the [agency conducting the hearing] **board** determines that  
18 the person about whom the hearing is being held is financially eligible, the  
19 [agency] **board** shall appoint suitable counsel to represent the person.  
20 Counsel so appointed shall be an attorney who satisfies the professional  
21 qualifications established by the Public Defense Services Commission under  
22 ORS 151.216. The public defense services executive director shall determine  
23 and allow fair compensation for counsel appointed under this subsection and  
24 the reasonable expenses of the person in respect to the hearing. Compens-  
25 ation payable to appointed counsel shall not be less than the applicable  
26 compensation level established under ORS 151.216. The compensation and  
27 expenses so allowed shall be paid by the public defense services executive  
28 director from funds available for the purpose.

29       “[(13)] (12) The Attorney General may represent the state at contested  
30 hearings under ORS 161.315 to 161.351 unless the district attorney of the

1 county from which the person was committed elects to represent the state.  
2 The district attorney of the county from which the person was committed  
3 shall cooperate with the Attorney General in securing the material necessary  
4 for presenting a contested hearing. If the district attorney elects to represent  
5 the state, the district attorney shall give timely written notice of such  
6 election to the Attorney General, the [*agency conducting the hearing*] **board**  
7 and the attorney representing the person.

8 **“SECTION 3.** ORS 161.336 is amended to read:

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

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

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

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

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

28 “(3)(a) As a condition of release, the person may be required to report to  
29 any state or local mental health facility for evaluation. Whenever medical,  
30 psychiatric or psychological treatment is recommended, the order may re-

1 quire the person, as a condition of release, to cooperate with and accept the  
2 treatment from the facility.

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

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

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

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

14 “(4)(a) If at any time while the person is under the jurisdiction of the  
15 board it appears to the board or its chairperson that the person has violated  
16 the terms of the conditional release or that the mental health of the indi-  
17 vidual has changed, the board or its chairperson may order the person re-  
18 turned for evaluation or treatment to a state hospital or, if the person is  
19 under 18 years of age, to a secure intensive community inpatient facility. A  
20 written order of the board, or its chairperson on behalf of the board, is suf-  
21 ficient warrant for any law enforcement officer to take into custody such  
22 person and transport the person accordingly. A sheriff, municipal police of-  
23 ficer, constable, parole and probation officer, prison official or other peace  
24 officer shall execute the order, and the person shall be returned as soon as  
25 practicable to the state hospital or secure intensive community inpatient  
26 facility designated in the order.

27 “(b) The community mental health program director, the director of the  
28 facility providing treatment to a person on conditional release, any peace  
29 officer or any person responsible for the supervision of a person on condi-  
30 tional release may take a person on conditional release into custody or re-

1 quest that the person be taken into custody if there is reasonable cause to  
2 believe the person is a substantial danger to others because of mental disease  
3 or defect and that the person is in need of immediate care, custody or  
4 treatment. Any person taken into custody pursuant to this subsection shall  
5 be transported as soon as practicable to a state hospital or, if the person is  
6 under 18 years of age, to a secure intensive community inpatient facility.

7 “(c) Within 20 days following the return of the person to a state hospital  
8 or secure intensive community inpatient facility under this subsection, the  
9 [agency having jurisdiction over the person] **board** shall conduct a hearing.  
10 The [agency] **board** shall provide notice of the hearing to the person, the  
11 attorney representing the person and the Attorney General. The state must  
12 prove by a preponderance of the evidence the person’s unfitness for condi-  
13 tional release. The hearing shall be conducted in accordance with ORS  
14 161.346.

15 “(5)(a) Any person conditionally released under this section may apply to  
16 the board for discharge from or modification of an order of conditional re-  
17 lease on the ground that the person is no longer affected by mental disease  
18 or defect or, if still so affected, no longer presents a substantial danger to  
19 others and no longer requires supervision, medication, care or treatment.  
20 Notice of the hearing on an application for discharge or modification of an  
21 order of conditional release shall be made to the Attorney General. The ap-  
22 plicant, at the hearing pursuant to this subsection, must prove by a prepon-  
23 derance of the evidence the applicant’s fitness for discharge or modification  
24 of the order of conditional release. Applications by the person for discharge  
25 or modification of conditional release may not be filed more often than once  
26 every six months.

27 “(b) Upon application by any person or agency responsible for supervision  
28 or treatment pursuant to an order of conditional release, the board shall  
29 conduct a hearing to determine if the conditions of release shall be contin-  
30 ued, modified or terminated. The application shall be accompanied by a re-



1 port setting forth the facts supporting the application.

2 “(6) A person who has spent five years on conditional release shall be  
3 brought before the board for hearing within 30 days before the expiration  
4 of the five-year period. The board shall review the person’s status and de-  
5 termine whether the person should be discharged from the jurisdiction of the  
6 board.

7 **“SECTION 4.** ORS 161.341 is amended to read:

8 “161.341. (1) If at any time after a person is committed under ORS 161.315  
9 to 161.351 to a state hospital or a secure intensive community inpatient fa-  
10 cility, the superintendent of the hospital or the director of the secure inten-  
11 sive community inpatient facility is of the opinion that the person is no  
12 longer affected by mental disease or defect, or, if so affected, no longer pre-  
13 sents a substantial danger to others or that the person continues to be af-  
14 fected by mental disease or defect and continues to be a danger to others,  
15 but that the person can be controlled with proper care, medication, super-  
16 vision and treatment if conditionally released, the superintendent or director  
17 shall apply to the [*agency having jurisdiction over the person*] **Psychiatric**  
18 **Security Review Board** for an order of discharge or conditional release.  
19 The application shall be accompanied by a report setting forth the facts  
20 supporting the opinion of the superintendent or director. If the application  
21 is for conditional release, the application must be accompanied by a verified  
22 conditional release plan. The [*agency*] **board** shall hold a hearing on the  
23 application within 60 days of its receipt. Not less than 20 days prior to the  
24 hearing before the [*agency*] **board**, copies of the report shall be sent to the  
25 Attorney General.

26 “(2) The attorney representing the state may choose a psychiatrist or li-  
27 censed psychologist to examine the person prior to the initial or any later  
28 decision by the [*agency having jurisdiction over the person*] **board** on dis-  
29 charge or conditional release. The results of the examination shall be in  
30 writing and filed with the [*agency*] **board**, and shall include, but need not

1 be limited to, an opinion as to the mental condition of the person, whether  
2 the person presents a substantial danger to others and whether the person  
3 could be adequately controlled with treatment as a condition of release.

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

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

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

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

16 “(4) When application is made under subsection (3) of this section, the  
17 [*agency having jurisdiction over the person*] **board** shall require that a report  
18 from the superintendent of the hospital or the director of the secure inten-  
19 sive community inpatient facility be prepared and transmitted as provided in  
20 subsection (1) of this section. The applicant must prove by a preponderance  
21 of the evidence the applicant’s fitness for discharge or conditional release  
22 under the standards of subsection (3) of this section, unless more than two  
23 years has passed since the state had the burden of proof on that issue, in  
24 which case the state shall have the burden of proving by a preponderance  
25 of the evidence the applicant’s lack of fitness for discharge or conditional  
26 release. Applications for discharge or conditional release under subsection  
27 (3) of this section may not be filed more often than once every six months  
28 commencing with the date of the initial [*agency*] **board** hearing.

29 “(5) The [*agency having jurisdiction over the person*] **board** is not required  
30 to hold a hearing on a first application under subsection (3) of this section

1 any sooner than 90 days after the initial hearing. Hearings resulting from  
2 any subsequent requests shall be held within 60 days of the filing of the ap-  
3 plication.

4 “(6)(a) In no case shall a person committed by the court under ORS  
5 161.327 to a state hospital, or to a secure intensive community inpatient fa-  
6 cility, be held in the hospital or facility for more than 90 days from the date  
7 of the court’s commitment order without an initial hearing before the [*agency*  
8 *having jurisdiction over the person*] **board** to determine whether the person  
9 should be conditionally released or discharged.

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

13 **“SECTION 5.** ORS 161.351 is amended to read:

14 “161.351. (1) Any person placed under the jurisdiction of the Psychiatric  
15 Security Review Board [*or the Oregon Health Authority*] under ORS 161.315  
16 to 161.351 shall be discharged at such time as the [*agency having jurisdiction*  
17 *over the person*] **board**, upon a hearing, finds by a preponderance of the evi-  
18 dence that the person is no longer affected by mental disease or defect or,  
19 if so affected, no longer presents a substantial danger to others that requires  
20 regular medical care, medication, supervision or treatment.

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

28 “(3) In determining whether a person should be committed to a state  
29 hospital or secure intensive community inpatient facility, conditionally re-  
30 leased or discharged, the board [*and the authority*] shall have as [*their*] **its**

1 primary concern the protection of society.

2 **“SECTION 6.** ORS 161.390 is amended to read:

3 “161.390. (1) The Oregon Health Authority shall adopt rules for the as-  
4 signment of persons to state mental hospitals or secure intensive community  
5 inpatient facilities under ORS [161.315 to 161.351,] 161.365 and 161.370 and for  
6 establishing standards for evaluation and treatment of persons committed to  
7 a state hospital or a secure intensive community inpatient facility or ordered  
8 to a community mental health program under ORS 161.315 to 161.351.

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

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

19 “[4] *Before the authority conducts a hearing under ORS 161.315 to 161.351,*  
20 *the authority shall notify the board. The board may provide the authority with*  
21 *conditions of release that the board determines are advisable. If the authority*  
22 *orders the person conditionally released, the authority shall include the con-*  
23 *ditions of release in the order.]*

24 “[5] (4) The board [*and the authority*] shall maintain and keep current  
25 the medical, social and criminal history of all persons committed to [*their*  
26 *respective*] **its** jurisdiction. The confidentiality of records maintained by the  
27 board shall be determined pursuant to ORS 192.501 to 192.505.

28 “[6] (5) The evidentiary phase of a hearing conducted by the board [*or*  
29 *the authority*] under ORS 161.315 to 161.351 is not a deliberation for purposes  
30 of ORS 192.690.

1       **“SECTION 7.** ORS 161.326 is amended to read:

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

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

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

18       “(b) If the *[agency]* **board** determines that the *[agency]* **board** failed to  
19 make a reasonable effort to notify the victim or failed to afford the victim  
20 an opportunity to be heard, except as provided in paragraph (c) of this sub-  
21 section, the *[agency]* **board** shall grant the request for reconsideration. Upon  
22 reconsideration, the *[agency]* **board** shall consider the statement of the vic-  
23 tim and may consider any other information that was not available to the  
24 *[agency]* **board** at the previous hearing.

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

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

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

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

4 “**SECTION 8.** ORS 161.348 is amended to read:

5 “161.348. (1) When a person over whom the Psychiatric Security Review  
6 Board [*or the Oregon Health Authority*] exercises jurisdiction under ORS  
7 161.315 to 161.351 or 419C.544 is adversely affected or aggrieved by a final  
8 order of the board [*or authority*], the person is entitled to judicial review of  
9 the final order. The person is entitled on judicial review to suitable counsel  
10 possessing skills and experience commensurate with the nature and com-  
11 plexity of the case. If the person is financially eligible, suitable counsel shall  
12 be appointed by the reviewing court in the manner provided in ORS 138.500  
13 (1). If the person is financially eligible, the public defense services executive  
14 director shall determine and pay, as provided in ORS 138.500, the cost of  
15 briefs, any other expenses of the person necessary to the review and com-  
16 pensation for counsel appointed for the person. The costs, expenses and  
17 compensation so allowed shall be paid as provided in ORS 138.500.

18 “(2) The order and the proceedings underlying the order are subject to  
19 review by the Court of Appeals upon petition to that court filed within 60  
20 days of the order for which review is sought. The [*agency that conducted the*  
21 *hearing*] **board** shall submit to the court the record of the proceeding or, if  
22 the person agrees, a shortened record. The record may include a certified  
23 true copy of a tape recording of the proceedings at a hearing in accordance  
24 with ORS 161.346. A copy of the record transmitted shall be delivered to the  
25 person by the [agency] **board**.

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

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

1        **“SECTION 9.** ORS 161.395 is amended to read:

2        “161.395. (1) Upon request of any party to a hearing before the Psychiatric  
3 Security Review Board [*or the Oregon Health Authority*] under ORS 161.315  
4 to 161.351, the [*agency conducting the hearing*] **board** shall issue, or on its  
5 own motion may issue, subpoenas requiring the attendance and testimony of  
6 witnesses.

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

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

16       “(4) If any person fails to comply with a subpoena issued under sub-  
17 sections (1) or (2) of this section or any party or witness refuses to testify  
18 regarding any matter on which the party or witness may be lawfully inter-  
19 rogated, the judge of the circuit court of any county, on the application of  
20 the [*agency that issued the subpoena*] **board** or of the party requesting the  
21 issuance of the subpoena, shall compel obedience by proceedings for con-  
22 tempt as in the case of disobedience of the requirements of a subpoena issued  
23 by the court.

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

1       **SECTION 10.** ORS 161.400 is amended to read:

2       “161.400. If, at any time after the commitment of a person to a state hos-  
3       pital or a secure intensive community inpatient facility under ORS 161.315  
4       to 161.351, the superintendent of the hospital or the director of the facility  
5       is of the opinion that a leave of absence from the hospital or facility would  
6       be therapeutic for the person and that such leave would pose no substantial  
7       danger to others, the superintendent or director may authorize such leave for  
8       up to 48 hours in accordance with rules adopted by the [*agency having ju-*  
9       *risdiction over the person*] **Psychiatric Security Review Board**. However,  
10      the superintendent or director, before authorizing the leave of absence, shall  
11      first notify the [*agency*] **board** for the purposes of ORS 161.326.

12      **SECTION 11.** ORS 161.332 is amended to read:

13      “161.332. As used in ORS 161.315 to 161.351 and 161.385 to 161.395[:],

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

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

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

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

20      “[(b)] Attempt or conspiracy to commit aggravated murder as defined in  
21      ORS 163.095;]

22      “[(c)] Murder as defined in ORS 163.115;]

23      “[(d)] Attempt or conspiracy to commit murder as defined in ORS 163.115;]

24      “[(e)] Manslaughter in the first degree as defined in ORS 163.118;]

25      “[(f)] Manslaughter in the second degree as defined in ORS 163.125;]

26      “[(g)] Assault in the first degree as defined in ORS 163.185;]

27      “[(h)] Assault in the second degree as defined in ORS 163.175;]

28      “[(i)] Kidnapping in the first degree as defined in ORS 163.235;]

29      “[(j)] Kidnapping in the second degree as defined in ORS 163.225;]

30      “[(k)] Rape in the first degree as defined ORS 163.375;]



1       “[(L) Rape in the second degree as defined in ORS 163.365;]  
2       “[(m) Sodomy in the first degree as defined in ORS 163.405;]  
3       “[(n) Sodomy in the second degree as defined in ORS 163.395;]  
4       “[(o) Unlawful sexual penetration in the first degree as defined ORS  
5 163.411;]  
6       “[(p) Unlawful sexual penetration in the second degree as defined ORS  
7 163.408;]  
8       “[(q) Sexual abuse in the first degree as defined in ORS 163.427;]  
9       “[(r) Robbery in the first degree as defined in ORS 164.415;]  
10       “[(s) Robbery in the second degree as defined in ORS 164.405;]  
11       “[(t) Arson in the first degree as defined in ORS 164.325;]  
12       “[(u) Using a child in a display of sexually explicit conduct as defined in  
13 ORS 163.670;]  
14       “[(v) Compelling prostitution as defined in ORS 167.017; or]  
15       “[(w) Aggravated vehicular homicide as defined in ORS 163.149.]  
16       “[(4) ‘Tier two offender’ means a person who has been found guilty except  
17 for insanity only of offenses that are not tier one offenses.]  
18       “**SECTION 12.** ORS 161.327 is amended to read:  
19       “161.327. (1) Following the entry of a judgment pursuant to ORS 161.319,  
20 if the court finds by a preponderance of the evidence that a person found  
21 guilty except for insanity of a felony is affected by mental disease or defect  
22 and presents a substantial danger to others, the court shall enter an order  
23 as follows:  
24       “(a) If the court finds that the person is not a proper subject for condi-  
25 tional release, the court shall order the person committed to a state hospital  
26 or, if the person is under 18 years of age, to a secure intensive community  
27 inpatient facility for custody, care and treatment. When the court orders a  
28 person committed under this paragraph, the court shall place the person  
29 under the jurisdiction of[:]  
30       “[(A)] the Psychiatric Security Review Board[, if the person is a tier one

1 *offender.*]

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

3 “(b) If the court finds that the person can be adequately controlled with  
4 supervision and treatment if conditionally released and that necessary  
5 supervision and treatment are available, the court shall order the person  
6 conditionally released.

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

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

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

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

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

30 “(4) Upon placing a person on conditional release, the court shall notify

1 the board in writing of the court's conditional release order, the supervisor  
2 appointed and all other conditions of release, and the person shall be on  
3 conditional release pending hearing before the board. Upon compliance with  
4 this section, the court's jurisdiction over the person is terminated.

5 “(5) The total period of commitment or conditional release under ORS  
6 161.315 to 161.351 may not exceed the maximum sentence provided by statute  
7 for the crime for which the person was found guilty except for insanity.

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

18 “(7) Following the entry of an order described in subsection (1) of this  
19 section, the court shall notify the person of the right to appeal and the right  
20 to a hearing before the [*agency exercising jurisdiction over the person*] **board**  
21 in accordance with ORS 161.336 (5) and 161.341 (3).

22 “**SECTION 13.** ORS 161.349 is amended to read:

23 “161.349. (1) When a person who is committed to a state hospital or a  
24 secure intensive community inpatient facility under ORS 161.315 to 161.351  
25 is convicted of a crime and sentenced to a term of incarceration and when  
26 the person is sentenced to a term of incarceration as a sanction for violating  
27 the conditions of probation, parole or post-prison supervision, the sentencing  
28 court shall stay execution of the sentence pending the conditional release  
29 or discharge of the person or the expiration of the period of time described  
30 in ORS 161.327 (5). When the person is conditionally released or discharged

1 by the [agency having jurisdiction over the person] **Psychiatric Security**  
2 **Review Board** under ORS 161.315 to 161.351, or when the maximum period  
3 of jurisdiction described in ORS 161.327 (5) expires, the stay shall be lifted  
4 by operation of law and the person shall be delivered to the custody of the  
5 Department of Corrections or the supervisory authority to begin service of  
6 the sentence imposed.

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

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

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

19 **“SECTION 14.** ORS 21.010 is amended to read:

20 “21.010. (1) Except as provided in this section, the appellant in an appeal  
21 or the petitioner in a judicial review in the Supreme Court or the Court of  
22 Appeals shall pay a filing fee of \$373 in the manner prescribed by ORS 19.265.  
23 The respondent in such case and any other person appearing in the appeal,  
24 upon entering first appearance or filing first brief in the court, shall pay to  
25 the State Court Administrator a filing fee of \$373. The party entitled to  
26 costs and disbursements on such appeal shall recover from the opponent the  
27 amount so paid.

28 “(2) Filing and appearance fees may not be assessed in appeals from  
29 habeas corpus proceedings under ORS 34.710, post-conviction relief pro-  
30 ceedings under ORS 138.650, juvenile court under ORS 419A.200, the invol-

1 untary commitment of persons determined to be persons with mental illness  
2 under ORS 426.135 or persons determined to have an intellectual disability  
3 under ORS 427.295 or orders of the State Board of Parole and Post-Prison  
4 Supervision or on judicial review of orders entered under ORS 161.315 to  
5 161.351 by the Psychiatric Security Review Board [*or the Oregon Health Au-*  
6 *thority*].

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

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

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

17 **“SECTION 15.** ORS 90.630 is amended to read:

18 “90.630. (1) Except as provided in subsection (4) of this section, the land-  
19 lord may terminate a rental agreement that is a month-to-month or fixed  
20 term tenancy for space for a manufactured dwelling or floating home by  
21 giving to the tenant not less than 30 days’ notice in writing before the date  
22 designated in the notice for termination if the tenant:

23 “(a) Violates a law or ordinance related to the tenant’s conduct as a  
24 tenant, including but not limited to a material noncompliance with ORS  
25 90.740;

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

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

1 “(d) Is an unclassified adult sex offender designated as predatory prior to  
2 January 1, 2014, or a person whom the State Board of Parole and Post-Prison  
3 Supervision[,] **or** the Psychiatric Security Review Board [*or the Oregon*  
4 *Health Authority*] has classified as a level three sex offender under section  
5 7 (2)(b), chapter 708, Oregon Laws 2013; or

6 “(e) Fails to pay a:

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

8 “(B) Fee pursuant to ORS 90.302; or

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

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

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

20 “(4) The tenant may avoid termination of the tenancy by correcting the  
21 violation within the 30-day period specified in subsection (1) of this section.  
22 However, if substantially the same act or omission that constituted a prior  
23 violation of which notice was given recurs within six months after the date  
24 of the notice, the landlord may terminate the tenancy upon at least 20 days’  
25 written notice specifying the violation and the date of termination of the  
26 tenancy.

27 “(5) Notwithstanding subsection (3) or (4) of this section, a tenant who  
28 is given a notice of termination under subsection (1)(c) of this section does  
29 not have a right to correct the violation. A notice given to a tenant under  
30 subsection (1)(c) of this section must state that the tenant does not have a

1 right to avoid the termination.

2 “(6) This section does not limit a landlord’s right to terminate a tenancy  
3 for nonpayment of rent under ORS 90.394 or for other cause under ORS  
4 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying with ORS 105.105 to  
5 105.168.

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

10 “(8) Notwithstanding any other provision of this section or ORS 90.394,  
11 90.396 or 90.398, the landlord may terminate the rental agreement for space  
12 for a manufactured dwelling or floating home because of repeated late pay-  
13 ment of rent by giving the tenant not less than 30 days’ notice in writing  
14 before the date designated in that notice for termination and may take pos-  
15 session as provided in ORS 105.105 to 105.168 if:

16 “(a) The tenant has not paid the monthly rent prior to the eighth day of  
17 the rental period as described in ORS 90.394 (2)(a) or the fifth day of the  
18 rental period as described in ORS 90.394 (2)(b) in at least three of the pre-  
19 ceding 12 months and the landlord has given the tenant a nonpayment of rent  
20 termination notice pursuant to ORS 90.394 (2) during each of those three  
21 instances of nonpayment;

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

29 “(c) The 30-day notice of termination states facts sufficient to notify the  
30 tenant of the cause for termination of the tenancy and is given to the tenant

1 concurrent with or after the third or a subsequent nonpayment of rent ter-  
2 mination notice.

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

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

14 **“SECTION 16.** ORS 137.223 is amended to read:

15 “137.223. (1) A person who has been found guilty except for insanity of  
16 an offense for which, if convicted, the person could apply for entry of an  
17 order setting aside the conviction pursuant to ORS 137.225, may by motion  
18 apply to the court for entry of an order setting aside the judgment finding  
19 the person guilty except for insanity of the offense.

20 “(2) A person described in subsection (1) of this section may file the mo-  
21 tion to set aside a judgment of guilty except for insanity any time after three  
22 years from the date of entry of the judgment of guilty except for insanity,  
23 provided that:

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

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

29 “(3)(a) A copy of the motion and a full set of the defendant’s fingerprints  
30 shall be served upon the office of the prosecuting attorney who prosecuted



1 the offense and opportunity shall be given to contest the motion. The fin-  
2 gerprint card with the notation 'motion for setting aside judgment of guilty  
3 except for insanity' shall be forwarded to the Department of State Police.  
4 Information resulting from the fingerprint search along with the fingerprint  
5 card shall be returned to the prosecuting attorney.

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

11 “(c) When a person files a motion under this section, the person must pay  
12 a fee of \$80 to the Department of State Police. The person shall attach a  
13 certified check payable to the Department of State Police in the amount of  
14 \$80 to the fingerprint card that is served upon the prosecuting attorney. The  
15 office of the prosecuting attorney shall forward the check with the finger-  
16 print card to the Department of State Police.

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

19 “(4)(a) Upon hearing the motion, the court may require the filing of such  
20 affidavits and may require the taking of such proofs as the court deems  
21 proper. The court shall allow the victim, if any, to make a statement at the  
22 hearing.

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

28 “(c) Unless the court makes written findings by clear and convincing ev-  
29 idence that granting the motion would not be in the best interests of justice,  
30 the court shall grant the motion and enter an order as provided in paragraph

1 (b) of this subsection if the defendant was found guilty except for insanity  
2 of an offense described in ORS 137.225 (12) and is otherwise eligible for relief  
3 under this section.

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

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

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

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

17 “(b) For purposes of this subsection, records of the case do not include  
18 medical records that are in the possession of the Psychiatric Security Review  
19 Board [*or the Oregon Health Authority*], including medical evaluations and  
20 reports submitted from other agencies concerning the status or compliance  
21 of the person.

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

29 “(7) For purposes of any civil action in which truth is an element of a  
30 claim for relief or affirmative defense, the provisions of subsection (6) of this

1 section providing that the judgment of guilty except for insanity be deemed  
2 not to have been entered do not apply and a party may apply to the court  
3 for an order requiring disclosure of the official records in the case as may  
4 be necessary in the interests of justice.

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

11 **“SECTION 17.** ORS 137.750 is amended to read:

12 “137.750. (1) When a court sentences a defendant to a term of incarcer-  
13 ation upon conviction of a crime, the court shall order on the record in open  
14 court as part of the sentence imposed that the defendant may be considered  
15 by the executing or releasing authority for any form of temporary leave from  
16 custody, reduction in sentence, work release or program of conditional or  
17 supervised release authorized by law for which the defendant is otherwise  
18 eligible at the time of sentencing, unless the court finds on the record in  
19 open court substantial and compelling reasons to order that the defendant  
20 not be considered for such leave, release or program.

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

24 “(3) As used in this section:

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

29 “(b) ‘Supervisory authority’ has the meaning given that term in ORS  
30 144.087.

1       **SECTION 18.** ORS 144.641 is amended to read:

2       “144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

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

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

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

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

12       “(5) ‘Sex offender’ means:

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

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

15       “(c) An unclassified adult sex offender designated as predatory prior to  
16 January 1, 2014, or a person whom the State Board of Parole and Post-Prison  
17 Supervision[,] **or** the Psychiatric Security Review Board [*or the Oregon*  
18 *Health Authority*] has classified as a level three sex offender under section  
19 7 (2)(b), chapter 708, Oregon Laws 2013.

20       “(6) ‘Transitional housing’ means housing intended to be occupied by a  
21 sex offender for 45 days or less immediately after release from incarceration.

22       **SECTION 19.** ORS 151.216 is amended to read:

23       “151.216. (1) The Public Defense Services Commission shall:

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

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

1       “(c) Submit the budget of the commission and the office of public defense  
2 services to the Legislative Assembly after the budget is submitted to the  
3 commission by the director and approved by the commission. The Chief Jus-  
4 tice of the Supreme Court and the chairperson of the commission shall  
5 present the budget to the Legislative Assembly.

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

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

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

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

14       “(B) The appointment of counsel;

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

17       “(D) Appointed counsel compensation disputes;

18       “(E) Any other costs associated with the representation of a person by  
19 appointed counsel in the state courts that are required to be paid by the  
20 state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,  
21 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,  
22 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315  
23 or any other provision of law that expressly provides for payment of such  
24 compensation, costs or expenses by the commission;

25       “(F) Professional qualifications for counsel appointed to represent public  
26 defense clients;

27       “(G) Performance for legal representation;

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

29       “(I) Contracting with expert witnesses to allow contracting with out-of-  
30 state expert witnesses only if in-state expert witnesses are not available or

1 are more expensive than out-of-state expert witnesses; and

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

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

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

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

16 “(2) Policies, procedures, standards and guidelines adopted by the com-  
17 mission supersede any conflicting rules, policies or procedures of the Public  
18 Defender Committee, State Court Administrator, circuit courts, the Court of  
19 Appeals, the Supreme Court[,] **and** the Psychiatric Security Review Board  
20 [*and the Oregon Health Authority*] related to the exercise of the commission’s  
21 administrative responsibilities under this section and transferred duties,  
22 functions and powers as they occur.

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

29 “(4) The commission may not:

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

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

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

5 **“SECTION 20.** ORS 162.135 is amended to read:

6 “162.135. As used in ORS 162.135 to 162.205, unless the context requires  
7 otherwise:

8 “(1)(a) ‘Contraband’ means:

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

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

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

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

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

20 “(2) ‘Correctional facility’ means any place used for the confinement of  
21 persons charged with or convicted of a crime or otherwise confined under a  
22 court order and includes but is not limited to a youth correction facility.  
23 ‘Correctional facility’ applies to a state hospital or a secure intensive com-  
24 munity inpatient facility only as to persons detained therein charged with  
25 or convicted of a crime, or detained therein after having been found guilty  
26 except for insanity of a crime under ORS 161.290 to 161.370.

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

29 “(4) ‘Custody’ means the imposition of actual or constructive restraint by  
30 a peace officer pursuant to an arrest or court order, but does not include

1 detention in a correctional facility, youth correction facility or a state hos-  
2 pital.

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

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

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

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

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

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

20 “**SECTION 21.** ORS 162.155 is amended to read:

21 “162.155. (1) A person commits the crime of escape in the second degree  
22 if:

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

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

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

28 “(d) While under the jurisdiction of the Psychiatric Security Review  
29 Board [*or under the jurisdiction of the Oregon Health Authority*] under ORS  
30 161.315 to 161.351, the person departs, is absent from or fails to return to this



1 state without authorization of the board.

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

3 **“SECTION 22.** ORS 181A.290 is amended to read:

4 “181A.290. (1) The Department of Human Services, the Oregon Health  
5 Authority, the Psychiatric Security Review Board and the Judicial Depart-  
6 ment shall provide the Department of State Police with the minimum infor-  
7 mation necessary to identify persons who:

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

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

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

16 “(d) Have been found by a court to lack fitness to proceed under ORS  
17 161.370;

18 “(e) Have been found guilty except for insanity of a crime under ORS  
19 161.295 to 161.370;

20 “(f) Have been found responsible except for insanity for an act under ORS  
21 419C.411;

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

24 or

25 “(h) Have been committed to a state hospital or facility under ORS  
26 161.315 to 161.351 or 419C.529 to 419C.544.

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

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

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

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

10 “(b) Describing the method and manner of maintaining the information  
11 described in this section and transmitting the information to the federal  
12 government.

13 “(5) As used in this section, ‘minimum information necessary’ means data  
14 elements or nominal information that is necessary or required under federal  
15 law to accurately identify a person described in this section and includes the  
16 person’s name, date of birth, gender and reference information that identifies  
17 the originating agency or court and enables the originating agency or court  
18 to locate an underlying record or file of a person described in this section.  
19 ‘Minimum information necessary’ does not include any medical, psychiatric  
20 or psychological information, case histories or files of a person described in  
21 this section or any record or file of an originating agency or court.

22 “**SECTION 23.** ORS 183.315 is amended to read:

23 “183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425,  
24 183.440, 183.450, 183.452, 183.458, 183.460, 183.470 and 183.480 do not apply to  
25 local government boundary commissions created pursuant to ORS 199.430,  
26 the Department of Revenue, State Accident Insurance Fund Corporation,  
27 Department of Consumer and Business Services with respect to its functions  
28 under ORS chapters 654 and 656, State Board of Parole and Post-Prison  
29 Supervision[,] **or** Psychiatric Security Review Board [*or Oregon Health Au-*  
30 *thority*] with respect to its functions under ORS 161.315 to 161.351.

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

4 “(3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440,  
5 183.450, 183.452, 183.458 and 183.460 do not apply to the Employment Appeals  
6 Board or the Employment Department.

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

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

16 “(a) Have been committed pursuant to ORS 137.124 to the custody of the  
17 Department of Corrections or are otherwise confined in a Department of  
18 Corrections facility; or

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

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

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

29 “(8) The provisions of ORS 183.413 to 183.497 do not apply to administra-  
30 tive proceedings conducted under rules adopted by the Secretary of State

1 under ORS 246.190.

2 **“SECTION 24.** ORS 183.635 is amended to read:

3 “183.635. (1) Except as provided in this section, all agencies must use ad-  
4 ministrative law judges assigned from the Office of Administrative Hearings  
5 established under ORS 183.605 to conduct contested case hearings, without  
6 regard to whether those hearings are subject to the procedural requirements  
7 for contested case hearings.

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

10 “(a) Attorney General.

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

12 “(c) Bureau of Labor and Industries and the Commissioner of the Bureau  
13 of Labor and Industries.

14 “(d) Department of Corrections.

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

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

20 “(g) Department of Revenue.

21 “(h) Department of State Police.

22 “(i) Employment Appeals Board.

23 “(j) Employment Relations Board.

24 “(k) Energy Facility Siting Council.

25 “(L) Fair Dismissal Appeals Board.

26 “(m) Governor.

27 “(n) Land Conservation and Development Commission.

28 “(o) Land Use Board of Appeals.

29 “(p) Local government boundary commissions created pursuant to ORS  
30 199.430.

1 “(q) Public universities listed in ORS 352.002.  
2 “(r) Oregon Youth Authority.  
3 “(s) Psychiatric Security Review Board.  
4 “[*t*] *The Oregon Health Authority for hearings conducted under ORS*  
5 *161.315 to 161.351.*]  
6 “[*u*] (t) Public Utility Commission.  
7 “[*v*] (u) State Accident Insurance Fund Corporation.  
8 “[*w*] (v) State Apprenticeship and Training Council.  
9 “[*x*] (w) State Board of Parole and Post-Prison Supervision.  
10 “[*y*] (x) State Land Board.  
11 “[*z*] (y) State Treasurer.  
12 “(3) The Workers’ Compensation Board is exempt from using administra-  
13 tive law judges assigned from the office for any hearing conducted by the  
14 board under ORS chapters 147, 654 and 656. Except as specifically provided  
15 in this subsection, the Department of Consumer and Business Services must  
16 use administrative law judges assigned from the office only for contested  
17 cases arising out of the department’s powers and duties under:  
18 “(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;  
19 “(b) ORS chapter 455;  
20 “(c) ORS chapter 674;  
21 “(d) ORS chapters 706 to 716;  
22 “(e) ORS chapter 717;  
23 “(f) ORS chapters 723, 725 and 726; and  
24 “(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744,  
25 746, 748 and 750.  
26 “(4) Notwithstanding any other provision of law, in any proceeding in  
27 which an agency is required to use an administrative law judge assigned  
28 from the office, an officer or employee of the agency may not conduct the  
29 hearing on behalf of the agency.  
30 “(5) Notwithstanding any other provision of ORS 183.605 to 183.690, an

1 agency is not required to use an administrative law judge assigned from the  
2 office if:

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

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

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

11 **“SECTION 25.** ORS 192.690 is amended to read:

12 “192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of  
13 [*the Oregon Health Authority conducted under ORS 161.315 to 161.351,*] the  
14 Psychiatric Security Review Board, the State Board of Parole and Post-  
15 Prison Supervision, state agencies conducting hearings on contested cases in  
16 accordance with the provisions of ORS chapter 183, the review by the  
17 Workers’ Compensation Board or the Employment Appeals Board of similar  
18 hearings on contested cases, meetings of the state lawyers assistance com-  
19 mittee operating under the provisions of ORS 9.568, meetings of the personal  
20 and practice management assistance committees operating under the pro-  
21 visions of ORS 9.568, the county multidisciplinary child abuse teams required  
22 to review child abuse cases in accordance with the provisions of ORS 418.747,  
23 the child fatality review teams required to review child fatalities in accord-  
24 ance with the provisions of ORS 418.785, the peer review committees in ac-  
25 cordance with the provisions of ORS 441.055, mediation conducted under ORS  
26 36.252 to 36.268, any judicial proceeding, meetings of the Oregon Health and  
27 Science University Board of Directors or its designated committee regarding  
28 candidates for the position of president of the university or regarding sensi-  
29 tive business, financial or commercial matters of the university not custom-  
30 arily provided to competitors related to financings, mergers, acquisitions or

1 joint ventures or related to the sale or other disposition of, or substantial  
2 change in use of, significant real or personal property, or related to health  
3 system strategies, or to Oregon Health and Science University faculty or  
4 staff committee meetings.

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

10 **“SECTION 26.** ORS 278.315 is amended to read:

11 “278.315. (1) The Oregon Health Authority may provide tort liability cov-  
12 erage through the Oregon Department of Administrative Services to any  
13 county or private community care provider that has contracted with the au-  
14 thority to provide supervision, care, treatment or training of persons under  
15 the jurisdiction of the Psychiatric Security Review Board [*or the authority*]  
16 under ORS 161.315 to 161.351. Counties or private community care providers,  
17 and the officers and employees of those counties and providers acting within  
18 the scope of their employment, may be covered to the extent that any tort  
19 claim arises out of the provision of supervision, care, treatment or training  
20 of persons pursuant to the terms of the contract. Tort liability coverage un-  
21 der this section must be in writing, and may be part of the contract between  
22 the authority and the county or private community care provider. The cov-  
23 erage provided under this section shall be self-insurance by the State of  
24 Oregon to the limits contained in ORS 30.260 to 30.300.

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

1       **SECTION 27.** ORS 430.695 is amended to read:

2       “430.695. (1) Any program fees, third-party reimbursements, contributions  
3 or funds from any source, except client resources applied toward the cost of  
4 care in group homes for persons with developmental disabilities or mental  
5 illness and client resources and third-party payments for community psychi-  
6 atric inpatient care, received by a community mental health program or a  
7 community developmental disabilities program are not an offset to the costs  
8 of the services and may not be applied to reduce the program’s eligibility for  
9 state funds, providing the funds are expended for mental health or develop-  
10 mental disabilities services approved by the Oregon Health Authority or the  
11 Department of Human Services.

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

19       “(3) Fees and third-party reimbursements, including all amounts paid  
20 pursuant to Title XIX of the Social Security Act by the Department of Hu-  
21 man Services or the Oregon Health Authority, for mental health services or  
22 developmental disabilities services and interest earned on those fees and re-  
23 imbursements shall be retained by the community mental health program or  
24 community developmental disabilities program and expended for any service  
25 that meets the standards of ORS 430.630 or 430.664.

26       **SECTION 28.** ORS 809.419 is amended to read:

27       “809.419. (1)(a) The Department of Transportation shall suspend the driv-  
28 ing privileges of a person if the department requests the person to submit to  
29 examination under ORS 807.340 and the person fails to appear within a rea-  
30 sonable length of time after being notified to do so or fails to satisfactorily



1 complete the required examination. A suspension under this subsection shall  
2 continue until the examination required by the department is successfully  
3 completed or until the person voluntarily surrenders the person's driving  
4 privileges to the department based upon the person's recognition that the  
5 person is no longer competent to drive.

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

9 “(2) The department shall suspend the driving privileges of a person if the  
10 department requests the person to obtain medical clearance under ORS  
11 807.070 or 807.090 and the person fails to do so. The suspension under this  
12 subsection shall continue until the required medical clearance is received by  
13 the department or until the person voluntarily surrenders the person's driv-  
14 ing privileges to the department based upon the person's recognition that the  
15 person is no longer competent to drive.

16 “(3)(a) The department may suspend the driving privileges of a person who  
17 is incompetent to drive a motor vehicle because of a mental or physical  
18 condition or impairment that affects the person's ability to safely operate a  
19 motor vehicle upon the highways.

20 “(b) A suspension under this subsection shall be subject to any conditions  
21 the department determines to be necessary and shall continue for a period  
22 determined by the department or until the person voluntarily surrenders the  
23 person's driving privileges to the department based upon the person's recog-  
24 nition that the person is no longer competent to drive.

25 “(c) The department may impose an immediate suspension of driving  
26 privileges of any person described in paragraph (a) of this subsection without  
27 hearing and without receiving a record of the conviction of the person of a  
28 crime if the department has reason to believe that the person may endanger  
29 people or property if the person's driving privileges are not immediately  
30 suspended. A suspension under this paragraph is subject to a post-imposition

1 hearing under ORS 809.440. A person who is denied eligibility under ORS  
2 807.090 is entitled to a hearing under ORS 809.440.

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

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

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

10 “(5) Upon notification by the superintendent of a hospital under ORS  
11 807.700 that a person should not drive, the department shall immediately  
12 suspend the driving privileges of the released person. A suspension under  
13 this subsection is subject to administrative review under ORS 809.440 and  
14 shall continue until such time as the person produces a judicial judgment  
15 of competency or a certificate from the superintendent of the hospital that  
16 the person is competent, or establishes eligibility under ORS 807.090.

17 “(6) Upon notification by a court under ORS 810.375 that a person charged  
18 with a traffic offense has been found 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, the department shall  
21 immediately suspend the driving privileges of the person. A suspension under  
22 this subsection is subject to administrative review under ORS 809.440 and  
23 shall continue until such time as the person establishes eligibility under ORS  
24 807.090.

25 **“SECTION 29.** ORS 810.375 is amended to read:

26 “810.375. (1) The judge or clerk of every court of this state having juris-  
27 diction of any traffic offense, including all local and municipal judicial offi-  
28 cers in this state:

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

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

3 “(c) Shall send the department a copy of any final judgment of conviction  
4 of any person that results in mandatory suspension or revocation of driving  
5 privileges or commercial driving privileges under ORS 809.409, 809.411,  
6 809.510 to 809.545 or 813.400.

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

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

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

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

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

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

21 “163A.105. (1) When a person convicted of a crime described in ORS  
22 163.355 to 163.427 is sentenced to a term of imprisonment in a Department  
23 of Corrections institution for that crime, the State Board of Parole and  
24 Post-Prison Supervision shall assess the person utilizing the risk assessment  
25 methodology described in ORS 163A.100. The board shall apply the results  
26 of the assessment to place the person in one of the levels described in ORS  
27 163A.100 before the person is released from custody.

28 “(2) When a person convicted of a sex crime is sentenced to a term of  
29 incarceration in a jail, or is discharged, released or placed on probation by  
30 the court, the supervisory authority as defined in ORS 144.087 shall assess

1 the person utilizing the risk assessment methodology described in ORS  
2 163A.100 and apply the results of the assessment to place the person in one  
3 of the levels described in ORS 163A.100 no later than 60 days after the person  
4 is released from jail or discharged, released or placed on probation by the  
5 court.

6 “(3)(a) When a person is found guilty except for insanity of a sex crime,  
7 the Psychiatric Security Review Board [*or the Oregon Health Authority*] shall  
8 assess the person utilizing the risk assessment methodology described in ORS  
9 163A.100 and apply the results of the assessment to place the person in one  
10 of the levels described in ORS 163A.100 no later than 60 days after the person  
11 is:

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

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

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

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

19 “(b) If the State Board of Parole and Post-Prison Supervision previously  
20 completed a risk assessment and assigned a classification level described in  
21 ORS 163A.100 for a person described in paragraph (a) of this subsection, the  
22 Psychiatric Security Review Board [*or the Oregon Health Authority*] need not  
23 complete a reassessment for an initial classification.

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

27 “(d) The Psychiatric Security Review Board [*or the Oregon Health Au-*  
28 *thority*] shall notify the State Board of Parole and Post-Prison Supervision  
29 no later than seven days after the Psychiatric Security Review Board [*or the*  
30 *authority*] conditionally releases or discharges a person who has a prior sex

1 crime conviction that obligates the person to report as a sex offender, unless  
2 the person has also been found guilty except for insanity of a sex crime that  
3 obligates the person to report as a sex offender.

4 “(4) Within 60 days after the event triggering the obligation to make an  
5 initial report, the State Board of Parole and Post-Prison Supervision shall  
6 assess a person utilizing the risk assessment methodology described in ORS  
7 163A.100 and apply the results of the assessment to place the person in one  
8 of the levels described in ORS 163A.100 if the person:

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

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

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

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

19 “(5) When the State Board of Parole and Post-Prison Supervision, the  
20 Psychiatric Security Review Board[, *the Oregon Health Authority*] or a su-  
21 pervisory authority applies the results of a risk assessment to place a person  
22 in one of the levels described in ORS 163A.100, the agency shall notify the  
23 Department of State Police of the results of the risk assessment within three  
24 business days after the agency’s classification. Upon receipt, the Department  
25 of State Police shall enter the results of the risk assessment into the Law  
26 Enforcement Data System.

27 “**SECTION 31.** Section 7, chapter 708, Oregon Laws 2013, as amended by  
28 section 27, chapter 820, Oregon Laws 2015, is amended to read:

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

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

3 “(b) ‘Existing registrant’ means a person for whom the event triggering  
4 the obligation to make an initial report under ORS [181.806 (3)(a)(A), 181.807  
5 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or (3)(a)(A)] **163A.010 (3)(a)(A),**  
6 **163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A)** occurs be-  
7 fore January 1, 2014.

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

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

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

19 “(B) The person is a sexually violent dangerous offender under ORS  
20 137.765.

21 “(c) The Psychiatric Security Review Board may complete the risk as-  
22 sessment of an existing registrant who is under the jurisdiction of the Psy-  
23 chiatric Security Review Board [*or the Oregon Health Authority*], regardless  
24 of whether the person has been found guilty except for insanity of a sex  
25 crime or was previously convicted of a sex crime, if the State Board of Parole  
26 and Post-Prison Supervision and the Psychiatric Security Review Board mu-  
27 tually agree that the Psychiatric Security Review Board has adequate re-  
28 sources to perform the assessment and that the performance of the  
29 assessment by the Psychiatric Security Review Board would assist in classi-  
30 fying the existing registrant in a more timely manner.

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

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

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

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

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

17 “(6) An existing registrant may not petition for reclassification or relief  
18 from the obligation to report as a sex offender as provided in ORS [181.821]  
19 **163A.125** until either all existing registrants have been classified in one of  
20 the levels described in ORS [181.800] **163A.100** or December 1, 2018, which-  
21 ever occurs first.

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

27 “(8) If the State Board of Parole and Post-Prison Supervision or the Psy-  
28 chiatric Security Review Board does not classify an existing registrant under  
29 ORS [181.800] **163A.100** because the person has failed or refused to partic-  
30 ipate in a sex offender risk assessment as directed by the State Board of

1 Parole and Post-Prison Supervision or the Psychiatric Security Review  
2 Board, the person is, by operation of law, classified as a level three sex  
3 offender under ORS [181.800] **163A.100** (3) as of January 1, 2019.

4 **“SECTION 32.** ORS 163A.210 is amended to read:

5 “163A.210. Notwithstanding ORS 419A.257 or any other provision of law,  
6 the Oregon Youth Authority and the juvenile department may disclose and  
7 provide copies of reports and other materials relating to a child, ward, youth  
8 or youth offender’s history and prognosis to the Psychiatric Security Review  
9 Board[, *the Oregon Health Authority*] or the State Board of Parole and  
10 Post-Prison Supervision in order to determine whether to reclassify the per-  
11 son as a level one or a level two sex offender or relieve the person from the  
12 obligation to report as a sex offender, as described in ORS 163A.125, or  
13 whether to classify a person who is an existing registrant into one of the  
14 three levels described in ORS 163A.100, as required by section 7, chapter 708,  
15 Oregon Laws 2013.

16 **“SECTION 33.** ORS 163A.215 is amended to read:

17 “163A.215. (1)(a) A notifying agency or a supervising agency shall release,  
18 upon request, any information that may be necessary to protect the public  
19 concerning sex offenders who reside in a specific area or concerning a spe-  
20 cific sex offender.

21 “(b) A notifying agency or a supervising agency may release sex offender  
22 information to a law enforcement agency if the notifying agency or super-  
23 vising agency determines that the release of information is in the public in-  
24 terest.

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

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



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

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

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

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

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

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

13       “(E) Local or regional media sources.

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

20       “(4) If the sex offender is classified as a level two sex offender under ORS  
21 163A.100 (2), the supervising agency or a notifying agency may release sex  
22 offender information to the persons or entities described in subsection  
23 (2)(b)(A) to (D) of this section.

24       “(5) If the sex offender is classified as a level one sex offender under ORS  
25 163A.100 (1), the supervising agency or a notifying agency may release sex  
26 offender information to a person described in subsection (2)(b)(A) of this  
27 section.

28       “(6) As used in this section:

29       “(a) ‘Notifying agency’ means the Department of State Police, a city po-  
30 lice department, a county sheriff’s office or a police department established

1 by a university under ORS 352.121.

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

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

7 **“SECTION 34.** ORS 163.476 is amended to read:

8 “163.476. (1) A person commits the crime of unlawfully being in a location  
9 where children regularly congregate if the person:

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

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

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

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

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

27 “(2) As used in this section:

28 “(a) ‘Premises where persons under 18 years of age regularly congregate’  
29 means schools, child care centers, playgrounds, other places intended for use  
30 primarily by persons under 18 years of age and places where persons under

1 18 years of age gather for regularly scheduled educational and recreational  
2 programs.

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

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

6 **“SECTION 35.** ORS 163.479 is amended to read:

7 “163.479. (1) A person commits the crime of unlawful contact with a child  
8 if the person:

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

11 “(B) Has been classified as a level three sex offender under ORS 163A.100  
12 (3);

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

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

20 “(E) Has been given a similar designation or been sentenced under a  
21 similar law of another jurisdiction; and

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

25 “(2) As used in this section:

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

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

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

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

30 **“SECTION 36. (1) The amendments to ORS 21.010, 90.630, 137.223,**

1 137.750, 144.641, 151.216, 161.326, 161.327, 161.332, 161.336, 161.341, 161.346,  
2 161.348, 161.349, 161.351, 161.390, 161.395, 161.400, 162.135, 162.155, 163.476,  
3 163.479, 163A.105, 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690,  
4 278.315, 430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon  
5 Laws 2013, by sections 2 to 35 of this 2017 Act become operative on July  
6 1, 2018.

7 “(2) The Psychiatric Security Review Board and the Oregon Health  
8 Authority may take any action before the operative date specified in  
9 subsection (1) of this section to enable the board and the authority to  
10 exercise, on and after the operative date specified in subsection (1) of  
11 this section, the duties, functions and powers conferred on the board  
12 and authority by the amendments to ORS 21.010, 90.630, 137.223, 137.750,  
13 144.641, 151.216, 161.326, 161.327, 161.332, 161.336, 161.341, 161.346, 161.348,  
14 161.349, 161.351, 161.390, 161.395, 161.400, 162.135, 162.155, 163.476, 163.479,  
15 163A.105, 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690, 278.315,  
16 430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon Laws  
17 2013, by sections 2 to 35 of this 2017 Act.

18 “(3) On the operative date specified in subsection (1) of this section,  
19 the Psychiatric Security Review Board shall exercise jurisdiction over  
20 all offenders committed to a state hospital or secure intensive com-  
21 munity inpatient facility under ORS 161.315 to 161.351.

22 “SECTION 37. This 2017 Act being necessary for the immediate  
23 preservation of the public peace, health and safety, an emergency is  
24 declared to exist, and this 2017 Act takes effect on its passage.”.

25