

Requested by HOUSE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1543**

1 On page 4 of the printed A-engrossed bill, delete lines 29 through 45.

2 Delete page 5.

3 On page 6, delete lines 1 through 35 and insert:

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

5 “161.336. (1)(a) When a person is conditionally released under ORS 161.315
6 to 161.351, the person is subject to those supervisory orders of the Psychiat-
7 ric Security Review Board as are in the best interests of justice, the pro-
8 tection of society and the welfare of the person.

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

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

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

21 “(2) Conditions of release contained in orders entered under this section

1 may be modified from time to time and conditional releases may be termi-
2 nated as provided in ORS 161.351.

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

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

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

14 “(d) Copies of all reports submitted to the board pursuant to this section
15 shall be furnished to the person and the person’s counsel. The confidentiality
16 of these reports is determined pursuant to ORS 192.338, 192.345 and 192.355.

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

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

1 “(4)(a)(A) A written or electronic order for the return of a person
2 on conditional release to a state hospital or other facility designated
3 by the supervising entity or, if the person is under 18 years of age, to
4 a secure intensive community inpatient facility or other facility des-
5 ignated by the supervising entity, may be issued by:

6 “(i) The supervising entity;

7 “(ii) A person designated by the supervising entity, if the desig-
8 nation is made as part of a written policy; or

9 “(iii) The community mental health program director, if the person
10 has absconded from conditional release.

11 “(B) An order described in this paragraph may be issued when the
12 supervising entity, the authorized designee or, if the person has
13 absconded, the community mental health program director, has de-
14 termined that:

15 “(i) The person has violated the terms of conditional release; or

16 “(ii) The mental health of the person has changed such that the
17 supervising entity, or, if applicable, the authorized designee or the
18 community mental health program director, reasonably believes that
19 the person may no longer be fit for conditional release.

20 “(C) A written order under this paragraph is sufficient warrant for
21 any law enforcement officer to take into custody and transport the
22 person named in the order. A peace officer shall execute the order and
23 the person shall be transported as described in paragraph (c) of this
24 subsection.

25 “(b) [*The community mental health program director*] A **peace officer**, the
26 director of the facility providing treatment to a person on conditional
27 release[, *any peace officer*] or any person responsible for the supervision of
28 a person on conditional release may take a person on conditional release into
29 custody, or request that the person be taken into custody, if there is rea-
30 sonable cause to believe the person is a substantial danger to others because

1 of a *[qualifying]* mental disorder and that the person is in need of immediate
2 care, custody or treatment. *[Any person taken into custody pursuant to this*
3 *subsection shall be transported as soon as practicable to a state hospital or,*
4 *if the person is under 18 years of age, to a secure intensive community inpa-*
5 *tient facility.]*

6 **“(c) When a person is taken into custody by a peace officer under**
7 **this subsection, the agency employing the peace officer shall cause the**
8 **person, as soon as practicable, to be transported to a state hospital**
9 **or other facility designated by the supervising entity. If the person**
10 **was taken into custody pursuant to an order described in paragraph**
11 **(a) of this subsection, the supervising entity shall facilitate the re-**
12 **imbursement of reasonable costs of the transport to the agency em-**
13 **ploying the peace officer.**

14 “[*(c)*] (d) Within 20 days following the return of the person to a state
15 hospital or secure intensive community inpatient facility under this sub-
16 section, the board shall conduct a hearing. The board shall provide notice
17 of the hearing to the person, the attorney representing the person and the
18 Attorney General. The state must prove by a preponderance of the evidence
19 the person’s unfitness for conditional release. The hearing shall be conducted
20 in accordance with ORS 161.346.

21 **“(e) As used in this subsection, ‘supervising entity’ means the board**
22 **or the chairperson or executive director of the board.**

23 “(5)(a) Any person conditionally released under this section may apply to
24 the board for discharge from or modification of an order of conditional re-
25 lease on the ground that the person is no longer affected by a qualifying
26 mental disorder or, if still so affected, no longer presents a substantial dan-
27 ger to others and no longer requires supervision, medication, care or treat-
28 ment. Notice of the hearing on an application for discharge or modification
29 of an order of conditional release shall be made to the Attorney General.
30 The applicant, at the hearing pursuant to this subsection, must prove by a

1 preponderance of the evidence the applicant's fitness for discharge or mod-
2 ification of the order of conditional release. Applications by the person for
3 discharge or modification of conditional release may not be filed more often
4 than once every six months.

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

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

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