

# DRAFT

## SUMMARY

Digest: The Act repeals the statutes that allowed a person to be ordered by a court to stay in a facility against their will on the basis of having an IDD.

The Act forbids a public body from denying services meant for persons with mental illness on the basis that a person also has an IDD.

The Act takes effect on July 1, 2025. (Flesch Readability Score: 63.3).

Repeals statutes authorizing the involuntary commitment of an individual based on an intellectual disability.

Prohibits a public body from denying services related to mental illness on the basis that the individual seeking services also has an intellectual or developmental disability.

Takes effect on July 1, 2025.

## A BILL FOR AN ACT

1  
2 Relating to individuals with intellectual disabilities; creating new provisions;  
3 amending ORS 21.010, 109.322, 161.367, 161.370, 161.371, 166.273, 179.325,  
4 179.471, 179.485, 179.492, 181A.290, 421.245, 421.284, 421.296, 426.005,  
5 427.101, 428.210, 428.220, 428.230, 428.240, 428.260, 428.270 and 480.225; re-  
6 pealing ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265, 427.270,  
7 427.275, 427.280, 427.285, 427.290, 427.292, 427.293, 427.295, 427.300 and  
8 427.306; and prescribing an effective date.

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

10 **SECTION 1. ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265,**  
11 **427.270, 427.275, 427.280, 427.285, 427.290, 427.292, 427.293, 427.295, 427.300**  
12 **and 427.306 are repealed.**

13 **SECTION 2. (1) As used in this section, “services” includes but is**  
14 **not limited to hospital services, psychiatric services, community-based**

1 **services and residential services.**

2 **(2) A public body, as defined in ORS 174.109, may not deny access**  
3 **to services provided to individuals with mental illness on the basis that**  
4 **the individual seeking the services also has an intellectual disability.**

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

6 21.010. (1) Except as provided in this section, the appellant in an appeal  
7 or the petitioner in a judicial review in the Supreme Court or the Court of  
8 Appeals shall pay a filing fee of \$391 in the manner prescribed by ORS 19.265.  
9 The respondent in such case and any other person appearing in the appeal,  
10 upon entering first appearance or filing first brief in the court, shall pay to  
11 the State Court Administrator a filing fee of \$391. The party entitled to costs  
12 and disbursements on such appeal shall recover from the opponent the  
13 amount so paid.

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

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

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

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

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

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

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

19      (3) Upon hearing, except as provided in ORS 109.330 (8) if the child is an  
20      Indian child, if the court finds that the adoption is in the best interests of  
21      the child, the consent of the parent who is imprisoned or adjudged to be a  
22      person with mental illness [*or an intellectual disability*] is not required, and  
23      the court may proceed regardless of the objection of the parent.

24      (4) This section does not apply when consent is given in loco parentis  
25      under ORS 109.325 or 109.327.

26      **SECTION 5.** ORS 161.367 is amended to read:

27      161.367. (1) If at any time the court determines that the defendant lacks  
28      fitness to proceed, the court shall further determine whether there is a sub-  
29      stantial probability that the defendant, in the foreseeable future, will gain  
30      or regain fitness to proceed. If the court determines that there is no sub-  
31      stantial probability that the defendant, in the foreseeable future, will gain

1 or regain fitness to proceed, the court shall dismiss, without prejudice and  
2 in accordance with subsection (6) of this section, all charges against the  
3 defendant and:

4 (a) Order that the defendant be discharged; or

5 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*  
6 *427.235 to 427.292*].

7 (2)(a) The superintendent of the hospital or director of the facility in  
8 which the defendant is committed under ORS 161.370 or a person examining  
9 the defendant as a condition of release to community restoration services  
10 shall notify the court if the defendant gains or regains fitness to proceed.

11 (b) A party to the case may notify the court if the defendant has gained  
12 or regained fitness to proceed.

13 (c) The court may, upon its own motion or the request of either party,  
14 hold a hearing to determine whether the defendant has gained or regained  
15 fitness to proceed. If the court determines that the defendant has gained or  
16 regained fitness to proceed, the court shall resume the criminal proceeding  
17 unless the court determines that so much time has elapsed since the com-  
18 mitment or release of the defendant to community restoration services that  
19 it would be unjust to resume the criminal proceeding. If the court determines  
20 that it would be unjust to resume the criminal proceeding, the court, on  
21 motion of either party, may dismiss the charge in accordance with subsection  
22 (6) of this section, and may order the defendant to be discharged or cause a  
23 proceeding to be commenced forthwith under ORS 426.070 to 426.170[,] **or**  
24 *426.701 [or 427.235 to 427.292]*.

25 (3) If the defendant gains or regains fitness to proceed, the defendant  
26 shall be given credit against each charge alleged in the accusatory instru-  
27 ment for each day the defendant was committed under ORS 161.370 to the  
28 custody of a state mental hospital, or to the custody of a secure intensive  
29 community inpatient facility designated by the Oregon Health Authority.

30 (4) Notwithstanding the suspension of the criminal proceeding under ORS  
31 161.370 (2), the fact that the defendant is unfit to proceed does not preclude

1 any objection through counsel and without the personal participation of the  
2 defendant on the grounds that the indictment is insufficient, that the statute  
3 of limitations has run, that double jeopardy principles apply or upon any  
4 other ground at the discretion of the court which the court deems susceptible  
5 of fair determination prior to trial.

6 (5) At the time that the court determines that the defendant lacks fitness  
7 to proceed under ORS 161.370 (2), the court shall notify the defendant in  
8 writing that federal law prohibits the defendant from purchasing or possess-  
9 ing a firearm unless the person obtains relief from the prohibition under  
10 federal law. The court shall again notify the defendant in writing of the  
11 prohibition if the court finds that the defendant has gained or regained fit-  
12 ness to proceed under subsection (2) of this section.

13 (6) If the court intends to dismiss all charges involving orders of com-  
14 mitment against a defendant who is committed to and currently located at  
15 a state mental hospital or other facility, the court shall order that the de-  
16 fendant be immediately transported back to the jurisdiction in which the  
17 charges were initiated, and the dismissal shall take effect only upon the  
18 defendant's arrival in that jurisdiction.

19 **SECTION 6.** ORS 161.370 is amended to read:

20 161.370. (1)(a) When the defendant's fitness to proceed is drawn in ques-  
21 tion, the issue shall be determined by the court.

22 (b) If neither the prosecuting attorney nor counsel for the defendant  
23 contests the finding of the report filed under ORS 161.365, the court may  
24 make the determination on the basis of the report. If the finding is contested,  
25 the court shall hold a hearing on the issue. If the report is received in evi-  
26 dence in the hearing, the party who contests the finding has the right to  
27 summon and to cross-examine any certified evaluator who submitted the re-  
28 port and to offer evidence upon the issue. Other evidence regarding the  
29 defendant's fitness to proceed may be introduced by either party.

30 (2)(a) If the court determines that the defendant lacks fitness to proceed,  
31 the criminal proceeding against the defendant shall be suspended and the

1 court shall proceed in accordance with this subsection.

2 (b) After making the determination under paragraph (a) of this subsection,  
3 the court shall receive a recommendation from a community mental health  
4 program director or the director's designee, and from any local entity that  
5 would be responsible for treating the defendant if the defendant were to be  
6 released in the community, concerning whether appropriate community res-  
7 toration services are present and available in the community.

8 (c) If the parties agree as to the appropriate action under this section, the  
9 court may, after making all findings required by law, enter any order au-  
10 thorized by this section. If the parties do not agree as to the appropriate  
11 action, the court and the parties shall, at a hearing, consider an appropriate  
12 action in the case, and the court shall make a determination and enter an  
13 order necessary to implement the action. In determining the appropriate  
14 action, the court shall consider the primary and secondary release criteria  
15 as defined in ORS 135.230, the least restrictive option appropriate for the  
16 defendant, the needs of the defendant and the interests of justice. Actions  
17 may include but are not limited to:

18 (A) Commitment for the defendant to gain or regain fitness to proceed  
19 under subsection (3) or (4) of this section;

20 (B) An order to engage in community restoration services, as recom-  
21 mended by the community mental health program director or designee, under  
22 subsection (6) of this section;

23 (C) Commencement of a civil commitment proceeding under ORS 426.070  
24 to 426.170[,] **or** 426.701 [*or 427.235 to 427.292*];

25 (D) Commencement of protective proceedings under ORS chapter 125; or

26 (E) Dismissal of the charges pursuant to ORS 135.755 and in accordance  
27 with ORS 161.367 (6).

28 (d) If the court, while considering or ordering an appropriate action under  
29 this subsection, does not order the defendant committed to a state mental  
30 hospital or other facility, but finds that appropriate community restoration  
31 services are not present and available in the community, for any defendant

1 remaining in custody after such determination, the court shall set a review  
2 hearing seven days from the date of the determination under paragraph (a)  
3 of this subsection. At the review hearing, the court shall consider all rele-  
4 vant information and determine if commitment to the state mental hospital  
5 or other facility is appropriate under subsection (3) or (4) of this section, or  
6 if another action described in paragraph (c) of this subsection is appropriate.  
7 At the conclusion of the hearing the court shall enter an order in accordance  
8 with the defendant's constitutional rights to due process.

9 (e) If the court determines that the appropriate action in the case is an  
10 order for the defendant to engage in community restoration services, but the  
11 defendant has a pending criminal case, warrant or hold in one or more other  
12 jurisdictions, the other jurisdictions shall, within two judicial days of be-  
13 coming aware of the proceeding under this section, communicate with the  
14 court and the other jurisdictions, if applicable, to develop a plan to address  
15 the interests of all jurisdictions in the defendant in a timely manner.

16 (3)(a) If the most serious offense in the charging instrument is a felony,  
17 the court shall commit the defendant to the custody of the superintendent  
18 of a state mental hospital or director of a facility designated by the Oregon  
19 Health Authority if the defendant is at least 18 years of age, or to the cus-  
20 tody of the director of a secure intensive community inpatient facility des-  
21 igned by the authority if the defendant is under 18 years of age, if the  
22 court makes the following findings:

23 (A) The defendant requires a hospital level of care due to public safety  
24 concerns if the defendant is not hospitalized or in custody or the acuity of  
25 symptoms of the defendant's qualifying mental disorder; and

26 (B) Based on the findings resulting from a consultation described in ORS  
27 161.365 (1), if applicable, from any information provided by community-based  
28 mental health providers or any other sources, and primary and secondary  
29 release criteria as defined in ORS 135.230, the appropriate community resto-  
30 ration services are not present and available in the community.

31 (b) If the defendant is committed under this subsection, the community

1 mental health program director, or director's designee, shall at regular in-  
2 tervals, during any period of commitment, review available community res-  
3 toration services and maintain communication with the defendant and the  
4 superintendent of the state mental hospital or director of the facility in order  
5 to facilitate an efficient transition to treatment in the community when or-  
6 dered.

7 (c) If the court does not order the commitment of the defendant under this  
8 subsection, the court shall proceed in accordance with subsection (2)(c) of  
9 this section to determine and order an appropriate action other than com-  
10 mitment.

11 (4)(a) If the most serious offense in the charging instrument is a  
12 misdemeanor, the court may not commit the defendant to the custody of the  
13 superintendent of a state mental hospital or director of a facility designated  
14 by the Oregon Health Authority if the defendant is at least 18 years of age,  
15 or to the custody of the director of a secure intensive community inpatient  
16 facility designated by the authority if the defendant is under 18 years of age,  
17 unless the court:

18 (A)(i) Receives a recommendation from a certified evaluator that the de-  
19 fendant requires a hospital level of care due to the acuity of symptoms of the  
20 defendant's qualifying mental disorder; and

21 (ii) Receives a recommendation from a community mental health program  
22 director, or director's designee, that the appropriate community restoration  
23 services are not present and available in the community; or

24 (B) Determines that the defendant requires a hospital level of care after  
25 making all of the following written findings:

26 (i) The defendant needs a hospital level of care due to the acuity of the  
27 symptoms of the defendant's qualifying mental disorder;

28 (ii) There are public safety concerns; and

29 (iii) The appropriate community restoration services are not present and  
30 available in the community.

31 (b) If at the time of determining the appropriate action for the case, the



1 court is considering commitment under paragraph (a)(A) of this subsection  
2 and:

3 (A) Has not received a recommendation from a certified evaluator as to  
4 whether the defendant requires a hospital level of care due to the acuity of  
5 symptoms of the defendant's qualifying mental disorder, the court shall order  
6 a certified evaluator to make such a recommendation.

7 (B) Has not received a recommendation from the community mental  
8 health program director or designee concerning whether appropriate com-  
9 munity restoration services are present and available in the community, the  
10 court shall order the director or designee to make such a recommendation.

11 (c) If the court does not order the commitment of the defendant under this  
12 subsection, the court shall proceed in accordance with subsection (2)(c) of  
13 this section to determine and order an appropriate action other than com-  
14 mitment.

15 (d) If the defendant is committed under this subsection, the community  
16 mental health program director, or director's designee, shall at regular in-  
17 tervals, during any period of commitment, review available community res-  
18 toration services and maintain communication with the defendant and the  
19 superintendent of the state mental hospital or director of the facility in order  
20 to facilitate an efficient transition to treatment in the community when or-  
21 dered.

22 (5) If the most serious offense in the charging instrument is a violation,  
23 the court may not commit the defendant to the custody of the superintendent  
24 of a state mental hospital or director of a facility designated by the Oregon  
25 Health Authority if the defendant is at least 18 years of age, or to the cus-  
26 tody of the director of a secure intensive community inpatient facility des-  
27 igned by the authority if the defendant is under 18 years of age.

28 (6)(a) If the court does not order the commitment of the defendant under  
29 subsection (3) or (4) of this section, if commitment is precluded under sub-  
30 section (5) of this section or if the court determines that care other than  
31 commitment would better serve the defendant and the community, the court

1 shall release the defendant, pursuant to an order that the defendant engage  
2 in community restoration services, until the defendant has gained or re-  
3 gained fitness to proceed, or until the court finds there is no substantial  
4 probability that the defendant will, within the foreseeable future, gain or  
5 regain fitness to proceed. The court may not order the defendant to engage  
6 in community restoration services in another county without permission  
7 from the other county.

8 (b) The court may order a community mental health program director  
9 coordinating the defendant's treatment in the community to provide the  
10 court with status reports on the defendant's progress in gaining or regaining  
11 fitness to proceed. The director shall provide a status report if the defendant  
12 is not complying with court-ordered restoration services.

13 (c) A community mental health program director coordinating the  
14 defendant's treatment in the community shall notify the court if the defend-  
15 ant gains or regains fitness to proceed. The notice shall be filed with the  
16 court and may be filed electronically. The clerk of the court shall cause  
17 copies of the notice to be delivered to both the district attorney and the  
18 counsel for the defendant.

19 (d) When a defendant is ordered to engage in community restoration ser-  
20 vices under this subsection, the court may place conditions that the court  
21 deems appropriate on the release, including the requirement that the de-  
22 fendant regularly report to a state mental hospital or a certified evaluator  
23 for examination to determine if the defendant has gained or regained fitness  
24 to proceed.

25 (7) The Oregon Health Authority shall establish by rule standards for the  
26 recommendation provided to the court described in subsection (2) of this  
27 section.

28 **SECTION 7.** ORS 161.371 is amended to read:

29 161.371. (1) The superintendent of a state mental hospital or director of  
30 a facility to which the defendant is committed under ORS 161.370 shall cause  
31 the defendant to be evaluated within 60 days from the defendant's delivery

1 into the superintendent's or director's custody, for the purpose of determin-  
2 ing whether there is a substantial probability that, in the foreseeable future,  
3 the defendant will have fitness to proceed. In addition, the superintendent  
4 or director shall:

5 (a) Immediately notify the committing court if the defendant, at any time,  
6 gains or regains fitness to proceed or if there is no substantial probability  
7 that, within the foreseeable future, the defendant will gain or regain fitness  
8 to proceed.

9 (b) Within 90 days of the defendant's delivery into the superintendent's  
10 or director's custody, notify the committing court that:

11 (A) The defendant has present fitness to proceed;

12 (B) There is no substantial probability that, in the foreseeable future, the  
13 defendant will gain or regain fitness to proceed; or

14 (C) There is a substantial probability that, in the foreseeable future, the  
15 defendant will gain or regain fitness to proceed. If the probability exists, the  
16 superintendent or director shall give the court an estimate of the time in  
17 which the defendant, with appropriate treatment, is expected to gain or re-  
18 gain fitness to proceed.

19 (c) Notify the court if court-ordered involuntary medication is necessary  
20 for the defendant to gain or regain fitness to proceed and, if appropriate,  
21 submit a report to the court under ORS 161.372.

22 (2)(a) If the superintendent of the state mental hospital or director of the  
23 facility to which the defendant is committed determines that there is a sub-  
24 stantial probability that, in the foreseeable future, the defendant will gain  
25 or regain fitness to proceed, unless the court otherwise orders, the defendant  
26 shall remain in the superintendent's or director's custody where the defend-  
27 ant shall receive treatment designed for the purpose of enabling the defend-  
28 ant to gain or regain fitness to proceed. In keeping with the notice  
29 requirement under subsection (1)(b) of this section, the superintendent or  
30 director shall, for the duration of the defendant's period of commitment,  
31 submit a progress report to the committing court, concerning the defendant's

1 fitness to proceed, at least once every 180 days as measured from the date  
2 of the defendant's delivery into the superintendent's or director's custody.

3 (b) A progress report described in paragraph (a) of this subsection may  
4 consist of an update to:

5 (A) The original examination report conducted under ORS 161.365; or

6 (B) An evaluation conducted under subsection (1) of this section, if the  
7 defendant did not receive an examination under ORS 161.365.

8 (3)(a) Notwithstanding subsection (2) of this section, if the most serious  
9 offense in the charging instrument is a felony, and the superintendent of the  
10 state mental hospital or director of the facility to which the defendant is  
11 committed determines that a hospital level of care is no longer necessary due  
12 to present public safety concerns and the acuity of symptoms of the  
13 defendant's qualifying mental disorder, the superintendent or director may  
14 file notice of the determination with the court. Upon receipt of the notice,  
15 the court shall order that a community mental health program director or  
16 the director's designee, within five judicial days:

17 (A) Consult with the defendant and with any local entity that would be  
18 responsible for providing community restoration services, if the defendant  
19 were to be released in the community, to determine whether community res-  
20 toration services are present and available in the community; and

21 (B) Provide the court and the parties with recommendations from the  
22 consultation.

23 (b) Notwithstanding subsection (2) of this section, if the most serious of-  
24 fense in the charging instrument is a felony, and the community mental  
25 health program director determines that community restoration services that  
26 would mitigate any risk posed by the defendant are present and available in  
27 the community, the community mental health program director may file no-  
28 tice of the determination with the court. Upon receipt of the notice, the  
29 court shall order that the superintendent of the state mental hospital or di-  
30 rector of the facility to which the defendant is committed, within five judi-  
31 cial days:

1 (A) Evaluate the defendant to determine whether a hospital level of care  
2 is no longer necessary due to present public safety concerns, or no longer  
3 necessary due to the acuity of symptoms of the defendant's qualifying mental  
4 disorder; and

5 (B) Provide the court and the parties with recommendations from the  
6 evaluation.

7 (c) Within 10 judicial days of receiving the recommendations described in  
8 paragraph (a) or (b) of this subsection, the court shall hold a hearing to de-  
9 termine an appropriate action in accordance with ORS 161.370 (2)(c) as fol-  
10 lows:

11 (A) If, after consideration of the factors and possible actions described in  
12 ORS 161.370 (2)(c) and any recommendations received under paragraph (a)  
13 or (b) of this subsection, the court determines that a hospital level of care  
14 is necessary due to public safety concerns or the acuity of symptoms of the  
15 defendant's qualifying mental disorder, and that based on the consultation  
16 or evaluation described in paragraph (a) or (b) of this subsection, any infor-  
17 mation provided by community-based mental health providers or any other  
18 sources, primary and secondary release criteria as defined in ORS 135.230,  
19 and any other information the court finds to be trustworthy and reliable, the  
20 appropriate community restoration services are not present and available in  
21 the community, the court may continue the commitment of the defendant.

22 (B) If the court does not make the determination described in subpara-  
23 graph (A) of this paragraph, the court shall terminate the commitment and  
24 shall set a review hearing seven days from the date of the commitment ter-  
25 mination for any defendant remaining in custody. At the review hearing, the  
26 court shall consider all relevant information, determine an appropriate  
27 action in the case as described in ORS 161.370 (2)(c) and enter an order in  
28 accordance with the defendant's constitutional rights to due process.

29 (4)(a) Notwithstanding subsection (2) of this section, if the most serious  
30 offense in the charging instrument is a misdemeanor, and the superintendent  
31 of the state mental hospital or director of the facility to which the defendant

1 is committed determines that the defendant no longer needs a hospital level  
2 of care due to the acuity of symptoms of the defendant's qualifying mental  
3 disorder or there are not present public safety concerns, the superintendent  
4 or director shall file notice of the determination with the court, along with  
5 recommendations regarding the necessary community restoration services  
6 that would mitigate any risk presented by the defendant. Upon receipt of the  
7 notice, the court shall order that a community mental health program di-  
8 rector or the director's designee, within five judicial days:

9 (A) Consult with the defendant and with any local entity that would be  
10 responsible for providing community restoration services, if the defendant  
11 were to be released in the community, to determine whether appropriate  
12 community restoration services are present and available in the community;  
13 and

14 (B) Provide the court and the parties with recommendations from the  
15 consultation.

16 (b) Notwithstanding subsection (2) of this section, if the most serious of-  
17 fense in the charging instrument is a misdemeanor, and the community  
18 mental health program director determines that the community restoration  
19 services that would mitigate any risk posed by the defendant are present and  
20 available in the community, the community mental health program director  
21 may file notice of the determination with the court. Upon receipt of the no-  
22 tice, the court shall order that the superintendent of the state mental hos-  
23 pital or director of the facility to which the defendant is committed, within  
24 five judicial days:

25 (A) Evaluate the defendant to determine whether a hospital level of care  
26 is no longer necessary due to present public safety concerns, or no longer  
27 necessary due to the acuity of symptoms of the defendant's qualifying mental  
28 disorder; and

29 (B) Provide the court and the parties with recommendations from the  
30 evaluation.

31 (c) Within 10 judicial days of receiving the recommendations described in

1 paragraph (a) or (b) of this subsection, the court shall hold a hearing to de-  
2 termine an appropriate action in accordance with ORS 161.370 (2)(c) as fol-  
3 lows:

4 (A) After consideration of the factors and possible actions described in  
5 ORS 161.370 (2)(c), the consultation or evaluation and any recommendations  
6 described in paragraph (a) or (b) of this subsection, and any other informa-  
7 tion the court finds to be trustworthy and reliable, the court may continue  
8 the commitment of the defendant if the court makes written findings that a  
9 hospital level of care is necessary due to public safety concerns and the  
10 acuity of symptoms of the defendant's qualifying mental disorder, and that  
11 appropriate community restoration services are not present and available in  
12 the community.

13 (B) If the court does not make the findings described in subparagraph (A)  
14 of this paragraph, the court shall terminate the commitment and shall set a  
15 review hearing seven days from the date of the commitment termination for  
16 any defendant remaining in custody. At the review hearing, the court shall  
17 consider all relevant information, determine an appropriate action in the  
18 case as described in ORS 161.370 (2)(c) and enter an order in accordance with  
19 the defendant's constitutional rights to due process.

20 (5)(a) If a defendant remains committed under this section, the court shall  
21 determine within a reasonable period of time whether there is a substantial  
22 probability that, in the foreseeable future, the defendant will gain or regain  
23 fitness to proceed. However, regardless of the number of charges with which  
24 the defendant is accused, in no event shall the defendant be committed for  
25 longer than whichever of the following, measured from the defendant's initial  
26 custody date, is shorter:

27 (A) Three years; or

28 (B) A period of time equal to the maximum sentence the court could have  
29 imposed if the defendant had been convicted.

30 (b) For purposes of calculating the maximum period of commitment de-  
31 scribed in paragraph (a) of this subsection:

1 (A) The initial custody date is the date on which the defendant is first  
2 committed under this section on any charge alleged in the accusatory in-  
3 strument; and

4 (B) The defendant shall be given credit against each charge alleged in the  
5 accusatory instrument:

6 (i) For each day the defendant is committed under this section, whether  
7 the days are consecutive or are interrupted by a period of time during which  
8 the defendant has gained or regained fitness to proceed; and

9 (ii) Unless the defendant is charged on any charging instrument with  
10 aggravated murder or a crime listed in ORS 137.700 (2), for each day the  
11 defendant is held in jail before and after the date the defendant is first  
12 committed, whether the days are consecutive or are interrupted by a period  
13 of time during which the defendant lacks fitness to proceed.

14 (c) The superintendent of the state mental hospital or director of the fa-  
15 cility to which the defendant is committed shall notify the committing court  
16 of the defendant's impending discharge 30 days before the date on which the  
17 superintendent or director is required to discharge the defendant under this  
18 subsection.

19 (6)(a) All notices required under this section shall be filed with the court  
20 and may be filed electronically. The clerk of the court shall cause copies of  
21 the notices to be delivered to both the district attorney and the counsel for  
22 the defendant.

23 (b) When the committing court receives a notice from the superintendent  
24 or director under subsection (1) of this section concerning the defendant's  
25 progress or lack thereof, or under subsection (5) of this section concerning  
26 the defendant's impending discharge, the committing court shall determine,  
27 after a hearing if a hearing is requested, whether the defendant presently  
28 has fitness to proceed.

29 (7) If at any time the court determines that the defendant lacks fitness  
30 to proceed, the court shall further determine whether the defendant is enti-  
31 tled to discharge under subsection (5) of this section. If the court determines



1 that the defendant is entitled to discharge under subsection (5) of this sec-  
2 tion, the court shall dismiss, without prejudice and in accordance with ORS  
3 161.367 (6), all charges against the defendant and:

4 (a) Order that the defendant be discharged; or

5 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*  
6 *427.235 to 427.292*].

7 **SECTION 8.** ORS 166.273 is amended to read:

8 166.273. (1) A person barred from transporting, shipping, possessing or  
9 receiving a firearm may file a petition with the Psychiatric Security Review  
10 Board for relief from the bar if:

11 (a) The person is barred from possessing a firearm under ORS 166.250  
12 (1)(c)(D) or (E);

13 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e)  
14 or (f) or, if the person has been found guilty except for insanity of a  
15 misdemeanor involving violence, ORS 166.470 (1)(g); or

16 (c) The person is barred from possessing, receiving, shipping or trans-  
17 porting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state  
18 mental health determination.

19 (2) The petitioner shall serve a copy of the petition on:

20 (a) The [*Department of Human Services and the*] Oregon Health Authority;  
21 and

22 (b) The district attorney in each county in which:

23 (A) The person was committed by a court to the Oregon Health Authority,  
24 or adjudicated by a court as a person with mental illness, under ORS 426.130;

25 [*(B) The person was committed by a court to the Department of Human*  
26 *Services, or adjudicated by a court as in need of commitment for residential*  
27 *care, treatment and training, under ORS 427.290;*]

28 [(C)] (B) The person was found guilty except for insanity under ORS  
29 161.295;

30 [(D)] (C) The person was found responsible except for insanity under ORS  
31 419C.411; or

1 [(E)] (D) The person was found by a court to lack fitness to proceed under  
2 ORS 161.370.

3 (3) Following receipt of the petition, the board shall conduct a contested  
4 case hearing, make written findings of fact and conclusions of law on the  
5 issues before the board and issue a final order. Board members from the  
6 adult panel, the juvenile panel or a combination of both panels of the board  
7 may conduct the hearings described in this section.

8 (4) The state and any person or entity described in subsection (2) of this  
9 section may appear and object to and present evidence relevant to the relief  
10 sought by the petitioner.

11 (5) The board shall grant the relief requested in the petition if the  
12 petitioner demonstrates, based on the petitioner's reputation, the petitioner's  
13 record, the circumstances surrounding the firearm disability and any other  
14 evidence in the record, that the petitioner will not be likely to act in a  
15 manner that is dangerous to public safety and that granting the relief would  
16 not be contrary to the public interest.

17 (6) If the board grants the relief requested in the petition, the board shall  
18 provide to the Department of State Police the minimum information neces-  
19 sary, as defined in ORS 181A.290, to enable the department to:

20 (a) Maintain the information and transmit the information to the federal  
21 government as required under federal law; and

22 (b) Maintain a record of the person's relief from the disqualification to  
23 possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470  
24 (1)(e), (f) or (g).

25 (7) The petitioner may petition for judicial review of a final order of the  
26 board. The petition shall be filed in the circuit court of a county described  
27 in subsection (2)(b) of this section. The review shall be conducted de novo  
28 and without a jury.

29 (8) A petitioner may take an appeal from the circuit court to the Court  
30 of Appeals. Review by the Court of Appeals shall be conducted in accordance  
31 with ORS 183.500.

1 (9) A person may file a petition for relief under this section no more than  
2 once every two years.

3 (10) The board shall adopt procedural rules to carry out the provisions  
4 of this section.

5 (11) As used in this section, “state mental health determination” means:

6 (a) A finding by a court that a person lacks fitness to proceed under ORS  
7 161.370;

8 (b) A finding that a person is guilty except for insanity of a crime under  
9 ORS 161.295 or responsible except for insanity of an act under ORS 419C.411  
10 or any determination by the Psychiatric Security Review Board thereafter;  
11 **or**

12 (c) A commitment by a court to the Oregon Health Authority, or an ad-  
13 judication by a court that a person is a person with mental illness, under  
14 ORS 426.130[; *or*].

15 *[(d) A commitment by a court to the Department of Human Services, or an*  
16 *adjudication by a court that a person is in need of commitment for residential*  
17 *care, treatment and training, under ORS 427.290.]*

18 **SECTION 9.** ORS 179.325 is amended to read:

19 179.325. *[(1) The Department of Human Services may order the change, in*  
20 *all or part, of the purpose and use of any state institution being used as an*  
21 *institution for the care and treatment of persons with developmental disabili-*  
22 *ties in order to care for persons committed to its custody whenever the de-*  
23 *partment determines that a change in purpose and use will better enable this*  
24 *state to meet its responsibilities to persons with developmental disabilities. In*  
25 *determining whether to order the change, the department shall consider*  
26 *changes in the number and source of the admissions of persons with develop-*  
27 *mental disabilities.]*

28 *[(2)]* The Oregon Health Authority may order the change, in all or part,  
29 of the purpose and use of any state institution being used as an institution  
30 for the care and treatment of persons with mental illness in order to care for  
31 persons committed to its custody whenever the authority determines that a

1 change in purpose and use will better enable this state to meet its responsi-  
2 bilities to persons with mental illness. In determining whether to order the  
3 change, the authority shall consider changes in the number and source of the  
4 admissions of persons with mental illness.

5 **SECTION 10.** ORS 179.471 is amended to read:

6 179.471. As used in ORS 179.473 [*and 179.478*], unless the context requires  
7 otherwise:

8 (1) “Adjudicated youth” has the meaning given that term in ORS  
9 419A.004.

10 (2) “Youth correction facility” has the meaning given that term in ORS  
11 420.005.

12 **SECTION 11.** ORS 179.485 is amended to read:

13 179.485. Persons transferred to a state institution for persons with mental  
14 illness [*or intellectual disabilities*] under ORS 179.473[, 179.478] and 420.505  
15 shall be entitled to the same legal rights as any other persons admitted to  
16 those institutions.

17 **SECTION 12.** ORS 179.492 is amended to read:

18 179.492. (1) The Department of Corrections, the Department of Human  
19 Services or the Oregon Health Authority shall dispense as written a pre-  
20 scription for a brand-name mental health drug prescribed for a person while  
21 the person is in the custody of an institution described in ORS 179.321 [*or*  
22 *who has been committed pursuant to ORS 427.235 to 427.292*], if the pre-  
23 scription specifies “dispense as written” or contains the notation “D.A.W.”  
24 or other words of similar meaning.

25 (2) If, at the time of commitment to the custody of an institution de-  
26 scribed in ORS 179.321 [*or to the custody of the Department of Human Services*  
27 *under ORS 427.290*], a person has a prescription for a specified brand-name  
28 mental health drug and the prescription specifies “dispense as written” or  
29 contains the notation “D.A.W.” or other words of similar meaning, the De-  
30 partment of Corrections[, *the Department of Human Services*] or the Oregon  
31 Health Authority shall ensure that the person is prescribed the specified

1 brand-name drug until a licensed health professional with prescriptive priv-  
2 ileges evaluates the person and becomes responsible for the treatment of the  
3 person.

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

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

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

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

14 [(c) *Have been committed by a court to the Department of Human Services*  
15 *under ORS 427.290, based on a finding that the person is dangerous to self*  
16 *or others;*]

17 [(d)] (c) Have been found by a court to lack fitness to proceed under ORS  
18 161.370;

19 [(e)] (d) Have been found guilty except for insanity of a crime under ORS  
20 161.290 to 161.373;

21 [(f)] (e) Have been found responsible except for insanity for an act under  
22 ORS 419C.411;

23 [(g)] (f) Have been placed under the jurisdiction of the Psychiatric Secu-  
24 rity Review Board under ORS 161.315 to 161.351; or

25 [(h)] (g) 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 Depart-  
28 ment of State Police shall access and maintain the information and transmit  
29 the information to the federal government as required under federal law.

30 (3) The [*Department of Human Services, the*] Oregon Health Authority, the  
31 Psychiatric Security Review Board and the Judicial Department shall enter

1 into agreements with the Department of State Police describing the access  
2 to information provided under this section.

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

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

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

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

20 **SECTION 14.** ORS 421.245 is amended to read:

21 421.245. The Interstate Corrections Compact is enacted into law and en-  
22 tered into by this state with all other jurisdictions legally joining therein in  
23 the form substantially as follows:

24 \_\_\_\_\_

25 ARTICLE I

26 PURPOSE AND POLICY

27 The party states, desiring by common action to fully utilize and improve  
28 their institutional facilities and provide adequate programs for the confine-  
29 ment, treatment and rehabilitation of various types of offenders, declare that  
30 it is the policy of each of the party states to provide such facilities and  
31 programs on a basis of cooperation with one another, thereby serving the

1 best interests of such offenders and of society and effecting economies in  
2 capital expenditures and operational costs. The purpose of this compact is  
3 to provide for the mutual development and execution of such programs of  
4 cooperation for the confinement, treatment and rehabilitation of offenders  
5 with the most economical use of human and material resources.

6 ARTICLE II

7 DEFINITIONS

8 As used in this compact, unless the context clearly requires otherwise:

9 (1) "State" means a state of the United States, the United States of  
10 America, a territory or possession of the United States, the District of  
11 Columbia, the Commonwealth of Puerto Rico.

12 (2) "Sending state" means a state party to this compact in which con-  
13 viction or court commitment was had.

14 (3) "Receiving state" means a state party to this compact to which an  
15 inmate is sent for confinement other than a state in which conviction or  
16 court commitment was had.

17 (4) "Inmate" means a male or female offender who is committed, under  
18 sentence to or confined in a penal or correctional institution.

19 (5) "Institution" means any penal or correctional facility, including but  
20 not limited to a facility for persons with mental illness [*or intellectual disa-*  
21 *bilities*], in which inmates as defined in subsection (4) of this Article may  
22 lawfully be confined.

23 ARTICLE III

24 CONTRACTS

25 (1) Each party state may make one or more contracts with any one or  
26 more of the other party states for the confinement of inmates on behalf of  
27 a sending state in institutions situated within receiving states. Any such  
28 contract shall provide for:

29 (a) Its duration.

30 (b) Payments to be made to the receiving state by the sending state for  
31 inmate maintenance, extraordinary medical and dental expenses, and any

1 participation in or receipt by inmates of rehabilitative or correctional ser-  
2 vices, facilities, programs or treatment not reasonably included as part of  
3 normal maintenance.

4 (c) Participation in programs of inmate employment, if any, the disposi-  
5 tion or crediting of any payments received by inmates on account thereof,  
6 and the crediting of proceeds from or disposal of any products resulting  
7 therefrom.

8 (d) Delivery and retaking of inmates.

9 (e) Such other matters as may be necessary and appropriate to fix the  
10 obligations, responsibilities and rights of the sending and receiving states.

11 (2) The terms and provisions of this compact shall be a part of any con-  
12 tract entered into by the authority of or pursuant thereto, and nothing in  
13 any such contract shall be inconsistent therewith.

14 ARTICLE IV

15 PROCEDURES AND RIGHTS

16 (1) Whenever the duly constituted authorities in a state party to this  
17 compact, and which has entered into a contract pursuant to Article III, shall  
18 decide that confinement in, or transfer of an inmate to, an institution within  
19 the territory of another party state is necessary or desirable in order to  
20 provide adequate quarters and care or an appropriate program of rehabili-  
21 tation or treatment, said officials may direct that the confinement be within  
22 an institution within the territory of said other party state, the receiving  
23 state to act in that regard solely as agent for the sending state.

24 (2) The appropriate officials of any state party to this compact shall have  
25 access, at all reasonable times, to any institution in which it has a contrac-  
26 tual right to confine inmates for the purpose of inspecting the facilities  
27 thereof and visiting such of its inmates as may be confined in the institution.

28 (3) Inmates confined in an institution pursuant to the terms of this com-  
29 pact shall at all times be subject to the jurisdiction of the sending state and  
30 may at any time be removed therefrom for transfer to a prison or other in-  
31 stitution within the sending state, for transfer to another institution in



1 which the sending state may have a contractual or other right to confine  
2 inmates, for release on probation or parole, for discharge, or for any other  
3 purpose permitted by the laws of the sending state; provided, that the send-  
4 ing state shall continue to be obligated to such payments as may be required  
5 pursuant to the terms of any contract entered into under the terms of Article  
6 III.

7 (4) Each receiving state shall provide regular reports to each sending  
8 state on the inmates of that sending state in institutions pursuant to this  
9 compact including a conduct record of each inmate and certify said record  
10 to the official designated by the sending state, in order that each inmate may  
11 have official review of his or her record in determining and altering the  
12 disposition of said inmate in accordance with the law which may obtain in  
13 the sending state and in order that the same may be a source of information  
14 for the sending state.

15 (5) All inmates who may be confined in an institution pursuant to the  
16 provisions of this compact shall be treated in a reasonable and humane  
17 manner and shall be treated equally with such similar inmates of the re-  
18 ceiving state as may be confined in the same institution. The fact of con-  
19 finement in a receiving state shall not deprive any inmate so confined of any  
20 legal rights which said inmate would have had if confined in an appropriate  
21 institution of the sending state.

22 (6) Any hearing or hearings to which an inmate confined pursuant to this  
23 compact may be entitled by the laws of the sending state may be had before  
24 the appropriate authorities of the sending state, or of the receiving state if  
25 authorized by the sending state. The receiving state shall provide adequate  
26 facilities for such hearings as may be conducted by the appropriate officials  
27 of a sending state. In the event such hearing or hearings are had before of-  
28 ficials of the receiving state, the governing law shall be that of the sending  
29 state and a record of the hearing or hearings as prescribed by the sending  
30 state shall be made. Said record together with any recommendations of the  
31 hearing officials shall be transmitted forthwith to the official or officials

1 before whom the hearing would have been had if it had taken place in the  
2 sending state. In any and all proceedings had pursuant to the provisions of  
3 this subsection, the officials of the receiving state shall act solely as agents  
4 of the sending state and no final determination shall be made in any matter  
5 except by the appropriate officials of the sending state.

6 (7) Any inmate confined pursuant to this compact shall be released within  
7 the territory of the sending state unless the inmate, and the sending and  
8 receiving states, shall agree upon release in some other place. The sending  
9 state shall bear the cost of such return to its territory.

10 (8) Any inmate confined pursuant to the terms of this compact shall have  
11 any and all rights to participate in and derive any benefits or incur or be  
12 relieved of any obligations or have such obligations modified or the status  
13 of the inmate changed on account of any action or proceeding in which the  
14 inmate could have participated if confined in any appropriate institution of  
15 the sending state located within such state.

16 (9) The parent, guardian, trustee, or other person or persons entitled un-  
17 der the laws of the sending state to act for, advise, or otherwise function  
18 with respect to any inmate shall not be deprived of or restricted in the ex-  
19 ercise of any power in respect of any inmate confined pursuant to the terms  
20 of this compact.

## 21 ARTICLE V

### 22 ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

23 (1) Any decision of the sending state in respect of any matter over which  
24 it retains jurisdiction pursuant to this compact shall be conclusive upon and  
25 not reviewable within the receiving state, but if at the time the sending state  
26 seeks to remove an inmate from an institution in the receiving state there  
27 is pending against the inmate within such state any criminal charge or if the  
28 inmate is formally accused of having committed within such state a criminal  
29 offense, the inmate shall not be returned without the consent of the receiving  
30 state until discharged from prosecution or other form of proceeding,  
31 imprisonment or detention for such offense. The duly accredited officers of

1 the sending state shall be permitted to transport inmates pursuant to this  
2 compact through any and all states party to this compact without interfer-  
3 ence.

4 (2) An inmate who escapes from an institution in which the inmate is  
5 confined pursuant to this compact shall be deemed a fugitive from the send-  
6 ing state and from the state in which the institution is situated. In the case  
7 of an escape to a jurisdiction other than the sending or receiving state, the  
8 responsibility for institution of extradition or rendition proceedings shall be  
9 that of the sending state, but nothing contained in this compact shall be  
10 construed to prevent or affect the activities of officers and agencies of any  
11 jurisdiction directed toward the apprehension and return of an escapee.

12 ARTICLE VI

13 FEDERAL AID

14 Any state party to this compact may accept federal aid for use in con-  
15 nection with any institution or program, the use of which is or may be af-  
16 fected by this compact or any contract pursuant hereto and any inmate in  
17 a receiving state pursuant to this compact may participate in any such  
18 federally aided program or activity for which the sending and receiving  
19 states have made contractual provision; provided, that if such program or  
20 activity is not part of the customary correctional regimen the express con-  
21 sent of the appropriate official of the sending state shall be required there-  
22 for.

23 ARTICLE VII

24 ENTRY INTO FORCE

25 This compact shall enter into force and become effective and binding upon  
26 the states so acting when it has been enacted into law by any two states.  
27 Thereafter, this compact shall enter into force and become effective and  
28 binding as to any other of said states upon similar action by such state.

29 ARTICLE VIII

30 WITHDRAWAL AND TERMINATION

31 This compact shall continue in force and remain binding upon a party

1 state until it shall have enacted a statute repealing the same and providing  
2 for the sending of formal written notice of withdrawal from the compact to  
3 the appropriate officials of all other party states. An actual withdrawal shall  
4 not take effect until one year after the notices provided in said statute have  
5 been sent. Such withdrawal shall not relieve the withdrawing state from its  
6 obligations assumed hereunder prior to the effective date of withdrawal. Be-  
7 fore the effective date of withdrawal, a withdrawing state shall remove to  
8 its territory, at its own expense, such inmates as it may have confined pur-  
9 suant to the provisions of this compact.

10 ARTICLE IX

11 OTHER ARRANGEMENTS UNAFFECTED

12 Nothing contained in this compact shall be construed to abrogate or im-  
13 pair any agreement or other arrangement which a party state may have with  
14 a nonparty state for the confinement, rehabilitation or treatment of inmates  
15 nor to repeal any other laws of a party state authorizing the making of co-  
16 operative institutional arrangements.

17 ARTICLE X

18 CONSTRUCTION AND SEVERABILITY

19 The provisions of this compact shall be liberally construed and shall be  
20 severable. If any phrase, clause, sentence or provision of this compact is de-  
21 clared to be contrary to the constitution of any participating state or of the  
22 United States or the applicability thereof to any government, agency, person  
23 or circumstance is held invalid, the validity of the remainder of this compact  
24 and the applicability thereof to any government, agency, person or circum-  
25 stance shall not be affected thereby. If this compact shall be held contrary  
26 to the constitution of any state participating therein, the compact shall re-  
27 main in full force and effect as to the remaining states and in full force and  
28 effect as to the state affected as to all severable matters.

29 \_\_\_\_\_  
30 **SECTION 15.** ORS 421.284 is amended to read:

31 421.284. The Western Interstate Corrections Compact hereby is enacted

1 into law and entered into on behalf of this state with all other states legally  
2 joining therein in a form substantially as follows:

3

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4 ARTICLE I

4

5

PURPOSE AND POLICY

6 The party states, desiring by common action to improve their institutional  
7 facilities and provide programs of sufficiently high quality for the confine-  
8 ment, treatment and rehabilitation of various types of offenders, declare that  
9 it is the policy of each of the party states to provide such facilities and  
10 programs on a basis of cooperation with one another, thereby serving the  
11 best interests of such offenders and of society. The purpose of this compact  
12 is to provide for the development and execution of such programs of coop-  
13 eration for the confinement, treatment and rehabilitation of offenders.

14

ARTICLE II

15

DEFINITIONS

16 As used in this compact, unless the context clearly requires otherwise:

17 (a) "State" means a state of the United States or, subject to the limitation  
18 contained in Article VII, Guam.

19 (b) "Sending state" means a state party to this compact in which con-  
20 viction was had.

21 (c) "Receiving state" means a state party to this compact to which an  
22 inmate is sent for confinement other than a state in which conviction was  
23 had.

24 (d) "Inmate" means a male or female offender who is under sentence to  
25 or confined in a prison or other correctional institution.

26 (e) "Institution" means any prison, reformatory or other correctional fa-  
27 cility (including but not limited to a facility for persons with mental illness  
28 [*or intellectual disabilities*]) in which inmates may lawfully be confined.

29

ARTICLE III

30

CONTRACTS

31 (a) Each party state may make one or more contracts with any one or

1 more of the other party states for the confinement of inmates on behalf of  
2 a sending state in institutions situated within receiving states. Any such  
3 contract shall provide for:

4 1. Its duration.

5 2. Payments to be made to the receiving state by the sending state for  
6 inmate maintenance, extraordinary medical and dental expenses, and any  
7 participation in or receipt by inmates of rehabilitative or correctional ser-  
8 vices, facilities, programs or treatment not reasonably included as part of  
9 normal maintenance.

10 3. Participation in programs of inmate employment, if any; the disposition  
11 or crediting of any payments received by inmates on account thereof; and the  
12 crediting of proceeds from or disposal of any products resulting therefrom.

13 4. Delivery and retaking of inmates.

14 5. Such other matters as may be necessary and appropriate to fix the ob-  
15 ligations, responsibilities and rights of the sending and receiving states.

16 (b) Prior to the construction or completion of construction of any insti-  
17 tution or addition thereto by a party state, any other party state or states  
18 may contract therewith for the enlargement of the planned capacity of the  
19 institution or addition thereto, or for the inclusion therein of particular  
20 equipment or structures, and for the reservation of a specific percentum of  
21 the capacity of the institution to be kept available for use by inmates of the  
22 sending state or states so contracting. Any sending state so contracting may,  
23 to the extent that monies are legally available therefor, pay to the receiving  
24 state, a reasonable sum as consideration for such enlargement of capacity,  
25 or provision of equipment or structures, and reservation of capacity. Such  
26 payment may be in a lump sum or in installments as provided in the con-  
27 tract.

28 (c) The terms and provisions of this compact shall be a part of any con-  
29 tract entered into by the authority of or pursuant thereto, and nothing in  
30 any such contract shall be inconsistent therewith.

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ARTICLE IV

## PROCEDURES AND RIGHTS

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(a) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have the benefit of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for

1 the sending state.

2 (e) All inmates who may be confined in an institution pursuant to the  
3 provisions of this compact shall be treated in a reasonable and humane  
4 manner and shall be cared for and treated equally with such similar inmates  
5 of the receiving state as may be confined in the same institution. The fact  
6 of confinement in a receiving state shall not deprive any inmate so confined  
7 of any legal rights which said inmate would have had if confined in an ap-  
8 propriate institution of the sending state.

9 (f) Any hearing or hearings to which an inmate confined pursuant to this  
10 compact may be entitled by the laws of the sending state may be had before  
11 the appropriate authorities of the sending state, or of the receiving state if  
12 authorized by the sending state. The receiving state shall provide adequate  
13 facilities for such hearings as may be conducted by the appropriate officials  
14 of a sending state. In the event such hearing or hearings are had before of-  
15 ficials of the receiving state, the governing law shall be that of the sending  
16 state and a record of the hearing or hearings as prescribed by the sending  
17 state shall be made. Said record together with any recommendations of the  
18 hearing officials shall be transmitted forthwith to the official or officials  
19 before whom the hearing would have been had if it had taken place in the  
20 sending state. In any and all proceedings had pursuant to the provisions of  
21 this subdivision, the officials of the receiving state shall act solely as agents  
22 of the sending state and no final determination shall be made in any matter  
23 except by the appropriate officials of the sending state. Costs of records  
24 made pursuant to this subdivision shall be borne by the sending state.

25 (g) Any inmate confined pursuant to this compact shall be released within  
26 the territory of the sending state unless the inmate, and the sending and  
27 receiving states, shall agree upon release in some other place. The sending  
28 state shall bear the cost of such return to its territory.

29 (h) Any inmate confined pursuant to the terms of this compact shall have  
30 any and all rights to participate in and derive any benefits or incur or be  
31 relieved of any obligations or have such obligations modified or the status



1 of the inmate changed on account of any action or proceeding in which the  
2 inmate could have participated if confined in any appropriate institution of  
3 the sending state located within such state.

4 (i) The parent, guardian, trustee, or other person or persons entitled un-  
5 der the laws of the sending state to act for, advise, or otherwise function  
6 with respect to any inmate shall not be deprived of or restricted in the ex-  
7 ercise of any power in respect of any inmate confined pursuant to the terms  
8 of this compact.

9 ARTICLE V

10 ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

11 (a) Any decision of the sending state in respect of any matter over which  
12 it retains jurisdiction pursuant to this compact shall be conclusive upon and  
13 not reviewable within the receiving state, but if at the time the sending state  
14 seeks to remove an inmate from an institution in the receiving state there  
15 is pending against the inmate within such state any criminal charge or if the  
16 inmate is suspected of having committed within such state a criminal offense,  
17 the inmate shall not be returned without the consent of the receiving state  
18 until discharged from prosecution or other form of proceeding, imprisonment  
19 or detention for such offense. The duly accredited officers of the sending  
20 state shall be permitted to transport inmates pursuant to this compact  
21 through any and all states party to this compact without interference.

22 (b) An inmate who escapes from an institution in which the inmate is  
23 confined pursuant to this compact shall be deemed a fugitive from the send-  
24 ing state and from the state in which the institution is situated. In the case  
25 of an escape to a jurisdiction other than the sending or receiving state, the  
26 responsibility for institution of extradition proceedings shall be that of the  
27 sending state, but nothing contained herein shall be construed to prevent or  
28 affect the activities of officers and agencies of any jurisdiction directed to-  
29 ward the apprehension and return of an escapee.

30 ARTICLE VI

31 FEDERAL AID

1 Any state party to this compact may accept federal aid for use in con-  
2 nection with any institution or program, the use of which is or may be af-  
3 fected by this compact or any contract pursuant hereto and any inmate in  
4 a receiving state pursuant to this compact may participate in any such  
5 federally aided program or activity for which the sending and receiving  
6 states have made contractual provision provided that if such program or ac-  
7 tivity is not part of the customary correctional regimen the express consent  
8 of the appropriate official of the sending state shall be required therefor.

9 ARTICLE VII

10 ENTRY INTO FORCE

11 This compact shall enter into force and become effective and binding upon  
12 the state so acting when it has been enacted into law by any two contiguous  
13 states from among the states of Alaska, Arizona, California, Colorado,  
14 Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah,  
15 Washington and Wyoming. For the purposes of this article, Alaska and  
16 Hawaii shall be deemed contiguous to each other; to any and all of the states  
17 of California, Oregon and Washington; and to Guam. Thereafter, this com-  
18 pact shall enter into force and become effective and binding as to any other  
19 of said states, or any other state contiguous to at least one party state upon  
20 similar action by such state. Guam may become party to this compact by  
21 taking action similar to that provided for joinder by any other eligible party  
22 state and upon the consent of Congress to such joinder. For the purposes of  
23 this article, Guam shall be deemed contiguous to Alaska, Hawaii, California,  
24 Oregon and Washington.

25 ARTICLE VIII

26 WITHDRAWAL AND TERMINATION

27 This compact shall continue in force and remain binding upon a party  
28 state until it shall have enacted a statute repealing the same and providing  
29 for the sending of formal written notice of withdrawal from the compact to  
30 the appropriate officials of all other party states. An actual withdrawal shall  
31 not take effect until two years after the notices provided in said statute have

1 been sent. Such withdrawal shall not relieve the withdrawing state from its  
2 obligations assumed hereunder prior to the effective date of withdrawal. Be-  
3 fore the effective date of withdrawal, a withdrawing state shall remove to  
4 its territory, at its own expense, such inmates as it may have confined pur-  
5 suant to the provisions of this compact.

6 ARTICLE IX

7 OTHER ARRANGEMENTS UNAFFECTED

8 Nothing contained in this compact shall be construed to abrogate or im-  
9 pair any agreement or other arrangement which a party state may have with  
10 a nonparty state for the confinement, rehabilitation or treatment of inmates  
11 nor to repeal any other laws of a party state authorizing the making of co-  
12 operative institutional arrangements.

13 ARTICLE X

14 CONSTRUCTION AND SEVERABILITY

15 The provisions of this compact shall be liberally construed and shall be  
16 severable. If any phrase, clause, sentence or provision of this compact is de-  
17 clared to be contrary to the constitution of any participating state or of the  
18 United States or the applicability thereof to any government, agency, person  
19 or circumstance is held invalid, the validity of the remainder of this compact  
20 and the applicability thereof to any government, agency, person or circum-  
21 stance shall not be affected thereby. If this compact shall be held contrary  
22 to the constitution of any state participating therein, the compact shall re-  
23 main in full force and effect as to the remaining states and in full force and  
24 effect as to the state affected as to all severable matters.

25 \_\_\_\_\_  
26 **SECTION 16.** ORS 421.296 is amended to read:

27 421.296. The Interstate Forest Fire Suppression Compact is enacted into  
28 law and entered into on behalf of this state with all other states legally  
29 joining therein in a form substantially as follows:

30 \_\_\_\_\_  
31 ARTICLE I

1 Purpose

2 The purpose of this compact is to provide for the development and exe-  
3 cution of programs to facilitate the use of offenders in the forest fire sup-  
4 pression efforts of the party states for the ultimate protection of life,  
5 property and natural resources in the party states. The purpose of this com-  
6 pact is also, in emergent situations, to allow a sending state to cross state  
7 lines with an inmate when, because of weather or road conditions, it is  
8 necessary to cross state lines to facilitate the transport of an inmate.

9 ARTICLE II

10 Definitions

11 (1) "Sending state" means a state party to this compact from which a fire  
12 suppression unit is traveling.

13 (2) "Receiving state" means a state party to this compact to which a fire  
14 suppression unit is traveling.

15 (3) "Inmate" means a male or female offender who is under sentence to  
16 or confined in a prison or other correctional institution.

17 (4) "Institution" means any prison, reformatory, honor camp or other  
18 correctional facility, except facilities for persons with mental illness [*or in-*  
19 *tellectual disabilities*], in which inmates may lawfully be confined.

20 (5) "Fire suppression unit" means a group of inmates selected by the  
21 sending states, corrections personnel and any other persons deemed neces-  
22 sary for the transportation, supervision, care, security and discipline of in-  
23 mates to be used in forest fire suppression efforts in the receiving state.

24 (6) "Forest fire" means any fire burning in any land designated by a party  
25 state or the federal land management agencies as forestland.

26 ARTICLE III

27 Contracts

28 (1) Each party state may make one or more contracts with any one or  
29 more of the other party states for the assistance of one or more fire sup-  
30 pression units in forest fire suppression efforts. Any such contract shall  
31 provide for matters as may be necessary and appropriate to fix the obli-

1 gations, responsibilities and rights of the sending and receiving states.

2 (2) The terms and provisions of this compact shall be part of any contract  
3 entered into by the authority of, or pursuant to, this compact. Nothing in  
4 any such contract may be inconsistent with this compact.

5 ARTICLE IV

6 Procedures and Rights

7 (1) Each party state shall appoint a liaison for the coordination and de-  
8 ployment of the fire suppression units of each party state.

9 (2) Whenever the duly constituted judicial or administrative authorities  
10 in a state party to this compact, which has entered into a contract pursuant  
11 to this compact, decide that the assistance of a fire suppression unit of a  
12 party state is required for forest fire suppression efforts, the authorities may  
13 request the assistance of one or more fire suppression units of any state  
14 party to this compact through an appointed liaison.

15 (3) Inmates who are members of a fire suppression unit shall at all times  
16 be subject to the jurisdiction of the sending state and at all times shall be  
17 under the ultimate custody of corrections officers duly accredited by the  
18 sending state.

19 (4) The receiving state must make adequate arrangements for the con-  
20 finement of inmates who are members of a fire suppression unit of a sending  
21 state in the event corrections officers duly accredited by the sending state  
22 make a discretionary determination that an inmate requires institutional  
23 confinement.

24 (5) Cooperative efforts shall be made by corrections officers and personnel  
25 of the receiving state located at a fire camp with the corrections officers and  
26 other personnel in the establishment and maintenance of fire suppression  
27 unit base camps.

28 (6) All inmates who are members of a fire suppression unit of a sending  
29 state shall be cared for and treated equally with such similar inmates of the  
30 receiving state.

31 (7) Further, in emergent situations, a sending state shall be granted au-

1 thority and all the protections of this compact to cross state lines with an  
2 inmate when, because of road conditions, it is necessary to facilitate the  
3 transport of an inmate.

4 ARTICLE V

5 Acts Not Reviewable

6 in Receiving State: Extradition

7 (1) If while located within the territory of a receiving state there occurs  
8 against the inmate within such state any criminal charge or if the inmate  
9 is suspected of committing within such state a criminal offense, the inmate  
10 shall not be returned without the consent of the receiving state until dis-  
11 charged from prosecution or other form of proceeding, imprisonment or de-  
12 tention for such offense. The duly accredited officers of the sending state  
13 shall be permitted to transport inmates pursuant to this compact through  
14 any and all states party to this compact without interference.

15 (2) An inmate member of a fire suppression unit of the sending state who  
16 is deemed to have escaped by a duly accredited corrections officer of a  
17 sending state shall be under the jurisdiction of both the sending state and  
18 the receiving state. Nothing contained in this Article shall be construed to  
19 prevent or affect the activities of officers and guards of any jurisdiction di-  
20 rected toward the apprehension and return of an escapee.

21 ARTICLE VI

22 Entry into Force

23 This compact shall enter into force and become effective and binding upon  
24 approval of this compact by at least two of the states from among the States  
25 of Idaho, Oregon and Washington.

26 ARTICLE VII

27 Withdrawal and Termination

28 This compact shall continue in force and remain binding upon a party  
29 state until it shall have enacted a statute repealing the same and providing  
30 for the sending of formal written notice of withdrawal from the compact to  
31 the appropriate officials of all other party states.

ARTICLE VIII

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE IX

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

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**SECTION 17.** ORS 426.005 is amended to read:

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

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

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

(c) “Facility” means a state mental hospital, community hospital, residential facility, detoxification center, day treatment facility or such other

1 facility as the authority determines suitable that provides diagnosis and  
2 evaluation, medical care, detoxification, social services or rehabilitation to  
3 persons who are in custody during a prehearing period of detention or who  
4 have been committed to the Oregon Health Authority under ORS 426.130.

5 (d) “Licensed independent practitioner” means:

6 (A) A physician, as defined in ORS 677.010;

7 (B) A nurse practitioner licensed under ORS 678.375 and authorized to  
8 write prescriptions under ORS 678.390; or

9 (C) A naturopathic physician licensed under ORS chapter 685.

10 (e) “Nonhospital facility” means any facility, other than a hospital, that  
11 is approved by the authority to provide adequate security, psychiatric, nurs-  
12 ing and other services to persons under ORS 426.232 or 426.233.

13 (f) “Person with mental illness” means a person who, because of a mental  
14 disorder, is one or more of the following:

15 (A) Dangerous to self or others.

16 (B) Unable to provide for basic personal needs that are necessary to avoid  
17 serious physical harm in the near future, and is not receiving such care as  
18 is necessary to avoid such harm.

19 (C) A person:

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

21 (ii) Who, within the previous three years, has twice been placed in a  
22 hospital or approved inpatient facility by the authority or the Department  
23 of Human Services under ORS 426.060;

24 (iii) Who is exhibiting symptoms or behavior substantially similar to  
25 those that preceded and led to one or more of the hospitalizations or inpa-  
26 tient placements referred to in sub-subparagraph (ii) of this subparagraph;  
27 and

28 (iv) Who, unless treated, will continue, to a reasonable medical probabilit-  
29 ity, to physically or mentally deteriorate so that the person will become a  
30 person described under either subparagraph (A) or (B) of this paragraph or  
31 both.



1 (g) “Prehearing period of detention” means a period of time calculated  
2 from the initiation of custody during which a person may be detained under  
3 ORS 426.228, 426.231, 426.232 or 426.233.

4 (2) Whenever a community mental health program director, director of the  
5 facility, superintendent of a state hospital or administrator of a facility is  
6 referred to in **ORS 426.005 to 426.390**, the reference includes any designee  
7 such person has designated to act on the person’s behalf in the exercise of  
8 duties.

9 **(3) A person with mental illness may be a person with a mental**  
10 **illness who also has an intellectual or developmental disability, but**  
11 **an intellectual or developmental disability is not a mental disorder as**  
12 **used in subsection (1)(f) of this section.**

13 **SECTION 18.** ORS 427.101 is amended to read:

14 427.101. As used in this section and ORS 427.115, 427.121, 427.154,  
15 [427.215,] 430.662 and 430.664:

16 (1) “Community living setting” means:

17 (a) A residential setting;

18 (b) An individual’s home or the home of the individual’s family; or

19 (c) Other nonresidential setting.

20 (2) “Developmental disability services” means the following services as  
21 provided for individuals with intellectual or developmental disabilities:

22 (a) Services designed to develop or maintain the individual’s skills in the  
23 following areas:

24 (A) Eating, bathing, dressing, personal hygiene, mobility and other per-  
25 sonal needs;

26 (B) Self-awareness and self-control, social responsiveness, social amen-  
27 ities, interpersonal skills, interpersonal relationships and social connections;

28 (C) Community participation, recreation and the ability to use available  
29 community services, facilities or businesses;

30 (D) Expressive and receptive skills in verbal and nonverbal language, the  
31 functional application of acquired reading and writing skills and other com-

1 munication needs; and

2 (E) Planning and preparing meals, budgeting, laundering, housecleaning  
3 and other personal environmental needs;

4 (b) Case management;

5 (c) Services described in ORS 430.215;

6 (d) Employment services;

7 (e) Environmental accessibility adaptations;

8 (f) Specialized supports; and

9 (g) Specialized medical equipment and supplies.

10 (3) “Employment services” means services provided to develop or maintain  
11 the skills necessary for an individual to obtain and retain employment, in-  
12 cluding job assessment, job exploration, job development, job training, job  
13 coaching, work skills, and ongoing supports.

14 (4) “Environmental accessibility adaptations” means physical modifica-  
15 tions to an individual’s home that are necessary to ensure the health, welfare  
16 and safety of the individual in the home, or that enable the individual to  
17 function with greater independence in the home.

18 (5) “Individualized service plan” means a plan described in ORS 427.107  
19 (2)(i), (j) and (k) that identifies the resources, services and purchases neces-  
20 sary for an individual with a developmental disability to achieve identified  
21 personal goals and maximize self-determination.

22 (6) “Person-centered planning” means an informal or formal process for  
23 gathering and organizing information that helps an individual to:

24 (a) Enhance self-determination by choosing personal goals and lifestyle  
25 preferences;

26 (b) Design strategies and networks of support to achieve personal goals  
27 and a preferred lifestyle using individual strengths, relationships and re-  
28 sources; and

29 (c) Identify, use and strengthen naturally occurring opportunities for  
30 support in the home and in the community.

31 (7) “Residential setting” means one of the following community living

1 settings licensed or regulated by the Department of Human Services:

2 (a) Residential facilities licensed under ORS 443.400 to 443.455;

3 (b) Licensed adult foster homes, as defined in ORS 443.705;

4 (c) Developmental disability child foster homes certified under ORS  
5 443.835;

6 (d) Group homes; and

7 (e) Supported living programs.

8 (8) "Self-determination" means empowering individuals to:

9 (a) Make their own choices and decisions;

10 (b) Select and plan, together with freely chosen family members and  
11 friends, the developmental disability services that are necessary for an indi-  
12 vidual to live, work and recreate in the setting that the individual chooses  
13 and in the community;

14 (c) Control, or have input regarding, the manner in which resources are  
15 used to obtain needed services and supports, with the help of a social support  
16 network if needed;

17 (d) Live an autonomous life in the community, rich in community affil-  
18 iations, through formal or informal arrangements of resources and personnel  
19 and contribute to their community in the ways they choose;

20 (e) Have a valued role in the community through competitive employment,  
21 organizational affiliations, personal development and general caring for oth-  
22 ers in the community, and to be accountable for spending public dollars in  
23 ways that are life-enhancing for the individual; and

24 (f) Speak or act on their own behalf or on behalf of others, including  
25 participating in policy-making and legislative processes.

26 (9) "Service provider" means any person who is paid a service rate by the  
27 department to provide one or more of the services identified in the individ-  
28 ualized service plan of an individual with an intellectual or developmental  
29 disability regardless of where the service is provided.

30 (10) "Service rate" means the amount of reimbursement paid to a service  
31 provider to care for an individual with an intellectual or developmental dis-

1 ability.

2 (11)(a) “Specialized medical equipment and supplies” means:

3 (A) Devices, aids, controls, supplies or appliances that enable individuals:

4 (i) To increase their ability to perform activities of daily living; or

5 (ii) To perceive, control or communicate with the environment in which  
6 they live;

7 (B) Items necessary for life support, including ancillary supplies and  
8 equipment necessary to the proper functioning of these items; and

9 (C) Medical equipment not available in the medical assistance program.

10 (b) “Specialized medical equipment and supplies” does not include items  
11 that have no direct medical or remedial benefit to the individual.

12 (12) “Specialized supports” means treatment, training, consultation or  
13 other unique services that are not available through the medical assistance  
14 program but are necessary to achieve the goals identified in the individual-  
15 ized service plan, or other developmental disability services prescribed by the  
16 department by rule.

17 (13) “Support service brokerage” means an entity that contracts with the  
18 department to provide or to arrange for developmental disability services.

19 **SECTION 19.** ORS 428.210 is amended to read:

20 428.210. As used in ORS 428.210 to 428.270:

21 (1) “Authority” means the Oregon Health Authority.

22 (2) “Department” means the Department of Human Services.

23 [(3) “Facility” has the meaning given that term in ORS 427.005.]

24 [(4)] (3) “Foreign hospital” means an institution in any other state that  
25 corresponds to a state hospital.

26 [(5)] (4) “Nonresident” means any person who is not a resident of this  
27 state.

28 [(6)] (5) “Other state” includes all the states, territories, possessions,  
29 commonwealths and agencies of the United States and the District of  
30 Columbia, with the exception of the State of Oregon.

31 [(7)] (6) “Patient” means any person who has been committed by a court

1 of competent jurisdiction to a [*facility pursuant to ORS 427.235 to 427.292 or*  
2 *to a*] state hospital, except a person committed to a state hospital pursuant  
3 to ORS 161.341 or 161.370.

4 [(8)] (7) “Resident of this state” means a person who resides in this state  
5 and who has not acquired legal residence in any other state. However, a  
6 service man or woman on active duty in the Armed Forces of the United  
7 States who was domiciled in Oregon upon entry into active duty and who  
8 has acquired no other domicile shall be entitled to have his or her child  
9 considered a resident of this state so long as no other domicile is acquired  
10 by the service man or woman.

11 [(9)] (8) “State hospital” means any institution listed in ORS 426.010.

12 **SECTION 20.** ORS 428.220 is amended to read:

13 428.220. (1) In determining whether or not any person committed by a  
14 court of competent jurisdiction to a state hospital[,] **or** foreign hospital [*or*  
15 *facility*] is a resident of this state:

16 (a) The time spent in a state hospital or foreign hospital or on parole  
17 from a state hospital or foreign hospital[, *or in a facility*] shall not be  
18 counted in determining the residence of such person in this or any other  
19 state.

20 (b) The residence of such person at the time of commitment shall remain  
21 the residence of the person for the duration of the commitment of the person.

22 [(2) *The Department of Human Services may give written authorization for*  
23 *the admission to a facility whenever:]*

24 [(a) *The residence of any person cannot be established after reasonable and*  
25 *diligent investigation and effort.]*

26 [(b) *The peculiar circumstances of a case, in the judgment of the depart-*  
27 *ment, provide a sufficient reason for the suspension of the residence require-*  
28 *ment provided by ORS 428.210 (8).]*

29 [(3)] (2) The Oregon Health Authority may give written authorization for  
30 the admission to the Oregon State Hospital whenever:

31 (a) The residence of any person cannot be established after reasonable and

1 diligent investigation and effort.

2 (b) The peculiar circumstances of a case, in the judgment of the authority,  
3 provide a sufficient reason for the suspension of the residence requirement  
4 provided by ORS 428.210 [(8)] (7).

5 **SECTION 21.** ORS 428.230 is amended to read:

6 428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the  
7 [*Department of Human Services and the*] Oregon Health Authority shall re-  
8 turn nonresident patients to any other state in which they may have legal  
9 residence.

10 [(2) *The department may give written authorization for the return to a fa-*  
11 *cility of a resident of Oregon who has been committed by a court of competent*  
12 *jurisdiction to a foreign hospital.*]

13 [(3) *The facility shall admit and care for any person eligible for admission*  
14 *pursuant to subsection (2) of this section or ORS 428.220 (2) upon receipt of a*  
15 *certified copy of the commitment papers and the written authorization of the*  
16 *department.*]

17 [(4)] (2) The authority may give written authorization for the return to  
18 the Oregon State Hospital of a resident of Oregon who has been committed  
19 by a court of competent jurisdiction to a foreign hospital.

20 [(5)] (3) The superintendent of the Oregon State Hospital shall admit and  
21 care for any person eligible for admission pursuant to subsection [(4)] (2) of  
22 this section or ORS 428.220 [(3)] (2) upon receipt of a certified copy of the  
23 commitment papers and the written authorization of the authority.

24 **SECTION 22.** ORS 428.240 is amended to read:

25 428.240. [(1) *For the purpose of facilitating the return of nonresident pa-*  
26 *tients, the Department of Human Services may enter into a reciprocal agree-*  
27 *ment with any other state for the mutual exchange of persons committed by a*  
28 *court of competent jurisdiction to a facility pursuant to ORS 427.235 to 427.292*  
29 *or to a foreign hospital, whose legal residence is in the other's jurisdiction.*]

30 [(2)] (1) For the purpose of facilitating the return of nonresident patients,  
31 the Oregon Health Authority may enter into a reciprocal agreement with any

1 other state for the mutual exchange of persons committed by a court of  
2 competent jurisdiction to the Oregon State Hospital or a foreign hospital,  
3 whose legal residence is in the other's jurisdiction.

4 [(3)] (2) In such agreements, the [*department or*] authority may:

5 (a) Only for purposes of mutual exchange with the other state, vary the  
6 period of residence required by ORS 428.210 [(8)] (7).

7 (b) Provide for the arbitration of disputes arising out of the mutual ex-  
8 change of such persons between this state and any other state.

9 **SECTION 23.** ORS 428.260 is amended to read:

10 428.260. (1) For the purpose of carrying out the provisions of ORS 428.210  
11 to 428.270, the [*Department of Human Services or the*] Oregon Health Au-  
12 thority may employ all help necessary in arranging for and transporting  
13 nonresident patients.

14 (2) The cost and expense of providing such assistance and all expenses  
15 incurred in effecting the transportation of such patients shall be paid from  
16 funds appropriated for that purpose upon vouchers approved by the [*depart-*  
17 *ment, the*] authority or the superintendent of the Oregon State Hospital.

18 **SECTION 24.** ORS 428.270 is amended to read:

19 428.270. (1) Any person, except an officer, agent or employee of a common  
20 carrier acting in the line of duty, who brings or in any way aids in bringing  
21 into this state any patient without the written authorization of the [*Depart-*  
22 *ment of Human Services or the*] Oregon Health Authority[,] shall be liable  
23 to this state for all expenses incurred in the care of such patient and in the  
24 transportation of such patient to the other state where the patient legally  
25 resides.

26 (2) Hospitals, other than state hospitals, that care for and treat persons  
27 with mental illness shall be responsible for the return of those persons to  
28 their places of residence or domicile outside the state if they are brought  
29 into this state for treatment and care and are discharged from such insti-  
30 tutions without being fully recovered.

31 (3) Failure to comply with the provisions of subsection (2) of this section

1 shall render the person operating the hospital liable to reimburse the state  
2 for all expenses incurred in the care, maintenance and return of the persons  
3 with mental illness to their places of residence or domicile outside the state.

4 **SECTION 25.** ORS 480.225 is amended to read:

5 480.225. (1) A person is eligible for a certificate of possession under ORS  
6 480.235 if:

7 (a) The person has not been convicted, or found guilty except for insanity  
8 under ORS 161.295, of a misdemeanor involving violence, as defined in ORS  
9 166.470, within the previous four years. A person who has been so convicted  
10 is eligible under this subsection following the expiration of seven years after  
11 the date of final and unconditional discharge from all imprisonment, pro-  
12 bation and parole resulting from the conviction.

13 (b) The person has not been convicted, or found guilty except for insanity  
14 under ORS 161.295, of, and is not under indictment for, any felony.

15 (c) The person is not a fugitive from justice, has no outstanding warrants  
16 for arrest and is not free on any form of pretrial release for any offenses  
17 listed in paragraphs (a) and (b) of this subsection.

18 (d) The person has not been determined to be a person with mental illness  
19 under ORS 426.130 [*or to have an intellectual disability under ORS 427.290*].  
20 A person who previously has been so determined is eligible under this sub-  
21 section if, at the time of application for such a certificate, the person  
22 produces a certified copy of a full discharge from the proper state hospital.  
23 The Oregon Health Authority shall provide the State Fire Marshal with di-  
24 rect electronic access to the authority's database of information identifying  
25 persons meeting the criteria of this section who were committed or subject  
26 to an order under ORS 426.130. The State Fire Marshal and the authority  
27 shall enter into an agreement describing the access to information under this  
28 subsection.

29 (e) The person is at least 21 years of age.

30 (f) The person does not use a fictitious name or make a material misrep-  
31 resentation in application for such a certificate.



1 (g)(A) The person has not been convicted of, and is not under indictment  
2 for, a criminal offense involving a controlled substance as defined in ORS  
3 475.005, other than the offense of driving under the influence of intoxicants.

4 (B) Notwithstanding subparagraph (A) of this paragraph, a person who  
5 has had a certificate denied or revoked due to conviction of a criminal of-  
6 fense involving a controlled substance is eligible under this section following  
7 the expiration of seven years after the date of final and unconditional dis-  
8 charge from all imprisonment, probation and parole resulting from the con-  
9 viction.

10 (h) The person has been discharged from the jurisdiction of the juvenile  
11 court for more than four years for an act that, if committed by an adult,  
12 would constitute a felony or a misdemeanor involving violence, as defined  
13 in ORS 166.470.

14 (i) The person is not the subject of a restraining order that alleges the  
15 person's possession of explosives presents a credible threat to another person.

16 (j) The person has passed an examination administered by the State Fire  
17 Marshal that assesses the person's knowledge of safety in the transportation  
18 and storage of explosives as required under federal and state laws and reg-  
19 ulations pertaining to explosives. The State Fire Marshal shall examine  
20 each applicant prior to issuance of a certificate of possession to the appli-  
21 cant. The State Fire Marshal may by rule establish and collect an examina-  
22 tion fee in an amount necessary to cover the cost of administering the  
23 examination.

24 (k) The person certifies on the application for a certificate of possession  
25 that all explosives in the person's possession will be used, stored and trans-  
26 ported in accordance with federal, state and local requirements.

27 (L) The person certifies that all explosives will be possessed, used, stored  
28 and transported in accordance with federal, state and local requirements.

29 (2) Subsection (1)(a) and (b) of this section does not apply to a conviction  
30 or indictment that has been expunged from a person's record under the laws  
31 of this state or equivalent laws of another jurisdiction.

1 **SECTION 26. This 2024 Act takes effect on July 1, 2025.**

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