

LC 161  
2025 Regular Session  
8/14/24 (LAS/ps)

# D R A F T

## 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. (Flesch Readability Score: 60.4).

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 disability.

Becomes operative on January 1, 2026.

Declares an emergency, effective on passage.

## 1 A BILL FOR AN ACT

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, 426.005, 427.101, 428.210, 428.220,  
5 428.230, 428.240, 428.260, 428.270 and 480.225; repealing ORS 179.478,  
6 427.215, 427.235, 427.245, 427.255, 427.265, 427.270, 427.275, 427.280, 427.285,  
7 427.290, 427.292, 427.293, 427.295, 427.300 and 427.306; and declaring an  
8 emergency.

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12 **and 427.306 are repealed.**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**

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

1 **not limited to hospital services, psychiatric services, community-based**  
2 **services and residential services.**

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

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

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

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

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

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

31 (5) The filing and appearance fees established by this section apply to

1 cases of original jurisdiction in the Supreme Court.

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

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

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

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

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

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

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

1 stantial probability that the defendant, in the foreseeable future, will gain  
2 or regain fitness to proceed, the court shall dismiss, without prejudice and  
3 in accordance with subsection (6) of this section, all charges against the  
4 defendant and:

5 (a) Order that the defendant be discharged; or  
6 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*  
7 *427.235 to 427.292*].

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

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

14 (c) The court may, upon its own motion or the request of either party,  
15 hold a hearing to determine whether the defendant has gained or regained  
16 fitness to proceed. If the court determines that the defendant has gained or  
17 regained fitness to proceed, the court shall resume the criminal proceeding  
18 unless the court determines that so much time has elapsed since the com-  
19 mitment or release of the defendant to community restoration services that  
20 it would be unjust to resume the criminal proceeding. If the court determines  
21 that it would be unjust to resume the criminal proceeding, the court, on  
22 motion of either party, may dismiss the charge in accordance with subsection  
23 (6) of this section, and may order the defendant to be discharged or cause a  
24 proceeding to be commenced forthwith under ORS 426.070 to 426.170[,] **or**  
25 *426.701 [*or 427.235 to 427.292*]*.

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

31 (4) Notwithstanding the suspension of the criminal proceeding under ORS

1 161.370 (2), the fact that the defendant is unfit to proceed does not preclude  
2 any objection through counsel and without the personal participation of the  
3 defendant on the grounds that the indictment is insufficient, that the statute  
4 of limitations has run, that double jeopardy principles apply or upon any  
5 other ground at the discretion of the court which the court deems susceptible  
6 of fair determination prior to trial.

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

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

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

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

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

31 (2)(a) If the court determines that the defendant lacks fitness to proceed,

1 the criminal proceeding against the defendant shall be suspended and the  
2 court shall proceed in accordance with this subsection.

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

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

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

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

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

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

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

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

1 services are not present and available in the community, for any defendant  
2 remaining in custody after such determination, the court shall set a review  
3 hearing seven days from the date of the determination under paragraph (a)  
4 of this subsection. At the review hearing, the court shall consider all rele-  
5 vant information and determine if commitment to the state mental hospital  
6 or other facility is appropriate under subsection (3) or (4) of this section, or  
7 if another action described in paragraph (c) of this subsection is appropriate.  
8 At the conclusion of the hearing the court shall enter an order in accordance  
9 with the defendant's constitutional rights to due process.

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

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

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

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

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

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

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

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

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

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

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

29           (ii) There are public safety concerns; and

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

1       (b) If at the time of determining the appropriate action for the case, the  
2 court is considering commitment under paragraph (a)(A) of this subsection  
3 and:

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

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

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

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

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

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

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

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

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

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

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

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

30 161.371. (1) The superintendent of a state mental hospital or director of  
31 a facility to which the defendant is committed under ORS 161.370 shall cause

1 the defendant to be evaluated within 60 days from the defendant's delivery  
2 into the superintendent's or director's custody, for the purpose of determin-  
3 ing whether there is a substantial probability that, in the foreseeable future,  
4 the defendant will have fitness to proceed. In addition, the superintendent  
5 or director shall:

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

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

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

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

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

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

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

1 submit a progress report to the committing court, concerning the defendant's  
2 fitness to proceed, at least once every 180 days as measured from the date  
3 of the defendant's delivery into the superintendent's or director's custody.

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

6 (A) The original examination report conducted under ORS 161.365; or  
7 (B) An evaluation conducted under subsection (1) of this section, if the  
8 defendant did not receive an examination under ORS 161.365.

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

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

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

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

1 cial days:

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

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

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

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

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

30 (4)(a) Notwithstanding subsection (2) of this section, if the most serious  
31 offense in the charging instrument is a misdemeanor, and the superintendent

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

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

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

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

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

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

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

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

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

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

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

31       (b) For purposes of calculating the maximum period of commitment de-

1 scribed in paragraph (a) of this subsection:

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

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

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

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

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

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

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

30 (7) If at any time the court determines that the defendant lacks fitness  
31 to proceed, the court shall further determine whether the defendant is enti-

1 tled to discharge under subsection (5) of this section. If the court determines  
2 that the defendant is entitled to discharge under subsection (5) of this sec-  
3 tion, the court shall dismiss, without prejudice and in accordance with ORS  
4 161.367 (6), all charges against the defendant and:

5 (a) Order that the defendant be discharged; or  
6 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or*  
7 427.235 *to* 427.292].

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

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

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

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

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

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

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

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

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

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

29 [(C)] **(B)** The person was found guilty except for insanity under ORS  
30 161.295;

31 [(D)] **(C)** The person was found responsible except for insanity under ORS

1 419C.411; or

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

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

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

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

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

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

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

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

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

1 with ORS 183.500.

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

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

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

7 (a) A finding by a court that a person lacks fitness to proceed under ORS  
8 161.370;

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

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

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

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

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

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

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

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

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

9 (1) “Adjudicated youth” has the meaning given that term in ORS  
10 419A.004.

11 (2) “Youth correction facility” has the meaning given that term in ORS  
12 420.005.

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

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

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

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

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

1 Health Authority shall ensure that the person is prescribed the specified  
2 brand-name drug until a licensed health professional with prescriptive priv-  
3 ileges evaluates the person and becomes responsible for the treatment of the  
4 person.

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

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

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

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

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

18 [(d)] (c) Have been found by a court to lack fitness to proceed under ORS  
19 161.370;

20 [(e)] (d) Have been found guilty except for insanity of a crime under ORS  
21 161.290 to 161.373;

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

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

26 [(h)] (g) Have been committed to a state hospital or facility under ORS  
27 161.315 to 161.351 or 419C.529 to 419C.544.

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

31 (3) The [*Department of Human Services, the*] Oregon Health Authority, the

1 Psychiatric Security Review Board and the Judicial Department shall enter  
2 into agreements with the Department of State Police describing the access  
3 to information provided under this section.

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

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

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

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

21 **SECTION 14.** ORS 426.005 is amended to read:

22 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires  
23 otherwise:

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

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

30 (c) “Facility” means a state mental hospital, community hospital, resi-  
31 dential 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 probabili-  
29 ty, 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 15.** 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 16.** 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)] (2) “Foreign hospital” means an institution in any other state that  
25 corresponds to a state hospital.

26 [(5)] (3) “Nonresident” means any person who is not a resident of this  
27 state.

28 [(6)] (4) “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)] (5) “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)] (6) “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)] (7) “State hospital” means any institution listed in ORS 426.010.

12 **SECTION 17.** 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)] (6).

5 **SECTION 18.** 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 19.** 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)] (6).

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 20.** 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-  
ment, the]* authority or the superintendent of the Oregon State Hospital.

18 **SECTION 21.** 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-  
ment of Human Services or the]* Oregon Health Authority[,] shall be liable  
22 to this state for all expenses incurred in the care of such patient and in the  
23 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 22.** 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 23.** No later than December 15, 2025, the Department of  
2 Human Services shall report to the interim committees of the Legis-  
3 lative Assembly related to human services, in the manner provided in  
4 ORS 192.245:

5        (1) The department's progress in planning for the elimination of  
6 civil commitment of individuals based on intellectual disabilities; and

7        (2) Recommendations for budget or policy actions necessary to en-  
8 sure that individuals with intellectual disabilities who have excep-  
9 tionally high needs are ensured continued access to appropriate  
10 services and supports.

11        **SECTION 24.** The amendments to ORS 181A.290 by section 13 of this  
12 2025 Act do not apply to an individual whose information was, prior  
13 to the operative date specified in section 26 of this 2025 Act, trans-  
14 mitted to the Department of State Police as a result of the individual  
15 being committed by a court to the custody of the Department of Hu-  
16 man Services under ORS 427.290, as in effect prior to the operative  
17 date specified in section 26 of this 2025 Act, based on a finding that the  
18 individual was dangerous to self or others.

19        **SECTION 25.** Section 23 of this 2025 Act is repealed on January 2,  
20 2027.

21        **SECTION 26.** (1) Section 2 of this 2025 Act, the amendments to  
22 statutes by sections 3 to 22 of this 2025 Act and the repeal of statutes  
23 by section 1 of this 2025 Act become operative on January 1, 2026.

24        (2) The Department of Human Services may take any action before  
25 the operative date specified in subsection (1) of this section that is  
26 necessary to enable the department to carry out section 23 of this 2025  
27 Act and to exercise, on and after the operative date specified in sub-  
28 section (1) of this section, all of the duties, functions and powers  
29 conferred on the department by the amendments to statutes by  
30 sections 3 to 22 of this 2025 Act.

31        **SECTION 27.** This 2025 Act being necessary for the immediate

1 **preservation of the public peace, health and safety, an emergency is**  
2 **declared to exist, and this 2025 Act takes effect on its passage.**

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