House Bill 3606
Sponsored by Representatives MANNIX, SMITH G

SUMMARY
The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Establishes Hillcrest Housing and Health Care Authority and specifies governance and duties. Allows authority to perform examinations related to the fitness of criminal defendants to assist in their defense.

Directs Oregon Department of Administrative Services to convene task force to evaluate potential for creating Oregon Department of Behavioral Health and transfer from other state agencies to Oregon Department of Behavioral Health all matters related to behavioral health. Requires report of findings to interim committees of Legislative Assembly related to health.

Reduces from 30 days to 6 days deadline for community developmental disabilities program to submit to court report of investigation in proceeding to commit person with intellectual disability for residential care, treatment and training.

A BILL FOR AN ACT

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

HILLCREST HOUSING AND HEALTH CARE AUTHORITY

SECTION 1. (1) The Hillcrest Housing and Health Care Authority is established, governed by a seven member board consisting of:
(a) Five members, appointed by the Governor, who have expertise in housing, homelessness and mental health issues;
(b) One nonvoting member appointed by the President of the Senate from among the members of the Senate; and
(c) One nonvoting member appointed by the Speaker of the House of Representatives from among the members of the House of Representatives.

(2) The term of office of each member of the board appointed by the Governor is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) The board shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the board determines.

(4) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(5) The board shall meet at a place, day and hour specified by the call of the chairperson.

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.

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of a majority of the members of the board.

(6) The board shall, by written order filed with the Secretary of State, appoint an executive director of the Hillcrest Housing and Health Care Authority. The executive director serves at the pleasure of the board, has authority to act for the board and is subject to the control of the board at all times.

(7) Subject to any applicable provisions of ORS chapter 240, the executive director shall appoint all subordinate officers and employees of the Hillcrest Housing and Health Care Authority, prescribe their duties and fix their compensation.

(8) A member of the board is not entitled to compensation but may be reimbursed from funds available to the authority for actual and necessary travel and other expenses incurred by the member in the performance of the member’s official duties in the manner and amount provided in ORS 292.495.

(9) In accordance with the provisions of ORS chapter 183, the board may adopt rules for the administration of the laws that the board is charged with administering.

SECTION 2. The Hillcrest Housing and Health Care Authority:

(1) Is authorized to conduct examinations with regard to a defendant’s fitness to proceed by reason of incapacity under ORS 161.355 to 161.371;

(2) Shall provide mental or behavioral health treatment to individuals within facilities administered by the authority;

(3) Shall administer one or more facilities providing secure residential treatment;

(4) May lease or purchase the property that was formerly the site of the Hillcrest Youth Correctional Facility campus in Salem, Oregon to be used for:

(a) At least one secure residential treatment facility;

(b) Operating a center that provides services and assistance to individuals experiencing homelessness; and

(c) Providing transitional housing for individuals who are receiving mental health or behavioral health treatment;

(5) May secure additional properties within the Salem-Keizer urban growth boundary to be used to provide low-income housing; and

(6) May evaluate other opportunities to address the need for transitional housing within the Salem-Keizer urban growth boundary.

SECTION 3. The Hillcrest Housing and Health Care Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Moneys in the Hillcrest Housing and Health Care Authority Fund are continuously appropriated to the Hillcrest Housing and Health Care Authority to carry out the laws that the authority is charged with administering.

SECTION 4. Notwithstanding the term of office specified in section 1 of this 2023 Act, of the members first appointed to the Hillcrest Housing and Health Care Authority board by the Governor:

(1) Two shall serve for terms ending December 31, 2025.

(2) Two shall serve for terms ending December 31, 2026.

(3) One shall serve for a term ending December 31, 2027.

SECTION 5. ORS 161.362 is amended to read:

161.362. (1) A recommendation provided by a certified evaluator, pursuant to ORS 161.355 to 161.371, that a defendant requires a hospital level of care due to the acuity of the defendant’s
symptoms must be based upon the defendant's current diagnosis and symptomology, the defendant's current ability to engage in treatment, present safety concerns relating to the defendant and any other pertinent information known to the evaluator. If the defendant is in a placement in a facility, the evaluator may defer to the treatment provider's recommendation regarding whether a hospital level of care is needed.

(2) A determination by a community mental health program director, or the director's designee, pursuant to ORS 161.355 to 161.371, that appropriate community restoration services are not present and available in the community must include information concerning the specific services necessary to safely allow the defendant to gain or regain fitness to proceed in the community and must specify the necessary services that are not present and available in the community.

(3)(a) Reports resulting from examinations performed by a certified evaluator, and documents containing the recommendations of or resulting from consultations with a community mental health program director or the director's designee, prepared under ORS 161.355 to 161.371, and any document submitted to the court by a state mental hospital or the Hillcrest Housing and Health Care Authority related to the proceedings under ORS 161.355 to 161.371, are confidential and may be made available only:

(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee, state mental hospital and any facility in which the defendant is housed; or

(B) As ordered by a court.

(b) Any facility in which a defendant is housed may not use a report or document described in paragraph (a) of this subsection to support a disciplinary action against the defendant.

(c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report or document described in paragraph (a) of this subsection with witnesses or victims as otherwise permitted by law.

(4) The court shall ensure that an order entered under ORS 161.355 to 161.371 is provided, by the end of the next judicial day, to any entity ordered to provide restoration services.

(5) Unless the court orders otherwise or either party objects, a defendant committed to a state mental hospital or other facility, or a certified evaluator or other expert witness, may attend hearings held under ORS 161.355 to 161.371 via simultaneous electronic transmission.

SECTION 6. ORS 161.365 is amended to read:

161.365. (1)(a) When the court has reason to doubt the defendant's fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to assist it in reaching its decision and, except as provided in paragraph (b) of this subsection, shall order that a community mental health program director, or the director's designee, consult with the defendant and with any local entity that would be responsible for providing community restoration services to the defendant if the defendant were to be released in the community, to determine whether appropriate community restoration services are present and available in the community. After the consultation, the program director or the director's designee shall provide to the court a copy of the findings resulting from the consultation.

(b) If the defendant is charged with one or more of the following offenses the court is not required to, but may in its discretion, order the consultation described in paragraph (a) of this subsection:

(A) Aggravated murder;

(B) Murder in any degree;
(C) Attempted aggravated murder;
(D) Attempted murder in any degree;
(E) Manslaughter in any degree;
(F) Aggravated vehicular homicide;
(G) Arson in the first degree when classified as crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
(H) Assault in the first degree;
(I) Assault in the second degree;
(J) Kidnapping in the first degree;
(K) Kidnapping in the second degree;
(L) Rape in the first degree;
(M) Sodomy in the first degree;
(N) Unlawful sexual penetration in the first degree;
(O) Robbery in the first degree; or
(P) Robbery in the second degree.

(c) If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

(A) Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator and a report of the examination be prepared; or

(B) Order the defendant to be committed for the purpose of an examination to a state mental hospital or other facility designated by the Oregon Health Authority or by the Hillcrest Housing and Health Care Authority, if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the Oregon Health Authority if the defendant is under 18 years of age. The state mental hospital or other facility may retain custody of a defendant committed under this paragraph for the duration necessary to complete the examination of the defendant, not to exceed 30 days. The examination may include a period of observation.

(d) The court shall provide a copy of any order entered under this subsection to the community mental health program director or designee and to the state mental hospital or other facility by the end of the next judicial day.

(2)(a) A defendant committed under subsection (1)(c)(B) of this section shall be transported to the state mental hospital or other facility for the examination.

(b) At the conclusion of the examination, the superintendent of the state mental hospital or the superintendent’s designee or the director of the facility may:

(A) Return the defendant to the facility from which the defendant was transported; or

(B) Inform the court and the parties that the defendant requires a hospital level of care due to the acuity of symptoms of the defendant’s qualifying mental disorder and request that the defendant remain at the state mental hospital or other facility pending a hearing or order under ORS 161.370.

(3) The report of an examination described in this section must include, but is not necessarily limited to, the following:

(a) A description of the nature of the examination;

(b) A statement of the mental condition of the defendant;

(c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and

(d) If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to allow the defendant to gain or regain capacity,
including whether a hospital level of care is required due to the acuity of symptoms of the
defendant’s qualifying mental disorder.

(4) Except when the defendant and the court both request to the contrary, the report may not
contain any findings or conclusions as to whether the defendant as a result of a qualifying mental
disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act
charged.

(5) If the examination by the certified evaluator cannot be conducted by reason of the unwill-
ingness of the defendant to participate in the examination, the report must so state and must in-
clude, if possible, an opinion as to whether the unwillingness of the defendant was the result of a
qualifying mental disorder affecting fitness to proceed.

(6) The report resulting from the examination of a defendant under this section may be filed
electronically and must be filed with the clerk of the court, who shall cause copies to be delivered
to the district attorney and to counsel for defendant.

(7)(a) When upon motion of the court or a financially eligible defendant, the court has ordered
a psychiatric or psychological examination of the defendant, a county or justice court shall order
the county to pay, a municipal court shall order the city to pay, and a circuit court shall order the
public defense services executive director to pay from funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by a certified evaluator
in private practice; and

(B) All costs including transportation of the defendant if the examination is conducted by a
certified evaluator in the employ of the Oregon Health Authority, the Hillcrest Housing and
Health Care Authority or a community mental health program established under ORS 430.610 to
430.670.

(b) When an examination is ordered at the request or with the acquiescence of a defendant who
is determined not to be financially eligible, the examination shall be performed at the defendant’s
expense. When an examination is ordered at the request of the prosecution, the county shall pay for
the expense of the examination.

(8) The Oregon Health Authority shall establish by rule standards for the consultation described
in subsection (1) of this section.

SECTION 7. ORS 161.367 is amended to read:

161.367. (1) If at any time the court determines that the defendant lacks fitness to proceed, the
court shall further determine whether there is a substantial probability that the defendant, in the
foreseeable future, will gain or regain fitness to proceed. If the court determines that there is no
substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to
proceed, the court shall dismiss, without prejudice, all charges against the defendant and:

(a) Order that the defendant be discharged; or

(b) Initiate commitment proceedings under ORS 426.070, 426.701 or 427.235 to 427.290.

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

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

(c) The court may, upon its own motion or the request of either party, hold a hearing to deter-
mine whether the defendant has gained or regained fitness to proceed. If the court determines that
the defendant has gained or regained fitness to proceed, the court shall resume the criminal pro-
ceeding unless the court determines that so much time has elapsed since the commitment or release
of the defendant to community restoration services that it would be unjust to resume the criminal
proceeding. If the court determines that it would be unjust to resume the criminal proceeding, the
court, on motion of either party, may dismiss the charge and may order the defendant to be dis-
charged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170, 426.701
or 427.235 to 427.290.

(3) If the defendant gains or regains fitness to proceed, the defendant shall be given credit
against each charge alleged in the accusatory instrument for each day the defendant was committed
under ORS 161.370 to the custody of a state mental hospital, to the custody of a facility desig-
nated by the Hillcrest Housing and Health Care Authority or to the custody of a secure inten-
sive community inpatient facility designated by the Oregon Health Authority.

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

(5) At the time that the court determines that the defendant lacks fitness to proceed under ORS
161.370 (2), the court shall notify the defendant in writing that federal law prohibits the defendant
from purchasing or possessing a firearm unless the person obtains relief from the prohibition under
federal law. The court shall again notify the defendant in writing of the prohibition if the court finds
that the defendant has gained or regained fitness to proceed under subsection (2) of this section.

SECTION 8.
ORS 161.370 is amended to read:

161.370. (1)(a) When the defendant’s fitness to proceed is drawn in question, the issue shall be
determined by the court.

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

(2)(a) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding
against the defendant shall be suspended and the court shall proceed in accordance with this sub-
section.

(b) After making the determination under paragraph (a) of this subsection, the court shall re-
ceive a recommendation from a community mental health program director or the director’s
designee, and from any local entity that would be responsible for treating the defendant if the de-
fendant were to be released in the community, concerning whether appropriate community restora-
tion services are present and available in the community.

(c) If the parties agree as to the appropriate action under this section, the court may, after
making all findings required by law, enter any order authorized by this section. If the parties do not
agree as to the appropriate action, the court and the parties shall, at a hearing, consider an ap-
propriate action in the case, and the court shall make a determination and enter an order necessary
to implement the action. In determining the appropriate action, the court shall consider the primary
and secondary release criteria as defined in ORS 135.230, the least restrictive option appropriate for

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the defendant, the needs of the defendant and the interests of justice. Actions may include but are not limited to:

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

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

(C) Commencement of a civil commitment proceeding under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.290;

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

(E) Dismissal of the charges pursuant to ORS 135.755.

(d) If the court, while considering or ordering an appropriate action under this subsection, does not order the defendant committed to a state mental hospital or other facility, but finds that appropriate community restoration services are not present and available in the community, for any defendant remaining in custody after such determination, the court shall set a review hearing seven days from the date of the determination under paragraph (a) of this subsection. At the review hearing, the court shall consider all relevant information and determine if commitment to the state mental hospital or other facility is appropriate under subsection (3) or (4) of this section, or if another action described in paragraph (c) of this subsection is appropriate. At the conclusion of the hearing the court shall enter an order in accordance with the defendant’s constitutional rights to due process.

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

(3)(a) If the most serious offense in the charging instrument is a felony, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or to the custody of the director of a facility designated by the Oregon Health Authority or by the Hillcrest Housing and Health Care Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the Oregon Health Authority if the defendant is under 18 years of age, if the court makes the following findings:

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

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

(b) If the defendant is committed under this subsection, the community mental health program director, or director’s designee, shall at regular intervals, during any period of commitment, review available community restoration services and maintain communication with the defendant and the superintendent of the state mental hospital or director of the facility in order to facilitate an efficient transition to treatment in the community when ordered.

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

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

(A)(i) Receives a recommendation from a certified evaluator that the defendant requires a hospital level of care due to the acuity of symptoms of the defendant’s qualifying mental disorder; and

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

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

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

(ii) There are public safety concerns; and

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

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

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

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

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

(d) If the defendant is committed under this subsection, the community mental health program director, or director's designee, shall at regular intervals, during any period of commitment, review available community restoration services and maintain communication with the defendant and the superintendent of the state mental hospital or director of the facility in order to facilitate an efficient transition to treatment in the community when ordered.

(5) If the most serious offense in the charging instrument is a violation, the court may not commit the defendant to the custody of the superintendent of a state mental hospital or to the custody of the director of a facility designated by the Oregon Health Authority or by the Hillcrest Housing and Health Care Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the Oregon Health Authority if the defendant is under 18 years of age.

(6)(a) If the court does not order the commitment of the defendant under subsection (3) or (4) of this section, if commitment is precluded under subsection (5) of this section or if the court determines that care other than commitment would better serve the defendant and the community, the
court shall release the defendant, pursuant to an order that the defendant engage in community
restoration services, until the defendant has gained or regained fitness to proceed, or until the court
finds there is no substantial probability that the defendant will, within the foreseeable future, gain
or regain fitness to proceed. The court may not order the defendant to engage in community resto-
ration services in another county without permission from the other county.

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

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

(d) When a defendant is ordered to engage in community restoration services under this sub-
section, the court may place conditions that the court deems appropriate on the release, including
the requirement that the defendant regularly report to a state mental hospital or a certified evalu-
ator for examination to determine if the defendant has gained or regained fitness to proceed.

(7) The Oregon Health Authority shall establish by rule standards for the recommendation pro-
voked to the court described in subsection (2) of this section.

SECTION 9. ORS 161.373 is amended to read:

161.373. (1) Unless otherwise prohibited by law or for good cause, all public bodies, as defined
in ORS 174.109, and any private medical provider in possession of records concerning the defendant,
shall, within five business days of receipt of the order, comply with a court order for the release
of records to the state mental hospital or other facility designated by the Oregon Health Authority
or by the Hillcrest Housing and Health Care Authority for the purpose of conducting an exam-
ination or evaluation under ORS 161.355 to 161.371.

(2) Notwithstanding subsection (1) of this section, the Oregon Youth Authority, the Department
of Corrections, a community college district, a community college service district, a public univer-
sity, a school district or an education service district may, after notifying the state hospital or other
facility designated by the Oregon Health Authority or by the Hillcrest Housing and Health Care
Authority, comply with the court order within 15 business days of receipt of the order without good
cause.

(3) As used in this section, in the case of a community college district, a community college
service district, a public university, a school district or an education service district, “business
day” does not include any day on which the central administration offices of the district or univer-
sity are closed.

SECTION 10. ORS 161.390 is amended to read:

161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state
mental hospitals, secure residential treatment facilities or secure intensive community inpatient
facilities after commitment under ORS 161.365 and 161.370 and for establishing standards for eval-
uation and treatment of persons committed to a state hospital, secure residential treatment facility
or a secure intensive community inpatient facility or ordered to a community mental health program
under ORS 161.315 to 161.351.

(2) When the Psychiatric Security Review Board requires the preparation of a predischarge or
preconditional release plan before a hearing or as a condition of granting discharge or conditional

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release for a person committed under ORS 161.315 to 161.351 to a state hospital, **secure residential treatment facility** or a secure intensive community inpatient facility for custody, care and treatment, the authority is responsible for and shall prepare the plan.

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

(4)(a) The board shall maintain and keep current the medical, social and criminal history of all persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be determined pursuant to ORS 192.338, 192.345, 192.355 and 192.398.

(b) Except as otherwise provided by law, upon request of the board, a state hospital, a community mental health program and any other health care service provider shall provide the board with all medical records pertaining to a person committed to the jurisdiction of the board.

(5) The evidentiary phase of a hearing conducted by the board under ORS 161.315 to 161.351 is not a deliberation for purposes of ORS 192.690.

**SECTION 11.** ORS 161.375 is amended to read:

161.375. (1) When a patient, who has been placed at a state hospital for evaluation, care, custody and treatment under ORS 161.315 to 161.351 or by court order under ORS 161.315, 161.365 or 161.370, has escaped or is absent without authorization from the hospital or from the custody of any person in whose charge the superintendent has placed the patient, the superintendent may order the arrest and detention of the patient.

(2) When a patient, who has been placed at a **secure residential treatment facility** or a secure intensive community inpatient facility for evaluation, care, custody and treatment under ORS 161.315 to 161.351 or by court order under ORS 161.315, 161.365, 161.370 or 419C.527, has escaped or is absent without authorization from the facility or from the custody of any person in whose charge the director of the facility has placed the patient, the director of the facility shall notify the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority, if applicable. The Director of the Oregon Health Authority or the executive director of the Housing and Health Care Authority may order the arrest and detention of the patient.

(3) The superintendent, [or] the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority may issue an order under this section based upon a reasonable belief that grounds exist for issuing the order. When reasonable, the superintendent, [or] the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority shall investigate to ascertain whether such grounds exist.

(4) Any order issued by the superintendent, [or] the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority as authorized by this section constitutes full authority for the arrest and detention of the patient and all laws applicable to warrant or arrest apply to the order. An order issued by the superintendent, [or] the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority under this section expires 72 hours after being signed by the superintendent, [or] the Director of the Oregon Health Authority or the executive director of the Hillcrest Housing and Health Care Authority.

(5) As used in this section, “superintendent” means the superintendent of the state hospital to
which the person was committed or the superintendent’s authorized representative.

TASK FORCE

SECTION 12. (1) The Oregon Department of Administrative Services shall convene a task force to evaluate the potential for establishing an Oregon Behavioral Health Department and to transfer all matters regarding behavioral health from other state agencies to the Oregon Behavioral Health Department.

(2) The membership of the task force shall include:

(a) The Director of the Oregon Department of Administrative Services as an ex officio member;

(b) Two members appointed by the President of the Senate from among the member of the Senate, one from each of the two largest caucuses in the Senate;

(c) Two members appointed by the Speaker of the House of Representatives from among the members of the House of Representatives, one from each of the two largest caucuses in the House of Representatives; and

(d) Seven members appointed by the Governor.

(3) The Oregon Department of Administrative Services shall report the findings of the task force and recommendations for legislative changes, if any, to the interim committees of the Legislative Assembly related to health no later than September 15, 2024.

IN Voluntary Commitment of Persons with Intellectual Disabilities

SECTION 13. ORS 427.235 is amended to read:

427.235. (1) Any two persons may notify the court having probate jurisdiction for the county or the circuit court, if it is not the probate court but its jurisdiction has been extended to include commitment of a person with an intellectual disability under ORS 3.275, that a person within the county has an intellectual disability and is in need of commitment for residential care, treatment and training. Such notice shall be in writing and sworn to before an officer qualified to administer an oath and shall set forth the facts sufficient to show the need for investigation. The circuit court shall forward notice to the community developmental disabilities program director in the county if it finds the notice sufficient to show the need for investigation. The director or the designee of the director shall immediately investigate to determine whether the person has an intellectual disability and is in need of commitment for residential care, treatment and training.

(2) Any person who acts in good faith shall not be held civilly liable for making of the notification under subsection (1) of this section.

(3) Any investigation conducted by the community developmental disabilities program director or the designee of the director under subsection (1) of this section shall commence with an interview or examination of the person alleged to have an intellectual disability, where possible, in the home of the person or other place familiar to the person. Further investigation if warranted shall include a diagnostic evaluation as described in ORS 427.105 and may also include interviews with the person’s relatives, neighbors, teachers and physician or naturopathic physician. The investigation shall also determine if any alternatives to commitment are available. The investigator shall also determine and recommend to the court whether the person is incapacitated and in need of a guardian or conservator.
(4) The investigation report shall be submitted to the court within [30] six days of receipt of notice from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also be made available to the Department of Human Services and to the person alleged to have an intellectual disability and, if the person is a minor or incapacitated, to the parents or guardian of the person as soon as possible after its completion but in any case prior to a hearing held under ORS 427.245.

(5) Any person conducting an evaluation or investigation under this section shall in no way be held civilly liable for conducting the investigation or performing the diagnostic evaluation.

(6) If requested by a person conducting an investigation under this section, a physician or naturopathic physician who has examined the person alleged to have an intellectual disability may, with patient authorization or in response to a court order, provide any relevant information the physician or naturopathic physician has regarding the person alleged to have an intellectual disability.

UNIT CAPTIONS

SECTION 14. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.