

House Bill 2812

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Psychiatric Security Review Board)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Exempts some client health info that the PSRB has from disclosure to the public but allows for its release in some situations. (Flesch Readability Score: 61.4).

Exempts individually identifiable health information in the possession of the Psychiatric Security Review Board from disclosure under public records laws and allows for disclosure in certain circumstances.

A BILL FOR AN ACT

1
2 Relating to individually identifiable health information disclosure; creating new provisions; and
3 amending ORS 161.336, 161.390, 419C.532 and 426.701.

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

5 **SECTION 1. (1) As used in this section:**

6 (a) **“Client” means an individual whom the Psychiatric Security Review Board has or**
7 **previously had jurisdiction over pursuant to ORS 161.315 to 161.351.**

8 (b) **“Individually identifiable health information” has the meaning given that term in ORS**
9 **179.505.**

10 (c) **“Personal representative” means a person or entity who has the legal authority to**
11 **make decisions for the client or to communicate the client’s decisions to the board, including**
12 **but not limited to a guardian, a parent of an unemancipated minor or the client’s attorney.**

13 (2) **A client’s individually identifiable health information is exempt from disclosure under**
14 **ORS 192.311 to 192.478 and shall not be disclosed or used except as authorized or permitted**
15 **by the board as follows:**

16 (a) **To exercise, implement or discharge its statutory obligations;**

17 (b) **To report to the National Instant Criminal Background Check System the identity of**
18 **a client who is prohibited from possessing a firearm under 18 U.S.C. 922(g)(4);**

19 (c) **As required by judicial or administrative proceedings;**

20 (d) **As required for law enforcement purposes;**

21 (e) **In emergency circumstances; or**

22 (f) **For specific purposes related to a deceased client.**

23 (3) **The board shall adopt rules specifying the circumstances when individually identifiable**
24 **health information can be used or disclosed pursuant to subsection (2) of this section.**

25 (4) **An individual requesting records under this section is subject to the provisions of ORS**
26 **192.311 to 192.478, except that a client or a client’s personal representative may not be denied**
27 **access to the client’s individually identifiable health information due to nonpayment.**

28 (5) **Individuals other than the client or the client’s personal representative who are**

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 **granted access under this section to the client's individually identifiable health information**
 2 **may not disclose the contents of that information to any other individual except in accord-**
 3 **ance with the provisions of this section.**

4 **SECTION 2.** ORS 161.336 is amended to read:

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

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

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

14 (d) After receiving an order entered under this section, the person or state, county or local
 15 agency designated in the order shall assume supervision of the person in accordance with the con-
 16 ditions described in the order and any modifications of the conditions ordered by the board.

17 (2) Conditions of release contained in orders entered under this section may be modified from
 18 time to time and conditional releases may be terminated as provided in ORS 161.351.

19 (3)(a) As a condition of release, the person may be required to report to any state or local
 20 mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is
 21 recommended, the order may require the person, as a condition of release, to cooperate with and
 22 accept the treatment from the facility.

23 (b) The facility to which the person has been referred for evaluation shall perform the evalu-
 24 ation and submit a written report of its findings to the board. If the facility finds that treatment of
 25 the person is appropriate, it shall include its recommendations for treatment in the report to the
 26 board.

27 (c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a
 28 regular basis concerning the progress of the person.

29 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
 30 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS
 31 [192.338, 192.345 and 192.355.] **192.311 to 192.478 and section 1 of this 2025 Act.**

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

34 (4)(a)(A) A written or electronic order for the return of a person on conditional release to a
 35 state hospital or other facility designated by the supervising entity or, if the person is under 18
 36 years of age, to a secure intensive community inpatient facility or other facility designated by the
 37 supervising entity, may be issued by:

38 (i) The supervising entity;

39 (ii) A person designated by the supervising entity, if the designation is made as part of a written
 40 policy; or

41 (iii) The community mental health program director, if the person has absconded from condi-
 42 tional release.

43 (B) An order described in this paragraph may be issued when the supervising entity, the au-
 44 thorized designee or, if the person has absconded, the community mental health program director,
 45 has determined that:

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

2 (ii) The mental health of the person has changed such that the supervising entity, or, if appli-
 3 cable, the authorized designee or the community mental health program director, reasonably be-
 4 lieves that the person may no longer be fit for conditional release.

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

8 (b) A peace officer, the director of the facility providing treatment to a person on conditional
 9 release or any person responsible for the supervision of a person on conditional release may take
 10 a person on conditional release into custody, or request that the person be taken into custody, if
 11 there is reasonable cause to believe the person is a substantial danger to others because of a mental
 12 disorder and that the person is in need of immediate care, custody or treatment.

13 (c) When a person is taken into custody by a peace officer under this subsection, the agency
 14 employing the peace officer shall cause the person, as soon as practicable, to be transported to a
 15 state hospital or other facility designated by the supervising entity. If the person was taken into
 16 custody pursuant to an order described in paragraph (a) of this subsection, the supervising entity
 17 shall facilitate the reimbursement of reasonable costs of the transport to the agency employing the
 18 peace officer.

19 (d) Within 20 days following the return of the person to a state hospital or secure intensive
 20 community inpatient facility under this subsection, the board shall conduct a hearing. The board
 21 shall provide notice of the hearing to the person, the attorney representing the person and the At-
 22 torney General. The state must prove by a preponderance of the evidence the person's unfitness for
 23 conditional release. The hearing shall be conducted in accordance with ORS 161.346.

24 (e) As used in this subsection, "supervising entity" means the board or the chairperson or
 25 executive director of the board.

26 (5)(a) Any person conditionally released under this section may apply to the board for discharge
 27 from or modification of an order of conditional release on the ground that the person is no longer
 28 affected by a qualifying mental disorder or, if still so affected, no longer presents a substantial
 29 danger to others and no longer requires supervision, medication, care or treatment. Notice of the
 30 hearing on an application for discharge or modification of an order of conditional release shall be
 31 made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove
 32 by a preponderance of the evidence the applicant's fitness for discharge or modification of the order
 33 of conditional release. Applications by the person for discharge or modification of conditional re-
 34 lease may not be filed more often than once every six months.

35 (b) Upon application by any person or agency responsible for supervision or treatment pursuant
 36 to an order of conditional release, the board shall conduct a hearing to determine if the conditions
 37 of release shall be continued, modified or terminated. The application shall be accompanied by a
 38 report setting forth the facts supporting the application.

39 (6) A person who has spent five years on conditional release shall be brought before the board
 40 for hearing within 30 days before the expiration of the five-year period. The board shall review the
 41 person's status and determine whether the person should be discharged from the jurisdiction of the
 42 board.

43 **SECTION 3.** ORS 161.390 is amended to read:

44 161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state
 45 mental hospitals or secure intensive community inpatient facilities after commitment under ORS

1 161.365 and 161.370 and for establishing standards for evaluation and treatment of persons commit-
 2 ted to a state hospital or a secure intensive community inpatient facility or ordered to a community
 3 mental health program under ORS 161.315 to 161.351.

4 (2) When the Psychiatric Security Review Board requires the preparation of a predischarge or
 5 preconditional release plan before a hearing or as a condition of granting discharge or conditional
 6 release for a person committed under ORS 161.315 to 161.351 to a state hospital or a secure inten-
 7 sive community inpatient facility for custody, care and treatment, the authority is responsible for
 8 and shall prepare the plan.

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

13 (4)(a) The board shall maintain and keep current the medical, social and criminal history of all
 14 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall
 15 be determined pursuant to ORS [192.338, 192.345, 192.355 and 192.398.] **192.311 to 192.478 and sec-**
 16 **tion 1 of this 2025 Act.**

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

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

22 **SECTION 4.** ORS 419C.532 is amended to read:

23 419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings
 24 on an application for discharge, conditional release, commitment or modification filed under or re-
 25 quired by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the
 26 juvenile panel.

27 (2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the
 28 young person:

29 (a) Has a serious mental condition; or

30 (b) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 31 stantial danger to others.

32 (3) The juvenile panel shall order a young person discharged from commitment or conditional
 33 release if the juvenile panel finds that the young person:

34 (a) No longer has a qualifying mental disorder; or

35 (b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-
 36 sents a substantial danger to others.

37 (4) The juvenile panel shall order a young person conditionally released subject to ORS 419C.538
 38 if the juvenile panel finds that:

39 (a) The young person:

40 (A) Has a serious mental condition; or

41 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 42 stantial danger to others;

43 (b) The young person can be adequately controlled with treatment services as a condition of
 44 release; and

45 (c) Necessary supervision and treatment services are available.

1 (5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
2 facility designated by the Department of Human Services or the Oregon Health Authority for cus-
3 tody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the young
4 person:

5 (a)(A) Has a serious mental condition; or

6 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
7 stantial danger to others; and

8 (b) Cannot be adequately controlled if conditionally released.

9 (6) In determining whether a young person should be committed to or retained in a hospital or
10 facility, conditionally released or discharged, the primary concern of the juvenile panel is the pro-
11 tection of society.

12 (7) In a hearing before the juvenile panel, a young person who has a qualifying mental disorder
13 in a state of remission is considered to have a qualifying mental disorder if the qualifying mental
14 disorder may, with reasonable medical probability, occasionally become active.

15 (8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
16 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
17 child psychology to examine the young person and submit a written report to the juvenile panel.
18 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
19 limited to, an opinion as to whether the young person:

20 (a)(A) Has a serious mental condition; or

21 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
22 stantial danger to others; and

23 (b) Could be adequately controlled with treatment services as a condition of release.

24 (9) The juvenile panel may make a determination regarding discharge or conditional release
25 based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3).
26 If a member of the juvenile panel desires further information from the examining psychiatrist or li-
27 censed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or
28 psychologist to give testimony.

29 (10) The juvenile panel shall consider all available evidence that is material, relevant and reli-
30 able regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the
31 record of the juvenile court adjudication, information supplied by the attorney representing the state
32 or by any other interested person, including the young person, information concerning the young
33 person's mental condition and the entire psychiatric and juvenile court history of the young person.
34 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
35 serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of
36 the witness from whom received. The officer presiding at the hearing shall administer oaths and
37 affirmations to witnesses.

38 (11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance
39 of the evidence.

40 (12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section
41 within a reasonable time prior to the hearing to:

42 (A) The young person about whom the hearing is being conducted;

43 (B) The attorney representing the young person;

44 (C) The young person's parents or guardians, if known;

45 (D) The person having legal custody of the young person;

1 (E) The Attorney General or other attorney representing the state, if any; and

2 (F) The district attorney of the county in which the young person was adjudicated.

3 (b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:

4 (A) The time, place and location of the hearing;

5 (B) The nature of the hearing, the specific action for which the hearing has been requested, the
6 issues to be considered at the hearing and a reference to the particular sections of the statutes and
7 rules involved;

8 (C) A statement of the authority and jurisdiction under which the hearing is to be held; and

9 (D) A statement of all rights under subsection (13) of this section.

10 (13) A young person about whom a hearing is being held has the right:

11 (a) To appear at all proceedings held under this section, except juvenile panel deliberations.

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

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

14 (d) To be represented by suitable legal counsel possessing skills and experience commensurate
15 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
16 nancially eligible, to have suitable counsel appointed at state expense.

17 (e) To examine all information, documents and reports that the juvenile panel considers and, if
18 the information, documents and reports are available to the juvenile panel before the hearing, to
19 examine them prior to the hearing.

20 (14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all
21 hearings before the juvenile panel.

22 (15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
23 the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain
24 additional information or testimony or for other good cause shown.

25 (16) Within 30 days after the conclusion of the hearing, the juvenile panel shall provide written
26 notice of the juvenile panel's decision to the young person, the attorney representing the young
27 person, the young person's parents or guardians, if known, the person having legal custody of the
28 young person, the district attorney of the county in which the young person was adjudicated and
29 the Attorney General or other attorney representing the state, if any.

30 (17) The juvenile panel shall maintain and keep current the medical, social and delinquency
31 history of all young persons. The juvenile panel shall determine the confidentiality of records
32 maintained by the juvenile panel pursuant to ORS [192.338, 192.345 and 192.355.] **192.311 to 192.478**
33 **and section 1 of this 2025 Act.**

34 **SECTION 5.** ORS 426.701 is amended to read:

35 426.701. (1) For the purposes of this section and ORS 426.702:

36 (a) A person is "extremely dangerous" if the person:

37 (A) Is at least 18 years of age;

38 (B) Is exhibiting symptoms or behaviors of a qualifying mental disorder substantially similar to
39 those that preceded the act described in subsection (3)(a)(C) of this section; and

40 (C) Because of a qualifying mental disorder:

41 (i) Presents a serious danger to the safety of other persons by reason of an extreme risk that
42 the person will inflict grave or potentially lethal physical injury on other persons; and

43 (ii) Unless committed, will continue to represent an extreme risk to the safety of other persons
44 in the foreseeable future.

45 (b) "Qualifying mental disorder" does not include:

1 (A) A disorder manifested solely by repeated criminal or otherwise antisocial conduct; or

2 (B) A disorder constituting solely a personality disorder.

3 (c) A qualifying mental disorder is “resistant to treatment” if, after receiving care from a li-
4 censed psychiatrist and exhausting all reasonable psychiatric treatment, or after refusing psychiatric
5 treatment, the person continues to be significantly impaired in the person’s ability to make compe-
6 tent decisions and to be aware of and control extremely dangerous behavior.

7 (2)(a) A district attorney may petition the court to initiate commitment proceedings described
8 in this section if there is reason to believe a person is an extremely dangerous person with mental
9 illness. Venue is proper in the county in which the person is alleged to have committed the quali-
10 fying act or the county in which the person lives. The petition shall immediately be served upon the
11 person.

12 (b) If a person is committed to a state hospital under ORS 161.365 or 161.370 and the state
13 hospital intends to discharge the person, the district attorney may provide notice to the super-
14 intendent of the state hospital indicating an intent to file a petition under this section. Upon receipt
15 of the notice, the superintendent may delay discharge of the person for up to seven judicial days to
16 allow for the petition to be filed and for the court to make findings under paragraph (f) of this
17 subsection.

18 (c) The person shall be advised in writing of:

19 (A) The allegation that the person is an extremely dangerous person with mental illness and
20 may be committed to the jurisdiction of the Psychiatric Security Review Board for a maximum pe-
21 riod of 24 months; and

22 (B) The right to a hearing to determine whether the person is an extremely dangerous person
23 with mental illness, unless the person consents to the commitment by waiving the right to a hearing
24 in writing after consultation with legal counsel.

25 (d) A person against whom a petition described in this subsection is filed shall have the follow-
26 ing:

27 (A) The right to obtain suitable legal counsel possessing skills and experience commensurate
28 with the nature of the allegations and complexity of the case and, if the person is without funds to
29 retain legal counsel, the right to have the court appoint legal counsel;

30 (B) The right to subpoena witnesses and to offer evidence on behalf of the person at the hearing;

31 (C) The right to cross-examine any witnesses who appear at the hearing; and

32 (D) The right to examine all reports, documents and information that the court considers, in-
33 cluding the right to examine the reports, documents and information prior to the hearing, if avail-
34 able.

35 (e) Upon receipt of the petition, the court shall schedule a hearing and shall appoint an exam-
36 iner as described in ORS 426.110 to evaluate the person. If the person is in custody or committed
37 while the hearing is pending, the hearing must commence within 30 days of filing the petition unless
38 good cause is found by the court. If the court finds good cause, the hearing must commence no later
39 than 60 days after the filing of the petition or, if the district attorney provided notice under para-
40 graph (b) of this subsection, the date of the notice, whichever occurs first. As used in this paragraph,
41 “good cause” means:

42 (A) The person who would be considered the victim of the act described in subsection (3)(a)(C)
43 of this section if the act were criminally prosecuted, or an essential witness for either the state or
44 the person, is unable to testify within the 30-day period.

45 (B) The attorney for the person cannot reasonably be expected to participate in the hearing

1 within the 30-day period, cannot be adequately prepared to represent the person at the hearing
 2 within the 30-day period, or has a schedule conflict that cannot be resolved in a manner that allows
 3 the attorney to represent the person at a hearing within the 30-day period.

4 (C) An examiner cannot be appointed to conduct the examination, or conduct the examination
 5 and prepare a report, within the 30-day period.

6 (D) If a guardian ad litem is appointed on the case, the guardian ad litem cannot be prepared
 7 for a hearing within the 30-day period.

8 (f)(A) The court may order that the person be committed to the custody of the superintendent
 9 of a state hospital or the director of a secure mental health facility while the petition is pending if
 10 the court finds probable cause that:

11 (i) The person is at least 18 years of age;

12 (ii) The person has a qualifying mental disorder that is resistant to treatment;

13 (iii) The person committed an act described in subsection (3)(a)(C) of this section; and

14 (iv) Failure to commit the person while the hearing is pending would pose serious harm or
 15 danger to the person or others.

16 (B) If a person committed under this paragraph is held in a secure facility other than a state
 17 hospital or secure mental health facility, including but not limited to a jail or prison, at the time
 18 the petition is filed, the court may further order that the person remain at that placement for suf-
 19 ficient time to allow the superintendent or director to safely admit the person. Any order of the
 20 court concerning the placement of a person under this subparagraph must be in accordance with the
 21 person's constitutional right to due process. If the person remains in a secure facility under this
 22 subparagraph, the superintendent, director or designee may consult with the facility to ensure con-
 23 tinuity of care for the person.

24 (C) Commitment to the custody of the superintendent of a state hospital or the director of a
 25 secure mental health facility under this paragraph may not exceed 60 days. If the hearing does not
 26 occur within 60 days, if the district attorney dismisses the petition, or if the court holds the hearing
 27 but does not commit the person, the person shall be returned to the county in which the petition
 28 was filed and the court shall hold a disposition hearing within five judicial days to determine how
 29 to proceed on the petition and any outstanding criminal charges. A person who is returned to a
 30 secure facility other than a state hospital or secure mental health facility, including but not limited
 31 to a jail or prison, under this paragraph may remain at the placement until the disposition hearing.

32 (g) If the hearing is not commenced within the time period required by paragraph (e) of this
 33 subsection, the court shall either dismiss the petition or release the person on personal recogni-
 34 zance, to the custody of a third party or upon any additional reasonable terms and conditions the
 35 court deems appropriate.

36 (3)(a) At the hearing on the petition, the court shall order the person committed as an extremely
 37 dangerous person with mental illness under the jurisdiction of the Psychiatric Security Review
 38 Board for a maximum of 24 months if the court finds, by clear and convincing evidence, that:

39 (A) The person is extremely dangerous;

40 (B) The person suffers from a qualifying mental disorder that is resistant to treatment; and

41 (C) Because of the qualifying mental disorder that is resistant to treatment, the person com-
 42 mitted one of the following acts:

43 (i) Caused the death of another person;

44 (ii) Caused serious physical injury to another person by means of a dangerous weapon;

45 (iii) Caused physical injury to another person by means of a firearm as defined in ORS 166.210

1 or an explosive as defined in ORS 164.055;

2 (iv) Engaged in oral-genital contact with a child under 14 years of age;

3 (v) Forcibly compelled sexual intercourse, oral-genital contact or the penetration of another
4 person's anus or vagina; or

5 (vi) Caused a fire or explosion that damaged the protected property of another, as those terms
6 are defined in ORS 164.305, or placed another person in danger of physical injury, and the fire or
7 explosion was not the incidental result of normal and usual daily activities.

8 (b) The court shall further commit the person to a state hospital for custody, care and treatment
9 if the court finds, by clear and convincing evidence, that the person cannot be controlled in the
10 community with proper care, medication, supervision and treatment on conditional release.

11 (c) The court shall specify in the order whether any person who would be considered a victim
12 as defined in ORS 131.007 of the act described in paragraph (a)(C) of this subsection, if the act had
13 been criminally prosecuted, requests notification of any order or hearing, conditional release, dis-
14 charge or escape of the person committed under this section.

15 (d) The court shall be fully advised of all drugs and other treatment known to have been ad-
16 ministered to the alleged extremely dangerous person with mental illness that may substantially af-
17 fect the ability of the person to prepare for, or to function effectively at, the hearing.

18 (e) The provisions of ORS 40.230, 40.235, 40.240, 40.250 and 179.505 do not apply to the use of
19 the examiner's report and the court may consider the report as evidence.

20 (4) The findings of the court that a person committed an act described in subsection (3)(a)(C)
21 of this section may not be admitted in a criminal prosecution.

22 (5)(a) If the court commits a person under this section and the person has pending criminal
23 charges at the time of the hearing, the court shall dismiss the criminal charges without prejudice,
24 and if the person is further committed to a state hospital under this section, the dismissal shall not
25 take effect until the person's transportation to the state hospital.

26 (b) If the court commits a person to the state hospital under this section and:

27 (A) The person is in a setting other than a state hospital, the court may additionally order that
28 the person remain in that placement until the person can be safely transported to a state hospital
29 pursuant to the order. Any order of the court concerning the placement of the person under this
30 subparagraph must be in accordance with the person's constitutional right to due process.

31 (B) The person is at a state hospital at the time of the hearing, the person may remain at the
32 state hospital under the commitment.

33 (c) A person committed under this section shall remain under the jurisdiction of the board for
34 a maximum of 24 months unless the board conducts a hearing and makes the findings described in
35 subsection (6)(d) of this section.

36 (6)(a) The board shall hold a hearing six months after the initial commitment described in sub-
37 section (3) of this section, and thereafter six months after a further commitment described in ORS
38 426.702, to determine the placement of the person and whether the person is eligible for conditional
39 release or early discharge. The board shall provide written notice of the hearing to the person, the
40 person's legal counsel and the office of the district attorney who filed the initial petition under
41 subsection (2) of this section within a reasonable time prior to the hearing. The board shall further
42 notify the person of the following:

43 (A) The nature of the hearing and possible outcomes;

44 (B) The right to appear at the hearing and present evidence;

45 (C) The right to be represented by legal counsel and, if the person is without funds to retain

1 legal counsel, the right to have the court appoint legal counsel;

2 (D) The right to subpoena witnesses;

3 (E) The right to cross-examine witnesses who appear at the hearing; and

4 (F) The right to examine all reports, documents and information that the board considers, in-
5 cluding the right to examine the reports, documents and information prior to the hearing if avail-
6 able.

7 (b) If the board determines at the hearing that the person still suffers from a qualifying mental
8 disorder that is resistant to treatment and continues to be extremely dangerous, and that the person
9 cannot be controlled in the community with proper care, medication, supervision and treatment if
10 conditionally released, the person shall remain committed to a state hospital.

11 (c) If the board determines at the hearing that the person still suffers from a qualifying mental
12 disorder that is resistant to treatment and continues to be extremely dangerous, but finds that the
13 person can be controlled in the community with proper care, medication, supervision and treatment
14 if conditionally released, the board shall conditionally release the person.

15 (d) If the board determines at the hearing that the person no longer suffers from a qualifying
16 mental disorder that is resistant to treatment or is no longer extremely dangerous, the board shall
17 discharge the person. The discharge of a person committed under this section does not preclude
18 commitment of the person pursuant to ORS 426.005 to 426.390.

19 (7)(a) At any time during the commitment to a state hospital, the superintendent of the state
20 hospital may request a hearing to determine the status of the person's commitment under the juris-
21 diction of the board. The request shall be accompanied by a report setting forth the facts supporting
22 the request. If the request is for conditional release, the request shall be accompanied by a verified
23 conditional release plan. The hearing shall be conducted as described in subsection (6) of this sec-
24 tion.

25 (b) The board may make the findings described in subsection (6)(c) of this section and condi-
26 tionally release the person without a hearing if the office of the district attorney who filed the ini-
27 tial petition under subsection (2) of this section does not object to the conditional release.

28 (c) At any time during conditional release, a state or local mental health facility providing
29 treatment to the person may request a hearing to determine the status of the person's commitment
30 under the jurisdiction of the board. The hearing shall be conducted as described in subsection (6)
31 of this section.

32 (8)(a) If the board orders the conditional release of a person under subsection (6)(c) of this sec-
33 tion, the board shall order conditions of release that may include a requirement to report to any
34 state or local mental health facility for evaluation. The board may further require cooperation with,
35 and acceptance of, psychiatric or psychological treatment from the facility. Conditions of release
36 may be modified by the board from time to time.

37 (b) When a person is referred to a state or local mental health facility for an evaluation under
38 this subsection, the facility shall perform the evaluation and submit a written report of its findings
39 to the board. If the facility finds that treatment of the person is appropriate, the facility shall in-
40 clude its recommendations for treatment in the report to the board.

41 (c) Whenever treatment is provided to the person by a state or local mental health facility under
42 this subsection, the facility shall furnish reports to the board on a regular basis concerning the
43 progress of the person.

44 (d) Copies of all reports submitted to the board pursuant to this subsection shall be furnished
45 to the person and to the person's legal counsel, if applicable. The confidentiality of these reports is

1 determined pursuant to ORS [192.338, 192.345 and 192.355.] **192.311 to 192.478 and section 1 of this**
 2 **2025 Act.**

3 (e) The state or local mental health facility providing treatment to the person under this sub-
 4 section shall comply with the conditional release order and any modifications of the conditions or-
 5 dered by the board.

6 (9)(a) If at any time while the person is conditionally released it appears that the person has
 7 violated the terms of the conditional release, the board may order the person returned to a state
 8 hospital for evaluation or treatment. A written order of the board is sufficient warrant for any law
 9 enforcement officer to take the person into custody. A sheriff, municipal police officer, parole or
 10 probation officer or other peace officer shall execute the order, and the person shall be returned to
 11 the state hospital as soon as practicable.

12 (b) The director of a state or local mental health facility providing treatment to a person under
 13 subsection (8) of this section may request that the board issue a written order for a person on con-
 14 ditional release to be taken into custody if there is reason to believe that the person can no longer
 15 be controlled in the community with proper care, medication, supervision and treatment.

16 (c) Within 30 days following the return of the person to a state hospital, the board shall conduct
 17 a hearing to determine if, by a preponderance of the evidence, the person is no longer fit for con-
 18 ditional release. The board shall provide written notice of the hearing to the person, the person's
 19 legal counsel and the office of the district attorney who filed the initial petition under subsection
 20 (2) of this section within a reasonable time prior to the hearing. The notice shall advise the person
 21 of the nature of the hearing, the right to have the court appoint legal counsel and the right to
 22 subpoena witnesses, examine documents considered by the board and cross-examine all witnesses
 23 who appear at the hearing.

24 (10)(a) If the person had unadjudicated criminal charges at the time of the filing of the petition
 25 for the person's initial commitment under this section and the state hospital or the state or local
 26 mental health facility providing treatment to the person intends to recommend discharge of the
 27 person at an upcoming hearing, the superintendent of the state hospital or the director of the fa-
 28 cility shall provide written notice to the board and the district attorney of the county where the
 29 criminal charges were initiated of the discharge recommendation at least 45 days before the hearing.
 30 The notice shall be accompanied by a report describing the person's diagnosis and the treatment the
 31 person has received.

32 (b) Upon receiving the notice described in this subsection, the district attorney may request an
 33 order from the court in the county where the criminal charges were initiated for an evaluation to
 34 determine if the person is fit to proceed in the criminal proceeding. The court may order the state
 35 hospital or the state or local mental health facility providing treatment to the person to perform the
 36 evaluation. The hospital or facility shall provide copies of the evaluation to the district attorney,
 37 the person and the person's legal counsel, if applicable.

38 (c) The person committed under this section may not waive an evaluation ordered by the court
 39 to determine if the person is fit to proceed with the criminal proceeding as described in this sub-
 40 section.

41 (11) The board shall make reasonable efforts to notify any person described in subsection (3)(c)
 42 of this section of any order or hearing, conditional release, discharge or escape of the person com-
 43 mitted under this section.

44 (12) Unless the court orders otherwise or either party objects, any party or witness may attend
 45 a hearing held under this section via simultaneous electronic transmission.

1 (13) The board shall adopt rules to carry out the provisions of this section and ORS 426.702.

2 (14) Any time limitation described in ORS 131.125 to 131.155 does not run during a commitment
3 described in this section or a further commitment described in ORS 426.702.

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