

# A-Engrossed Senate Bill 65

Ordered by the Senate May 1  
Including Senate Amendments dated May 1

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown 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.

Authorizes Psychiatric Security Review Board to establish restorative justice program. Provides that documents or oral communications related to program are confidential, not admissible in subsequent proceeding and *[not]* **exempt from disclosure to public *[records]* or to board members.**

**Transfers from Oregon Health Authority to Psychiatric Security Review Board jurisdiction over persons found guilty except for insanity of certain crimes who are committed to state hospital or secure intensive inpatient facility.**

**Becomes operative on July 1, 2018.**

**Declares emergency, effective on passage.**

## A BILL FOR AN ACT

1  
2 Relating to the Psychiatric Security Review Board; creating new provisions; amending ORS 21.010,  
3 90.630, 137.223, 137.750, 144.641, 151.216, 161.326, 161.327, 161.332, 161.336, 161.341, 161.346,  
4 161.348, 161.349, 161.351, 161.390, 161.395, 161.400, 162.135, 162.155, 163.476, 163.479, 163A.105,  
5 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690, 278.315, 430.695, 809.419 and 810.375 and  
6 section 7, chapter 708, Oregon Laws 2013; and declaring an emergency.

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

8 **SECTION 1. (1)(a) The Psychiatric Security Review Board may develop a restorative**  
9 **justice program to assist the recovery of crime victims when a person is found guilty except**  
10 **for insanity of a crime or responsible except for insanity for an act.**

11 **(b) The board may enter into a contract with a nonprofit educational institution or other**  
12 **nonprofit organization that provides for the administration of the restorative justice pro-**  
13 **gram by the institution or organization.**

14 **(2) Any documents or oral communications created, submitted or provided for use in the**  
15 **restorative justice program are confidential, exempt from public disclosure and:**

16 **(a) May not be disclosed to or used by board members.**

17 **(b) May not be used or disclosed by restorative justice program staff, volunteers or par-**  
18 **ticipants for any purpose unrelated to the program.**

19 **(c) Are not admissible as evidence in any subsequent administrative or judicial proceed-**  
20 **ing, including board proceedings and deliberations.**

21 **(3) The board may adopt rules to carry out the provisions of this section.**

22 **SECTION 2. ORS 161.346 is amended to read:**

23 161.346. (1) When the Psychiatric Security Review Board *[or the Oregon Health Authority]* con-

**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 ducts a hearing under ORS 161.315 to 161.351, the *[agency conducting the hearing]* **board** shall enter  
 2 an order and make findings in support of the order. If the *[agency]* **board** finds that a person under  
 3 the jurisdiction of the *[agency]* **board**:

4 (a) Is no longer affected by mental disease or defect, or, if so affected, no longer presents a  
 5 substantial danger to others, the *[agency]* **board** shall order the person discharged from commitment  
 6 and conditional release.

7 (b) Is still affected by a mental disease or defect and is a substantial danger to others, but can  
 8 be controlled adequately if conditionally released with treatment as a condition of release, the  
 9 *[agency]* **board** shall order the person conditionally released as provided in ORS 161.336.

10 (c) Has not recovered from the mental disease or defect, is a substantial danger to others and  
 11 cannot adequately be controlled if conditionally released on supervision, the *[agency]* **board** shall  
 12 order the person committed to, or retained in, a state hospital, or if the person is under 18 years  
 13 of age, a secure intensive community inpatient facility, for care, custody and treatment.

14 *[(2)(a) Except as otherwise provided in ORS 161.349, the Psychiatric Security Review Board shall*  
 15 *exercise exclusive jurisdiction over a tier one offender until the board discharges the person from the*  
 16 *jurisdiction of the board or the maximum period of jurisdiction expires.]*

17 *[(b) When the board orders a tier two offender committed to a state hospital, or a secure intensive*  
 18 *community inpatient facility, under ORS 161.315 to 161.351, the order shall transfer jurisdiction over*  
 19 *the person to the Oregon Health Authority.]*

20 *[(c) When the authority orders a tier two offender conditionally released under ORS 161.315 to*  
 21 *161.351, the order shall transfer jurisdiction over the person to the board.]*

22 *[(d) The authority shall assume jurisdiction over a tier two offender when the person is returned*  
 23 *to a state hospital, or to a secure intensive community inpatient facility, under ORS 161.336 (4).]*

24 *[(3) (2) To assist the [agency] board in making the determination described in subsection (1) of*  
 25 *this section, the [agency exercising jurisdiction over the person] board may, at any time, appoint a*  
 26 *psychiatrist or licensed psychologist to examine the person and to submit a report to the [agency]*  
 27 **board**. The report must include an opinion as to the mental condition of the person, whether the  
 28 person presents a substantial danger to others and whether the person could be adequately controlled  
 29 with treatment as a condition of release.

30 *[(4) (3) The [agency exercising jurisdiction over the person] board may make the determination*  
 31 *regarding discharge or conditional release based upon the written reports submitted pursuant to this*  
 32 *section. If [the authority or] any member of the board desires further information from the examining*  
 33 *psychiatrist or licensed psychologist who submitted the report, the [agency] board shall summon the*  
 34 *person to give testimony. The [agency] board shall consider all evidence available to it that is ma-*  
 35 *terial, relevant and reliable regarding the issues before the [agency] board. The evidence may in-*  
 36 *clude but is not limited to the record of trial, the information supplied by the attorney representing*  
 37 *the state or by any other interested party, including the person, and information concerning the*  
 38 *person's mental condition and the entire psychiatric and criminal history of the person. All evidence*  
 39 *of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs*  
 40 *shall be admissible at hearings. Testimony shall be taken upon oath or affirmation of the witness*  
 41 *from whom received. The officer presiding at the hearing shall administer oaths or affirmations to*  
 42 *witnesses.*

43 *[(5) (4) The [agency exercising jurisdiction over the person] board shall furnish to the person*  
 44 *about whom the hearing is being conducted, the attorney representing the person, the Attorney*  
 45 *General, the district attorney and the court or department of the county from which the person was*

1 committed written notice of any hearing pending under this section within a reasonable time prior  
2 to the hearing. The notice shall include:

3 (a) The time, place and location of the hearing.

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

7 (c) A statement of the legal authority and jurisdiction under which the hearing is to be held.

8 (d) A statement of all rights under subsection [(7)] (6) of this section.

9 [(6)] (5) Prior to the commencement of the hearing, the [agency] **board** shall serve personally  
10 or by mail a written notice to each party as provided in ORS 183.413 (2).

11 [(7)] (6) At the hearing, the person about whom the hearing is being held shall have the right:

12 (a) To appear at all proceedings held pursuant to this section, except for deliberations.

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

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

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

18 (e) To examine all information, documents and reports that the [agency] **board** considers. If then  
19 available to the [agency] **board**, the information, documents and reports shall be disclosed to the  
20 person so as to allow examination prior to the hearing.

21 [(8)] (7) A record shall be kept of all hearings conducted under ORS 161.315 to 161.351, except  
22 for deliberations.

23 [(9)] (8) Upon request of any party, or on motion of the [agency conducting the hearing] **board**,  
24 the hearing may be continued for a reasonable period not to exceed 60 days to obtain additional  
25 information or testimony or for other good cause shown.

26 [(10)] (9) Within 15 days following the conclusion of the hearing, the [agency] **board** shall pro-  
27 vide to the person, the attorney representing the person, the Attorney General or other attorney  
28 representing the state, if any, written notice of the order entered by the [agency] **board**.

29 [(11)] (10) The burden of proof on all issues at hearings under ORS 161.315 to 161.351 shall be  
30 by a preponderance of the evidence.

31 [(12)] (11) If the [agency conducting the hearing] **board** determines that the person about whom  
32 the hearing is being held is financially eligible, the [agency] **board** shall appoint suitable counsel to  
33 represent the person. Counsel so appointed shall be an attorney who satisfies the professional  
34 qualifications established by the Public Defense Services Commission under ORS 151.216. The public  
35 defense services executive director shall determine and allow fair compensation for counsel ap-  
36 pointed under this subsection and the reasonable expenses of the person in respect to the hearing.  
37 Compensation payable to appointed counsel shall not be less than the applicable compensation level  
38 established under ORS 151.216. The compensation and expenses so allowed shall be paid by the  
39 public defense services executive director from funds available for the purpose.

40 [(13)] (12) The Attorney General may represent the state at contested hearings under ORS  
41 161.315 to 161.351 unless the district attorney of the county from which the person was committed  
42 elects to represent the state. The district attorney of the county from which the person was com-  
43 mitted shall cooperate with the Attorney General in securing the material necessary for presenting  
44 a contested hearing. If the district attorney elects to represent the state, the district attorney shall  
45 give timely written notice of such election to the Attorney General, the [agency conducting the

1 *hearing*] **board** and the attorney representing the person.

2 **SECTION 3.** ORS 161.336 is amended to read:

3 161.336. (1)(a) When a person is conditionally released under ORS 161.315 to 161.351, the person  
4 is subject to those supervisory orders of the Psychiatric Security Review Board as are in the best  
5 interests of justice, the protection of society and the welfare of the person.

6 (b) An order of conditional release entered by the board [*or the Oregon Health Authority*] may  
7 designate any person or state, county or local agency capable of supervising the person upon re-  
8 lease, subject to the conditions described in the order of conditional release.

9 (c) Prior to the designation, the [*agency conducting the hearing*] **board** shall notify the person  
10 or state, county or local agency to whom conditional release is contemplated and provide the person  
11 or state, county or local agency an opportunity to be heard.

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

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

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

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

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

27 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the  
28 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS  
29 192.501 to 192.505.

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

32 (4)(a) If at any time while the person is under the jurisdiction of the board it appears to the  
33 board or its chairperson that the person has violated the terms of the conditional release or that  
34 the mental health of the individual has changed, the board or its chairperson may order the person  
35 returned for evaluation or treatment to a state hospital or, if the person is under 18 years of age,  
36 to a secure intensive community inpatient facility. A written order of the board, or its chairperson  
37 on behalf of the board, is sufficient warrant for any law enforcement officer to take into custody  
38 such person and transport the person accordingly. A sheriff, municipal police officer, constable,  
39 parole and probation officer, prison official or other peace officer shall execute the order, and the  
40 person shall be returned as soon as practicable to the state hospital or secure intensive community  
41 inpatient facility designated in the order.

42 (b) The community mental health program director, the director of the facility providing treat-  
43 ment to a person on conditional release, any peace officer or any person responsible for the super-  
44 vision of a person on conditional release may take a person on conditional release into custody or  
45 request that the person be taken into custody if there is reasonable cause to believe the person is

1 a substantial danger to others because of mental disease or defect and that the person is in need  
 2 of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection  
 3 shall be transported as soon as practicable to a state hospital or, if the person is under 18 years  
 4 of age, to a secure intensive community inpatient facility.

5 (c) Within 20 days following the return of the person to a state hospital or secure intensive  
 6 community inpatient facility under this subsection, the [*agency having jurisdiction over the person*]  
 7 **board** shall conduct a hearing. The [*agency*] **board** shall provide notice of the hearing to the person,  
 8 the attorney representing the person and the Attorney General. The state must prove by a prepon-  
 9 derance of the evidence the person's unfitness for conditional release. The hearing shall be con-  
 10 ducted in accordance with ORS 161.346.

11 (5)(a) Any person conditionally released under this section may apply to the board for discharge  
 12 from or modification of an order of conditional release on the ground that the person is no longer  
 13 affected by mental disease or defect or, if still so affected, no longer presents a substantial danger  
 14 to others and no longer requires supervision, medication, care or treatment. Notice of the hearing  
 15 on an application for discharge or modification of an order of conditional release shall be made to  
 16 the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove by a  
 17 preponderance of the evidence the applicant's fitness for discharge or modification of the order of  
 18 conditional release. Applications by the person for discharge or modification of conditional release  
 19 may not be filed more often than once every six months.

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

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

28 **SECTION 4.** ORS 161.341 is amended to read:

29 161.341. (1) If at any time after a person is committed under ORS 161.315 to 161.351 to a state  
 30 hospital or a secure intensive community inpatient facility, the superintendent of the hospital or the  
 31 director of the secure intensive community inpatient facility is of the opinion that the person is no  
 32 longer affected by mental disease or defect, or, if so affected, no longer presents a substantial danger  
 33 to others or that the person continues to be affected by mental disease or defect and continues to  
 34 be a danger to others, but that the person can be controlled with proper care, medication, super-  
 35 vision and treatment if conditionally released, the superintendent or director shall apply to the  
 36 [*agency having jurisdiction over the person*] **Psychiatric Security Review Board** for an order of  
 37 discharge or conditional release. The application shall be accompanied by a report setting forth the  
 38 facts supporting the opinion of the superintendent or director. If the application is for conditional  
 39 release, the application must be accompanied by a verified conditional release plan. The [*agency*]  
 40 **board** shall hold a hearing on the application within 60 days of its receipt. Not less than 20 days  
 41 prior to the hearing before the [*agency*] **board**, copies of the report shall be sent to the Attorney  
 42 General.

43 (2) The attorney representing the state may choose a psychiatrist or licensed psychologist to  
 44 examine the person prior to the initial or any later decision by the [*agency having jurisdiction over*  
 45 *the person*] **board** on discharge or conditional release. The results of the examination shall be in

1 writing and filed with the *[agency]* **board**, and shall include, but need not be limited to, an opinion  
 2 as to the mental condition of the person, whether the person presents a substantial danger to others  
 3 and whether the person could be adequately controlled with treatment as a condition of release.

4 (3) Any person who has been committed to a state hospital, or to a secure intensive community  
 5 inpatient facility, for custody, care and treatment under ORS 161.315 to 161.351, or another person  
 6 acting on the person's behalf, may apply to the *[agency having jurisdiction over the person]* **board** for  
 7 an order of discharge or conditional release upon the grounds:

8 (a) That the person is no longer affected by mental disease or defect;

9 (b) That the person, if so affected, no longer presents a substantial danger to others; or

10 (c) That the person continues to be affected by a mental disease or defect and would continue  
 11 to be a danger to others without treatment, but that the person can be adequately controlled and  
 12 given proper care and treatment if placed on conditional release.

13 (4) When application is made under subsection (3) of this section, the *[agency having jurisdiction*  
 14 *over the person]* **board** shall require that a report from the superintendent of the hospital or the  
 15 director of the secure intensive community inpatient facility be prepared and transmitted as pro-  
 16 vided in subsection (1) of this section. The applicant must prove by a preponderance of the evidence  
 17 the applicant's fitness for discharge or conditional release under the standards of subsection (3) of  
 18 this section, unless more than two years has passed since the state had the burden of proof on that  
 19 issue, in which case the state shall have the burden of proving by a preponderance of the evidence  
 20 the applicant's lack of fitness for discharge or conditional release. Applications for discharge or  
 21 conditional release under subsection (3) of this section may not be filed more often than once every  
 22 six months commencing with the date of the initial *[agency]* **board** hearing.

23 (5) The *[agency having jurisdiction over the person]* **board** is not required to hold a hearing on  
 24 a first application under subsection (3) of this section any sooner than 90 days after the initial  
 25 hearing. Hearings resulting from any subsequent requests shall be held within 60 days of the filing  
 26 of the application.

27 (6)(a) In no case shall a person committed by the court under ORS 161.327 to a state hospital,  
 28 or to a secure intensive community inpatient facility, be held in the hospital or facility for more  
 29 than 90 days from the date of the court's commitment order without an initial hearing before the  
 30 *[agency having jurisdiction over the person]* **board** to determine whether the person should be con-  
 31 ditionally released or discharged.

32 (b) In no case shall a person be held pursuant to this section for a period of time exceeding two  
 33 years without a hearing before the *[agency]* **board** to determine whether the person should be con-  
 34 ditionally released or discharged.

35 **SECTION 5.** ORS 161.351 is amended to read:

36 161.351. (1) Any person placed under the jurisdiction of the Psychiatric Security Review Board  
 37 *[or the Oregon Health Authority]* under ORS 161.315 to 161.351 shall be discharged at such time as  
 38 the *[agency having jurisdiction over the person]* **board**, upon a hearing, finds by a preponderance of  
 39 the evidence that the person is no longer affected by mental disease or defect or, if so affected, no  
 40 longer presents a substantial danger to others that requires regular medical care, medication,  
 41 supervision or treatment.

42 (2) For purposes of ORS 161.315 to 161.351, a person affected by a mental disease or defect in  
 43 a state of remission is considered to have a mental disease or defect. A person whose mental disease  
 44 or defect may, with reasonable medical probability, occasionally become active and when it becomes  
 45 active will render the person a danger to others may not be discharged. The person shall continue

1 under supervision and treatment necessary to protect the person and others.

2 (3) In determining whether a person should be committed to a state hospital or secure intensive  
3 community inpatient facility, conditionally released or discharged, the board [*and the authority*] shall  
4 have as [*their*] **its** primary concern the protection of society.

5 **SECTION 6.** ORS 161.390 is amended to read:

6 161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state  
7 mental hospitals or secure intensive community inpatient facilities under ORS [*161.315 to 161.351,*]  
8 161.365 and 161.370 and for establishing standards for evaluation and treatment of persons commit-  
9 ted to a state hospital or a secure intensive community inpatient facility or ordered to a community  
10 mental health program under ORS 161.315 to 161.351.

11 (2) When the Psychiatric Security Review Board [*or the authority*] requires the preparation of  
12 a predischarge or preconditional release plan before a hearing or as a condition of granting dis-  
13 charge or conditional release for a person committed under ORS 161.315 to 161.351 to a state hos-  
14 pital or a secure intensive community inpatient facility for custody, care and treatment, the  
15 authority is responsible for and shall prepare the plan.

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

20 [*(4) Before the authority conducts a hearing under ORS 161.315 to 161.351, the authority shall*  
21 *notify the board. The board may provide the authority with conditions of release that the board deter-*  
22 *mines are advisable. If the authority orders the person conditionally released, the authority shall in-*  
23 *clude the conditions of release in the order.]*

24 [(5)] (4) The board [*and the authority*] shall maintain and keep current the medical, social and  
25 criminal history of all persons committed to [*their respective*] **its** jurisdiction. The confidentiality of  
26 records maintained by the board shall be determined pursuant to ORS 192.501 to 192.505.

27 [(6)] (5) The evidentiary phase of a hearing conducted by the board [*or the authority*] under ORS  
28 161.315 to 161.351 is not a deliberation for purposes of ORS 192.690.

29 **SECTION 7.** ORS 161.326 is amended to read:

30 161.326. (1) If the trial court[,] **or** the Psychiatric Security Review Board [*or the Oregon Health*  
31 *Authority*] determines that a victim desires notification as described in ORS 161.325 (2), the [*agency*  
32 *having jurisdiction over the person*] **board** shall make a reasonable effort to notify the victim of  
33 hearings and orders, conditional release, discharge or escape. Nothing in this subsection authorizes  
34 the [*agency*] **board** to disseminate information that is otherwise privileged by law.

35 (2) When the [*agency*] **board** conducts a hearing involving a person found guilty except for in-  
36 sanity of a crime for which there is a victim, the [*agency*] **board** shall afford the victim an oppor-  
37 tunity to be heard, either orally or in writing, at the hearing.

38 (3)(a) If the [*agency*] **board** fails to make a reasonable effort to notify the victim of a hearing  
39 under subsection (1) of this section or fails to afford the victim an opportunity to be heard at the  
40 hearing under subsection (2) of this section, the victim may request that the [*agency*] **board** recon-  
41 sider the order of the [*agency*] **board**.

42 (b) If the [*agency*] **board** determines that the [*agency*] **board** failed to make a reasonable effort  
43 to notify the victim or failed to afford the victim an opportunity to be heard, except as provided in  
44 paragraph (c) of this subsection, the [*agency*] **board** shall grant the request for reconsideration.  
45 Upon reconsideration, the [*agency*] **board** shall consider the statement of the victim and may con-

1 sider any other information that was not available to the [agency] **board** at the previous hearing.

2 (c) The [agency] **board** may not grant a request for reconsideration that is made:

3 (A) After the person has been discharged from the jurisdiction of the board [*and the authority*];

4 (B) After the board [*or the authority*] has held a subsequent hearing involving the person; or

5 (C) If the [agency] **board** failed to make a reasonable effort to notify the victim of a hearing,  
6 more than 30 days after the victim knew or reasonably should have known of the hearing.

7 **SECTION 8.** ORS 161.348 is amended to read:

8 161.348. (1) When a person over whom the Psychiatric Security Review Board [*or the Oregon*  
9 *Health Authority*] exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is adversely af-  
10 fected or aggrieved by a final order of the board [*or authority*], the person is entitled to judicial  
11 review of the final order. The person is entitled on judicial review to suitable counsel possessing  
12 skills and experience commensurate with the nature and complexity of the case. If the person is fi-  
13 nancially eligible, suitable counsel shall be appointed by the reviewing court in the manner provided  
14 in ORS 138.500 (1). If the person is financially eligible, the public defense services executive director  
15 shall determine and pay, as provided in ORS 138.500, the cost of briefs, any other expenses of the  
16 person necessary to the review and compensation for counsel appointed for the person. The costs,  
17 expenses and compensation so allowed shall be paid as provided in ORS 138.500.

18 (2) The order and the proceedings underlying the order are subject to review by the Court of  
19 Appeals upon petition to that court filed within 60 days of the order for which review is sought. The  
20 [*agency that conducted the hearing*] **board** shall submit to the court the record of the proceeding or,  
21 if the person agrees, a shortened record. The record may include a certified true copy of a tape  
22 recording of the proceedings at a hearing in accordance with ORS 161.346. A copy of the record  
23 transmitted shall be delivered to the person by the [*agency*] **board**.

24 (3) The court may affirm, reverse or remand the order on the same basis as provided in ORS  
25 183.482 (8).

26 (4) The filing of the petition does not stay the order of the [*agency*] **board**, but the [*agency*]  
27 **board** or the Court of Appeals may order a stay upon application on such terms as are deemed  
28 proper.

29 **SECTION 9.** ORS 161.395 is amended to read:

30 161.395. (1) Upon request of any party to a hearing before the Psychiatric Security Review  
31 Board [*or the Oregon Health Authority*] under ORS 161.315 to 161.351, the [*agency conducting the*  
32 *hearing*] **board** shall issue, or on its own motion may issue, subpoenas requiring the attendance and  
33 testimony of witnesses.

34 (2) Upon request of any party to the hearing before the [*agency*] **board** and upon a proper  
35 showing of the general relevance and reasonable scope of the documentary or physical evidence  
36 sought, the [*agency*] **board** shall issue, or on its own motion may issue, subpoenas duces tecum.

37 (3) Witnesses appearing under subpoenas, other than the parties or state officers or employees,  
38 shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). If the [*agency*]  
39 **board** certifies that the testimony of a witness was relevant and material, any person who has paid  
40 fees and mileage to that witness shall be reimbursed by the [*agency*] **board**.

41 (4) If any person fails to comply with a subpoena issued under subsections (1) or (2) of this  
42 section or any party or witness refuses to testify regarding any matter on which the party or wit-  
43 ness may be lawfully interrogated, the judge of the circuit court of any county, on the application  
44 of the [*agency that issued the subpoena*] **board** or of the party requesting the issuance of the  
45 subpoena, shall compel obedience by proceedings for contempt as in the case of disobedience of the



1 requirements of a subpoena issued by the court.

2 (5) If any person, agency or facility fails to comply with an order of the board [*or authority*] is-  
3 sued pursuant to subsection (2) of this section, the judge of a circuit court of any county, on appli-  
4 cation of the [*agency that issued the order*] **board**, shall compel obedience by proceedings for  
5 contempt as in the case of disobedience of the requirements of an order issued by the court. Con-  
6 tempt for disobedience of an order of the board [*or authority*] shall be punishable by a fine of \$100.

7 **SECTION 10.** ORS 161.400 is amended to read:

8 161.400. If, at any time after the commitment of a person to a state hospital or a secure intensive  
9 community inpatient facility under ORS 161.315 to 161.351, the superintendent of the hospital or the  
10 director of the facility is of the opinion that a leave of absence from the hospital or facility would  
11 be therapeutic for the person and that such leave would pose no substantial danger to others, the  
12 superintendent or director may authorize such leave for up to 48 hours in accordance with rules  
13 adopted by the [*agency having jurisdiction over the person*] **Psychiatric Security Review Board**.  
14 However, the superintendent or director, before authorizing the leave of absence, shall first notify  
15 the [*agency*] **board** for the purposes of ORS 161.326.

16 **SECTION 11.** ORS 161.332 is amended to read:

17 161.332. As used in ORS 161.315 to 161.351 and 161.385 to 161.395[.],

18 [(1)] “conditional release” includes, but is not limited to, the monitoring of mental and physical  
19 health treatment.

20 [(2)] “Tier one offender” means a person who has been found guilty except for insanity of a tier one  
21 offense.]

22 [(3)] “Tier one offense” means:]

23 [(a)] Aggravated murder as defined in ORS 163.095;]

24 [(b)] Attempt or conspiracy to commit aggravated murder as defined in ORS 163.095;]

25 [(c)] Murder as defined in ORS 163.115;]

26 [(d)] Attempt or conspiracy to commit murder as defined in ORS 163.115;]

27 [(e)] Manslaughter in the first degree as defined in ORS 163.118;]

28 [(f)] Manslaughter in the second degree as defined in ORS 163.125;]

29 [(g)] Assault in the first degree as defined in ORS 163.185;]

30 [(h)] Assault in the second degree as defined in ORS 163.175;]

31 [(i)] Kidnapping in the first degree as defined in ORS 163.235;]

32 [(j)] Kidnapping in the second degree as defined in ORS 163.225;]

33 [(k)] Rape in the first degree as defined ORS 163.375;]

34 [(L)] Rape in the second degree as defined in ORS 163.365;]

35 [(m)] Sodomy in the first degree as defined in ORS 163.405;]

36 [(n)] Sodomy in the second degree as defined in ORS 163.395;]

37 [(o)] Unlawful sexual penetration in the first degree as defined ORS 163.411;]

38 [(p)] Unlawful sexual penetration in the second degree as defined ORS 163.408;]

39 [(q)] Sexual abuse in the first degree as defined in ORS 163.427;]

40 [(r)] Robbery in the first degree as defined in ORS 164.415;]

41 [(s)] Robbery in the second degree as defined in ORS 164.405;]

42 [(t)] Arson in the first degree as defined in ORS 164.325;]

43 [(u)] Using a child in a display of sexually explicit conduct as defined in ORS 163.670;]

44 [(v)] Compelling prostitution as defined in ORS 167.017; or]

45 [(w)] Aggravated vehicular homicide as defined in ORS 163.149.]

1        [(4) "Tier two offender" means a person who has been found guilty except for insanity only of of-  
2        fenses that are not tier one offenses.]

3        **SECTION 12.** ORS 161.327 is amended to read:

4        161.327. (1) Following the entry of a judgment pursuant to ORS 161.319, if the court finds by a  
5        preponderance of the evidence that a person found guilty except for insanity of a felony is affected  
6        by mental disease or defect and presents a substantial danger to others, the court shall enter an  
7        order as follows:

8        (a) If the court finds that the person is not a proper subject for conditional release, the court  
9        shall order the person committed to a state hospital or, if the person is under 18 years of age, to a  
10       secure intensive community inpatient facility for custody, care and treatment. When the court orders  
11       a person committed under this paragraph, the court shall place the person under the jurisdiction  
12       of[.]

13       [(A)] the Psychiatric Security Review Board[, if the person is a tier one offender.]

14       [(B) The Oregon Health Authority, if the person is a tier two offender].

15       (b) If the court finds that the person can be adequately controlled with supervision and treat-  
16       ment if conditionally released and that necessary supervision and treatment are available, the court  
17       shall order the person conditionally released.

18       (2) When a person is conditionally released under this section, the person is subject to those  
19       supervisory orders of the court as are in the best interests of justice, the protection of society and  
20       the welfare of the person. The court shall designate a person or state, county or local agency to  
21       supervise the person upon release, subject to those conditions as the court directs in the order for  
22       conditional release. Prior to the designation, the court shall notify the person or agency to whom  
23       conditional release is contemplated and provide the person or agency an opportunity to be heard  
24       before the court. After receiving an order entered under subsection (1)(b) of this section, the person  
25       or agency designated shall assume supervision of the person pursuant to the direction of the Psy-  
26       chiatric Security Review Board. The person or agency designated as supervisor shall be required to  
27       report in writing no less than once per month to the board concerning the supervised person's  
28       compliance with the conditions of release.

29       (3) In determining whether a person should be conditionally released, the court:

30       (a) May order evaluations, examinations and compliance as provided in ORS 161.336 (3) and  
31       161.346 [(3)] (2);

32       (b) Shall order that the person be examined by a local mental health program designated by the  
33       board and a report of the examination be provided to the court if each felony for which the de-  
34       fendant was found guilty except for insanity is a Class C felony; and

35       (c) Shall have as its primary concern the protection of society.

36       (4) Upon placing a person on conditional release, the court shall notify the board in writing of  
37       the court's conditional release order, the supervisor appointed and all other conditions of release,  
38       and the person shall be on conditional release pending hearing before the board. Upon compliance  
39       with this section, the court's jurisdiction over the person is terminated.

40       (5) The total period of commitment or conditional release under ORS 161.315 to 161.351 may not  
41       exceed the maximum sentence provided by statute for the crime for which the person was found  
42       guilty except for insanity.

43       (6) An order of the court under this section is a final order appealable by the person found  
44       guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice  
45       of an appeal under this section shall be served and filed within 90 days after the order appealed from

1 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing  
 2 skills and experience commensurate with the nature and complexity of the case. If the person is fi-  
 3 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and  
 4 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be  
 5 determined and paid as provided in ORS 138.500.

6 (7) Following the entry of an order described in subsection (1) of this section, the court shall  
 7 notify the person of the right to appeal and the right to a hearing before the [*agency exercising ju-*  
 8 *risdiction over the person*] **board** in accordance with ORS 161.336 (5) and 161.341 (3).

9 **SECTION 13.** ORS 161.349 is amended to read:

10 161.349. (1) When a person who is committed to a state hospital or a secure intensive community  
 11 inpatient facility under ORS 161.315 to 161.351 is convicted of a crime and sentenced to a term of  
 12 incarceration and when the person is sentenced to a term of incarceration as a sanction for violat-  
 13 ing the conditions of probation, parole or post-prison supervision, the sentencing court shall stay  
 14 execution of the sentence pending the conditional release or discharge of the person or the expira-  
 15 tion of the period of time described in ORS 161.327 (5). When the person is conditionally released  
 16 or discharged by the [*agency having jurisdiction over the person*] **Psychiatric Security Review**  
 17 **Board** under ORS 161.315 to 161.351, or when the maximum period of jurisdiction described in ORS  
 18 161.327 (5) expires, the stay shall be lifted by operation of law and the person shall be delivered to  
 19 the custody of the Department of Corrections or the supervisory authority to begin service of the  
 20 sentence imposed.

21 (2) When a person described in subsection (1) of this section is delivered to the custody of the  
 22 department or the supervisory authority as described in this section, the [*agency having jurisdiction*  
 23 *over the person while the person was committed to a state hospital or a secure intensive community*  
 24 *inpatient facility*] **board** shall notify the department or the supervisory authority when the period  
 25 of time described in ORS 161.327 (5) will expire.

26 (3) The department or supervisory authority shall notify the [*Psychiatric Security Review*] board  
 27 when the person has served the term of incarceration imposed by the court and the board shall re-  
 28 sume exercising active jurisdiction over the person in accordance with ORS 161.315 to 161.351.

29 (4) As used in this section, "supervisory authority" has the meaning given that term in ORS  
 30 144.087.

31 **SECTION 14.** ORS 21.010 is amended to read:

32 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a  
 33 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$373 in the  
 34 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in  
 35 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State  
 36 Court Administrator a filing fee of \$373. The party entitled to costs and disbursements on such ap-  
 37 peal shall recover from the opponent the amount so paid.

38 (2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings  
 39 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS  
 40 419A.200, the involuntary commitment of persons determined to be persons with mental illness under  
 41 ORS 426.135 or persons determined to have an intellectual disability under ORS 427.295 or orders  
 42 of the State Board of Parole and Post-Prison Supervision or on judicial review of orders entered  
 43 under ORS 161.315 to 161.351 by the Psychiatric Security Review Board [*or the Oregon Health Au-*  
 44 *thority*].

45 (3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court

1 from a justice court or municipal court in an action alleging commission of a state offense desig-  
2 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an  
3 action alleging commission of a state crime.

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

6 (5) The filing and appearance fees established by this section apply to cases of original juris-  
7 diction in the Supreme Court.

8 **SECTION 15.** ORS 90.630 is amended to read:

9 90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a  
10 rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured  
11 dwelling or floating home by giving to the tenant not less than 30 days' notice in writing before the  
12 date designated in the notice for termination if the tenant:

13 (a) Violates a law or ordinance related to the tenant's conduct as a tenant, including but not  
14 limited to a material noncompliance with ORS 90.740;

15 (b) Violates a rule or rental agreement provision related to the tenant's conduct as a tenant and  
16 imposed as a condition of occupancy, including but not limited to a material noncompliance with a  
17 rental agreement regarding a program of recovery in drug and alcohol free housing;

18 (c) Is classified as a level three sex offender under ORS 163A.100 (3);

19 (d) Is an unclassified adult sex offender designated as predatory prior to January 1, 2014, or a  
20 person whom the State Board of Parole and Post-Prison Supervision[,] **or** the Psychiatric Security  
21 Review Board [*or the Oregon Health Authority*] has classified as a level three sex offender under  
22 section 7 (2)(b), chapter 708, Oregon Laws 2013; or

23 (e) Fails to pay a:

24 (A) Late charge pursuant to ORS 90.260;

25 (B) Fee pursuant to ORS 90.302; or

26 (C) Utility or service charge pursuant to ORS 90.534 or 90.536.

27 (2) A violation making a tenant subject to termination under subsection (1) of this section in-  
28 cludes a tenant's failure to maintain the space as required by law, ordinance, rental agreement or  
29 rule, but does not include the physical condition of the dwelling or home. Termination of a rental  
30 agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS  
31 90.632.

32 (3) The notice required by subsection (1) of this section shall state facts sufficient to notify the  
33 tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination  
34 by correcting the violation as provided in subsection (4) of this section.

35 (4) The tenant may avoid termination of the tenancy by correcting the violation within the  
36 30-day period specified in subsection (1) of this section. However, if substantially the same act or  
37 omission that constituted a prior violation of which notice was given recurs within six months after  
38 the date of the notice, the landlord may terminate the tenancy upon at least 20 days' written notice  
39 specifying the violation and the date of termination of the tenancy.

40 (5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of ter-  
41 mination under subsection (1)(c) of this section does not have a right to correct the violation. A  
42 notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not  
43 have a right to avoid the termination.

44 (6) This section does not limit a landlord's right to terminate a tenancy for nonpayment of rent  
45 under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying

1 with ORS 105.105 to 105.168.

2 (7) A tenancy terminates on the date designated in the notice and without regard to the expi-  
3 ration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless  
4 otherwise agreed, rent is uniformly apportionable from day to day.

5 (8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the  
6 landlord may terminate the rental agreement for space for a manufactured dwelling or floating home  
7 because of repeated late payment of rent by giving the tenant not less than 30 days' notice in  
8 writing before the date designated in that notice for termination and may take possession as pro-  
9 vided in ORS 105.105 to 105.168 if:

10 (a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as  
11 described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b)  
12 in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment  
13 of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of non-  
14 payment;

15 (b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right  
16 to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within  
17 a 12-month period. The warning must be contained in at least two nonpayment of rent termination  
18 notices that precede the third notice within a 12-month period or in separate written notices that  
19 are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termi-  
20 nation notices; and

21 (c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for  
22 termination of the tenancy and is given to the tenant concurrent with or after the third or a sub-  
23 sequent nonpayment of rent termination notice.

24 (9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of ter-  
25 mination pursuant to subsection (8) of this section does not have a right to correct the cause for the  
26 notice.

27 (10) The landlord may give a copy of the notice required by subsection (8) of this section to any  
28 lienholder of the manufactured dwelling or floating home by first class mail with certificate of  
29 mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a  
30 tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice  
31 in good faith to a lienholder. A lienholder's rights and obligations regarding an abandoned manu-  
32 factured dwelling or floating home shall be as provided under ORS 90.675.

33 **SECTION 16.** ORS 137.223 is amended to read:

34 137.223. (1) A person who has been found guilty except for insanity of an offense for which, if  
35 convicted, the person could apply for entry of an order setting aside the conviction pursuant to ORS  
36 137.225, may by motion apply to the court for entry of an order setting aside the judgment finding  
37 the person guilty except for insanity of the offense.

38 (2) A person described in subsection (1) of this section may file the motion to set aside a judg-  
39 ment of guilty except for insanity any time after three years from the date of entry of the judgment  
40 of guilty except for insanity, provided that:

41 (a) The person is no longer under the jurisdiction of the Psychiatric Security Review Board [*or*  
42 *the Oregon Health Authority*]; and

43 (b) The person has no other findings of guilty except for insanity within the 10 years prior to  
44 filing the motion and no convictions for offenses other than motor vehicle violations within the 10  
45 years prior to filing the motion.

1 (3)(a) A copy of the motion and a full set of the defendant's fingerprints shall be served upon  
2 the office of the prosecuting attorney who prosecuted the offense and opportunity shall be given to  
3 contest the motion. The fingerprint card with the notation "motion for setting aside judgment of  
4 guilty except for insanity" shall be forwarded to the Department of State Police. Information re-  
5 sulting from the fingerprint search along with the fingerprint card shall be returned to the prose-  
6 cuting attorney.

7 (b) When a prosecuting attorney is served with a copy of a motion to set aside a judgment of  
8 guilty except for insanity under this section, the prosecuting attorney shall provide a copy of the  
9 motion and notice of the hearing date to the victim, if any, of the offense by mailing a copy of the  
10 motion and notice to the victim's last-known address.

11 (c) When a person files a motion under this section, the person must pay a fee of \$80 to the  
12 Department of State Police. The person shall attach a certified check payable to the Department  
13 of State Police in the amount of \$80 to the fingerprint card that is served upon the prosecuting at-  
14 torney. The office of the prosecuting attorney shall forward the check with the fingerprint card to  
15 the Department of State Police.

16 (d) In addition to the fee established under paragraph (c) of this subsection, the person must pay  
17 the filing fee established under ORS 21.135.

18 (4)(a) Upon hearing the motion, the court may require the filing of such affidavits and may re-  
19 quire the taking of such proofs as the court deems proper. The court shall allow the victim, if any,  
20 to make a statement at the hearing.

21 (b) Except as otherwise provided in paragraph (c) of this subsection, if the court determines that  
22 the circumstances and behavior of the person from the date of the judgment of guilty except for  
23 insanity to the date of the hearing on the motion warrant the court granting the motion, the court  
24 shall enter an order setting aside the judgment of guilty except for insanity.

25 (c) Unless the court makes written findings by clear and convincing evidence that granting the  
26 motion would not be in the best interests of justice, the court shall grant the motion and enter an  
27 order as provided in paragraph (b) of this subsection if the defendant was found guilty except for  
28 insanity of an offense described in ORS 137.225 (12) and is otherwise eligible for relief under this  
29 section.

30 (d) An order entered under this subsection shall state the original arrest charge and the charge  
31 for which the person was found guilty except for insanity. The order shall further state that positive  
32 identification has been established by the Department of State Police and further identified as to  
33 Department of State Police number or submitting agency number.

34 (5)(a) Upon the entry of an order under subsection (4) of this section:

35 (A) The person, for purposes of the law, shall be deemed not to have been previously found  
36 guilty except for insanity, and the court shall issue an order sealing the records of the case, in-  
37 cluding the records of arrest, whether or not the arrest resulted in a further criminal proceeding.

38 (B) The court shall inform the person that the person's right to possess, purchase or otherwise  
39 acquire a firearm remains prohibited under federal law.

40 (b) For purposes of this subsection, records of the case do not include medical records that are  
41 in the possession of the Psychiatric Security Review Board [*or the Oregon Health Authority*], in-  
42 cluding medical evaluations and reports submitted from other agencies concerning the status or  
43 compliance of the person.

44 (6) The clerk of the court shall forward a certified copy of the order entered under subsection  
45 (5) of this section to such agencies as directed by the court. A certified copy shall be sent to the

1 Psychiatric Security Review Board [*or the Oregon Health Authority, as appropriate*]. Upon entry of  
2 the order, the judgment of guilty except for insanity shall be deemed not to have been entered, and  
3 the person may answer accordingly any questions relating to its occurrence.

4 (7) For purposes of any civil action in which truth is an element of a claim for relief or affir-  
5 mative defense, the provisions of subsection (6) of this section providing that the judgment of guilty  
6 except for insanity be deemed not to have been entered do not apply and a party may apply to the  
7 court for an order requiring disclosure of the official records in the case as may be necessary in the  
8 interests of justice.

9 (8) Upon motion of any prosecutor or defendant in a case involving records sealed under this  
10 section, supported by affidavit showing good cause, the court with jurisdiction may order the reo-  
11 pening and disclosure of any records sealed under this section for the limited purpose of assisting  
12 the investigation of the movant. However, such an order has no other effect on the orders setting  
13 aside the judgment of guilty except for insanity.

14 **SECTION 17.** ORS 137.750 is amended to read:

15 137.750. (1) When a court sentences a defendant to a term of incarceration upon conviction of  
16 a crime, the court shall order on the record in open court as part of the sentence imposed that the  
17 defendant may be considered by the executing or releasing authority for any form of temporary  
18 leave from custody, reduction in sentence, work release or program of conditional or supervised  
19 release authorized by law for which the defendant is otherwise eligible at the time of sentencing,  
20 unless the court finds on the record in open court substantial and compelling reasons to order that  
21 the defendant not be considered for such leave, release or program.

22 (2) The executing or releasing authority may consider the defendant for a program described in  
23 subsection (1) of this section only upon order of the sentencing court appearing in the judgment.

24 (3) As used in this section:

25 (a) "Executing or releasing authority" means the Department of Corrections, State Board of  
26 Parole and Post-Prison Supervision, Oregon Youth Authority, Psychiatric Security Review Board,  
27 [*Oregon Health Authority,*] sentencing court or supervisory authority.

28 (b) "Supervisory authority" has the meaning given that term in ORS 144.087.

29 **SECTION 18.** ORS 144.641 is amended to read:

30 144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

31 (1) "Dwelling" has the meaning given that term in ORS 469B.100.

32 (2) "Dwelling" does not include a residential treatment facility or a halfway house.

33 (3) "Halfway house" means a publicly or privately operated profit or nonprofit residential facil-  
34 ity that provides rehabilitative care and treatment for sex offenders.

35 (4) "Locations where children are the primary occupants or users" includes, but is not limited  
36 to, public and private elementary and secondary schools and licensed child care centers.

37 (5) "Sex offender" means:

38 (a) A sexually violent dangerous offender as defined in ORS 137.765;

39 (b) A level three sex offender under ORS 163A.100 (3); or

40 (c) An unclassified adult sex offender designated as predatory prior to January 1, 2014, or a  
41 person whom the State Board of Parole and Post-Prison Supervision[,] **or** the Psychiatric Security  
42 Review Board [*or the Oregon Health Authority*] has classified as a level three sex offender under  
43 section 7 (2)(b), chapter 708, Oregon Laws 2013.

44 (6) "Transitional housing" means housing intended to be occupied by a sex offender for 45 days  
45 or less immediately after release from incarceration.

1       **SECTION 19.** ORS 151.216 is amended to read:

2       151.216. (1) The Public Defense Services Commission shall:

3       (a) Establish and maintain a public defense system that ensures the provision of public defense  
4 services in the most cost-efficient manner consistent with the Oregon Constitution, the United States  
5 Constitution and Oregon and national standards of justice.

6       (b) Establish an office of public defense services and appoint a public defense services executive  
7 director who serves at the pleasure of the commission.

8       (c) Submit the budget of the commission and the office of public defense services to the Legis-  
9 lative Assembly after the budget is submitted to the commission by the director and approved by the  
10 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall  
11 present the budget to the Legislative Assembly.

12       (d) Review and approve any public defense services contract negotiated by the director before  
13 the contract can become effective.

14       (e) Adopt a compensation plan, classification system and personnel plan for the office of public  
15 defense services that are commensurate with other state agencies.

16       (f) Adopt policies, procedures, standards and guidelines regarding:

17       (A) The determination of financial eligibility of persons entitled to be represented by appointed  
18 counsel at state expense;

19       (B) The appointment of counsel;

20       (C) The fair compensation of counsel appointed to represent a person financially eligible for  
21 appointed counsel at state expense;

22       (D) Appointed counsel compensation disputes;

23       (E) Any other costs associated with the representation of a person by appointed counsel in the  
24 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,  
25 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,  
26 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any  
27 other provision of law that expressly provides for payment of such compensation, costs or expenses  
28 by the commission;

29       (F) Professional qualifications for counsel appointed to represent public defense clients;

30       (G) Performance for legal representation;

31       (H) The contracting of public defense services;

32       (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses  
33 only if in-state expert witnesses are not available or are more expensive than out-of-state expert  
34 witnesses; and

35       (J) Any other matters necessary to carry out the duties of the commission.

36       (g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in  
37 cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review  
38 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

39       (h) Establish a complaint process that allows district attorneys, criminal defense counsel and the  
40 public to file complaints concerning the payment from public funds of nonroutine fees and expenses  
41 incurred in cases.

42       (i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services  
43 Account established by ORS 151.225 for the costs of personnel and other costs associated with lo-  
44 cation of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court  
45 Administrator.



1 (2) Policies, procedures, standards and guidelines adopted by the commission supersede any  
2 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-  
3 tor, circuit courts, the Court of Appeals, the Supreme Court[,] **and** the Psychiatric Security Review  
4 Board [*and the Oregon Health Authority*] related to the exercise of the commission’s administrative  
5 responsibilities under this section and transferred duties, functions and powers as they occur.

6 (3) The commission may accept gifts, grants or contributions from any source, whether public  
7 or private. However, the commission may not accept a gift, grant or contribution if acceptance  
8 would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the  
9 Public Defense Services Account established by ORS 151.225 and expended for the purposes for  
10 which given or granted.

11 (4) The commission may not:

12 (a) Make any decision regarding the handling of any individual case;

13 (b) Have access to any case file; or

14 (c) Interfere with the director or any member of the staff of the director in carrying out pro-  
15 fessional duties involving the legal representation of public defense clients.

16 **SECTION 20.** ORS 162.135 is amended to read:

17 162.135. As used in ORS 162.135 to 162.205, unless the context requires otherwise:

18 (1)(a) “Contraband” means:

19 (A) Controlled substances as defined in ORS 475.005;

20 (B) Drug paraphernalia as defined in ORS 475.525;

21 (C) Except as otherwise provided in paragraph (b) of this subsection, currency possessed by or  
22 in the control of an inmate confined in a correctional facility; or

23 (D) Any article or thing which a person confined in a correctional facility, youth correction fa-  
24 cility or state hospital is prohibited by statute, rule or order from obtaining or possessing, and  
25 whose use would endanger the safety or security of such institution or any person therein.

26 (b) “Contraband” does not include authorized currency possessed by an inmate in a work release  
27 facility.

28 (2) “Correctional facility” means any place used for the confinement of persons charged with  
29 or convicted of a crime or otherwise confined under a court order and includes but is not limited  
30 to a youth correction facility. “Correctional facility” applies to a state hospital or a secure intensive  
31 community inpatient facility only as to persons detained therein charged with or convicted of a  
32 crime, or detained therein after having been found guilty except for insanity of a crime under ORS  
33 161.290 to 161.370.

34 (3) “Currency” means paper money and coins that are within the correctional institution.

35 (4) “Custody” means the imposition of actual or constructive restraint by a peace officer pur-  
36 suant to an arrest or court order, but does not include detention in a correctional facility, youth  
37 correction facility or a state hospital.

38 (5) “Escape” means the unlawful departure of a person from custody or a correctional facility.  
39 “Escape” includes the unauthorized departure or absence from this state or failure to return to this  
40 state by a person who is under the jurisdiction of the Psychiatric Security Review Board [*or under*  
41 *the jurisdiction of the Oregon Health Authority*] under ORS 161.315 to 161.351. “Escape” does not  
42 include failure to comply with provisions of a conditional release in ORS 135.245.

43 (6) “Youth correction facility” means:

44 (a) A youth correction facility as defined in ORS 420.005; and

45 (b) A detention facility as defined in ORS 419A.004.

1 (7) "State hospital" means the Oregon State Hospital and any other hospital established by law  
2 for similar purposes.

3 (8) "Unauthorized departure" means the unauthorized departure of a person confined by court  
4 order in a youth correction facility or a state hospital that, because of the nature of the court order,  
5 is not a correctional facility as defined in this section, or the failure to return to custody after any  
6 form of temporary release or transitional leave from a correctional facility.

7 **SECTION 21.** ORS 162.155 is amended to read:

8 162.155. (1) A person commits the crime of escape in the second degree if:

9 (a) The person uses or threatens to use physical force escaping from custody; or

10 (b) Having been convicted or found guilty of a felony, the person escapes from custody imposed  
11 as a result thereof; or

12 (c) The person escapes from a correctional facility; or

13 (d) While under the jurisdiction of the Psychiatric Security Review Board [*or under the juris-*  
14 *isdiction of the Oregon Health Authority*] under ORS 161.315 to 161.351, the person departs, is absent  
15 from or fails to return to this state without authorization of the board.

16 (2) Escape in the second degree is a Class C felony.

17 **SECTION 22.** ORS 181A.290 is amended to read:

18 181A.290. (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric  
19 Security Review Board and the Judicial Department shall provide the Department of State Police  
20 with the minimum information necessary to identify persons who:

21 (a) Have been committed by a court to the Oregon Health Authority under ORS 426.130, based  
22 on a finding that the person is dangerous to self or others;

23 (b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting the person from pur-  
24 chasing or possessing a firearm;

25 (c) Have been committed by a court to the Department of Human Services under ORS 427.290,  
26 based on a finding that the person is dangerous to self or others;

27 (d) Have been found by a court to lack fitness to proceed under ORS 161.370;

28 (e) Have been found guilty except for insanity of a crime under ORS 161.295 to 161.370;

29 (f) Have been found responsible except for insanity for an act under ORS 419C.411;

30 (g) Have been placed under the jurisdiction of the Psychiatric Security Review Board [*or the*  
31 *Oregon Health Authority*] under ORS 161.315 to 161.351; or

32 (h) Have been committed to a state hospital or facility under ORS 161.315 to 161.351 or 419C.529  
33 to 419C.544.

34 (2) Upon receipt of the information described in this section, the Department of State Police  
35 shall access and maintain the information and transmit the information to the federal government  
36 as required under federal law.

37 (3) The Department of Human Services, the Oregon Health Authority, the Psychiatric Security  
38 Review Board and the Judicial Department shall enter into agreements with the Department of State  
39 Police describing the access to information provided under this section.

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

41 (a) After consulting with the Department of Human Services, the Oregon Health Authority, the  
42 Psychiatric Security Review Board and the Judicial Department, describing the type of information  
43 provided to the Department of State Police under this section; and

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

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

8 **SECTION 23.** ORS 183.315 is amended to read:

9 183.315. (1) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452,  
10 183.458, 183.460, 183.470 and 183.480 do not apply to local government boundary commissions created  
11 pursuant to ORS 199.430, the Department of Revenue, State Accident Insurance Fund Corporation,  
12 Department of Consumer and Business Services with respect to its functions under ORS chapters  
13 654 and 656, State Board of Parole and Post-Prison Supervision[,] **or** Psychiatric Security Review  
14 Board [*or Oregon Health Authority*] with respect to its functions under ORS 161.315 to 161.351.

15 (2) This chapter does not apply with respect to actions of the Governor authorized under ORS  
16 chapter 240 and ORS 396.125 or actions of the Adjutant General authorized under ORS 396.160 (14).

17 (3) The provisions of ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.452, 183.458 and  
18 183.460 do not apply to the Employment Appeals Board or the Employment Department.

19 (4) The Employment Department shall be exempt from the provisions of this chapter to the ex-  
20 tent that a formal finding of the United States Secretary of Labor is made that such provision con-  
21 flicts with the terms of the federal law, acceptance of which by the state is a condition precedent  
22 to continued certification by the United States Secretary of Labor of the state’s law.

23 (5) The provisions of ORS 183.415 to 183.430, 183.440 to 183.460, 183.470 to 183.485 and 183.490  
24 to 183.500 do not apply to orders issued to persons who:

25 (a) Have been committed pursuant to ORS 137.124 to the custody of the Department of Cor-  
26 rections or are otherwise confined in a Department of Corrections facility; or

27 (b) Seek to visit an inmate confined in a Department of Corrections facility.

28 (6) ORS 183.410, 183.415, 183.417, 183.425, 183.440, 183.450, 183.460, 183.470 and 183.482 (3) do  
29 not apply to the Public Utility Commission. Notwithstanding ORS 183.480 and except as provided in  
30 ORS 757.495 and 759.390, only a party to a hearing before the Public Utility Commission is entitled  
31 to seek judicial review of an order of the commission.

32 (7) The provisions of this chapter do not apply to the suspension, cancellation or termination  
33 of an apprenticeship or training agreement under ORS 660.060.

34 (8) The provisions of ORS 183.413 to 183.497 do not apply to administrative proceedings con-  
35 ducted under rules adopted by the Secretary of State under ORS 246.190.

36 **SECTION 24.** ORS 183.635 is amended to read:

37 183.635. (1) Except as provided in this section, all agencies must use administrative law judges  
38 assigned from the Office of Administrative Hearings established under ORS 183.605 to conduct con-  
39 tested case hearings, without regard to whether those hearings are subject to the procedural re-  
40 quirements for contested case hearings.

41 (2) The following agencies need not use administrative law judges assigned from the office:

42 (a) Attorney General.

43 (b) Boards of stewards appointed by the Oregon Racing Commission.

44 (c) Bureau of Labor and Industries and the Commissioner of the Bureau of Labor and Industries.

45 (d) Department of Corrections.

- 1 (e) Department of Education, State Board of Education and Superintendent of Public Instruction.  
2 (f) Department of Human Services for vocational rehabilitation services cases under 29 U.S.C.  
3 722(c) and disability determination cases under 42 U.S.C. 405.  
4 (g) Department of Revenue.  
5 (h) Department of State Police.  
6 (i) Employment Appeals Board.  
7 (j) Employment Relations Board.  
8 (k) Energy Facility Siting Council.  
9 (L) Fair Dismissal Appeals Board.  
10 (m) Governor.  
11 (n) Land Conservation and Development Commission.  
12 (o) Land Use Board of Appeals.  
13 (p) Local government boundary commissions created pursuant to ORS 199.430.  
14 (q) Public universities listed in ORS 352.002.  
15 (r) Oregon Youth Authority.  
16 (s) Psychiatric Security Review Board.  
17 *[(t) The Oregon Health Authority for hearings conducted under ORS 161.315 to 161.351.]*  
18 *[(u)]* (t) Public Utility Commission.  
19 *[(v)]* (u) State Accident Insurance Fund Corporation.  
20 *[(w)]* (v) State Apprenticeship and Training Council.  
21 *[(x)]* (w) State Board of Parole and Post-Prison Supervision.  
22 *[(y)]* (x) State Land Board.  
23 *[(z)]* (y) State Treasurer.
- 24 (3) The Workers' Compensation Board is exempt from using administrative law judges assigned  
25 from the office for any hearing conducted by the board under ORS chapters 147, 654 and 656. Except  
26 as specifically provided in this subsection, the Department of Consumer and Business Services must  
27 use administrative law judges assigned from the office only for contested cases arising out of the  
28 department's powers and duties under:
- 29 (a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;  
30 (b) ORS chapter 455;  
31 (c) ORS chapter 674;  
32 (d) ORS chapters 706 to 716;  
33 (e) ORS chapter 717;  
34 (f) ORS chapters 723, 725 and 726; and  
35 (g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750.
- 36 (4) Notwithstanding any other provision of law, in any proceeding in which an agency is re-  
37 quired to use an administrative law judge assigned from the office, an officer or employee of the  
38 agency may not conduct the hearing on behalf of the agency.
- 39 (5) Notwithstanding any other provision of ORS 183.605 to 183.690, an agency is not required to  
40 use an administrative law judge assigned from the office if:
- 41 (a) Federal law requires that a different administrative law judge or hearing officer be used; or  
42 (b) Use of an administrative law judge from the office could result in a loss of federal funds.
- 43 (6) Notwithstanding any other provision of this section, the Department of Environmental  
44 Quality must use administrative law judges assigned from the office only for contested case hearings  
45 conducted under the provisions of ORS 183.413 to 183.470.

**SECTION 25.** ORS 192.690 is amended to read:

192.690. (1) ORS 192.610 to 192.690 do not apply to the deliberations of [*the Oregon Health Authority conducted under ORS 161.315 to 161.351,*] the Psychiatric Security Review Board, the State Board of Parole and Post-Prison Supervision, state agencies conducting hearings on contested cases in accordance with the provisions of ORS chapter 183, the review by the Workers' Compensation Board or the Employment Appeals Board of similar hearings on contested cases, meetings of the state lawyers assistance committee operating under the provisions of ORS 9.568, meetings of the personal and practice management assistance committees operating under the provisions of ORS 9.568, the county multidisciplinary child abuse teams required to review child abuse cases in accordance with the provisions of ORS 418.747, the child fatality review teams required to review child fatalities in accordance with the provisions of ORS 418.785, the peer review committees in accordance with the provisions of ORS 441.055, mediation conducted under ORS 36.252 to 36.268, any judicial proceeding, meetings of the Oregon Health and Science University Board of Directors or its designated committee regarding candidates for the position of president of the university or regarding sensitive business, financial or commercial matters of the university not customarily provided to competitors related to financings, mergers, acquisitions or joint ventures or related to the sale or other disposition of, or substantial change in use of, significant real or personal property, or related to health system strategies, or to Oregon Health and Science University faculty or staff committee meetings.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 to 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to ORS 469.530.

**SECTION 26.** ORS 278.315 is amended to read:

278.315. (1) The Oregon Health Authority may provide tort liability coverage through the Oregon Department of Administrative Services to any county or private community care provider that has contracted with the authority to provide supervision, care, treatment or training of persons under the jurisdiction of the Psychiatric Security Review Board [*or the authority*] under ORS 161.315 to 161.351. Counties or private community care providers, and the officers and employees of those counties and providers acting within the scope of their employment, may be covered to the extent that any tort claim arises out of the provision of supervision, care, treatment or training of persons pursuant to the terms of the contract. Tort liability coverage under this section must be in writing, and may be part of the contract between the authority and the county or private community care provider. The coverage provided under this section shall be self-insurance by the State of Oregon to the limits contained in ORS 30.260 to 30.300.

(2) Counties or private community care providers that have contracted with the authority to provide supervision, care, treatment or training of persons under the jurisdiction of the Psychiatric Security Review Board [*or the authority*] under ORS 161.315 to 161.351, and the officers and employees of those counties and providers, are not agents of the authority for the purposes of ORS 30.260 to 30.300.

**SECTION 27.** ORS 430.695 is amended to read:

430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any source, except client resources applied toward the cost of care in group homes for persons with developmental disabilities or mental illness and client resources and third-party payments for community psychiatric inpatient care, received by a community mental health program or a community

1 developmental disabilities program are not an offset to the costs of the services and may not be  
 2 applied to reduce the program's eligibility for state funds, providing the funds are expended for  
 3 mental health or developmental disabilities services approved by the Oregon Health Authority or the  
 4 Department of Human Services.

5 (2) Within the limits of available funds, the authority and the department may contract for spe-  
 6 cialized, statewide and regional services including but not limited to group homes for persons with  
 7 developmental disabilities or mental or emotional disturbances, day and residential treatment pro-  
 8 grams for children and adolescents with mental or emotional disturbances and community services  
 9 for clients of the Psychiatric Security Review Board [*or the authority*] under ORS 161.315 to 161.351.

10 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the  
 11 Social Security Act by the Department of Human Services or the Oregon Health Authority, for  
 12 mental health services or developmental disabilities services and interest earned on those fees and  
 13 reimbursements shall be retained by the community mental health program or community develop-  
 14 mental disabilities program and expended for any service that meets the standards of ORS 430.630  
 15 or 430.664.

16 **SECTION 28.** ORS 809.419 is amended to read:

17 809.419. (1)(a) The Department of Transportation shall suspend the driving privileges of a person  
 18 if the department requests the person to submit to examination under ORS 807.340 and the person  
 19 fails to appear within a reasonable length of time after being notified to do so or fails to satisfac-  
 20 torily complete the required examination. A suspension under this subsection shall continue until  
 21 the examination required by the department is successfully completed or until the person voluntarily  
 22 surrenders the person's driving privileges to the department based upon the person's recognition  
 23 that the person is no longer competent to drive.

24 (b) Upon suspension under this subsection, the department may issue an identification card to  
 25 the person for identification purposes as described under ORS 807.400.

26 (2) The department shall suspend the driving privileges of a person if the department requests  
 27 the person to obtain medical clearance under ORS 807.070 or 807.090 and the person fails to do so.  
 28 The suspension under this subsection shall continue until the required medical clearance is received  
 29 by the department or until the person voluntarily surrenders the person's driving privileges to the  
 30 department based upon the person's recognition that the person is no longer competent to drive.

31 (3)(a) The department may suspend the driving privileges of a person who is incompetent to  
 32 drive a motor vehicle because of a mental or physical condition or impairment that affects the  
 33 person's ability to safely operate a motor vehicle upon the highways.

34 (b) A suspension under this subsection shall be subject to any conditions the department deter-  
 35 mines to be necessary and shall continue for a period determined by the department or until the  
 36 person voluntarily surrenders the person's driving privileges to the department based upon the  
 37 person's recognition that the person is no longer competent to drive.

38 (c) The department may impose an immediate suspension of driving privileges of any person  
 39 described in paragraph (a) of this subsection without hearing and without receiving a record of the  
 40 conviction of the person of a crime if the department has reason to believe that the person may  
 41 endanger people or property if the person's driving privileges are not immediately suspended. A  
 42 suspension under this paragraph is subject to a post-imposition hearing under ORS 809.440. A person  
 43 who is denied eligibility under ORS 807.090 is entitled to a hearing under ORS 809.440.

44 (4)(a) Whenever the department has reason to believe an individual with a motorcycle endorse-  
 45 ment under ORS 807.170 is incompetent to operate a motorcycle, the department may revoke the

1 endorsement.

2 (b) Upon revocation under this subsection, the endorsed license shall be surrendered to the de-  
3 partment.

4 (c) Upon surrender of the endorsed license, the department may issue a license without  
5 endorsement for the unexpired period of the license.

6 (5) Upon notification by the superintendent of a hospital under ORS 807.700 that a person should  
7 not drive, the department shall immediately suspend the driving privileges of the released person.  
8 A suspension under this subsection is subject to administrative review under ORS 809.440 and shall  
9 continue until such time as the person produces a judicial judgment of competency or a certificate  
10 from the superintendent of the hospital that the person is competent, or establishes eligibility under  
11 ORS 807.090.

12 (6) Upon notification by a court under ORS 810.375 that a person charged with a traffic offense  
13 has been found guilty except for insanity and committed to the jurisdiction of the Psychiatric Se-  
14 curity Review Board [*or the Oregon Health Authority*] under ORS 161.315 to 161.351, the department  
15 shall immediately suspend the driving privileges of the person. A suspension under this subsection  
16 is subject to administrative review under ORS 809.440 and shall continue until such time as the  
17 person establishes eligibility under ORS 807.090.

18 **SECTION 29.** ORS 810.375 is amended to read:

19 810.375. (1) The judge or clerk of every court of this state having jurisdiction of any traffic of-  
20 fense, including all local and municipal judicial officers in this state:

21 (a) Shall keep a full record of every case in which a person is charged with any such offense.

22 (b) Shall send the Department of Transportation an abstract of conviction for any person who  
23 is convicted.

24 (c) Shall send the department a copy of any final judgment of conviction of any person that re-  
25 sults in mandatory suspension or revocation of driving privileges or commercial driving privileges  
26 under ORS 809.409, 809.411, 809.510 to 809.545 or 813.400.

27 (d) Shall send the department a copy of any final judgment finding a person charged with a  
28 traffic offense guilty except for insanity and committed to the jurisdiction of the Psychiatric Security  
29 Review Board [*or the Oregon Health Authority*] under ORS 161.315 to 161.351.

30 (2) The department shall keep such records in its office, and they shall be open to the inspection  
31 of any person during reasonable business hours.

32 (3) To comply with this section, a judge or clerk must comply with the following:

33 (a) Any information required by this section to be sent to the department must be sent within  
34 the time provided under ORS 810.370 and must include information required by ORS 810.370.

35 (b) Information may not be sent to the department under this section concerning convictions  
36 excluded from ORS 810.370.

37 **SECTION 30.** ORS 163A.105 is amended to read:

38 163A.105. (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sen-  
39 tenced to a term of imprisonment in a Department of Corrections institution for that crime, the  
40 State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assess-  
41 ment methodology described in ORS 163A.100. The board shall apply the results of the assessment  
42 to place the person in one of the levels described in ORS 163A.100 before the person is released from  
43 custody.

44 (2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or  
45 is discharged, released or placed on probation by the court, the supervisory authority as defined in

1 ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS  
2 163A.100 and apply the results of the assessment to place the person in one of the levels described  
3 in ORS 163A.100 no later than 60 days after the person is released from jail or discharged, released  
4 or placed on probation by the court.

5 (3)(a) When a person is found guilty except for insanity of a sex crime, the Psychiatric Security  
6 Review Board [*or the Oregon Health Authority*] shall assess the person utilizing the risk assessment  
7 methodology described in ORS 163A.100 and apply the results of the assessment to place the person  
8 in one of the levels described in ORS 163A.100 no later than 60 days after the person is:

9 (A) Placed on conditional release by the Psychiatric Security Review Board [*or the Oregon*  
10 *Health Authority*];

11 (B) Discharged from the jurisdiction of the Psychiatric Security Review Board [*or the Oregon*  
12 *Health Authority*];

13 (C) Placed on conditional release by the court pursuant to ORS 161.327; or

14 (D) Discharged by the court pursuant to ORS 161.329.

15 (b) If the State Board of Parole and Post-Prison Supervision previously completed a risk as-  
16 sessment and assigned a classification level described in ORS 163A.100 for a person described in  
17 paragraph (a) of this subsection, the Psychiatric Security Review Board [*or the Oregon Health Au-*  
18 *thority*] need not complete a reassessment for an initial classification.

19 (c) The court shall notify the Psychiatric Security Review Board when the court conditionally  
20 releases or discharges a person described in paragraph (a) of this subsection.

21 (d) The Psychiatric Security Review Board [*or the Oregon Health Authority*] shall notify the  
22 State Board of Parole and Post-Prison Supervision no later than seven days after the Psychiatric  
23 Security Review Board [*or the authority*] conditionally releases or discharges a person who has a  
24 prior sex crime conviction that obligates the person to report as a sex offender, unless the person  
25 has also been found guilty except for insanity of a sex crime that obligates the person to report as  
26 a sex offender.

27 (4) Within 60 days after the event triggering the obligation to make an initial report, the State  
28 Board of Parole and Post-Prison Supervision shall assess a person utilizing the risk assessment  
29 methodology described in ORS 163A.100 and apply the results of the assessment to place the person  
30 in one of the levels described in ORS 163A.100 if the person:

31 (a) Has been convicted in another United States court of a crime:

32 (A) That would constitute a sex crime if committed in this state; or

33 (B) For which the person would have to register as a sex offender in that court's jurisdiction,  
34 or as required under federal law, regardless of whether the crime would constitute a sex crime in  
35 this state; or

36 (b) Has been convicted of a sex crime and was sentenced to a term of imprisonment in a De-  
37 partment of Corrections institution for that sex crime, but was not subjected to a risk assessment  
38 utilizing the risk assessment methodology described in ORS 163A.100 before release under sub-  
39 section (1) of this section.

40 (5) When the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review  
41 Board[, *the Oregon Health Authority*] or a supervisory authority applies the results of a risk assess-  
42 ment to place a person in one of the levels described in ORS 163A.100, the agency shall notify the  
43 Department of State Police of the results of the risk assessment within three business days after the  
44 agency's classification. Upon receipt, the Department of State Police shall enter the results of the  
45 risk assessment into the Law Enforcement Data System.



1       **SECTION 31.** Section 7, chapter 708, Oregon Laws 2013, as amended by section 27, chapter 820,  
2 Oregon Laws 2015, is amended to read:

3       **Sec. 7.** (1) As used in this section and [*sections 19 to 21 of this 2015 Act*] **ORS 163A.200 to**  
4 **163A.210:**

5       (a) “Event triggering the obligation to make an initial report” has the meaning given that term  
6 in ORS [*181.802*] **163A.110.**

7       (b) “Existing registrant” means a person for whom the event triggering the obligation to make  
8 an initial report under ORS [*181.806 (3)(a)(A), 181.807 (4)(a)(A) or 181.808 (1)(a)(A), (2)(a)(A) or*  
9 (*3)(a)(A)*] **163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A)** occurs  
10 before January 1, 2014.

11       (2)(a) No later than December 1, 2018, the State Board of Parole and Post-Prison Supervision  
12 shall classify existing registrants in one of the levels described in ORS [*181.800*] **163A.100.** No later  
13 than February 1, 2019, the Department of State Police shall enter the results of the classifications  
14 described in this section into the Law Enforcement Data System.

15       (b) The board shall classify an existing registrant as a level three sex offender under ORS  
16 [*181.800*] **163A.100 (3)**, if:

17       (A) The person was previously designated a predatory sex offender and the designation was  
18 made after the person was afforded notice and an opportunity to be heard as to all factual questions  
19 at a meaningful time and in a meaningful manner; or

20       (B) The person is a sexually violent dangerous offender under ORS 137.765.

21       (c) The Psychiatric Security Review Board may complete the risk assessment of an existing  
22 registrant who is under the jurisdiction of the Psychiatric Security Review Board [*or the Oregon*  
23 *Health Authority*], regardless of whether the person has been found guilty except for insanity of a  
24 sex crime or was previously convicted of a sex crime, if the State Board of Parole and Post-Prison  
25 Supervision and the Psychiatric Security Review Board mutually agree that the Psychiatric Security  
26 Review Board has adequate resources to perform the assessment and that the performance of the  
27 assessment by the Psychiatric Security Review Board would assist in classifying the existing regis-  
28 trant in a more timely manner.

29       (3) As soon as practicable following the classification of an existing registrant under this sec-  
30 tion, the classifying board shall notify the person of the classification by mail.

31       (4)(a) An existing registrant who seeks review of a classification made under this section may  
32 petition the classifying board for review. The petition may be filed no later than 60 days after the  
33 board provides the notice described in subsection (3) of this section.

34       (b) Upon receipt of a petition described in this subsection, the classifying board shall afford the  
35 person an opportunity to be heard as to all factual questions related to the classification.

36       (c) After providing the person with notice and an opportunity to be heard in accordance with  
37 this subsection, the board shall classify the person in accordance with the classifications described  
38 in ORS [*181.800*] **163A.100**, based on all of the information available to the classifying board.

39       (5) The boards shall adopt rules to carry out the provisions of this section.

40       (6) An existing registrant may not petition for reclassification or relief from the obligation to  
41 report as a sex offender as provided in ORS [*181.821*] **163A.125** until either all existing registrants  
42 have been classified in one of the levels described in ORS [*181.800*] **163A.100** or December 1, 2018,  
43 whichever occurs first.

44       (7) Notwithstanding ORS [*181.837*] **163A.225** or any other provision of law, the Department of  
45 State Police may until December 1, 2018, continue to use the Internet to make information available

1 to the public concerning any adult sex offender designated as predatory as authorized by the law  
2 in effect on December 31, 2013.

3 (8) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review  
4 Board does not classify an existing registrant under ORS [181.800] 163A.100 because the person has  
5 failed or refused to participate in a sex offender risk assessment as directed by the State Board of  
6 Parole and Post-Prison Supervision or the Psychiatric Security Review Board, the person is, by op-  
7 eration of law, classified as a level three sex offender under ORS [181.800] 163A.100 (3) as of Janu-  
8 ary 1, 2019.

9 **SECTION 32.** ORS 163A.210 is amended to read:

10 163A.210. Notwithstanding ORS 419A.257 or any other provision of law, the Oregon Youth Au-  
11 thority and the juvenile department may disclose and provide copies of reports and other materials  
12 relating to a child, ward, youth or youth offender's history and prognosis to the Psychiatric Security  
13 Review Board[, *the Oregon Health Authority*] or the State Board of Parole and Post-Prison Super-  
14 vision in order to determine whether to reclassify the person as a level one or a level two sex  
15 offender or relieve the person from the obligation to report as a sex offender, as described in ORS  
16 163A.125, or whether to classify a person who is an existing registrant into one of the three levels  
17 described in ORS 163A.100, as required by section 7, chapter 708, Oregon Laws 2013.

18 **SECTION 33.** ORS 163A.215 is amended to read:

19 163A.215. (1)(a) A notifying agency or a supervising agency shall release, upon request, any in-  
20 formation that may be necessary to protect the public concerning sex offenders who reside in a  
21 specific area or concerning a specific sex offender.

22 (b) A notifying agency or a supervising agency may release sex offender information to a law  
23 enforcement agency if the notifying agency or supervising agency determines that the release of  
24 information is in the public interest.

25 (c) In addition to the release of information described in this subsection and ORS 137.540,  
26 144.260 and 441.373, a notifying agency or a supervising agency may release sex offender information  
27 to the public in accordance with subsections (2) to (4) of this section.

28 (2) If the sex offender is classified as a level three sex offender under ORS 163A.100 (3):

29 (a) The Department of State Police shall release sex offender information on a website main-  
30 tained by the department; and

31 (b) The supervising agency or a notifying agency may release sex offender information to:

32 (A) A person that resides with the sex offender;

33 (B) A person with whom the sex offender has a significant relationship;

34 (C) Residential neighbors and churches, community parks, schools and child care centers, con-  
35 venience stores, businesses and other places that children or other potential victims may frequent;

36 (D) A long term care facility, as defined in ORS 442.015, or a residential care facility, as defined  
37 in ORS 443.400, if the agency knows that the sex offender is seeking admission to the facility; and

38 (E) Local or regional media sources.

39 (3) Notwithstanding subsection (2)(a) of this section, the Department of State Police may not use  
40 the Internet to make available to the public information concerning a sex offender classified as a  
41 level three sex offender under ORS 163A.100 (3) while the person is under the supervision of the  
42 Psychiatric Security Review Board [*or the Oregon Health Authority*], unless the department is au-  
43 thorized to do so by a request of the supervising agency.

44 (4) If the sex offender is classified as a level two sex offender under ORS 163A.100 (2), the  
45 supervising agency or a notifying agency may release sex offender information to the persons or

1 entities described in subsection (2)(b)(A) to (D) of this section.

2 (5) If the sex offender is classified as a level one sex offender under ORS 163A.100 (1), the  
3 supervising agency or a notifying agency may release sex offender information to a person described  
4 in subsection (2)(b)(A) of this section.

5 (6) As used in this section:

6 (a) "Notifying agency" means the Department of State Police, a city police department, a county  
7 sheriff's office or a police department established by a university under ORS 352.121.

8 (b) "Sex offender information" means information that the Department of State Police deter-  
9 mines by rule is appropriate for release to the public.

10 (c) "Supervising agency" means a governmental entity responsible for supervising a person re-  
11 quired to report as a sex offender under ORS 163A.010 or 163A.015.

12 **SECTION 34.** ORS 163.476 is amended to read:

13 163.476. (1) A person commits the crime of unlawfully being in a location where children regu-  
14 larly congregate if the person:

15 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

16 (B) Has been classified as a level three sex offender under ORS 163A.100 (3), is an unclassified  
17 adult sex offender designated as predatory prior to January 1, 2014, or is a person whom the State  
18 Board of Parole and Post-Prison Supervision[,] **or** the Psychiatric Security Review Board [*or the*  
19 *Oregon Health Authority*] has classified as a level three sex offender under section 7 (2)(b), chapter  
20 708, Oregon Laws 2013, and does not have written approval from the State Board of Parole and  
21 Post-Prison Supervision or the person's supervisory authority or supervising officer to be in or upon  
22 the specific premises;

23 (C) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex  
24 crime; or

25 (D) Has been given a similar designation or been sentenced under a similar law of another ju-  
26 risdiction; and

27 (b) Knowingly enters or remains in or upon premises where persons under 18 years of age reg-  
28 ularly congregate.

29 (2) As used in this section:

30 (a) "Premises where persons under 18 years of age regularly congregate" means schools, child  
31 care centers, playgrounds, other places intended for use primarily by persons under 18 years of age  
32 and places where persons under 18 years of age gather for regularly scheduled educational and  
33 recreational programs.

34 (b) "Sex crime" has the meaning given that term in ORS 163A.005.

35 (3) Unlawfully being in a location where children regularly congregate is a Class A  
36 misdemeanor.

37 **SECTION 35.** ORS 163.479 is amended to read:

38 163.479. (1) A person commits the crime of unlawful contact with a child if the person:

39 (a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;

40 (B) Has been classified as a level three sex offender under ORS 163A.100 (3);

41 (C) Is an unclassified adult sex offender designated as predatory prior to January 1, 2014, or a  
42 person whom the State Board of Parole and Post-Prison Supervision[,] **or** the Psychiatric Security  
43 Review Board [*or the Oregon Health Authority*] has classified as a level three sex offender under  
44 section 7 (2)(b), chapter 708, Oregon Laws 2013;

45 (D) Has been sentenced as a dangerous offender under ORS 161.725 upon conviction of a sex

1 crime; or

2 (E) Has been given a similar designation or been sentenced under a similar law of another ju-  
3 risdiction; and

4 (b) Knowingly contacts a child with the intent to commit a crime or for the purpose of arousing  
5 or satisfying the sexual desires of the person or another person.

6 (2) As used in this section:

7 (a) "Child" means a person under 18 years of age.

8 (b) "Contact" means to communicate in any manner.

9 (c) "Sex crime" has the meaning given that term in ORS 163A.005.

10 (3) Unlawful contact with a child is a Class C felony.

11 **SECTION 36.** (1) **The amendments to ORS 21.010, 90.630, 137.223, 137.750, 144.641, 151.216,**  
12 **161.326, 161.327, 161.332, 161.336, 161.341, 161.346, 161.348, 161.349, 161.351, 161.390, 161.395,**  
13 **161.400, 162.135, 162.155, 163.476, 163.479, 163A.105, 163A.210, 163A.215, 181A.290, 183.315,**  
14 **183.635, 192.690, 278.315, 430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon Laws**  
15 **2013, by sections 2 to 35 of this 2017 Act become operative on July 1, 2018.**

16 (2) **The Psychiatric Security Review Board and the Oregon Health Authority may take**  
17 **any action before the operative date specified in subsection (1) of this section to enable the**  
18 **board and the authority to exercise, on and after the operative date specified in subsection**  
19 **(1) of this section, the duties, functions and powers conferred on the board and authority by**  
20 **the amendments to ORS 21.010, 90.630, 137.223, 137.750, 144.641, 151.216, 161.326, 161.327,**  
21 **161.332, 161.336, 161.341, 161.346, 161.348, 161.349, 161.351, 161.390, 161.395, 161.400, 162.135,**  
22 **162.155, 163.476, 163.479, 163A.105, 163A.210, 163A.215, 181A.290, 183.315, 183.635, 192.690,**  
23 **278.315, 430.695, 809.419 and 810.375 and section 7, chapter 708, Oregon Laws 2013, by sections**  
24 **2 to 35 of this 2017 Act.**

25 (3) **On the operative date specified in subsection (1) of this section, the Psychiatric Se-**  
26 **curity Review Board shall exercise jurisdiction over all offenders committed to a state hos-**  
27 **pital or secure intensive community inpatient facility under ORS 161.315 to 161.351.**

28 **SECTION 37.** **This 2017 Act being necessary for the immediate preservation of the public**  
29 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
30 **on its passage.**

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