

Senate Bill 402

Sponsored by Senators COURTNEY, WINTERS

SUMMARY

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

Requires court or Psychiatric Security Review Board to place person found guilty or responsible except for insanity on conditional release in county of residence. Provides exceptions.

A BILL FOR AN ACT

Relating to conditional release; creating new provisions; and amending ORS 161.327, 161.336, 161.346, 419C.529 and 419C.532.

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

SECTION 1. (1) As used in this section, "county of residence" means the county where a person found guilty or responsible except for insanity resided at the time of the act that resulted in the finding.

(2) In determining whether a person found guilty or responsible except for insanity may be conditionally released, the Psychiatric Security Review Board or the court shall determine whether necessary supervision and treatment are available in the person's county of residence. Except as provided in subsection (3) of this section, the board or the court may not order a person conditionally released to a county other than the person's county of residence.

(3) The board or the court may order a person conditionally released to a county other than the person's county of residence, if the person is a proper subject for conditional release and:

(a) The treatment of the person's mental and physical health would be adversely affected by placing the person on conditional release in the person's county of residence; or

(b) The person has a spouse or a biological or adoptive family member residing in a county other than the person's county of residence who will be materially significant in aiding in the treatment of the person's mental and physical health.

(4)(a) In determining a person's county of residence, the board or the court may examine all of the following:

(A) An Oregon driver license, regardless of its validity;

(B) Records maintained by the Department of Revenue;

(C) Records maintained by the Department of State Police bureau of criminal identification;

(D) Records maintained by the Department of Human Services; and

(E) Records maintained by the Department of Corrections.

(b) If the person did not have an identifiable address of record at the time of the act that resulted in the finding of guilty or responsible except for insanity, the person is considered

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 to have resided in the county where the act occurred.

2 (c) If the person is under the jurisdiction of the board or before the court for multiple
3 acts, the board or the court shall determine the county of residence according to the date
4 of the last arrest resulting in a finding of guilty or responsible except for insanity.

5 (d) In determining the person's county of residence under this subsection, the board or
6 the court may not consider acts committed by the person while the person was committed
7 to a state hospital or secure intensive community inpatient facility.

8 **SECTION 2.** ORS 161.327 is amended to read:

9 161.327. (1)(a) Following the entry of a judgment pursuant to ORS 161.319 and the dispositional
10 determination under ORS 161.325, if the court finds that the person would have been guilty of a
11 felony, or of a misdemeanor during a criminal episode in the course of which the person caused
12 physical injury or risk of physical injury to another, the court shall order that a psychiatric or
13 psychological evaluation be performed and a report of the evaluation be provided to the court if an
14 evaluation was not performed or a report was not provided to the court prior to trial. Upon receipt
15 of the evaluation, the court shall order that the person be placed under the jurisdiction of the Psy-
16 chiatric Security Review Board for care and treatment if the court finds by a preponderance of the
17 evidence that the person is affected by mental disease or defect and presents a substantial danger
18 to others requiring commitment to:

19 (A) A state hospital designated by the Department of Human Services if the person is at least
20 18 years of age; or

21 (B) A secure intensive community inpatient facility designated by the Department of Human
22 Services if the person is under 18 years of age.

23 (b) The period of jurisdiction of the board is equal to the maximum sentence provided by statute
24 for the crime for which the person was found guilty except for insanity.

25 (c) When a court orders a psychiatric or psychological evaluation of a financially eligible person
26 under this subsection, the court shall order the public defense services executive director to pay a
27 reasonable fee for the evaluation from funds available for the purpose.

28 (2) The court shall determine whether the person should be committed to a state hospital, or to
29 a secure intensive community inpatient facility, designated by the Department of Human Services
30 or conditionally released pending any hearing before the board as follows:

31 (a) If the court finds that the person presents a substantial danger to others and is not a proper
32 subject for conditional release, the court shall order the person committed to a state hospital des-
33 ignated by the Department of Human Services if the person is at least 18 years of age, or to a secure
34 intensive community inpatient facility designated by the Department of Human Services if the per-
35 son is under 18 years of age, for custody, care and treatment pending hearing before the board in
36 accordance with ORS 161.341 to 161.351.

37 (b) If the court finds that the person presents a substantial danger to others but that the person
38 can be adequately controlled with supervision and treatment if conditionally released, and that
39 necessary supervision and treatment are available **in accordance with section 1 of this 2009**
40 **Act**, the court may order the person conditionally released, subject to those supervisory orders of
41 the court as are in the best interests of justice, the protection of society and the welfare of the
42 person. The court shall designate a person or state, county or local agency to supervise the person
43 upon release, subject to those conditions as the court directs in the order for conditional release.
44 Prior to the designation, the court shall notify the person or agency to whom conditional release is
45 contemplated and provide the person or agency an opportunity to be heard before the court. After

1 receiving an order entered under this paragraph, the person or agency designated shall assume
 2 supervision of the person pursuant to the direction of the Psychiatric Security Review Board. The
 3 person or agency designated as supervisor shall be required to report in writing no less than once
 4 per month to the board concerning the supervised person's compliance with the conditions of re-
 5 lease.

6 (3) For purposes of this section, a person affected by a mental disease or defect in a state of
 7 remission is considered to have a mental disease or defect requiring supervision when the disease
 8 may, with reasonable medical probability, occasionally become active and, when active, render the
 9 person a danger to others.

10 (4) In determining whether a person should be conditionally released, the court may order
 11 evaluations, examinations and compliance as provided in ORS 161.336 (4) and 161.346 (2).

12 (5) In determining whether a person should be committed to a state hospital or to a secure in-
 13 tensive community inpatient facility or conditionally released, the court shall have as its primary
 14 concern the protection of society.

15 (6) Upon placing a person on conditional release, the court shall notify the board in writing of
 16 the court's conditional release order, the supervisor appointed, and all other conditions of release,
 17 and the person shall be on conditional release pending hearing before the board in accordance with
 18 ORS 161.336 to 161.351. Upon compliance with this subsection and subsections (1) and (2) of this
 19 section, the court's jurisdiction over the person is terminated and the board assumes jurisdiction
 20 over the person.

21 (7) An order of the court under this section is a final order appealable by the person found
 22 guilty except for insanity in accordance with ORS 19.205 (5). Notwithstanding ORS 19.255, notice
 23 of an appeal under this section shall be served and filed within 90 days after the order appealed from
 24 is entered in the register. The person shall be entitled on appeal to suitable counsel possessing
 25 skills and experience commensurate with the nature and complexity of the case. If the person is fi-
 26 nancially eligible, suitable counsel shall be appointed in the manner provided in ORS 138.500 (1), and
 27 the compensation for counsel and costs and expenses of the person necessary to the appeal shall be
 28 determined and paid as provided in ORS 138.500.

29 (8) Upon placing a person under the jurisdiction of the board, the court shall notify the person
 30 of the right to appeal and the right to a hearing before the board in accordance with ORS 161.336
 31 (7) and 161.341 (4).

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

33 161.336. (1) If the Psychiatric Security Review Board determines that the person presents a
 34 substantial danger to others but can be adequately controlled with supervision and treatment if
 35 conditionally released, and that necessary supervision and treatment are available **in accordance**
 36 **with section 1 of this 2009 Act**, the board may order the person conditionally released, subject to
 37 those supervisory orders of the board as are in the best interests of justice, the protection of society
 38 and the welfare of the person. The board may designate any person or state, county or local agency
 39 the board considers capable of supervising the person upon release, subject to those conditions as
 40 the board directs in the order for conditional release. Prior to the designation, the board shall notify
 41 the person or agency to whom conditional release is contemplated and provide the person or agency
 42 an opportunity to be heard before the board. After receiving an order entered under this section,
 43 the person or agency designated shall assume supervision of the person pursuant to the direction
 44 of the board.

45 (2) Conditions of release contained in orders entered under this section may be modified from

1 time to time and conditional releases may be terminated by order of the board as provided in ORS
2 161.351.

3 (3) For purposes of this section, a person affected by a mental disease or defect in a state of
4 remission is considered to have a mental disease or defect requiring supervision when the disease
5 may, with reasonable medical probability, occasionally become active and, when active, render the
6 person a danger to others. The person may be continued on conditional release by the board as
7 provided in this section.

8 (4)(a) As a condition of release, the board may require the person to report to any state or local
9 mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment is
10 recommended, the board may order the person, as a condition of release, to cooperate with and ac-
11 cept the treatment from the facility.

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

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

18 (d) Copies of all reports submitted to the board pursuant to this section shall be furnished to the
19 person and the person's counsel. The confidentiality of these reports is determined pursuant to ORS
20 192.501 to 192.505.

21 (e) The facility shall comply with any other conditions of release prescribed by order of the
22 board.

23 (5) If at any time while the person is under the jurisdiction of the board it appears to the board
24 or its chairperson that the person has violated the terms of the conditional release or that the
25 mental health of the individual has changed, the board or its chairperson may order the person re-
26 turned for evaluation or treatment to a state hospital designated by the Department of Human Ser-
27 vices if the person is at least 18 years of age, or to a secure intensive community inpatient facility
28 designated by the Department of Human Services if the person is under 18 years of age. A written
29 order of the board, or its chairperson on behalf of the board, is sufficient warrant for any law
30 enforcement officer to take into custody such person and transport the person accordingly. A sheriff,
31 municipal police officer, constable, parole and probation officer, prison official or other peace officer
32 shall execute the order, and the person shall be returned as soon as practicable to the custody of
33 the Department of Human Services. Within 20 days following the return of the person to the custody
34 of the Department of Human Services, the board shall conduct a hearing. Notice of the time and
35 place of the hearing shall be given to the person, the attorney representing the person and the At-
36 torney General. The board may continue the person on conditional release or, if it finds by a pre-
37 ponderance of the evidence that the person is affected by mental disease or defect and presents a
38 substantial danger to others and cannot be adequately controlled if conditional release is continued,
39 it may order the person committed to a state hospital designated by the Department of Human
40 Services if the person is at least 18 years of age, or to a secure intensive community inpatient fa-
41 cility designated by the Department of Human Services if the person is under 18 years of age. The
42 state must prove by a preponderance of the evidence the person's unfitness for conditional release.
43 A person in custody pursuant to this subsection has the same rights as any person appearing before
44 the board pursuant to ORS 161.346.

45 (6) The community mental health and developmental disabilities program director, the director

of the facility providing treatment to a person on conditional release, any peace officer or any person responsible for the supervision of a person on conditional release may take a person on conditional release into custody or request that the person be taken into custody if there is reasonable cause to believe the person is a substantial danger to others because of mental disease or defect and that the person is in need of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection shall be transported as soon as practicable to a state hospital designated by the Department of Human Services if the person is at least 18 years of age, or to a secure intensive community inpatient facility designated by the Department of Human Services if the person is under 18 years of age. A person taken into custody under this subsection has the same rights as any person appearing before the board pursuant to ORS 161.346.

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

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

(8) The total period of commitment and conditional release ordered pursuant to this section may not exceed the maximum sentence provided by statute for the crime for which the person was found guilty except for insanity.

(9) The board shall maintain and keep current the medical, social and criminal history of all persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be determined pursuant to ORS 192.501 to 192.505.

(10) In determining whether a person should be committed to a state hospital or to a secure intensive community inpatient facility, conditionally released or discharged, the board shall have as its primary concern the protection of society.

SECTION 4. ORS 161.346 is amended to read:

161.346. (1) The Psychiatric Security Review Board shall conduct hearings upon any application for discharge, conditional release, commitment or modification filed pursuant to ORS 161.336, 161.341 or 161.351 and as otherwise required by ORS 161.336 to 161.351 and shall make findings on the issues before it which may include:

(a) If the board finds that the person is no longer affected by mental disease or defect, or, if so affected, no longer presents a substantial danger to others, the board shall order the person discharged from commitment or from conditional release.

(b) If the board finds that the person is still affected by a mental disease or defect and is a substantial danger to others, but can be controlled adequately if conditionally released with treatment as a condition of release, **and that necessary supervision and treatment are available in accordance with section 1 of this 2009 Act**, the board shall order the person conditionally released as provided in ORS 161.336.

(c) If the board finds that **the conditional release of a person does not comply with section 1 of this 2009 Act or that** the person has not recovered from the mental disease or defect and is a substantial danger to others and cannot adequately be controlled if conditionally released on supervision, the board shall order the person committed to, or retained in, a state hospital designated by the Department of Human Services if the person is at least 18 years of age, or a secure intensive community inpatient facility designated by the Department of Human Services if the person is under 18 years of age, for care, custody and treatment.

(2) At any time, the board may appoint a psychiatrist or licensed psychologist to examine the person and to submit a report to the board. Reports filed with the board pursuant to the examination shall include, but need not be limited to, an opinion as to the mental condition of the person and whether the person presents a substantial danger to others, and whether the person could be adequately controlled with treatment as a condition of release. To facilitate the examination of the person, the board may order the person placed in the temporary custody of any state hospital or other suitable facility.

(3) The board may make the determination regarding discharge or conditional release based upon the written reports submitted pursuant to this section. If any member of the board desires further information from the examining psychiatrist or licensed psychologist who submitted the report, these persons shall be summoned by the board to give testimony. The board shall consider all evidence available to it which is material, relevant and reliable regarding the issues before the board. Such evidence may include but is not limited to the record of trial, the information supplied by the attorney representing the state or by any other interested party, including the person, and information concerning the person's mental condition and the entire psychiatric and criminal history of the person. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible at hearings. Testimony shall be taken upon oath or affirmation of the witness from whom received. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(4) The board shall furnish to the person about whom the hearing is being conducted, the attorney representing the person, the Attorney General, the district attorney and the court or department of the county from which the person was committed written notice of any hearing pending under this section within a reasonable time prior to the hearing. The notice shall include:

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

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

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

(d) A statement of all rights under subsection (6) of this section.

(5) Prior to the commencement of a hearing, the board or presiding officer shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).

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

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

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

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

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

(e) To examine all information, documents and reports which the board considers. If then available to the board, the information, documents and reports shall be disclosed to the person so as to allow examination prior to the hearing.

(7) A record shall be kept of all hearings before the board, except board deliberations.

(8) Upon request of any party before the board, or on its own motion, the board may continue a hearing for a reasonable period not to exceed 60 days to obtain additional information or testimony or for other good cause shown.

(9) Within 15 days following the conclusion of the hearing, the board shall provide to the person, the attorney representing the person, the Attorney General or other attorney representing the state, if any, written notice of the board's decision.

(10) The burden of proof on all issues at hearings of the board shall be by a preponderance of the evidence.

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

(12) The Attorney General may represent the state at contested hearings before the board unless the district attorney of the county from which the person was committed elects to represent the state. The district attorney of the county from which the person was committed shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing before the board. If the district attorney elects to represent the state, the district attorney shall give timely written notice of such election to the Attorney General, the board and the attorney representing the person.

SECTION 5. ORS 419C.529 is amended to read:

419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds by a preponderance of the evidence that the young person, at the time of disposition, has a serious mental condition or has a mental disease or defect other than a serious mental condition and presents a substantial danger to others, requiring conditional release or commitment to a hospital or facility designated on an individual case basis by the Department of Human Services as provided in subsection (6) of this section, the court shall order the young person placed under the jurisdiction of the Psychiatric Security Review Board.

(2) The court shall determine whether the young person should be committed to a hospital or facility designated on an individual case basis by the department, as provided in subsection (6) of this section, or conditionally released pending a hearing before the juvenile panel of the Psychiatric Security Review Board as follows:

(a) If the court finds that the young person is not a proper subject for conditional release, the court shall order the young person committed to a secure hospital or a secure intensive community inpatient facility designated on an individual case basis by the department, as provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and 419C.542 and shall order

1 the young person placed under the jurisdiction of the board.

2 (b) If the court finds that the young person can be adequately controlled with supervision and
3 treatment services if conditionally released and that necessary supervision and treatment services
4 are available **in accordance with section 1 of this 2009 Act**, the court may order the young person
5 conditionally released, subject to those supervisory orders of the court that are in the best interests
6 of justice and the young person. The court shall designate a qualified mental health or develop-
7 mental disabilities treatment provider or state, county or local agency to supervise the young person
8 on release, subject to those conditions as the court directs in the order for conditional release. Prior
9 to the designation, the court shall notify the qualified mental health or developmental disabilities
10 treatment provider or agency to whom conditional release is contemplated and provide the qualified
11 mental health or developmental disabilities treatment provider or agency an opportunity to be heard
12 before the court. After receiving an order entered under this paragraph, the qualified mental health
13 or developmental disabilities treatment provider or agency designated shall assume supervision of
14 the young person subject to the direction of the juvenile panel. The qualified mental health or de-
15 velopmental disabilities treatment provider or agency designated as supervisor shall report in writ-
16 ing no less than once per month to the juvenile panel concerning the supervised young person's
17 compliance with the conditions of release.

18 (c) For purposes of determining whether to order commitment to a hospital or facility or con-
19 ditional release, the primary concern of the court is the protection of society.

20 (3) In determining whether a young person should be conditionally released, the court may order
21 examinations or evaluations deemed necessary.

22 (4) Upon placing a young person on conditional release and ordering the young person placed
23 under the jurisdiction of the board, the court shall notify the juvenile panel in writing of the court's
24 conditional release order, the supervisor designated and all other conditions of release pending a
25 hearing before the juvenile panel in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540
26 and 419C.542.

27 (5) When making an order under this section, the court shall:

28 (a) Determine whether the parent or guardian of the young person is able and willing to assist
29 the young person in obtaining necessary mental health or developmental disabilities services and is
30 willing to acquiesce in the decisions of the juvenile panel. If the court finds that the parent or
31 guardian:

32 (A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
33 ocable consent form in which the parent agrees to any placement decision made by the juvenile
34 panel.

35 (B) Is unable or unwilling to do so, the court shall order that the young person be placed in the
36 legal custody of the Department of Human Services for the purpose of obtaining necessary mental
37 health or developmental disabilities services.

38 (b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to
39 be notified of any board hearings concerning the young person and of any conditional release, dis-
40 charge or escape of the young person.

41 (c) Include in the order a list of the persons who wish to be notified of any board hearing con-
42 cerning the young person.

43 (d) Determine on the record the act committed by the young person for which the young person
44 was found responsible except for insanity.

45 (e) State on the record the mental disease or defect on which the young person relied for the

1 responsible except for insanity defense.

2 (6) When the department designates a hospital or facility for commitment of a young person
3 under this section, the department shall take into account the care and treatment needs of the
4 young person, the resources of the department and the safety of the public.

5 **SECTION 6.** ORS 419C.532 is amended to read:

6 419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct hearings
7 on an application for discharge, conditional release, commitment or modification filed under or re-
8 quired by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before the
9 juvenile panel.

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

12 (a) Has a serious mental condition; or

13 (b) Has a mental disease or defect other than a serious mental condition and presents a sub-
14 stantial danger to others.

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

17 (a) No longer has a mental disease or defect; or

18 (b) Has a mental disease or defect other than a serious mental condition but no longer presents
19 a substantial danger to others.

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

22 (a) The young person:

23 (A) Has a serious mental condition; or

24 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
25 stantial danger to others;

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

28 (c) Necessary supervision and treatment services are available **in accordance with section 1**
29 **of this 2009 Act.**

30 (5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
31 facility designated by the Department of Human Services for custody, supervision and treatment
32 subject to ORS 419C.540 if the juvenile panel finds that the young person:

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

34 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
35 stantial danger to others; and

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

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

40 (7) In a hearing before the juvenile panel, a young person who has a mental disease or defect
41 in a state of remission is considered to have a mental disease or defect if the mental disease or
42 defect may, with reasonable medical probability, occasionally become active.

43 (8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
44 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
45 child psychology to examine the young person and submit a written report to the juvenile panel.

1 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
2 limited to, an opinion as to whether the young person:

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

4 (B) Has a mental disease or defect other than a serious mental condition and presents a sub-
5 stantial danger to others; and

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

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

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

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

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

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

26 (B) The attorney representing the young person;

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

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

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

30 (F) The district attorney and the court or juvenile department of the county in which the young
31 person was adjudicated.

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written
10 notice of the juvenile panel's decision to the young person, the attorney representing the young
11 person, the young person's parents or guardians, if known, the person having legal custody of the
12 young person, the district attorney of the county in which the young person was adjudicated and
13 the Attorney General or other attorney representing the state, if any.

14 (17) The juvenile panel shall maintain and keep current the medical, social and delinquency
15 history of all young persons. The juvenile panel shall determine the confidentiality of records
16 maintained by the juvenile panel pursuant to ORS 192.501 to 192.505.

17 **SECTION 7. Section 1 of this 2009 Act and the amendments to ORS 161.327, 161.336,**
18 **161.346, 419C.529 and 419C.532 by sections 2 to 6 of this 2009 Act apply to conditional release**
19 **decisions made on or after the effective date of this 2009 Act.**

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