

House Bill 3606

Sponsored by Representatives MANNIX, SMITH G

SUMMARY

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

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

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

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

A BILL FOR AN ACT

1
2 Relating to care for vulnerable individuals; creating new provisions; and amending ORS 161.362,
3 161.365, 161.367, 161.370, 161.373, 161.375, 161.390 and 427.235.

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

HILLCREST HOUSING AND HEALTH CARE AUTHORITY

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8 **SECTION 1. (1) The Hillcrest Housing and Health Care Authority is established, governed**
9 **by a seven member board consisting of:**

10 (a) **Five members, appointed by the Governor, who have expertise in housing,**
11 **homelessness and mental health issues;**

12 (b) **One nonvoting member appointed by the President of the Senate from among the**
13 **members of the Senate; and**

14 (c) **One nonvoting member appointed by the Speaker of the House of Representatives**
15 **from among the members of the House of Representatives.**

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

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

25 (4) **A majority of the voting members of the board constitutes a quorum for the trans-**
26 **action of business.**

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

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

1 or of a majority of the members of the board.

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

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

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

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

15 **SECTION 2.** The Hillcrest Housing and Health Care Authority:

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

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

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

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

23 (a) At least one secure residential treatment facility;

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

26 (c) Providing transitional housing for individuals who are receiving mental health or be-
27 havioral health treatment;

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

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

32 **SECTION 3.** The Hillcrest Housing and Health Care Authority Fund is established in the
33 State Treasury, separate and distinct from the General Fund. Moneys in the Hillcrest Hous-
34 ing and Health Care Authority Fund are continuously appropriated to the Hillcrest Housing
35 and Health Care Authority to carry out the laws that the authority is charged with admin-
36 istering.

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

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

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

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

43 **SECTION 5.** ORS 161.362 is amended to read:

44 161.362. (1) A recommendation provided by a certified evaluator, pursuant to ORS 161.355 to
45 161.371, that a defendant requires a hospital level of care due to the acuity of the defendant's

1 symptoms must be based upon the defendant's current diagnosis and symptomology, the defendant's
2 current ability to engage in treatment, present safety concerns relating to the defendant and any
3 other pertinent information known to the evaluator. If the defendant is in a placement in a facility,
4 the evaluator may defer to the treatment provider's recommendation regarding whether a hospital
5 level of care is needed.

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

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

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

20 (B) As ordered by a court.

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

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

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

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

31 **SECTION 6.** ORS 161.365 is amended to read:

32 161.365. (1)(a) When the court has reason to doubt the defendant's fitness to proceed by reason
33 of incapacity as described in ORS 161.360, the court may call any witness to assist it in reaching
34 its decision and, except as provided in paragraph (b) of this subsection, shall order that a community
35 mental health program director, or the director's designee, consult with the defendant and with any
36 local entity that would be responsible for providing community restoration services to the defendant
37 if the defendant were to be released in the community, to determine whether appropriate community
38 restoration services are present and available in the community. After the consultation, the program
39 director or the director's designee shall provide to the court a copy of the findings resulting from
40 the consultation.

41 (b) If the defendant is charged with one or more of the following offenses the court is not re-
42 quired to, but may in its discretion, order the consultation described in paragraph (a) of this sub-
43 section:

44 (A) Aggravated murder;

45 (B) Murder in any degree;

- 1 (C) Attempted aggravated murder;
- 2 (D) Attempted murder in any degree;
- 3 (E) Manslaughter in any degree;
- 4 (F) Aggravated vehicular homicide;
- 5 (G) Arson in the first degree when classified as crime category 10 of the sentencing guidelines
- 6 grid of the Oregon Criminal Justice Commission;
- 7 (H) Assault in the first degree;
- 8 (I) Assault in the second degree;
- 9 (J) Kidnapping in the first degree;
- 10 (K) Kidnapping in the second degree;
- 11 (L) Rape in the first degree;
- 12 (M) Sodomy in the first degree;
- 13 (N) Unlawful sexual penetration in the first degree;
- 14 (O) Robbery in the first degree; or
- 15 (P) Robbery in the second degree.

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

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

20 (B) Order the defendant to be committed for the purpose of an examination to a state mental
 21 hospital or other facility designated by the Oregon Health Authority **or by the Hillcrest Housing**
 22 **and Health Care Authority**, if the defendant is at least 18 years of age, or to a secure intensive
 23 community inpatient facility designated by the **Oregon Health** Authority if the defendant is under
 24 18 years of age. The state mental hospital or other facility may retain custody of a defendant com-
 25 mitted under this paragraph for the duration necessary to complete the examination of the defend-
 26 ant, not to exceed 30 days. The examination may include a period of observation.

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

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

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

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

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

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

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

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

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

44 (d) If the defendant is incapacitated within the description set out in ORS 161.360, a recom-
 45 mendation of treatment and services necessary to allow the defendant to gain or regain capacity,

1 including whether a hospital level of care is required due to the acuity of symptoms of the
2 defendant's qualifying mental disorder.

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

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

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

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

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

20 (B) All costs including transportation of the defendant if the examination is conducted by a
21 certified evaluator in the employ of the Oregon Health Authority, **the Hillcrest Housing and**
22 **Health Care Authority** or a community mental health program established under ORS 430.610 to
23 430.670.

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

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

30 **SECTION 7.** ORS 161.367 is amended to read:

31 161.367. (1) If at any time the court determines that the defendant lacks fitness to proceed, the
32 court shall further determine whether there is a substantial probability that the defendant, in the
33 foreseeable future, will gain or regain fitness to proceed. If the court determines that there is no
34 substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to
35 proceed, the court shall dismiss, without prejudice, all charges against the defendant and:

36 (a) Order that the defendant be discharged; or

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

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

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

44 (c) The court may, upon its own motion or the request of either party, hold a hearing to deter-
45 mine whether the defendant has gained or regained fitness to proceed. If the court determines that

1 the defendant has gained or regained fitness to proceed, the court shall resume the criminal pro-
 2 ceeding unless the court determines that so much time has elapsed since the commitment or release
 3 of the defendant to community restoration services that it would be unjust to resume the criminal
 4 proceeding. If the court determines that it would be unjust to resume the criminal proceeding, the
 5 court, on motion of either party, may dismiss the charge and may order the defendant to be dis-
 6 charged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170, 426.701
 7 or 427.235 to 427.290.

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

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

18 (5) At the time that the court determines that the defendant lacks fitness to proceed under ORS
 19 161.370 (2), the court shall notify the defendant in writing that federal law prohibits the defendant
 20 from purchasing or possessing a firearm unless the person obtains relief from the prohibition under
 21 federal law. The court shall again notify the defendant in writing of the prohibition if the court finds
 22 that the defendant has gained or regained fitness to proceed under subsection (2) of this section.

23 **SECTION 8.** ORS 161.370 is amended to read:

24 161.370. (1)(a) When the defendant's fitness to proceed is drawn in question, the issue shall be
 25 determined by the court.

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

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

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

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

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

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

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

7 (C) Commencement of a civil commitment proceeding under ORS 426.070 to 426.170, 426.701 or
 8 427.235 to 427.290;

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

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

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

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

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

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

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

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

45 (c) If the court does not order the commitment of the defendant under this subsection, the court

1 shall proceed in accordance with subsection (2)(c) of this section to determine and order an appro-
 2 priate action other than commitment.

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

9 (A)(i) Receives a recommendation from a certified evaluator that the defendant requires a hos-
 10 pital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder; and

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

14 (B) Determines that the defendant requires a hospital level of care after making all of the fol-
 15 lowing written findings:

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

18 (ii) There are public safety concerns; and

19 (iii) The appropriate community restoration services are not present and available in the com-
 20 munity.

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

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

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

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

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

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

43 (6)(a) If the court does not order the commitment of the defendant under subsection (3) or (4)
 44 of this section, if commitment is precluded under subsection (5) of this section or if the court de-
 45 termines that care other than commitment would better serve the defendant and the community, the

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

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

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

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

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

20 **SECTION 9.** ORS 161.373 is amended to read:

21 161.373. (1) Unless otherwise prohibited by law or for good cause, all public bodies, as defined
 22 in ORS 174.109, and any private medical provider in possession of records concerning the defendant,
 23 shall, within five business days of receipt of the order, comply with a court order for the release
 24 of records to the state mental hospital or other facility designated by the Oregon Health Authority
 25 **or by the Hillcrest Housing and Health Care Authority** for the purpose of conducting an exam-
 26 ination or evaluation under ORS 161.355 to 161.371.

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

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

37 **SECTION 10.** ORS 161.390 is amended to read:

38 161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state
 39 mental hospitals, **secure residential treatment facilities** or secure intensive community inpatient
 40 facilities after commitment under ORS 161.365 and 161.370 and for establishing standards for evalu-
 41 ation and treatment of persons committed to a state hospital, **secure residential treatment facility**
 42 or a secure intensive community inpatient facility or ordered to a community mental health program
 43 under ORS 161.315 to 161.351.

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

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

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

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

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

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

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

17 161.375. (1) When a patient, who has been placed at a state hospital for evaluation, care, custody
 18 and treatment under ORS 161.315 to 161.351 or by court order under ORS 161.315, 161.365 or 161.370,
 19 has escaped or is absent without authorization from the hospital or from the custody of any person
 20 in whose charge the superintendent has placed the patient, the superintendent may order the arrest
 21 and detention of the patient.

22 (2) When a patient, who has been placed at a **secure residential treatment facility or a** secure
 23 intensive community inpatient facility for evaluation, care, custody and treatment under ORS
 24 161.315 to 161.351 or by court order under ORS 161.315, 161.365, 161.370 or 419C.527, has escaped
 25 or is absent without authorization from the facility or from the custody of any person in whose
 26 charge the director of the facility has placed the patient, the director of the facility shall notify the
 27 Director of the Oregon Health Authority **or the executive director of the Hillcrest Housing and**
 28 **Health Care Authority, if applicable.** The Director of the Oregon Health Authority **or the exec-**
 29 **utive director of the Housing and Health Care Authority** may order the arrest and detention of
 30 the patient.

31 (3) The superintendent, [or] the Director of the Oregon Health Authority **or the executive di-**
 32 **rector of the Hillcrest Housing and Health Care Authority** may issue an order under this section
 33 based upon a reasonable belief that grounds exist for issuing the order. When reasonable, the su-
 34 perintendent, [or] the Director of the Oregon Health Authority **or the executive director of the**
 35 **Hillcrest Housing and Health Care Authority** shall investigate to ascertain whether such grounds
 36 exist.

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

45 (5) As used in this section, "superintendent" means the superintendent of the state hospital to

1 which the person was committed or the superintendent's authorized representative.

2
3 **TASK FORCE**
4

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

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

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

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

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

17 **(d) Seven members appointed by the Governor.**

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

21
22 **INVOLUNTARY COMMITMENT OF PERSONS WITH INTELLECTUAL DISABILITIES**
23

24 **SECTION 13. ORS 427.235 is amended to read:**

25 427.235. (1) Any two persons may notify the court having probate jurisdiction for the county or
26 the circuit court, if it is not the probate court but its jurisdiction has been extended to include
27 commitment of a person with an intellectual disability under ORS 3.275, that a person within the
28 county has an intellectual disability and is in need of commitment for residential care, treatment
29 and training. Such notice shall be in writing and sworn to before an officer qualified to administer
30 an oath and shall set forth the facts sufficient to show the need for investigation. The circuit court
31 shall forward notice to the community developmental disabilities program director in the county if
32 it finds the notice sufficient to show the need for investigation. The director or the designee of the
33 director shall immediately investigate to determine whether the person has an intellectual disability
34 and is in need of commitment for residential care, treatment and training.

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

37 (3) Any investigation conducted by the community developmental disabilities program director
38 or the designee of the director under subsection (1) of this section shall commence with an interview
39 or examination of the person alleged to have an intellectual disability, where possible, in the home
40 of the person or other place familiar to the person. Further investigation if warranted shall include
41 a diagnostic evaluation as described in ORS 427.105 and may also include interviews with the
42 person's relatives, neighbors, teachers and physician or naturopathic physician. The investigation
43 shall also determine if any alternatives to commitment are available. The investigator shall also
44 determine and recommend to the court whether the person is incapacitated and in need of a
45 guardian or conservator.

1 (4) The investigation report shall be submitted to the court within [30] **six** days of receipt of
2 notice from the court. A copy of the investigation report and diagnostic evaluation, if any, shall also
3 be made available to the Department of Human Services and to the person alleged to have an in-
4 tellectual disability and, if the person is a minor or incapacitated, to the parents or guardian of the
5 person as soon as possible after its completion but in any case prior to a hearing held under ORS
6 427.245.

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

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

14
15 **UNIT CAPTIONS**

16
17 **SECTION 14. The unit captions used in this 2023 Act are provided only for the conven-**
18 **ience of the reader and do not become part of the statutory law of this state or express any**
19 **legislative intent in the enactment of this 2023 Act.**