

HB 2005 -1, -3, -4 STAFF MEASURE SUMMARY

Joint Committee On Addiction and Community Safety Response

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Meeting Dates: 6/16, 6/17

WHAT THE MEASURE DOES:

The measure directs the Oregon Health Authority to study behavioral health and to submit a report to the interim committees of the Legislative Assembly related to health no later than September 15, 2026.

ISSUES DISCUSSED:

- Need to address civil and criminal behavioral health issues holistically
- Foreseeability and imminence in civil commitment criteria
- Need for continued work on the issues and continued oversight of implementation
- Intent to create uniformity of process and address public safety concerns

EFFECT OF AMENDMENT:

-1 The amendment replaces the measure with an omnibus measure on forensic behavioral health issues related to civil and criminal involuntary hospitalization and treatment for mental health and related proceedings.

I. Preamble

States legislative findings and declares legislative intent.

II. Civil Commitment (Sections 1–36)

A. PERSON WITH A MENTAL ILLNESS (SECTIONS 1–6)

Removes the definition of “person with mental illness” from ORS 426.005 and establishes civil commitment eligibility criteria in a separate statutory section.

Clarifies civil commitment eligibility criteria.

- States that a person “has a mental illness and is in need of treatment” if the person needs treatment because they either have a “chronic mental disorder” or they are:
 - A “danger to self”
 - A “danger to others” or
 - “Unable to provide for basic personal needs.”
- Clarifies that a person is a danger to self if:
 - Because of a mental disorder, the person engaged or threatened to engage in behavior that resulted or was likely to result in “serious physical harm” to self, *and*
 - It is “reasonably foreseeable” that the person will do so again “in the near future” when considering their particular history and circumstances.
- Clarifies that a person is a danger to others if:
 - Because of a mental disorder, the person engaged or threatened to engage in behavior that resulted or was likely to result in “physical harm” to another person, *and*
 - It is “reasonably foreseeable” that the person will do so again “in the near future” when considering their particular history and circumstances.
- Clarifies that a person who is receiving care while confined involuntarily in a custodial setting may still be found unable to provide for basic needs if it is reasonably foreseeable that the person will not receive the necessary care to avoid serious physical harm when released.
- Clarifies that “in the near future” does not mean “imminent.”

- Defines “physical harm” as physical injury, physical pain, or other physiological impairment, other than an injury, pain, or impairment that is trivial in terms of pain or other bodily impact.
- Defines “serious physical harm” as a physical injury, physical pain, or other physiological impairment that places a person at risk of:
 - Death
 - Serious and irreversible deterioration of health, or
 - Serious and irreversible deterioration of any bodily organ.

Lists information the court may consider when determining whether someone meets the criteria for civil commitment, including, for example:

- The person’s insight into their illness
- The impact of the person’s insight on their ability to follow treatment recommendations
- The likelihood that a person might become dangerous to self, dangerous to others, or unable to meet their basic needs in the near future if untreated, and
- Specific factors depending on if the court is determining whether someone is a danger to self or a danger to others, such as past threats to harm self or others or specific past acts that caused, attempted to cause, or were likely to result in serious physical harm to self or physical harm to others.

B. PREHEARING TREATMENT (SECTIONS 7–13)

Moves statutes related to 14-day voluntary treatment prior to a hearing for civil commitment to a separate statutory section. Makes the following modifications:

- Changes language stating that the community mental health program (CMHP) director “may certify” a person for a “period of intensive treatment” to “may offer” a person a “diversion” from commitment “as an opportunity for intensive treatment.”
- Permits the CMHP director to offer a diversion at any time before the conclusion of a civil commitment hearing.
- Requires the CMHP director and the licensed independent practitioner (LIP) treating the person to agree that the facility can provide necessary and sufficient treatment.
- Requires the CMHP director to provide notice of the offer of diversion to the court and to the person and requires the notice to contain certain information.
- Requires the LIP to prepare a diversion treatment plan for the person in consultation with the CMHP and establishes minimum requirements for the treatment plan.
- Requires the court to appoint legal counsel for the person, subject to ORS 426.100, on receipt of the notice and to notify the person’s legal counsel.
- Requires the person’s legal counsel to review the offer of diversion, including the treatment plan, with the person within one judicial day of receiving the notice.
- Clarifies that a person consenting to the diversion may not be subjected to “unusual or hazardous treatment procedures, including convulsive therapy, and shall receive usual and customary treatment in accordance with medical standards in the community.”
- Requires the CMHP director to wait one judicial day after a person refuses treatment during a diversion before requesting a civil commitment hearing to allow the person to consult with their legal counsel and reengage in treatment.
- Establishes requirements that must be met when the person is discharged from a diversion.
- Permits the CMHP director to offer a person a second, subsequent 14-day diversion after the person has completed the first 14-day diversion. Requires the second offer to meet the same requirements as the first offer.

Establishes procedures for the use of a Declaration of Mental Health Treatment when a person is in the civil commitment process. *See sections related to declarations below.*

C. DECLARATION FOR MENTAL HEALTH TREATMENT (SECTIONS 14–17)

Modifies the statutory declaration for mental health treatment (DMHT) form.

- Allows a person to pre-authorize mental health treatments if they lose capacity, including psychoactive medications and admission to and retention in a health care facility for mental health treatment, for a period indicated by the person.
- Changes the term “physician” to “capacity evaluators” in the DMHT form and defines capacity evaluator as a licensed independent practitioner or a licensed psychologist.

Establishes court procedures for determining a person’s incapacity.

- Moves the definition of “incapable” for the purpose of determining a person’s capacity to make mental health treatment decisions to a new section and adds factors to consider when determining whether someone is incapable, including whether the person:
 - Understands possible treatments, including the risks and benefits of participating or not participating in the treatments
 - Can identify other factors that may improve or worsen their health
 - Can weigh treatment options
 - Can communicate their preferences and identify rational reasons for them
 - Can incorporate and learn from new information
 - Understands the impact of their preferences on aspects of their life, or
 - Can identify behaviors necessary to achieve their preferred outcomes.
- Permits a court to determine whether someone is incapable under the procedures in the section.
- Permits any person who is interested in the welfare or affairs of the person who has a declaration, including the person who has a declaration, to file a petition for a court to determine whether the person is incapable. Requires the petition to contain certain information about the person’s incapacity and reasons for the petition.
- Establishes the burden of proof for incapacity as a preponderance of the evidence.
- Requires the court to include written findings regarding the following when requested by the petitioner or the respondent:
 - Whether the respondent has executed a declaration
 - Whether the declaration was validly executed
 - Whether the declaration was revoked or expired
 - What treatment the declaration authorizes or prohibits.
- Establishes procedural requirements if the determination of capacity is made in a civil commitment proceeding.

D. INFORMATION SHARING (SECTION 18)

Clarifies that statutes related to the sharing of healthcare information do not limit the ability or obligation of facilities, LIPs, mental health care providers, and licensed mental health professionals to provide information to other health care services providers, the Department of Corrections, the Oregon Health Authority, or a local correctional facility when necessary or beneficial to the person’s treatment or as otherwise allowed or required by state or federal law or court order.

E. CONFORMING AMENDMENTS (SECTIONS 19–36)

Makes conforming amendments related to Sections 1–18.

III. Commitment of Extremely Dangerous Persons (Section 37)

Adds *attempts* to the categories of conduct a court must find a person engaged in to commit the person for involuntary treatment as an “extremely dangerous person” (for example, if the person caused *or attempted to*

cause the death of another person). Clarifies that for a person to “attempt to cause a result” or “engage in specified conduct,” the person must act intentionally and take a “substantial step toward causing the result or completing the specified conduct.” Further requires the “substantial step” to create “an actual and extreme risk of grave or potentially lethal physical injury to another person.”

IV. Tribal/State Court Intersection (Sections 38–40)

Study

Requires the Oregon Judicial Department to study “tribal and state interactions relating to the involuntary hospitalization and mental or behavioral health treatment of tribal members in the state civil or criminal justice systems,” and to analyze data on:

- Civil commitment proceedings, competency proceedings for criminal defendants, and guilty except for insanity findings involving members of federally recognized tribes
- Participation in specialty courts by members of federally recognized tribes, including on culturally specific services provided to those members, and
- Other relevant issues.

Requires the judicial department to submit a report to the judiciary and behavioral health committees no later than December 15, 2025.

Task Force

Establishes the Task Force on the Intersection of Tribal and State Forensic Behavioral Health to examine tribal and state interactions relating to involuntary hospitalization and mental or behavioral health treatment of tribal members in the state civil and criminal systems. Requires the following members be appointed to the task force no later than December 31, 2025:

- Appointed by the Governor, one member representing each of the following:
 - The office of the Governor
 - The Oregon Health Authority
 - The Department of Justice, and
 - Community mental health program providers.
- Appointed by the Governor in consultation with the Commission on Indian Services:
 - Nine members who are either a tribal court judge or staff, or another individual designated by an Indian tribe, representing each of the nine federally recognized Indian tribes in Oregon; and
 - Two members representing tribal service providers.
- Appointed by the Chief Justice (nonvoting):
 - One judge with expertise in the competency to proceed process
 - One member representing the Tribal, State, and Federal Court Forum

Directs the task force to examine certain issues—like providing mental and behavioral health services on tribal lands and to tribal members, barriers to providing those services, and the results of the judicial department’s study described above—and to make relevant recommendations. Requires the task force to have its first meeting by February 1, 2026, and to submit a report to the judiciary and behavioral health committees no later than December 15, 2026.

Requires the task force to invite and consider various relevant perspectives. Requires any members who are tribal court judges or tribal court staff to act as a liaison between the task force and the relevant tribal government if designated by that tribal government and, if so designated, to coordinate with the tribal government to facilitate inviting and considering the perspectives of tribal members and consult with the tribal government on the task force’s activities.

V. Administrative Law Judge Exemption (Sections 41 & 42)

Adds the Oregon Health Authority to the list of agencies that are exempt from the requirement to use administrative law judges assigned by the Office of Administrative Hearings to conduct contested case hearings when the hearing is for the purpose of a contested case hearing involving informed consent at the Oregon State Hospital.

VI. Fitness to Proceed Process Changes (Sections 43–57)**A. RESTORATION TIME LIMITS (SECTIONS 43–48)**

Places limits on the amount of time a person can be involuntarily committed to a facility, such as the Oregon State Hospital (OSH), for restoration of fitness to proceed and on the amount of time someone can be ordered to participate in restoration services in the community. Places the following presumptive time limits on restoration of a defendant's fitness to proceed based on the severity of their most serious charge and establishes procedures for extending that time limit up to the maximums in parentheses in the chart below.

<i>Most Serious Charge</i>	<i>Commitment for Restoration (e.g., OSH)</i>	<i>Community Restoration</i>
<i>Violation or misdemeanor other than a class A misdemeanor</i>	Ineligible	90 days (180 days)
<i>Non-person class A misdemeanor</i>	Ineligible	90 days (365 days)
<i>"Person class A misdemeanor" or "contempt charge"</i>	90 days (180 days)	6 months (18 months)
<i>Felony other than a "violent felony," a crime listed in ORS 137.700(2), or aggravated murder</i>	6 months (12 months)	12 months (24 months)
<i>"Violent felony," a crime listed in ORS 137.700(2), or aggravated murder</i>	12 months (18 months) + "safety valve"	18 months (24 months)

Requires the committing facility to notify the court and parties 60 days prior to the expiration of a person's maximum period of commitment.

Extension of Commitment for Restoration (e.g., to OSH)

Establishes procedures for the court to grant an extension that increases the maximum time a person may be committed for restoration under certain circumstances in specified increments up to the maximums in parentheses above:

- Permits a party to the case to petition the court for an extension and establishes timelines for when the petition must be filed and when the decision to extend must be made, depending on the severity of the defendant's most serious charge and on when a forensic evaluation of defendant's fitness to proceed is received.

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- Permits the court to grant the petition only if the court finds that the person continues to meet commitment requirements and that there is a substantial probability that continued commitment will restore the defendant's fitness to proceed within the extension. Requires the court to consider certain factors.

Establishes the following extensions that may be granted in addition to the extensions above:

- 30-day extension for discharge planning.
- 180-day extensions due to evidence of malingering or impression management when a forensic evaluator indicates that the additional time is necessary to resolve the clinical picture for the defendant's restoration.
- 180-day "safety valve" extensions for aggravated murder, a violent felony, or a crime listed in ORS 137.700(2).
- 180-day extension for an order for involuntary medication under ORS 161.372(1).

Clarifies that when calculating the maximum period of commitment, the defendant shall be given credit for days committed and shall not be given credit for days held in jail before or after the initial date of commitment.

Maintains the statutory requirement that in no case may a defendant be committed for longer than the maximum sentence they could have received if convicted or three years, whichever is shorter.

Extension of Order to Participate in Community Restoration

States that the purpose of community restoration is "the restoration of the defendant's fitness to proceed in order to continue the criminal case."

Permits the court to grant an extension increasing the amount of time a person may be ordered to engage in community restoration under certain circumstances in specified increments up to the maximums in parentheses in the chart above:

- Any party may petition the court to extend the maximum period of community restoration by submitting a petition to the court at least five days before the maximum period ends.
- The court must hold a hearing on the extension within 30 days of receiving the petition.
- The court may grant the petition only if the petitioning party shows that there is clear evidence of progress toward the defendant gaining fitness to proceed and that appropriate services are being made available to the defendant.

Establishes periods that are not counted when calculating the maximum period of community restoration, such as when a defendant is in custody, fails to make reasonable efforts toward gaining or regaining restoration, or is noncompliant with treatment services. Requires the community restoration services provider to notify the court when the defendant falls out of compliance with treatment services and to notify the court thereafter if the defendant reengages.

Requires status checks and review hearings for defendants in community restoration:

- Requires the court to conduct status reviews no less than every 45 days, where the court reviews a report of the defendant's progress submitted by the community mental health program (CMHP) director.
- Requires the court to conduct review hearings to determine whether the purpose of community restoration is being met no less than every 180 days, or 90 days if the defendant's most serious charge is a violation or misdemeanor other than a person Class A misdemeanor.

Requires defendants in community restoration to be evaluated for whether they have become fit to proceed at least every 180 days or 90 days after the initial evaluation for violations and misdemeanors other than a person Class A misdemeanor.

Permits the Oregon Health Authority or Oregon State Hospital to submit a report to a court that has granted an extension of commitment or an extension of community restoration that states the procedural facts of the case and an analysis of those facts under applicable federal court orders or statutes.

Operation, Applicability, and Sunset

- Delays operation until September 29, 2025, of the provisions above for maximum periods of restoration when committed or in the community and related provisions.
- Applies these provisions to defendants who currently lack fitness as of the operative date and who are determined to lack fitness on or after the operative date.
- Repeals the provisions on January 1, 2028.

B. FITNESS TO PROCEED DETERMINATIONS (SECTIONS 49–52)

Modifies the procedure for conducting a hearing to find a defendant unfit to proceed and separates the procedure from ORS 161.370 into its own statute.

Clarifies that when determining whether a defendant is fit to proceed or not, the court may consider:

- A forensic evaluation ordered by the court
- Evidence of prior diagnoses made by a certified evaluator or qualified mental health practitioner
- A prior forensic evaluation
- Prior judicial determinations that the defendant lacked fitness to proceed
- Prior civil commitments of the defendant
- The court's observation of the defendant's conduct
- Prior court records or assessments that contain the defendant's mental health diagnosis
- Relevant information on the defendant's mental health diagnosis from a local supervising authority if the defendant is on supervision, and
- Other relevant information.

Clarifies that either party may move the court to find that either the defendant lacks fitness to proceed or is fit to proceed and may grant the motion based only on the motion and supporting evidence if it is uncontested.

Requires the moving party to file a written motion and supporting evidence with the court if the motion is contested. Establishes procedures for a contested hearing:

- Requires the court to hold a hearing on a contested motion as soon as practicable and to consider, when deciding when to schedule the hearing, things such as the condition of the defendant and whether allowing more time will cause the defendant's mental or physical condition to further deteriorate, pending evaluations, the nature of the charges, and other factors.
- Imposes the burden of proof at the hearing on the moving party to show by a preponderance of the evidence that the motion should be granted.
- Establishes evidentiary exceptions and procedures for the hearing.
- Clarifies that if the court determines that the defendant lacks fitness to proceed without a forensic evaluation, it is presumed that there is a substantial probability that the defendant may gain or regain fitness to proceed in the foreseeable future.

Adds provisions to the current fitness to proceed statutes related to *placement after commitment*:

- Permits the court, following a person's discharge from the state hospital and order to engage in community restoration, to return the person to the state hospital if the court finds that the person has violated a condition of their release agreement.
- Requires a court, when first committing someone for restoration, to determine whether the person may only be discharged to the most restrictive class of placement if they are determined to no longer require a hospital level of care. Requires the court to consider the primary and secondary release criteria for criminal defendants and public safety concerns when making the determination.
- Clarifies that someone ineligible for release under ORS 135.240 is not eligible for discharge from commitment.

C. PLACEMENT AFTER COMMITMENT (SECTION 53)

Establishes new procedures for discharging a person from commitment for restoration and ordering them to participate in community restoration:

- Changes requirement that the facility where a defendant has been committed for restoration must notify the court when the defendant no longer needs a hospital level of care due to the acuity of their symptoms and present public safety concerns to only require the facility to make the determination based on the acuity of the person's symptoms.
- Requires the court to order the CMHP to perform a consultation and report within five days of the facility notice to determine whether appropriate restoration services are available and present in the community.
 - Requires the CMHP director to identify appropriate placements in their report
 - Permits the Oregon Health Authority to assist the CMHP director in identifying and securing placements, and
 - Establishes guidelines for when a CMHP director may recommend a less restrictive placement if a court has determined the person may only be discharged to a placement of the most restrictive class.
- Requires the CMHP director to notify the Oregon Health Authority and to provide information about why there are no appropriate placements in the report, if none are found, and continues the defendant's commitment.
- Establishes procedures and timelines for either party to object to placements the CMHP director has proposed and for the court to hold an objection hearing.
 - Requires the party to file an objection within 10 days of receiving the CMHP director's report.
 - Requires the court to either set a hearing on the objection within 10 days of the objection or to delay hearing the objection until the placement hearing below.
- Requires the CMHP director to attempt to secure the appropriate placements if no objection is filed or if the objection hearing is delayed until the placement hearing.
 - Requires the CMHP director to update the court no less than every 30 days and to notify the court when a placement is secured with an anticipated availability date, if known.
 - Requires the court to hold a placement hearing as soon as practicable after receiving the notice.
- Establishes procedures, if a defendant is not placed, for the CMHP director to continue to work to identify appropriate placements and to provide status updates to the court no less than every 30 days.
- Permits the court to reconsider a decision that the person may only be discharged to a placement of the most restrictive class only when there has been a substantial change in the defendant's circumstances.

D. INFORMATION SHARING (SECTION 54)

Clarifies that statutory provisions on sharing health information related to the fitness to proceed process do not prohibit the disclosure of reports or documents resulting from certified evaluator examinations, CMHP director reports, or documents from the state hospital or other committing facility as permitted under ORS 192.567 or for the purposes of continuity of care as authorized by law or ordered by the court.

E. CONFORMING AMENDMENTS (SECTIONS 55–57)

Makes conforming amendments related to sections 37–54.

VII. Facility Siting (Sections 58–63)

Residential Treatment Facilities

Requires local governments to allow licensed residential treatment facilities and residential treatment homes within an urban growth boundary without requiring a plan amendment, zone change, or conditional use permit for properties that meet certain requirements. Clarifies that this does not trigger a requirement to consider or update an analysis required by statewide land use planning goals and that decisions made under this measure are not "land use decisions" as defined in statute and not subject to the Land Use Board of Appeals. Requires a local

government to issue a final decision under the section within 120 days after receiving an application.

Crisis Stabilization Centers and Mental or Psychiatric Hospitals

Requires local governments to allow licensed crisis stabilization centers within an urban growth boundary without requiring a plan amendment, zone change, or conditional use permit for the property on which the facility is sited if the property meets certain requirements. Requires local governments to allow a licensed mental or psychiatric hospital without requiring a plan amendment, zone change, or conditional use permit for the property where the facility is located if the property meets certain requirements.

Clarifies that this does not trigger a requirement to consider or update an analysis required by statewide land use planning goals and that decisions made under this measure are not "land use decisions" as defined in statute and not subject to the Land Use Board of Appeals. Requires a local government to issue a final decision under the section within 30 days after receiving an application.

Repeals ORS 197.670.

VIII. Operative Dates (Section 64)

Makes sections 2–6, 8–13, 15–37, 41, 42, 50, and 51–57 operative on January 1, 2026. Permits OHA to take necessary actions related to these sections prior to January 1, 2026.

IX. Captions (Section 65)

Clarifies that the captions used in the measure do not become law and do not express legislative intent.

X. Emergency Clause (Section 66)

Declares an emergency, effective on passage.

-3 The amendment makes minor changes to the -1 amendment.

- Changes the amount of time from receiving a report an order must be received in to extend a person's commitment for restoration when their most serious charge is a felony from five days to ten days from receiving the report.
- Clarifies that an order to extend the maximum period of commitment for a person whose most serious charge is a misdemeanor may be received until the expiration of the commitment period or may be received within five days of the filing of a petition for extension if the notice and evaluation required is received with less than five days remaining before the commitment expires.
- Applies the changes to community restoration in Section 45 to defendants who are found unfit to proceed on or after the effective date of the measure.

REVENUE: No revenue impact

FISCAL: Fiscal impact statement issued

-4 The amendment makes identical changes to the -1 as the -3 amendment and makes minor changes to the facility siting provisions in Sections 59 and 60.

- Clarifies that the deadline for final decisions described in the two sections are based on when a "completed" application is filed with the local government.
- Clarifies that the section does not apply on land where the local government determines the facility will not have adequate utility services.

REVENUE: No revenue impact

FISCAL: Fiscal impact statement issued

BACKGROUND:

This Summary has not been adopted or officially endorsed by action of the committee.

MEASURE BACKGROUND

ORS 413.032 establishes the Oregon Health Authority (OHA) and requires it to, among other things:

- Carry out the policies adopted by the Oregon Health Policy Board
- Develop the policies for and the provision of publicly funded medical care and medical assistance in Oregon
- Develop the policies for and the provision of mental health treatment and treatment of addictions, and
- Assess, promote, and protect the health of the public as specified by state and federal law.

As part of its various functions, OHA oversees both the civil commitment of individuals who meet the criteria for involuntary hospitalization and the treatment and restoration, through the Oregon State Hospital, of defendants who have been found unable to proceed to trial due to a mental disorder.

AMENDMENT BACKGROUND

Civil Commitment

A person diagnosed with a mental disorder who, because of that mental disorder, meets certain criteria based on their risk of harming other people, harming themselves, or being unable to meet their basic needs, can be hospitalized involuntarily by the state under a process called civil commitment. In Oregon, that process is established in [ORS chapter 426](#).

Under Oregon's civil commitment laws, a court may commit a person to treatment if the person is "a person with mental illness," a legal term defined in the statute, and if the person is not able, willing, or likely to participate in treatment voluntarily. If the person meets the criteria, the court may commit the person for a period of up to 180 days.

"Person with mental illness" is defined as a person who, because of a mental disorder, is (A) "dangerous to self or others," (B) "unable to provide for basic personal needs that are necessary to avoid serious physical harm in the near future, and is not receiving such care as is necessary to avoid such harm," or (C) someone who meets certain expanded criteria related to chronic mental illness, previous commitments, and potential for deterioration. The term "dangerous to self or others" is not defined by statute.

Under ORS 426.701, an adult may be civilly committed as an "extremely dangerous person" if, because of a qualifying mental disorder that is resistant to treatment, they committed one of several specific acts, including, for example, causing the death of another person or causing serious physical injury to another person by means of a dangerous weapon. The person must also be "extremely dangerous," meaning they are exhibiting the same symptoms of the disorder that preceded the act and because of that disorder present a "serious danger to the safety of other persons by reason of an extreme risk that the person will inflict grave or potentially lethal physical injury on other persons and unless committed, will continue to represent an extreme risk to the safety of other persons in the foreseeable future."

Fitness to Proceed

Under ORS 161.360(2), a criminal defendant "may be found incapacitated if, as a result of a qualifying mental disorder, the defendant is unable: (a) To understand the nature of the proceedings...; (b) To assist and cooperate with [their attorney]; or (c) To participate in the defense...." If a defendant is incapacitated in such a way, the court may find that "the defendant lacks fitness to proceed," in which case "the criminal proceeding against the defendant shall be suspended," and the court engages in a process to restore the defendant's fitness to proceed. ORS 161.370. This process is sometimes called "aid and assist."

Under the fitness to proceed process, the court, in some circumstances, may involuntarily commit a defendant to the Oregon State Hospital (OSH) to undergo restoration. A person may be committed under ORS 161.370 to a

“state mental hospital,” to “a facility designated by the authority” (for adults), or to a “secure intensive community inpatient facility designated by the authority” (for minors). The court may also order a defendant to engage in community restoration services outside of a custodial setting.

In relatively rare cases, the court may order the involuntary administration of medication to a person committed to the state hospital. ORS 161.372. The court may only do so if:

- The hospital submits a report that includes the likelihood that the medication will restore the defendant's fitness to proceed, and
- Only if the court finds
 - That involuntary medication is not otherwise authorized
 - There are important state interests in the prosecution of the defendant
 - The medication is likely to restore the defendant and unlikely to cause side effects that will impair the fairness of the criminal proceeding
 - Involuntary administration of the medication is necessary because there are no alternative, less intrusive treatments that would suffice, and
 - Administration of the medication is medically appropriate because it is in the defendant's best medical interest in light of their condition.

The current law states that a defendant may not be committed for longer than three years or the maximum sentence the court could have imposed if the defendant had been convicted, whichever is shorter. ORS 161.371. However, litigation in federal courts over the past two-and-a-half decades has resulted in stricter timelines being imposed on a defendant's commitment to the Oregon State Hospital.

In 2002, defendants waiting in jail to be transported to OSH under commitment orders for restoration sued OSH and the Oregon Health Authority (OHA) in federal court, arguing that their extended detention while awaiting transport violated their due process rights under the Fourteenth Amendment to the U.S. Constitution. The federal court agreed and issued an injunction requiring OSH and OHA to admit defendants within seven days of an order to commit them to OSH. In 2018, after a period of noncompliance with the injunction, the federal court took up the case again and ultimately appointed a neutral expert, Dr. Debra A. Pinals, M.D., to "make recommendations to address capacity issues at the Oregon State Hospital."

On August 29, 2022, U.S. District Judge Michael Mosman found in a [court order](#) that OSH and OHA were out of compliance with the seven-day injunction and ordered them to follow new time limits for the restoration of defendants. The new restoration limits were based on the recommendations of Dr. Pinals in her [Second Report](#), and they limit the amount of time a defendant may be committed to OSH based on the severity of the defendant's most serious charge. On July 3, 2023, the court updated the timelines in a new [order](#) based on recommendations from Dr. Pinals. That order imposed the following restrictions on restoration at OSH, currently in effect:

Admission Limits

- Limited misdemeanor admissions to person misdemeanors only, including violation of certain contempt statutes, including Extreme Risk Protective Orders, Family Abuse Prevention Act Restraining Orders, and other similar statutes.
- Imposed "expedited admissions" criteria under which civil commitments must qualify in order to be admitted.
- Imposed other similar restrictions on non-forensic admissions.

Time Limits for Restoration (based on most serious charge)

- Person misdemeanor or qualifying contempt charge: lesser of maximum sentence or 90 days
- Felony: six months (unless listed in ORS 137.700(2))

- Felony listed in ORS 137.700(2): one year
- Violent felony extension: for defendants charged with a violent felony under ORS 135.240(5) who meet certain requirements, 180 additional days (renewable with certain requirements)

[Dr. Pinals' 10th Report](#) notes that "OHA is obligated under the federal court order to make recommendations for legislative change based on Dr. Pinals's [sic] reports" and that OHA would submit legislation to implement the time limits on restoration at OSH laid out by the 2023 court order, limit admission to OSH on non-person misdemeanors, limit the time allowed for community restoration depending on whether a defendant was previously committed to OSH for restoration or not, require defendants in community restoration to be evaluated regularly, and require evaluations to provide an opinion of whether or not a defendant can be restored within the time limits.

On June 6, 2025, the court granted the plaintiff's motion to find OHA and OSH in contempt, finding that they have not taken all reasonable steps to comply with the court's order. The court imposed a fine of \$500 per class member per day to compel compliance with the order and ordered several remedial measures, including ordering the defendants to take reasonable efforts to limit community restoration, increase the efficiency of discharge, and take other actions. Opinion and Order, *Disability Rights Oregon, et al. v. Oregon Health Authority & Oregon State Hospital*, No. 3:02-cv-0339-AN (D. Ore. June 6, 2025), <https://storage.courtlistener.com/recap/gov.uscourts.ord.169428/gov.uscourts.ord.169428.604.0.pdf>.