

HB 2476-1
(LC 2831)
3/26/25 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Oregon District Attorneys Association, Oregon Criminal Defense Lawyers Association)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2476**

1 Delete lines 4 through 10 of the printed bill and insert:

2 **“SECTION 1. Section 2 of this 2025 Act is added to and made a part**
3 **of ORS 161.355 to 161.371.**

4 **“SECTION 2. (1) As used in this section:**

5 **“(a) ‘Authority’ means the Oregon Health Authority.**

6 **“(b) ‘Contempt charge’ means a contempt charge alleging the vio-**
7 **lation of a court order issued under ORS 107.700 to 107.735, 124.005 to**
8 **124.040, 133.035, 163.760 to 163.777 or 166.525 to 166.543.**

9 **“(c) ‘Violent felony’ means a felony offense in which there was an**
10 **actual or threatened serious physical injury to the victim, or a felony**
11 **sexual offense.**

12 **“(2) When the court has determined that a defendant lacks fitness**
13 **to proceed under ORS 161.370 (2), the provisions of this section apply**
14 **notwithstanding any provision to the contrary in ORS 161.370 and**
15 **161.371.**

16 **“(3) If the most serious offense in the charging instrument is a vi-**
17 **olation or a Class B or Class C misdemeanor:**

18 **“(a) Notwithstanding ORS 161.370 (4), the court may not commit the**
19 **defendant to the custody of the superintendent of a state mental hos-**
20 **pital or director of a facility designated by the authority if the de-**
21 **fendant is at least 18 years of age, or to the custody of the director**

1 of a secure intensive community inpatient facility designated by the
2 authority if the defendant is under 18 years of age, under any cir-
3 cumstances.

4 “(b) The maximum time period that the defendant may be ordered
5 to engage in community restoration services is 180 days. The court
6 may extend the maximum period described in this paragraph to up to
7 a total of 365 days if the court finds that there is clear evidence of
8 progress toward the defendant gaining or regaining fitness to proceed
9 and that appropriate services are being made available to the defend-
10 ant.

11 “(4) If the most serious offense in the charging instrument is a
12 Class A misdemeanor or a contempt charge:

13 “(a) Notwithstanding ORS 161.371 (5)(a), the maximum time period
14 that the defendant may be committed to the custody of the super-
15 intendent of a state mental hospital or director of a facility designated
16 by the authority if the defendant is at least 18 years of age, or to the
17 custody of the director of a secure intensive community inpatient fa-
18 cility designated by the authority if the defendant is under 18 years
19 of age, is 180 days.

20 “(b) The maximum time period that a defendant described in this
21 subsection may be ordered to engage in community restoration ser-
22 vices following commitment to a state mental hospital or other facility
23 is 180 days. The court may extend the maximum period described in
24 this paragraph to up to a total of 365 days if the court determines,
25 following a hearing occurring no later than 180 days after the
26 defendant’s discharge from the hospital or other facility, that the
27 purposes of community restoration services are being served by the
28 continuation of services.

29 “(c) The maximum time period that a defendant described in this
30 subsection may be ordered to engage in community restoration ser-

1 vices when the defendant has not been committed on the proceeding
2 to a state mental hospital or other facility is 365 days. The court may
3 extend the maximum period described in this paragraph to up to a
4 total of 18 months if the court determines that there is good cause for
5 the extension due to the fact that the purposes of community resto-
6 ration services are being served by the continuation of the services.

7 “(5) If the most serious offense in the charging instrument is a
8 felony other than aggravated murder, a violent felony or a crime listed
9 in ORS 137.700 (2):

10 “(a) Notwithstanding ORS 161.371 (5)(a), the maximum time period
11 that the defendant may be committed to the custody of the super-
12 intendent of a state mental hospital or director of a facility designated
13 by the authority if the defendant is at least 18 years of age, or to the
14 custody of the director of a secure intensive community inpatient fa-
15 cility designated by the authority if the defendant is under 18 years
16 of age, is 24 months.

17 “(b) The maximum time period that a defendant described in this
18 subsection may be ordered to engage in community restoration ser-
19 vices following commitment to a state mental hospital or other facility
20 is 365 days. The court may extend the maximum period described in
21 this paragraph to up to a total of 18 months if the court determines,
22 following a hearing, that the purposes of community restoration ser-
23 vices are being served by the continuation of services.

24 “(c) The maximum time period that a defendant described in this
25 subsection may be ordered to engage in community restoration ser-
26 vices when the defendant has not been committed on the proceeding
27 to a state mental hospital or other facility is 24 months.

28 “(6) If the most serious offense in the charging instrument is ag-
29 gravated murder, a violent felony or a crime listed in ORS 137.700 (2):

30 “(a) Notwithstanding ORS 161.371 (5)(a), the maximum time period

1 that the defendant may be committed to the custody of the super-
2 intendent of a state mental hospital or director of a facility designated
3 by the authority if the defendant is at least 18 years of age, or to the
4 custody of the director of a secure intensive community inpatient fa-
5 cility designated by the authority if the defendant is under 18 years
6 of age, is 24 months.

7 “(b) The maximum time period that a defendant described in this
8 subsection may be ordered to engage in community restoration ser-
9 vices following commitment to a state mental hospital or other facility
10 is 36 months less the time the defendant was committed to the hospital
11 or facility. The court may extend the time period described in this
12 paragraph by an additional 180 days if the court received a report from
13 the superintendent of the hospital or the director of the facility, pre-
14 pared at the end of the period of commitment, stating that the de-
15 fendant is substantially likely to gain or regain fitness to proceed.

16 “(c) The maximum time period that a defendant described in this
17 subsection may be ordered to engage in community restoration ser-
18 vices when the defendant has not been committed on the proceeding
19 to a state mental hospital or other facility is 36 months.

20 “(7)(a) Notwithstanding subsection (6) of this section, if the most
21 serious charge in the charging instrument is aggravated murder, a
22 violent felony or a crime listed in ORS 137.700 (2), the maximum period
23 of commitment described in subsection (6)(a) of this section may be
24 extended as described in this subsection.

25 “(b) The superintendent of the state mental hospital or director of
26 another facility to which the defendant was committed shall provide
27 notice to the court, the district attorney and the defendant’s attorney
28 that the defendant is reaching the end of the maximum period of
29 commitment described in subsection (6)(a) of this section at least 60
30 days before the end of the period.

1 “(c) Upon receipt of the notice, the district attorney may petition
2 for an extension to the maximum period described in subsection (6)(a)
3 of this section. The petition must be submitted within 30 days of re-
4 ceipt of the notice described in paragraph (b) of this subsection.

5 “(d) The court may grant the petition if the court determines:

6 “(A) By clear and convincing evidence, that there is a danger of
7 physical injury or sexual victimization to the victim or a member of
8 the public if the defendant is discharged from the hospital or other
9 facility;

10 “(B) The defendant meets the requirements for commitment de-
11 scribed in ORS 161.370 (3)(a); and

12 “(C) There is a substantial probability that continued commitment
13 will lead to a determination that the defendant has gained or regained
14 fitness to proceed within the 180-day extension.

15 “(e) When making the determinations described in paragraph (d)
16 of this subsection, the court shall consider:

17 “(A) Clinical data of the defendant’s progress toward gaining or
18 regaining fitness to proceed;

19 “(B) Evidence that the defendant’s lack of fitness is not due to a
20 condition that is unlikely to result in the defendant gaining or re-
21 gaining fitness to proceed, such as a significant neurocognitive disor-
22 der or a significant neurodevelopmental disability disorder;

23 “(C) Evidence regarding the outcome of prior efforts at restoring
24 the defendant’s fitness to proceed; and

25 “(D) Any other relevant information the court decides to consider.

26 “(f) If the court grants the petition:

27 “(A) The superintendent or director must receive any order ex-
28 tending the commitment under this subsection prior to the expiration
29 of the maximum commitment period described in subsection (6) of this
30 section, or, if less than 30 days remain until expiration of the maxi-

1 **imum period at the time of entry of the order, within 30 days of the**
2 **filing of the petition.**

3 **“(B) The court shall conduct a review hearing on the status of the**
4 **defendant’s fitness to proceed at least every 180 days in accordance**
5 **with ORS 161.371. At each review hearing, the court may continue the**
6 **commitment for an additional 180 days if the court makes the deter-**
7 **minations described in paragraph (d) of this subsection, but under no**
8 **circumstances may the total commitment period, with extensions, ex-**
9 **ceed 36 months.**

10 **“(8)(a) Upon receipt of a report filed under ORS 161.372 (1) con-**
11 **cerning the involuntary administration of medication to the defend-**
12 **ant, the district attorney may give notice of an intent to file for an**
13 **extension to the maximum periods of commitment described in this**
14 **section.**

15 **“(b) If the court orders the involuntary administration of**
16 **medication under ORS 161.372 following a hearing, the court may ex-**
17 **tend the maximum periods of commitment described in subsections (4)**
18 **to (6) of this section by up to 180 days. The court may renew the ex-**
19 **ension if the court finds that the criteria described in ORS 161.372**
20 **(3)(c) continue to be met, but under no circumstances may the total**
21 **commitment period, including extensions, exceed 36 months.**

22 **“(9) When a defendant has been ordered by the court to engage in**
23 **community restoration services:**

24 **“(a) The court shall conduct regular status reviews at least every**
25 **45 days. The status review may consist of the court reviewing a report**
26 **to the court by the community mental health program director con-**
27 **cerning the defendant’s progress. Any report provided to the court for**
28 **a status review must include information concerning whether the de-**
29 **fendant is making process toward gaining or regaining fitness to pro-**
30 **ceed and the identification of any additional services that are required**

1 to meet the defendant's needs.

2 “(b) The court shall conduct a review hearing at least every 180
3 days, or every 90 days if the most serious offense in the charging in-
4 strument is a violation or a Class B or Class C misdemeanor. At the
5 review hearing, the court shall determine whether the purposes of
6 community restoration services are being met, and the court may take
7 any action authorized under ORS 161.370 (2)(c) at the hearing.

8 “(c) The defendant shall be evaluated to determine whether the
9 defendant has gained or regained fitness to proceed at least every 180
10 days.

11 “(d) If the most serious offense in the charging instrument is a vi-
12 olation or a Class B or Class C misdemeanor, the court shall order that
13 an updated evaluation, to determine whether the defendant has gained
14 or regained fitness to proceed, be conducted and a report submitted
15 to the court prior to the review hearing occurring 180 days after the
16 order to engage in community restoration services is entered.

17 “(10)(a) The following time periods may not be considered when
18 calculating the maximum period of community restoration services
19 under subsections (3) to (6) of this section:

20 “(A) A period of time between a scheduled court appearance at
21 which the defendant fails to appear and the next scheduled court ap-
22 pearance at which the defendant appears, other than an appearance
23 that occurs for the purpose of addressing the failure to appear;

24 “(B) A period of time between a scheduled fitness to proceed eval-
25 uation at which the defendant fails to appear and the next scheduled
26 court appearance at which the defendant appears;

27 “(C) A period of time during which the defendant is in violation of
28 a release agreement condition that the court finds negatively impacts
29 the defendant's ability to participate or engage in community resto-
30 ration services, as determined by the court;

1 **“(D) A period of time during which the defendant is in the custody**
2 **of a local or state correctional facility;**

3 **“(E) A period of time during which the defendant fails to make**
4 **reasonable efforts toward gaining or regaining fitness to proceed, as**
5 **determined by the court;**

6 **“(F) A period of time following the court’s receipt of notice from**
7 **the community restoration services provider of 14 days of noncompli-**
8 **ance with or unexcused absence from community restoration services**
9 **treatment, and the next scheduled court appearance at which the de-**
10 **fendant appears;**

11 **“(G) A period of time following the court’s receipt of notice from**
12 **the community restoration services provider of 14 days of noncompli-**
13 **ance with taking prescribed medications and the next scheduled court**
14 **appearance at which the defendant appears, if the court finds that the**
15 **noncompliance is negatively impacting progress toward gaining or re-**
16 **gaining fitness to proceed and there is not good cause for the non-**
17 **compliance; and**

18 **“(H) A period of time between the defendant’s absconsion from a**
19 **secure residential treatment facility or other secure placement and the**
20 **next scheduled court appearance at which the defendant appears.**

21 **“(b) A community restoration services provider must immediately**
22 **notify the court following 14 days of the defendant’s noncompliance**
23 **with taking prescribed medications or noncompliance or unexcused**
24 **absence from community restoration services treatment.**

25 **“(c) Notwithstanding ORS 161.370 (3) and (4), if the defendant has**
26 **been ordered to engage in community restoration services following**
27 **discharge from commitment at a state mental hospital or other facil-**
28 **ity, and the court finds that the defendant has violated a condition of**
29 **the release agreement, the court may order that the defendant be re-**
30 **committed to the custody of the superintendent of the hospital or di-**

1 rector of the facility.

2 “(11)(a) Notwithstanding ORS 161.371 (5)(b):

3 “(A) The maximum periods for commitment described in this sec-
4 tion shall be calculated beginning on the initial day of commitment.

5 “(B) The defendant may not receive credit toward the maximum
6 period of commitment for any day the defendant is held in jail before
7 the initial date of commitment.

8 “(b) The defendant shall be given credit toward the maximum pe-
9 riod of commitment for any day the defendant is committed to a state
10 mental hospital or other secure residential treatment facility.

11 “(12)(a) When calculating the maximum time periods for commit-
12 ment and community restoration services described in this section, the
13 periods of commitment or community restoration counting toward the
14 whole need not be consecutive.

15 “(b) When a defendant has been found by a court to lack fitness to
16 proceed under ORS 161.370 (2), and thereafter the court has found the
17 defendant fit to proceed and resumed the criminal proceeding, if the
18 court subsequently finds that the defendant lacks fitness to proceed
19 on the same proceeding, the maximum time periods described in sub-
20 sections (3) to (6) of this section begin anew, subject to the maximum
21 period of commitment described in ORS 161.371 (5)(a).

22 “(13) The authority shall collect and maintain data concerning the
23 efficacy of community restoration services and the impact of the
24 maximum periods of commitment and community restoration services
25 described in this section.

26 “SECTION 3. Sections 1 and 2 of this 2025 Act are repealed on Jan-
27 uary 2, 2028.”.

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