

HB 2005-4
(LC 4986)
6/17/25
(LAS/JLM/RLM/ps)

Requested by Representative KROPF

**PROPOSED AMENDMENTS TO
HOUSE BILL 2005**

1 In line 2 of the printed bill, delete the period and insert “; creating new
2 provisions; amending ORS 127.700, 127.736, 135.748, 161.362, 161.365, 161.370,
3 161.371, 166.273, 181A.290, 183.635, 197.660, 197.665, 426.005, 426.060, 426.070,
4 426.072, 426.074, 426.075, 426.090, 426.100, 426.130, 426.133, 426.155, 426.160,
5 426.180, 426.223, 426.225, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235,
6 426.236, 426.237, 426.238, 426.241, 426.301, 426.385 and 426.701; repealing ORS
7 197.670; and declaring an emergency.

8 “Whereas Oregon has a high population of individuals who report living
9 with mental illness, and who need mental health and substance use disorder
10 treatment; and

11 “Whereas the Oregon Legislative Assembly finds that the increase in
12 fentanyl and methamphetamine use has led to an increase in individuals who
13 need a higher level of mental health and substance use disorder care; and

14 “Whereas the United States and Oregon Constitutions protect the rights
15 of defendants in the criminal justice system and defendants must be mentally
16 fit to proceed in their criminal cases, and if a defendant is not fit to proceed
17 because of a mental illness, the case must be paused until the defendant is
18 restored to fitness; and

19 “Whereas there has been a steady increase in the number of individuals
20 in the last several years who are found not fit to proceed, or ‘unable to aid
21 and assist’ in their own defense; and

1 “Whereas many of these individuals who are charged with a crime and
2 determined to be unable to aid and assist in their own defense who are re-
3 ferred to the Oregon State Hospital for care are not admitted within seven
4 days, as required by a federal court order; and

5 “Whereas the population of individuals admitted to the Oregon State
6 Hospital has shifted to increasing numbers of aid and assist patients rather
7 than guilty except for insanity and civilly committed patients; and

8 “Whereas increased demand for restoration services for defendants at the
9 Oregon State Hospital has limited the beds available for individuals obtain-
10 ing treatment through civil commitment; and

11 “Whereas ensuring the rights of defendants to timely transportation to a
12 therapeutic setting for restoration treatment will require significant finan-
13 cial investments and strategic initiatives from the state; and

14 “Whereas the state must protect the rights of victims of crime and ensure
15 improved public safety; and

16 “Whereas public safety improves when individuals can access mental
17 health treatment and services within the criminal justice system, the Oregon
18 State Hospital and the community; and

19 “Whereas protecting the rights of defendants while ensuring public safety
20 requires solutions of many different types and the recognition that one idea
21 will not solve this problem; and

22 “Whereas the three branches of Oregon’s government are committed to
23 ongoing efforts, both in statute and in budget allocations, to solving this
24 ongoing dilemma; and

25 “Whereas the Oregon Legislative Assembly has determined that addi-
26 tional treatment capacity is critical to support Oregonians in need of mental
27 health and substance use disorder treatment and has committed increased
28 funding to support additional treatment capacity; and

29 “Whereas it is the intention of the Oregon Legislative Assembly to in-
30 crease support and capacity for individuals needing mental health and sub-

1 stance use disorder care and treatment, and to reduce the delay in
2 admittance experienced by defendants needing restoration services at the
3 Oregon State Hospital; now, therefore,”.

4 Delete lines 4 through 8 and insert:

5
6 **“CIVIL COMMITMENT**
7 **“(Person with a Mental Illness)**

8
9 **“SECTION 1. Sections 2 and 3 of this 2025 Act are added to and**
10 **made a part of ORS 426.070 to 426.170.**

11 **“SECTION 2. (1) A person has a mental illness and is in need of**
12 **treatment for purposes of ORS 426.005 to 426.390 if the person is in need**
13 **of treatment because the person:**

14 **“(a) Is a danger to self;**

15 **“(b) Is a danger to others;**

16 **“(c) Is unable to provide for basic personal needs; or**

17 **“(d) Has a chronic mental disorder.**

18 **“(2) A person is a danger to self for purposes of this section if, be-**
19 **cause of a mental disorder:**

20 **“(a) The person engaged in or threatened to engage in behavior that**
21 **resulted in or was likely to result in serious physical harm to self; and**

22 **“(b) Taking into consideration the person’s particular history and**
23 **circumstances, it is reasonably foreseeable that the person will engage**
24 **in such behavior in the near future, even if such behavior is not im-**
25 **minent.**

26 **“(3) A person is a danger to others for purposes of this section if,**
27 **because of a mental disorder:**

28 **“(a) The person engaged in or threatened to engage in behavior that**
29 **resulted in or was likely to result in physical harm to another person;**
30 **and**

1 “(b) Taking into consideration the person’s particular history and
2 circumstances, it is reasonably foreseeable that the person will engage
3 in such behavior in the near future, even if such behavior is not im-
4 minent.

5 “(4) A person is unable to provide for basic personal needs for pur-
6 poses of this section if, because of a mental disorder:

7 “(a) The person is unable to provide for basic personal needs that
8 are necessary for the person to avoid reasonably foreseeable serious
9 physical harm in the near future, even if the serious physical harm is
10 not imminent; and

11 “(b)(A) The person is not receiving such care as is necessary to
12 avoid such harm; or

13 “(B) If the person is involuntarily confined in a custodial setting,
14 it is reasonably foreseeable that upon release the person will not re-
15 ceive such care as is necessary to avoid such harm.

16 “(5) A person has a chronic mental disorder for purposes of this
17 section if:

18 “(a) The person is a person with a chronic mental illness, as defined
19 in ORS 426.495; and

20 “(b) Within the previous three years the person has twice been
21 placed in a hospital or approved inpatient facility by the Oregon
22 Health Authority under ORS 426.060.

23 “SECTION 3. (1) When determining whether a person has a mental
24 illness and is in need of treatment, the court may consider information
25 that assists the court in making its determination, including but not
26 limited to any of the following:

27 “(a) The person’s insight into the person’s mental illness.

28 “(b) The impact of the person’s insight or lack of insight on the
29 person’s ability to follow a recommended treatment plan.

30 “(c) The likelihood that, absent treatment, the person will become

1 a danger to self, a danger to others or unable to provide for basic
2 personal needs, as described in section 2 of this 2025 Act, in the near
3 future.

4 “(d) When possible, a clinical perspective on paragraph (c) of this
5 subsection.

6 “(2) When determining whether a person is in need of treatment
7 because the person is a danger to self as described in section 2 of this
8 2025 Act, the court may consider information that assists the court in
9 making its determination, including but not limited to any of the fol-
10 lowing:

11 “(a) The person’s recent overt acts causing or attempting to cause
12 serious physical harm to self.

13 “(b) Recent acts placing the person in circumstances that resulted
14 in or were likely to result in serious physical harm to self.

15 “(c)(A) The person’s recent threats to cause serious physical harm
16 to self and the severity of the harm threatened;

17 “(B) Absent treatment, the likelihood of such threats being carried
18 out; and

19 “(C) Absent treatment, the likelihood of such threats reoccurring.

20 “(d) Any past behavior and patterns of deterioration resulting from
21 a mental disorder that contributed to prior involuntary
22 hospitalizations for being a danger to self, how recently the past be-
23 havior occurred and the frequency and severity of the past behavior.

24 “(3) When determining whether a person is in need of treatment
25 because the person is a danger to others as described in section 2 of
26 this 2025 Act, the court may consider information that assists the
27 court in making its determination, including but not limited to any
28 of the following:

29 “(a)(A) Recent overt acts causing or attempting to cause physical
30 harm to another person; and

1 “(B) The frequency and severity of such acts.

2 “(b) Recent destructive acts against property that were reasonably
3 likely to place others at risk of physical harm.

4 “(c)(A) Recent threats to cause physical harm to another person;

5 “(B) The severity of the harm threatened;

6 “(C) Absent treatment, the likelihood of such threats being carried
7 out; and

8 “(D) Absent treatment, the likelihood of such threats reoccurring.

9 “(d)(A) Any past behavior and patterns of deterioration resulting
10 from a mental disorder that contributed to prior involuntary
11 hospitalizations for being a danger to others;

12 “(B) How recently the past behavior occurred; and

13 “(C) The frequency and severity of the past behavior.

14 “(e) When possible, a clinical perspective on the person’s risk of
15 causing physical harm to another person.

16 “(4) The court may not find that a person is in need of treatment
17 because the person has a chronic mental disorder, as described in
18 section 2 of this 2025 Act, unless the court finds that:

19 “(a) The person is exhibiting symptoms or behavior substantially
20 similar to those that preceded and led to one or more of the
21 hospitalizations or inpatient placements referred to in section 2 (5)(b)
22 of this 2025 Act; and

23 “(b) Absent treatment, the person will continue, to a reasonable
24 medical probability, to physically or mentally deteriorate so that the
25 person will become a danger to self, a danger to others or unable to
26 provide for the person’s basic personal needs, as described in section
27 2 (2) to (4) of this 2025 Act.

28 “SECTION 4. ORS 426.005 is amended to read:

29 “426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires
30 otherwise:

1 “(a) ‘Community mental health program director’ means the director of
2 an entity that provides the services described in ORS 430.630 (3) to (5).

3 “(b) ‘Director of the facility’ means a superintendent of a state mental
4 hospital, the chief of psychiatric services in a community hospital or the
5 person in charge of treatment and rehabilitation programs at other treatment
6 facilities.

7 “(c) ‘Facility’ means a state mental hospital, community hospital, resi-
8 dential facility, detoxification center, day treatment facility or such other
9 facility as the authority determines suitable that provides diagnosis and
10 evaluation, medical care, detoxification, social services or rehabilitation to
11 persons who are in custody during a prehearing period of detention or who
12 have been committed to the Oregon Health Authority under ORS 426.130.

13 “(d) ‘Licensed independent practitioner’ means:

14 “(A) A physician, as defined in ORS 677.010;

15 “(B) A nurse practitioner licensed under ORS 678.375 and authorized to
16 write prescriptions under ORS 678.390; or

17 “(C) A naturopathic physician licensed under ORS chapter 685.

18 “(e) ‘Nonhospital facility’ means any facility, other than a hospital, that
19 is approved by the authority to provide adequate security, psychiatric, nurs-
20 ing and other services to persons under ORS 426.232 or 426.233.

21 “(f) ‘Person with mental illness’ means a person **described in section 2**
22 **(1) of this 2025 Act.** [*who, because of a mental disorder, is one or more of the*
23 *following:*]

24 “[*(A) Dangerous to self or others.*]

25 “[*(B) Unable to provide for basic personal needs that are necessary to avoid*
26 *serious physical harm in the near future, and is not receiving such care as is*
27 *necessary to avoid such harm.*]

28 “[*(C) A person:*]

29 “[*(i) With a chronic mental illness, as defined in ORS 426.495;*]

30 “[*(ii) Who, within the previous three years, has twice been placed in a*

hospital or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;]

“(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and]

“(iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.]

“(g) ‘Physical harm’ means 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.

“(g) **(h) ‘Prehearing period of detention’** means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

“(i) ‘Serious physical harm’ means physical injury, physical pain or other physiological impairment that places a person at risk of:

“(A) Death;

“(B) Serious and irreversible deterioration of health; or

“(C) Serious and irreversible deterioration of any bodily organ.

“(2) Whenever a community mental health program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person’s behalf in the exercise of duties.

“SECTION 5. ORS 426.130 is amended to read:

“426.130. (1) After hearing all of the evidence, and reviewing the findings of the examiners, the court shall determine whether, **by clear and convincing evidence**, the person has a mental illness and is in need of treatment.

“(2) [If, in the opinion of the court,] If the court determines under

1 **subsection (1) of this section that** the person:

2 “(a) [*Is a person with mental illness based upon clear and convincing evi-*
3 *dence,*] **Has a mental illness and is in need of treatment**, the court:

4 “(A) Shall order the release of the person and dismiss the case if:

5 “(i) The person is willing and able to participate in treatment on a vol-
6 untary basis; and

7 “(ii) The court finds that the person will probably do so.

8 “(B) May order conditional release under this subparagraph subject to the
9 qualifications and requirements under ORS 426.125. If the court orders
10 conditional release under this subparagraph, the court shall establish a pe-
11 riod of commitment for the conditional release.

12 “(C) May order commitment of the person [*with mental illness*] to the
13 Oregon Health Authority for treatment if, in the opinion of the court, sub-
14 paragraph (A) or (B) of this paragraph is not in the best interest of the
15 person. If the court orders commitment under this subparagraph:

16 “(i) The court shall establish a period of commitment.

17 “(ii) The authority may place the committed person in outpatient com-
18 mitment under ORS 426.127.

19 “(D) Shall order that the person be prohibited from purchasing or pos-
20 sessing a firearm if, in the opinion of the court, there is a reasonable like-
21 lihood the person [*would constitute*] **is** a danger to self or others, or to the
22 community at large, as a result of the person’s mental or psychological state
23 as demonstrated by past behavior or participation in incidents involving
24 unlawful violence or threats of unlawful violence, or by reason of a single
25 incident of extreme, violent, unlawful conduct. When a court makes an order
26 under this subparagraph, the court shall cause a copy of the order to be de-
27 livered to the sheriff of the county who will enter the information into the
28 Law Enforcement Data System.

29 “(b) [*Is not a person with mental illness*] **Is not a person with a mental**
30 **illness who is in need of treatment**, the court shall release the person

1 from custody if the person has been detained under ORS 426.070, 426.180,
2 426.228, 426.232 or 426.233 and:

3 “(A) Dismiss the case; or

4 “(B) Order the person to participate in assisted outpatient treatment in
5 accordance with ORS 426.133. The court may continue the proceeding for no
6 more than seven days to allow time for the community mental health pro-
7 gram director to develop the person’s assisted outpatient treatment plan.

8 “[2)] (3) A court that orders a conditional release, a commitment or as-
9 sisted outpatient treatment under this section shall establish a period of
10 commitment or treatment for the person subject to the order. Any period of
11 commitment ordered for commitment or conditional release under this sec-
12 tion shall be for a period of time not to exceed 180 days. A period of assisted
13 outpatient treatment shall be for a period of time not to exceed 12 months.

14 “[3)] (4) If the commitment proceeding was initiated under ORS 426.070
15 (1)(a) and if the notice included a request under ORS 426.070 (2)(d)(B), the
16 court shall notify the two persons of the court’s determination under [*sub-*
17 *section (1) of*] this section.

18 “[4)] (5) If the court finds that the person [*is a person with mental*
19 *illness*] **has a mental illness and is in need of treatment** and either orders
20 commitment under subsection [(1)(a)(B)] **(2)(a)(B)** or (C) of this section or
21 enters an order under subsection [(1)(a)(D)] **(2)(a)(D)** of this section, the
22 court shall notify the person that the person is prohibited from purchasing
23 or possessing a firearm under state and federal law unless the person obtains
24 relief from the prohibition from the Psychiatric Security Review Board under
25 ORS 166.273 or under federal law.

26 **“SECTION 6.** ORS 426.070 is amended to read:

27 “426.070. (1) Any of the following may initiate commitment procedures
28 under this section by giving the notice described under subsection (2) of this
29 section:

30 “(a) Two persons;

1 “(b) The local health officer; or

2 “(c) [Any] **A** magistrate **mentioned in ORS 133.030** or **a** judge of a court
3 of a federally recognized Indian tribe located in this state.

4 “(2) For purposes of subsection (1) of this section, the notice must comply
5 with the following:

6 “(a) It must be in writing under oath;

7 “(b) It must be given to the community mental health program director
8 or a designee of the director in the county where the person alleged to have
9 a mental illness resides;

10 “(c) It must state that a person within the county other than the person
11 giving the notice *[is a person with]* **has a** mental illness and is in need of
12 treatment, care or custody;

13 “(d) If the commitment proceeding is initiated by two persons under sub-
14 section (1)(a) of this section, it may include a request that the court notify
15 the two persons:

16 “(A) Of the issuance or nonissuance of a warrant under this section; or

17 “(B) Of the court’s determination under ORS 426.130 *[(1)]*; and

18 “(e) If the notice contains a request under paragraph (d) of this sub-
19 section, it must also include the addresses of the two persons making the
20 request.

21 “(3) Upon receipt of a notice under subsections (1) and (2) of this section
22 or when notified by a circuit court that the court received notice under ORS
23 426.234, the community mental health program director, or designee of the
24 director, shall:

25 “(a) Immediately notify the judge of the court having jurisdiction for that
26 county under ORS 426.060 of the notification described in subsections (1) and
27 (2) of this section.

28 “[*(b) Immediately notify the Oregon Health Authority if commitment is*
29 *proposed because the person appears to be a person with mental illness, as*
30 *defined in ORS 426.005 (1)(f)(C). When such notice is received, the authority*

1 *may verify, to the extent known by the authority, whether or not the person*
2 *meets the criteria described in ORS 426.005 (1)(f)(C)(i) and (ii) and so inform*
3 *the community mental health program director or designee of the director.]*

4 **“(b) Immediately notify the Oregon Health Authority if commit-**
5 **ment is proposed because the person appears to be a person who is in**
6 **need of treatment because of a chronic mental disorder, as described**
7 **in section 2 (5) of this 2025 Act. When such notice is received, the au-**
8 **thority may verify, to the extent known by the authority, whether or**
9 **not the person meets the criteria described in section 2 (5) of this 2025**
10 **Act and so inform the community mental health program director or**
11 **designee of the director.**

12 **“(c) Initiate an investigation under ORS 426.074 to determine whether**
13 **there is probable cause to believe that the person** *[is in fact a person with*
14 *mental illness]* **in fact has a mental illness and is in need of treatment.**

15 **“(4) Upon completion, a recommendation based upon the investigation**
16 **report under ORS 426.074 shall be promptly submitted to the court. If the**
17 **community mental health program director determines that probable cause**
18 **does not exist to believe that a person released from detention under ORS**
19 **426.234 (2)(c) or (3)(b)** *[is a person with mental illness]* **has a mental illness**
20 **and is in need of treatment,** the community mental health program direc-
21 tor may recommend assisted outpatient treatment in accordance with ORS
22 426.133.

23 **“(5) When the court receives notice under subsection (3) of this section:**

24 **“(a) If the court, following the investigation, concludes that there is**
25 **probable cause to believe that the person investigated** *[is a person with*
26 *mental illness]* **has a mental illness and is in need of treatment,** it shall,
27 through the issuance of a citation as provided in ORS 426.090, cause the
28 person to be brought before it at a time and place as it may direct, for a
29 hearing under ORS 426.095 to determine whether the person *[is a person with*
30 *mental illness]* **has a mental illness and is in need of treatment. The**

1 person shall be given the opportunity to appear voluntarily at the hearing
2 unless the person fails to appear or unless the person is detained pursuant
3 to paragraph (b) of this subsection.

4 “(b)(A) If the court finds that there is probable cause to believe that
5 failure to take the person into custody pending the investigation or hearing
6 would pose serious harm or danger to the person or to others, the court may
7 issue a warrant of detention to the community mental health program di-
8 rector or designee or the sheriff of the county or designee directing the di-
9 rector, sheriff or a designee to take the person alleged to have a mental
10 illness into custody and produce the person at the time and place stated in
11 the warrant.

12 “(B) At the time the person is taken into custody, the person shall be
13 informed by the community mental health program director, the sheriff or a
14 designee of the following:

15 “(i) The person’s rights with regard to representation by or appointment
16 of counsel as described in ORS 426.100;

17 “(ii) The warning under ORS 426.123; and

18 “(iii) The person’s right, if the community mental health program direc-
19 tor, sheriff or designee reasonably suspects that the person is a foreign na-
20 tional, to communicate with an official from the consulate of the person’s
21 country. A community mental health program director, sheriff or designee is
22 not civilly or criminally liable for failure to provide the information required
23 by this sub-subparagraph. Failure to provide the information required by this
24 sub-subparagraph does not in itself constitute grounds for the exclusion of
25 evidence that would otherwise be admissible in a proceeding.

26 “(C) The court may make any orders for the care and custody of the
27 person prior to the hearing as it considers necessary.

28 “(c) If the notice includes a request under subsection (2)(d)(A) of this
29 section, the court shall notify the two persons of the issuance or nonissuance
30 of a warrant under this subsection.

1 **“(Prehearing Treatment)”**

2
3 **“SECTION 7. Section 8 of this 2025 Act is added to and made a part**
4 **of ORS 426.070 to 426.170.**

5 **“SECTION 8. (1) At any time before the conclusion of a hearing**
6 **under ORS 426.095, the community mental health program director**
7 **may offer a person alleged to have a mental illness and to be in need**
8 **of treatment a diversion from commitment as an opportunity for in-**
9 **tensive treatment if:**

10 **“(a) The community mental health program director and a licensed**
11 **independent practitioner of a hospital or nonhospital facility have**
12 **probable cause to believe the person has a mental illness and is in need**
13 **of treatment; and**

14 **“(b)(A) The hospital or nonhospital facility is approved by the**
15 **Oregon Health Authority; and**

16 **“(B) The community mental health program director and the li-**
17 **censed independent practitioner agree that the hospital or nonhospital**
18 **facility can provide the intensive care or treatment for mental illness**
19 **that is necessary and sufficient to meet the emergency psychiatric**
20 **needs of the person.**

21 **“(2)(a) The community mental health program director shall pro-**
22 **vide notice of the offer of diversion from commitment:**

23 **“(A) In writing to the court having jurisdiction under ORS 426.060;**
24 **and**

25 **“(B) Orally and in writing to the person alleged to have a mental**
26 **illness and to be in need to treatment.**

27 **“(b) The notice under this subsection must include all of the fol-**
28 **lowing:**

29 **“(A) A written statement by the community mental health program**
30 **director and the licensed independent practitioner, attesting that the**

1 director and the practitioner have probable cause to believe the person
2 has a mental illness and is in need of treatment.

3 “(B) A diversion treatment plan described in subsection (3) of this
4 section.

5 “(C) Notice of the person’s right to request and be provided with a
6 hearing under ORS 426.070 to 426.170 at any time during the diversion
7 from commitment.

8 “(D) Notice of the person’s rights regarding representation by or
9 appointment of counsel.

10 “(E) The date and time the notice was given to the person.

11 “(3)(a) A licensed independent practitioner who files a statement
12 described in subsection (2)(b)(A) of this section must, in consultation
13 with the community mental health program director, prepare a diver-
14 sion treatment plan for the person alleged to have a mental illness and
15 to be in need of treatment.

16 “(b) The treatment plan must describe, in general terms, the types
17 of treatment and medication to be provided to the person during the
18 diversion.

19 “(c) The treatment plan must include, at a minimum:

20 “(A) A description of the medications to be administered;

21 “(B) The mental health interventions, therapies or diagnostic pro-
22 cedures to be employed;

23 “(C) The person’s preferences for medications and therapies;

24 “(D) Limitations on specific medications or therapies;

25 “(E) The location of services; and

26 “(F) Other conditions or limitations for treatment the practitioner
27 determines are relevant.

28 “(4) Immediately upon receipt of a notice under subsection (2) of
29 this section, the court shall:

30 “(a) Appoint legal counsel for the person, subject to ORS 426.100;

1 and

2 “(b) Provide notice of the offer of diversion from commitment to
3 the person’s legal counsel.

4 “(5)(a) Not later than close of the judicial day immediately following
5 receipt of the notice under subsection (4) of this section, the person’s
6 legal counsel, if any, shall review with the person the notice and the
7 contents of the treatment plan.

8 “(b) If the person, after consultation with the person’s legal coun-
9 sel, if any, does not consent to the offer of diversion from commit-
10 ment, the hearing required by ORS 426.070 must be held no later than
11 five judicial days following the person’s date of detention.

12 “(c) If the person, after consultation with the person’s legal coun-
13 sel, if any, consents to the offer of diversion from commitment as set
14 forth in the notice, the court shall postpone the hearing required by
15 ORS 426.070 for 14 days from the date of consent.

16 “(6)(a) The community mental health program director may offer
17 to extend the duration of a person’s diversion from commitment for
18 up to 14 additional days if the criteria under subsection (1) of this
19 section continue to be met.

20 “(b) If the person consents to the extension, the court shall post-
21 pone the hearing required under ORS 426.070 by an additional 14 days
22 from the date of the person’s consent to the extension.

23 “(c) A person consenting to an extension under this subsection may
24 not be held without a hearing as provided in ORS 426.070 for longer
25 than 28 days from the date the person initially consented to the di-
26 version from commitment.

27 “(7) During the period of a person’s diversion from commitment:

28 “(a) The person may not be subjected to unusual or hazardous
29 treatment procedures, including convulsive therapy, and shall receive
30 usual and customary treatment in accordance with medical standards

1 in the community.

2 “(b) Except when the person expressly refuses treatment, the
3 treating licensed independent practitioner shall treat the person within
4 the scope of the treatment plan provided to the person with the notice
5 of the offer of diversion from commitment.

6 “(c) If the person expressly refuses treatment:

7 “(A) The treating licensed independent practitioner shall notify the
8 community mental health program director;

9 “(B) The community mental health program director shall imme-
10 diately notify the person and the person’s legal counsel, if any, that
11 the person’s refusal of treatment may result in the recommencement
12 of commitment proceedings; and

13 “(C) If, after providing the person with at least one judicial day to
14 resume treatment following receipt of the notice under subparagraph
15 (B) of this paragraph, the community mental health program director
16 determines that the person is likely to continue to refuse treatment,
17 the community mental health program director may request a hearing
18 as provided in subsection (12) of this section.

19 “(d)(A) If the person is in a hospital, the licensed independent
20 practitioner who is treating the person shall discharge the person from
21 the hospital and the community mental health program director shall
22 transfer the person to the nonhospital facility for the remainder of the
23 diversion from commitment if the community mental health program
24 director and the treating licensed independent practitioner agree that
25 the nonhospital facility can provide the care or treatment for mental
26 illness that is necessary and sufficient to meet the emergency needs
27 of the person.

28 “(B) Notwithstanding subparagraph (A) of this paragraph, the
29 treating licensed independent practitioner shall retain the person in
30 the hospital if, in the opinion of the treating licensed independent

1 practitioner, the person's condition requires the person to receive
2 medical care or treatment in the hospital.

3 “(e) If the person is in a nonhospital facility, the community mental
4 health program director shall transfer the person to a hospital ap-
5 proved by the authority under the following conditions:

6 “(A) If, in the opinion of a licensed independent practitioner, the
7 person's condition requires the person to receive medical care or
8 treatment in a hospital; and

9 “(B) The licensed independent practitioner agrees to admit the
10 person to a hospital, approved by the authority, where the licensed
11 independent practitioner has admitting privileges.

12 “(f) If the person is transferred as provided in paragraph (d) or (e)
13 of this subsection, the community mental health program director
14 shall provide notice of the person's location to the person's legal
15 counsel, if any, and the circuit court in the county where the notice
16 under subsection (2) of this section was filed. The person may appeal
17 the transfer as provided by rules of the authority.

18 “(8) A person may be discharged from the diversion from commit-
19 ment at any time if:

20 “(a) The person is in a hospital and the licensed independent prac-
21 titioner who is treating the person has:

22 “(A) Determined that the person no longer requires care in the
23 hospital setting;

24 “(B) Informed the community mental health program director; and

25 “(C) Conferred with the person's next of kin and, if applicable,
26 guardian, to the extent allowed under ORS 192.567.

27 “(b) The person is in a nonhospital facility and the community
28 mental health program director has:

29 “(A) Determined that the person no longer requires care in the
30 nonhospital facility;

1 “(B) Conferred with the licensed independent practitioner who is
2 treating the person; and

3 “(C) Conferred with the person’s next of kin and, if applicable,
4 guardian, if the person consented to the consultation.

5 “(9) Immediately upon a person’s discharge from the diversion from
6 commitment, if the person was discharged pursuant to subsection (8)
7 of this section, the community mental health program director shall
8 provide notice of the person’s discharge to the person’s legal counsel,
9 if any, and the circuit court in the county in which the notice under
10 subsection (2) of this section was initially filed.

11 “(10) The person may agree to voluntary treatment at any time
12 during the diversion from commitment. When a person agrees to vol-
13 untary treatment under this subsection, the community mental health
14 program director shall immediately provide notice of the person’s
15 agreement to the person’s legal counsel, if any, and the circuit court
16 in the county in which the notice under subsection (2) of this section
17 was initially filed.

18 “(11) When the circuit court receives notification under subsection
19 (9) or (10) of this section, the court shall dismiss the case.

20 “(12) The judge of the circuit court shall immediately commence
21 proceedings under ORS 426.070 to 426.170 when the person consenting
22 to a diversion from commitment or the community mental health
23 program director requests a hearing. The hearing shall be held without
24 unreasonable delay. In no case may the person be held in a hospital
25 or nonhospital facility longer than five judicial days after the request
26 for a hearing is made without a hearing being held under ORS 426.070
27 to 426.170.

28 “(13) The authority shall adopt rules for the implementation of this
29 section.

30 “SECTION 9. ORS 426.074 is amended to read:

1 “426.074. The following is applicable to an investigation initiated by a
2 community mental health program director, or a designee of the director, as
3 part of commitment procedures under ORS 426.070 and 426.228 to 426.235:

4 “(1) If the person alleged to have a mental illness **and to be in need of**
5 **treatment** is held in custody before the hearing the investigation shall be
6 completed at least 24 hours before the hearing under ORS 426.095, otherwise
7 the investigation shall comply with the following time schedule:

8 “(a) If the person can be located, the investigator shall contact the person
9 within three judicial days from the date the community mental health pro-
10 gram director or a designee receives a notice under ORS 426.070 alleging that
11 the person has a mental illness and is in need of treatment.

12 “(b) Within 15 days from the date the community mental health program
13 director or a designee receives a notice under ORS 426.070, one of the fol-
14 lowing shall occur:

15 “(A) The investigation shall be completed and submitted to the court.

16 “(B) An application for extension shall be made to the court under para-
17 graph (c) of this subsection.

18 “(c) The community mental health program director, a designee or the
19 investigator may file for an extension of the time under paragraph (b) of this
20 subsection only if one of the following occurs:

21 “(A) A treatment option less restrictive than involuntary inpatient com-
22 mitment is actively being pursued.

23 “(B) The person alleged to have a mental illness **and to be in need of**
24 **treatment** cannot be located.

25 “(d) A court may grant an extension under paragraph (c) of this sub-
26 section for a time and upon the terms and conditions the court considers
27 appropriate.

28 “(2) This subsection establishes a nonexclusive list of provisions applica-
29 ble to the content of the investigation, as follows:

30 “(a) The investigation conducted should, where appropriate, include an

1 interview or examination of the person alleged to have a mental illness **and**
2 **to be in need of treatment** in the home of the person or other place fa-
3 miliar to the person.

4 “(b) Whether or not the person consents, the investigation should include
5 interviews with any individuals that the investigator has probable cause to
6 believe have pertinent information regarding the investigation. If the person
7 objects to the contact with any individual, the objection shall be noted in
8 the investigator’s report.

9 “(c) The investigator shall be allowed access to licensed independent
10 practitioners, nurses or social workers and to medical records compiled dur-
11 ing the current involuntary prehearing period of detention to determine
12 probable cause and to develop alternatives to commitment. If commitment is
13 proposed because the person appears to be [*a person with mental illness as*
14 *defined in ORS 426.005 (1)(f)(C)*] **in need of treatment because of a**
15 **chronic mental disorder as described in section 2 (5) of this 2025 Act**,
16 the investigator shall be allowed access to medical records necessary to
17 verify the existence of criteria described in [*ORS 426.005 (1)(f)(C)*] **sections**
18 **2 (5) and 3 (4) of this 2025 Act**. The investigator shall include pertinent
19 parts of the medical record in the investigation report. Records and commu-
20 nications described in this paragraph and related communications are not
21 privileged under ORS 40.230, 40.235, 40.240 or 40.250.

22 “(3) A copy of the investigation report shall be provided as soon as pos-
23 sible, but in no event later than 24 hours prior to the hearing, to the person
24 and to the person’s counsel. Copies shall likewise be provided to counsel
25 assisting the court, to the examiners and to the court for use in questioning
26 witnesses.

27 “(4) **If an investigator has reasonable cause to believe that a person**
28 **subject to investigation under this section has a declaration for mental**
29 **health treatment as described in ORS 127.700 to 127.737, the investi-**
30 **gator shall:**

1 “(a) Immediately provide the person subject to investigation and
2 the person’s legal counsel, if any, with information about the process
3 under section 15 of this 2025 Act for determinations of capacity and
4 related timelines.

5 “(b) If the declaration appoints an attorney-in-fact, as defined in
6 ORS 127.700, and the investigator is able to locate the attorney-in-fact:

7 “(A) Immediately notify the attorney-in-fact that the person subject
8 to investigation under this section has an active investigation;

9 “(B) Immediately notify the attorney-in-fact that the investigator
10 has reasonable cause to believe the person subject to investigation has
11 a declaration for mental health treatment;

12 “(C) Immediately provide the attorney-in-fact with a notice of the
13 person’s legal right to counsel and that legal counsel will be appointed
14 by the court as provided in ORS 426.100; and

15 “(D) Immediately provide the attorney-in-fact with a copy of the
16 information provided under paragraph (a) of this subsection.

17 “(c)(A) Immediately notify the court that the investigator has rea-
18 sonable cause to believe that the person who is the subject of the in-
19 vestigation has executed a declaration for mental health treatment
20 and provide the court with all information then available to the in-
21 vestigator regarding the declaration, including information regarding
22 the factors relevant to a determination of incapacity as described in
23 section 15 of this 2025 Act; and

24 “(B) Serve a copy of the notification and information provided to
25 the court on:

26 “(i) Attorneys representing the state, as described in ORS 426.100;

27 “(ii) The person subject to investigation and the person’s legal
28 counsel, if any; and

29 “(iii) The person’s attorney-in-fact, if any, described in paragraph
30 (b) of this subsection.

1 “(5) When, after providing the court with notice under subsection
2 (4) of this section, the investigator receives a judgment described in
3 section 15 of this 2025 Act:

4 “(a) If the court does not determine that the person subject to in-
5 vestigation is incapable for purposes of ORS 127.700 to 127.737, the in-
6 vestigation shall continue as provided in subsections (1) to (3) of this
7 section.

8 “(b) If the court determines that the person is incapable for pur-
9 poses of ORS 127.700 to 127.737:

10 “(A) The investigator shall, after consultation with the licensed in-
11 dependent practitioner who is treating the person, notify the court
12 regarding whether the investigator and the licensed independent
13 practitioner agree that the treatment that is authorized under the
14 declaration for mental health treatment is sufficient and available.

15 “(B) If the investigator and the treating licensed independent prac-
16 titioner agree that the treatment that is authorized under the decla-
17 ration for mental health treatment is sufficient and available, and the
18 court agrees, the court shall release the person from the warrant of
19 detention, if applicable, dismiss the case and provide written findings
20 in the judgment of dismissal supporting the reasons for dismissal.

21 “(C) If the investigator and the treating licensed independent prac-
22 titioner agree that the treatment that is authorized by the declaration
23 for mental health treatment is insufficient or unavailable, or if the
24 investigator and the treating licensed independent practitioner do not
25 agree, the investigation shall continue as provided in subsections (1)
26 to (3) of this section.

27 “(6) A finding of incapacity under section 15 of this 2025 Act may
28 not be used as evidence that a person subject to investigation has a
29 mental illness and is in need of treatment, as described in section 2
30 (1) of this 2025 Act. However, evidence supporting a determination of

1 **incapacity under section 15 of this 2025 Act or evidence of a declaration**
2 **of mental health treatment may be considered by the court as the**
3 **court deems relevant for any determinations made under ORS 426.005**
4 **to 426.390.**

5 **“SECTION 10.** ORS 426.237 is amended to read:

6 “426.237. (1) During a prehearing period of detention as provided in ORS
7 426.070, 426.140, 426.232 or 426.233, the community mental health program
8 director shall *[do one of the following]*:

9 “(a) Recommend, in an investigation report as provided in ORS 426.074,
10 that the circuit court not proceed further in the matter if the community
11 mental health program director does not believe the person is a person with
12 mental illness or that the person is in need of assisted outpatient
13 treatment[.];

14 “[*(b) No later than three judicial days after initiation of a prehearing pe-*
15 *riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233, cer-*
16 *tify the detained person for a 14-day period of intensive treatment if:]*

17 “[*(A) The community mental health program director and a licensed inde-*
18 *pendent practitioner have probable cause to believe the person is a person with*
19 *mental illness;*]

20 “[*(B) The community mental health program director in the county where*
21 *the person resides verbally approves the arrangements for payment for the*
22 *services at the hospital or nonhospital facility; and]*

23 “[*(C) The community mental health program director locates a hospital or*
24 *nonhospital facility that:]*

25 “[*(i) Is approved by the authority and the community mental health pro-*
26 *gram director in the county where the person resides; and]*

27 “[*(ii) Can, in the opinion of the community mental health program director*
28 *and the licensed independent practitioner, provide intensive care or treatment*
29 *for mental illness necessary and sufficient to meet the emergency psychiatric*
30 *needs of the person.]*

1 “(b) **File notice of an offer of diversion from commitment described**
2 **in section 8 of this 2025 Act; or**

3 “(c) Recommend, in an investigation report as provided in ORS 426.074,
4 that the circuit court hold a hearing under ORS 426.070 to ~~[426.130]~~ **426.170**
5 if the community mental health program director has probable cause to be-
6 lieve the person ~~[is a person with mental illness]~~ **has a mental illness and**
7 **is in need of treatment** or that the person is in need of assisted outpatient
8 treatment.

9 “[(2)(a) *If the circuit court adopts the recommendation of the community*
10 *mental health program director under subsection (1)(a) of this section, the*
11 *circuit court shall enter an order releasing the person and dismissing the case.*
12 *Unless the person agrees to voluntary treatment, if the person is being detained*
13 *in a:]*

14 “[(A) *Nonhospital facility, the community mental health program director*
15 *shall make discharge plans and ensure the discharge of the person.]*

16 “[(B) *Hospital, the licensed independent practitioner who is treating the*
17 *person shall make discharge plans and discharge the person.]*

18 “[(b) *Upon release of the person, the community mental health program di-*
19 *rector shall attempt to notify the person’s next of kin if the person consents to*
20 *the notification.]*

21 “[(3)(a) *If the detained person is certified for treatment under subsection*
22 *(1)(b) of this section, the community mental health program director shall:]*

23 “[(A) *Deliver immediately a certificate to the court having jurisdiction un-*
24 *der ORS 426.060; and]*

25 “[(B) *Orally inform the person of the certification and deliver a copy of the*
26 *certificate to the person.]*

27 “[(b) *The certificate required by paragraph (a) of this subsection shall in-*
28 *clude:]*

29 “[(A) *A written statement under oath by the community mental health*
30 *program director and the licensed independent practitioner that they have*

1 *probable cause to believe the person is a person with mental illness in need*
2 *of care or treatment for mental illness;]*

3 *“(B) A treatment plan that describes, in general terms, the types of treat-*
4 *ment and medication to be provided to the person during the 14-day period of*
5 *intensive treatment;]*

6 *“(C) A notice of the person’s right to an attorney and that an attorney will*
7 *be appointed by the court or as otherwise obtained under ORS 426.100 (3);]*

8 *“(D) A notice that the person has a right to request and be provided a*
9 *hearing under ORS 426.070 to 426.130 at any time during the 14-day period;*
10 *and]*

11 *“(E) The date and time the copy of the certificate was delivered to the*
12 *person.]*

13 *“(c) Immediately upon receipt of a certificate under paragraph (a) of this*
14 *subsection, the court shall notify the person’s attorney or appoint an attorney*
15 *for the person if the person cannot afford one. Within 24 hours of the time the*
16 *certificate is delivered to the court, the person’s attorney shall review the cer-*
17 *tificate with the person. If the person and the person’s attorney consent to the*
18 *certification within one judicial day of the time the certificate is delivered to*
19 *the circuit court and, except as provided in subsection (4) of this section, the*
20 *court shall postpone the hearing required by ORS 426.070 to 426.130 for 14*
21 *days.]*

22 *“(d) When a person is certified for treatment under subsection (1)(b) of this*
23 *section and accepts the certification:]*

24 *“(A) Except as otherwise provided in this paragraph, all methods of*
25 *treatment, including the prescription and administration of drugs, shall be the*
26 *sole responsibility of the licensed independent practitioner who is treating the*
27 *person. However, the person shall not be subject to electroshock therapy or*
28 *unduly hazardous treatment and shall receive usual and customary treatment*
29 *in accordance with medical standards in the community.]*

30 *“(B) Except when the person expressly refuses treatment, the treating li-*

1 *censed independent practitioner shall treat the person within the scope of the*
2 *treatment plan provided the person under paragraph (b) of this subsection. The*
3 *person's refusal of treatment constitutes sufficient grounds for the community*
4 *mental health program director to request a hearing as provided in subsection*
5 *(4)(a) of this section.]*

6 *"[(C) If the person is in a hospital and the community mental health pro-*
7 *gram director locates a nonhospital facility, approved by the authority, that,*
8 *in the opinion of the community mental health program director and the li-*
9 *censed independent practitioner who is treating the person, can provide care*
10 *or treatment for mental illness necessary and sufficient to meet the emergency*
11 *psychiatric needs of the person, the treating licensed independent practitioner*
12 *shall discharge the person from the hospital and the community mental health*
13 *program director shall remove the person to the nonhospital facility for the*
14 *remainder of the 14-day intensive treatment period. If, however, in the opinion*
15 *of the treating licensed independent practitioner, the person's condition re-*
16 *quires the person to receive medical care or treatment, the licensed independent*
17 *practitioner shall retain the person in the hospital.]*

18 *"[(D) If the person is in a nonhospital facility, the community mental health*
19 *program director shall transfer the person to a hospital approved by the au-*
20 *thority under the following conditions:]*

21 *"[(i) If, in the opinion of a licensed independent practitioner, the person's*
22 *condition requires the person to receive medical care or treatment in a hospital;*
23 *and]*

24 *"[(ii) The licensed independent practitioner agrees to admit the person to*
25 *a hospital, approved by the authority, where the licensed independent practi-*
26 *tioner has admitting privileges.]*

27 *"[(E) If the person is transferred as provided in subparagraph (C) or (D)*
28 *of this paragraph, the community mental health program director shall notify*
29 *the circuit court, in the county where the certificate was filed, of the location*
30 *of the person. The person may appeal the transfer as provided by rules of the*

1 *authority.]*

2 *“(e) If the person is in a hospital, the licensed independent practitioner*
3 *who is treating the person may discharge the person at any time during the*
4 *14-day period. The treating licensed independent practitioner shall confer with*
5 *the community mental health program director and the person’s next of kin,*
6 *if the person consents to the consultation, prior to discharging the person.*
7 *Immediately upon discharge of the person, the treating licensed independent*
8 *practitioner shall notify the court in the county in which the certificate was*
9 *filed initially.]*

10 *“(f) If the person is in a nonhospital facility, the community mental health*
11 *program director may discharge the person at any time during the 14-day pe-*
12 *riod. The community mental health program director shall consult with the*
13 *licensed independent practitioner who is treating the person and the person’s*
14 *next of kin, if the person consents to the consultation, prior to discharging the*
15 *person. Immediately upon discharge of the person, the community mental*
16 *health program director shall notify the court in the county in which the cer-*
17 *tificate was filed initially.]*

18 *“(g) The person may agree to voluntary treatment at any time during the*
19 *14-day period. When a person agrees to voluntary treatment under this para-*
20 *graph, the community mental health program director immediately shall notify*
21 *the court in the county in which the certificate was filed initially.]*

22 *“(h) A person consenting to 14 days of treatment under subsection (3)(c)*
23 *of this section shall not be held longer than 14 days from the time of consent-*
24 *ing without a hearing as provided in ORS 426.070 to 426.130.]*

25 *“(i) When the court receives notification under paragraph (e), (f) or (g) of*
26 *this subsection, the court shall dismiss the case.]*

27 *“[(4)] (2) The judge of the circuit court shall immediately commence pro-*
28 *ceedings under ORS 426.070 to [426.130] **426.170** when[:]*

29 *“(a) The person consenting to 14 days of treatment or the community*
30 *mental health program director requests a hearing. The hearing shall be held*

1 *without unreasonable delay. In no case shall the person be held in a hospital*
2 *or nonhospital facility longer than five judicial days after the request for a*
3 *hearing is made without a hearing being held under ORS 426.070 to 426.130.]*

4 “[(b)] the community mental health program director acts under sub-
5 section (1)(c) of this section. In no case [shall] **may** the person be held longer
6 than five judicial days without a hearing under this subsection.

7 **“SECTION 11.** ORS 426.090 is amended to read:

8 “426.090. **If a court, following an investigation, concludes under ORS**
9 **426.070 (5) that there is probable cause to believe a person has a mental**
10 **illness and is in need of treatment,** the judge shall issue a citation to the
11 person [*alleged to have a mental illness*] stating the nature of the information
12 filed concerning the person and the specific reasons the person is believed
13 to [*be a person with*] **have a mental illness and to be in need of**
14 **treatment.** The citation shall further contain a notice of the time and place
15 of the commitment hearing, the right to legal counsel, the right to have legal
16 counsel appointed if the person is unable to afford legal counsel, and, if re-
17 quested, to have legal counsel immediately appointed, the right to subpoena
18 witnesses in behalf of the person to the hearing and other information as the
19 court may direct. [*The citation shall be served upon the person by delivering*
20 *a duly certified copy of the original thereof to the person in*] **A certified copy**
21 **of the citation shall be personally served on the** person prior to the
22 hearing. The person shall have an opportunity to consult with legal counsel
23 prior to being brought before the court.

24 **“SECTION 12.** ORS 426.100 is amended to read:

25 “426.100. (1) At the time the person alleged to have a mental illness **and**
26 **to be in need of treatment** is brought before the court, the court shall
27 advise the person of the following:

28 “(a) The reason for being brought before the court;

29 “(b) The nature of the proceedings;

30 “(c) The possible results of the proceedings;

1 “(d) The right to subpoena witnesses; and

2 “(e) The person’s rights regarding representation by or appointment of
3 counsel.

4 “(2) Subsection (3) of this section establishes the rights of persons alleged
5 to have a mental illness **and to be in need of treatment** in each of the
6 following circumstances:

7 “(a) When the person is held by warrant of detention issued under ORS
8 426.070.

9 “(b) In commitment hearings under ORS 426.095.

10 “(c) When the person is detained as provided under ORS 426.228, 426.232
11 or 426.233.

12 “(d) In recommitment hearings under ORS 426.307.

13 “(3) When provided under subsection (2) of this section, a person alleged
14 to have a mental illness **and to be in need of treatment** has the following
15 rights relating to representation by or appointment of counsel:

16 “(a) The right to obtain suitable legal counsel possessing skills and ex-
17 perience commensurate with the nature of the allegations and complexity of
18 the case during the proceedings.

19 “(b) If the person is determined to be financially eligible for appointed
20 counsel at state expense, the court will appoint legal counsel to represent
21 the person. If counsel is appointed at state expense, payment of expenses and
22 compensation relating to legal counsel shall be made as provided under ORS
23 426.250.

24 “(c) If the person [*alleged to have a mental illness*] does not request legal
25 counsel, [*the*] a legal guardian, relative or friend may request the assistance
26 of suitable legal counsel on behalf of the person.

27 “(d) If no request for legal counsel is made, the court shall appoint suit-
28 able legal counsel unless counsel is expressly, knowingly and intelligently
29 refused by the person.

30 “(e) If the person is being involuntarily detained before a hearing on the

1 issue of commitment, the right under paragraph (a) of this subsection to
2 contact [*an attorney*] **legal counsel** or under paragraph (b) of this subsection
3 to have [*an attorney*] **legal counsel** appointed may be exercised as soon as
4 reasonably possible.

5 “(f) In all cases suitable legal counsel shall be present at the hearing and
6 may be present at examination and may examine all witnesses offering tes-
7 timony, and otherwise represent the person.

8 “(4) **When the court is required to appoint counsel for a person**
9 **under ORS 426.005 to 426.390, the court shall appoint suitable legal**
10 **counsel for the person unless:**

11 “(a) **The person is already represented by legal counsel; or**

12 “(b) **The person expressly, knowingly and intelligently refuses ap-**
13 **pointment of legal counsel.**

14 “[~~(4)~~] (5) The responsibility for representing the state’s interest in com-
15 mitment proceedings, including, but not limited to, preparation of the state’s
16 case and appearances at commitment hearings is as follows:

17 “(a) The Attorney General’s office shall have the responsibility relating
18 to proceedings initiated by state hospital staff that are any of the following:

19 “(A) Recommitment proceedings under ORS 426.307; or

20 “(B) Proceedings under ORS 426.228, 426.232 or 426.233.

21 “(b) The district attorney if requested to do so by the governing body of
22 the county.

23 “(c) In lieu of the district attorney under paragraph (b) of this subsection,
24 a counsel designated by the governing body of a county shall take the re-
25 sponsibility. A county governing body may designate counsel to take re-
26 sponsibility under this paragraph either for single proceedings or for all such
27 proceedings the county will be obligated to pay for under ORS 426.250. If a
28 county governing body elects to proceed under this paragraph, the county
29 governing body shall so notify the district attorney. The expenses of an at-
30 torney appointed under this paragraph shall be paid as provided under ORS

1 426.250.

2 **“SECTION 13.** ORS 426.301 is amended to read:

3 “426.301. (1) At the end of the 180-day period of commitment, any person
4 whose status has not been changed to voluntary shall be released unless the
5 Oregon Health Authority certifies to the court in the county where the
6 treating facility is located that the person is still a person with mental ill-
7 ness and is in need of further treatment. The authority, pursuant to its rules,
8 may delegate to the director of the treating facility the responsibility for
9 making the certification. The director of the treating facility shall consult
10 with the community mental health program director of the county of resi-
11 dence prior to making the certification. If the certification is made, the
12 person will not be released, but the director of the treating facility shall
13 immediately issue a copy of the certification to the person and to the com-
14 munity mental health program director of the county of residence.

15 “[~~(2)~~ *The certification shall be served upon the person by the director of the*
16 *facility where the person is confined or by the designee of the director. The*
17 *director of the facility shall inform the court in writing that service has been*
18 *made and the date thereof.*]

19 “[~~(3)~~ **(2)** The certification [*shall*] **must** advise the person of all the fol-
20 lowing:

21 “(a) That the authority or facility has requested that commitment be
22 continued for an additional period of time.

23 “(b) That the person may consult with legal counsel and that legal coun-
24 sel will be provided for the person without cost if the person is unable to
25 afford legal counsel.

26 “(c) That the person may protest this further period of commitment within
27 14 days, and if the person does not protest the further commitment, commit-
28 ment will be continued for an indefinite period of time up to 180 days.

29 “(d) That if the person does protest a further period of commitment, the
30 person is entitled to a hearing before the court on whether commitment

1 should be continued.

2 “(e) That the person may protest either orally or in writing by signing
3 the form accompanying the certification.

4 “(f) That the person is entitled to have a physician or other qualified
5 professional as recommended by the authority, other than a member of the
6 staff at the facility where the person is confined, examine the person and
7 report to the court the results of the examination.

8 “(g) That the person may subpoena witnesses and offer evidence on behalf
9 of the person at the hearing.

10 “(h) That if the person is without funds to retain legal counsel or an ex-
11 amining physician or qualified professional as recommended by the authority,
12 the court will appoint legal counsel, a physician or other qualified profes-
13 sional.

14 “[~~(4)~~] **(3)** Nothing in subsection [~~(3)~~] **(2)** of this section requires the giving
15 of the warning under ORS 426.123.

16 “**(4)(a) The director of the facility where the person is confined or**
17 **the director’s designee shall personally serve the copy of the certi-**
18 **fication on the person.**

19 “**(b) The director of the facility shall file the certification with the**
20 **court and inform the court in writing that service has been made and**
21 **the date thereof.**

22 “**(5)(a)** When serving the certification upon the person, the authority
23 shall read and deliver the certification to the person and ask whether the
24 person protests a further period of commitment.

25 “**(b)** The person may protest further commitment either orally or by
26 signing a simple protest form to be given to the person with the certification.

27 “**(c)** If the person does not protest a further period of commitment within
28 14 days [~~of~~] **after receiving** service of the certification, the authority or fa-
29 cility shall so notify the court [~~and~~].

30 “**(6) Upon receiving the notification under subsection (5)(c) of this**

1 **section that the person does not protest the further period of com-**
2 **mitment, the court shall, without further hearing, order the commitment**
3 **of the person for an additional indefinite period of time up to 180 days.**

4
5 **“(Declaration for Mental Health Treatment)**
6

7 **“SECTION 14. Section 15 of this 2025 Act is added to and made a**
8 **part of ORS 127.700 to 127.737.**

9 **“SECTION 15. (1) A person is incapable for purposes of ORS 127.700**
10 **to 127.737 if:**

11 **“(a) The person’s ability to receive and evaluate information effec-**
12 **tively or communicate decisions is impaired to such an extent that the**
13 **person currently lacks capacity to make mental health treatment de-**
14 **cisions, taking into consideration such factors as those described in**
15 **subsection (2) of this section; and**

16 **“(b)(A) The court in a proceeding under this section has determined**
17 **that the person is incapable, as described under paragraph (a) of this**
18 **subsection; or**

19 **“(B) In the professional opinions of two individuals, each of whom**
20 **must be either a licensed independent practitioner, as defined in ORS**
21 **426.005, or a licensed psychologist, the person is incapable as described**
22 **in paragraph (a) of this subsection.**

23 **“(2) Information relevant to a determination of incapacity under**
24 **this section may include factors such as whether the person:**

25 **“(a) Understands the courses of available mental health treatment,**
26 **including the applicable risks and benefits of participating or not par-**
27 **ticipating in the treatment;**

28 **“(b) Understands the risks and benefits of alternative courses of**
29 **treatment, if any, that are preferred by the person;**

30 **“(c) Is able to identify nontreatment factors that may improve or**

1 worsen the person's mental health;

2 “(d) Is able to weigh and compare available treatment options based
3 on information available to the person and the person's personal
4 preferences or values;

5 “(e) Is able to effectively communicate the person's preferred
6 treatment outcome;

7 “(f) Is able to identify rational reasons for the person's preferred
8 treatment outcome;

9 “(g) Is able to learn and incorporate into the person's decision-
10 making new information relevant to available treatment options;

11 “(h) Understands the impact of the person's preferred outcome on
12 important areas of the person's life, including relationships, housing,
13 ability to work or ability to exercise future civil rights; or

14 “(i) Is able to identify behaviors the person needs to adopt to
15 achieve the person's preferred treatment outcome.

16 “(3)(a) Any person, including the person whose capacity is being
17 determined, who is interested in the affairs or welfare of a respondent
18 may file a petition for a determination of capacity for purposes of a
19 respondent's declaration for mental health treatment in the circuit
20 court of the county in which the respondent resides or is present.

21 “(b) The petition must include a copy of the respondent's declara-
22 tion for mental health treatment and set forth:

23 “(A) The name of the respondent;

24 “(B) The names of the respondent's parents, spouse, legal guardian,
25 conservator or attorney-in-fact, if any;

26 “(C) A statement of the facts describing the respondent's alleged
27 capacity or incapacity;

28 “(D) A statement of facts indicating the likelihood that the re-
29 spondent, without mental health treatment, will have the ability to
30 make mental health treatment decisions in the foreseeable future;

1 “(E) A statement of the reasons for which a determination of ca-
2 pacity is sought; and

3 “(F) The name and statement of interest of the person initiating the
4 petition or any person assisting the respondent with a self-initiated
5 petition.

6 “(c) The petitioner shall provide a copy of the petition to the re-
7 spondent and the respondent’s attorney, if any.

8 “(d) After providing the respondent with an opportunity to be heard
9 in person or through counsel, the court, upon receiving a petition
10 under paragraph (a) of this subsection or upon receiving notice from
11 an investigator under ORS 426.074, shall enter a judgment determining
12 by a preponderance of the evidence whether the respondent is incapa-
13 ble, as described in subsection (1)(a) of this section.

14 “(e) At the request of the petitioner or the respondent or on the
15 court’s own initiative, the court shall include written findings, by a
16 preponderance of the evidence, regarding:

17 “(A) Whether the respondent has executed a declaration for mental
18 health treatment;

19 “(B) Whether the respondent’s declaration was validly executed;

20 “(C) Whether the declaration has been revoked or has expired; and

21 “(D) What treatment is authorized or prohibited under the decla-
22 ration.

23 “(f) If the determination of capacity is made following notice from
24 an investigator under ORS 426.074:

25 “(A) The court shall enter the judgment under this section not later
26 than one judicial day after receiving the notice;

27 “(B) The court shall include the written findings described in para-
28 graph (e) of this subsection in the judgment; and

29 “(C) The court shall immediately provide the investigator with a
30 copy of the judgment.

1 “(4) A determination of incapacity under this section is applicable
2 solely to the validity of the respondent’s declaration and the authority
3 of the respondent’s attorney-in-fact, if any, under the declaration, to
4 make mental health treatment decisions on the respondent’s behalf.

5 “**SECTION 16.** ORS 127.700, as amended by section 34, chapter 73, Oregon
6 Laws 2024, is amended to read:

7 “127.700. As used in ORS 127.700 to 127.737:

8 “(1) ‘Attending physician’ shall have the same meaning as provided in
9 ORS 127.505.

10 “(2) ‘Attorney-in-fact’ means an adult validly appointed under ORS
11 127.540, 127.700 to 127.737 and 426.385 to make mental health treatment de-
12 cisions for a principal under a declaration for mental health treatment and
13 also means an alternative attorney-in-fact.

14 “(3) ‘Declaration’ means a document making a declaration of preferences
15 or instructions regarding mental health treatment.

16 “(4) ‘Health care facility’ shall have the same meaning as provided in ORS
17 127.505.

18 “(5) ‘Health care provider’ shall have the same meaning as provided in
19 ORS 127.505.

20 “(6) ‘Incapable’ [*means that, in the opinion of the court in a protective*
21 *proceeding under ORS chapter 125, or the opinion of two physicians, a person’s*
22 *ability to receive and evaluate information effectively or communicate decisions*
23 *is impaired to such an extent that the person currently lacks the capacity to*
24 *make mental health treatment decisions*] **has the meaning described in**
25 **section 15 of this 2025 Act.**

26 “(7) ‘Mental health treatment’ means convulsive treatment, treatment of
27 mental illness with psychoactive medication, admission to and retention in
28 a health care facility [*for a period not to exceed 17 days*] for care or treatment
29 of mental illness, and outpatient services.

30 “(8) ‘Outpatient services’ means treatment for a mental or emotional dis-

1 order that is obtained by appointment and is provided by an outpatient ser-
2 vice as defined in ORS 430.010.

3 “(9) ‘Provider’ means a mental health treatment provider, a physician as-
4 sociate licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed
5 under ORS 678.375 to 678.390.

6 “(10) ‘Representative’ means ‘attorney-in-fact’ as defined in this section.

7 “(11) **‘Respondent’ means a person who is the subject of a petition**
8 **for determination of capacity under section 15 of this 2025 Act.**

9 **“SECTION 17.** ORS 127.736 is amended to read:

10 “127.736. A declaration for mental health treatment shall be in substan-
11 tially the following form:

12 “
13 **DECLARATION FOR MENTAL HEALTH TREATMENT**

14 I, _____, being an adult of sound mind, willfully and
15 voluntarily make this declaration for mental health treatment. I want this
16 declaration to be followed if a court or two [*physicians*] **capacity evaluators**
17 determine that I am unable to make decisions for myself because my ability
18 to receive and evaluate information effectively or communicate decisions is
19 impaired to such an extent that I lack the capacity to refuse or consent to
20 mental health treatment. ‘Mental health treatment’ means treatment of
21 mental illness with psychoactive medication, admission to and retention in
22 a health care facility for a **given** period [*up to 17 days*], convulsive treatment
23 and outpatient services that are specified in this declaration. **‘Health care**
24 **facility’ could include an inpatient setting, a residential facility, an**
25 **adult foster home or a hospice program. ‘Capacity evaluator’ means**
26 **a licensed independent practitioner or a licensed psychologist.**

27 _____
28 **CHOICE OF DECISION MAKER**

29 If I become incapable of giving or withholding informed consent for
30 mental health treatment, I want these decisions to be made by: (INITIAL

1 ONLY ONE)

2 — My appointed representative consistent with my desires, or, if my de-
3 sires are unknown by my representative, in what my representative
4 believes to be my best interests.

5 — By the mental health treatment provider who requires my consent in
6 order to treat me, but only as specifically authorized in this declara-
7 tion.

8 APPOINTED REPRESENTATIVE

9 If I have chosen to appoint a representative to make mental health
10 treatment decisions for me when I am incapable, I am naming that person
11 here. I may also name an alternate representative to serve. Each person I
12 appoint must accept my appointment in order to serve. I understand that I
13 am not required to appoint a representative in order to complete this decla-
14 ration.

15 I hereby appoint:

16 NAME _____

17 ADDRESS _____

18 TELEPHONE # _____ to act as my representative to make deci-
19 sions regarding my mental health treatment if I become incapable of giving
20 or withholding informed consent for that treatment.

21 (OPTIONAL)

22 If the person named above refuses or is unable to act on my behalf, or if
23 I revoke that person's authority to act as my representative, I authorize the
24 following person to act as my representative:

25 NAME _____

26 ADDRESS _____

27 TELEPHONE # _____

28 My representative is authorized to make decisions that are consistent
29 with the wishes I have expressed in this declaration or, if not expressed, as
30 are otherwise known to my representative. If my desires are not expressed

1 and are not otherwise known by my representative, my representative is to
2 act in what he or she believes to be my best interests. My representative is
3 also authorized to receive information regarding proposed mental health
4 treatment and to receive, review and consent to disclosure of medical records
5 relating to that treatment.

6 _____
7 DIRECTIONS FOR
8 MENTAL HEALTH TREATMENT

9 This declaration permits me to state my wishes regarding mental health
10 treatments including psychoactive medications, admission to and retention
11 in a health care facility for mental health treatment for a period not to ex-
12 ceed [17 days] **the number of days specified below**, convulsive treatment
13 and outpatient services.

14
15 **If I become incapable of giving or withholding informed consent to**
16 **be admitted for inpatient mental health treatment, I CONSENT TO**
17 **BE ADMITTED TO THE FOLLOWING HEALTH CARE FACILITIES:**

18 _____
19 _____
20 _____
21 _____
22 _____
23 _____
24 _____

25 **If I become incapable of giving or withholding informed consent to**
26 **be admitted to a health care facility for mental health treatment, and**
27 **am admitted to a facility listed above, I consent to be admitted when**
28 **medically necessary for up to (INITIAL ONLY ONE):**

29 _____ 14 days.

30 _____ 30 days.

1 _____ **60 days.**
2 _____ **days.**

3

4 If I become incapable of giving or withholding informed consent for
5 mental health treatment, [*my wishes are:*] I CONSENT TO THE FOLLOW-
6 ING MENTAL HEALTH TREATMENTS: (May include types and dosage of
7 medications, short-term inpatient treatment, a preferred provider or facility,
8 transport to a provider or facility, convulsive treatment or alternative out-
9 patient treatments.)

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17

18 I DO NOT CONSENT TO THE FOLLOWING MENTAL HEALTH TREAT-
19 MENT: (Consider including your reasons, such as past adverse reaction,
20 allergies or misdiagnosis. Be aware that a person may be treated without
21 consent if the person is held pursuant to [*civil commitment law*] **a court**
22 **order.**)

23 _____

24 _____

25 _____

26 _____

27 _____

28 _____

29 _____

30

1 ADDITIONAL INFORMATION ABOUT MY MENTAL HEALTH TREAT-
2 MENT NEEDS: (Consider including mental or physical health history,
3 dietary requirements, religious concerns, people to notify and other matters
4 of importance.)

5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____

12
13 YOU MUST SIGN HERE FOR THIS DECLARATION TO BE EFFECTIVE:

14 _____
15 (Signature/Date)

16
17 NOTARY OR WITNESSES

18
19 (Have this document notarized by a notary public OR have 2 competent
20 adult witnesses complete the Affirmation of Witnesses.)

21
22 NOTARIAL CERTIFICATE:

23
24 State of _____

25 County of _____

26 Signed or attested before me on _____,

27 2____, by _____.

28 _____

29 Notary Public - State of Oregon

1 OR

2
3 AFFIRMATION OF WITNESSES

4 I affirm that the person signing this declaration:

5 (a) Is personally known to me;

6 (b) Signed or acknowledged his or her signature on this declaration in
7 my presence;

8 (c) Appears to be of sound mind and not under duress, fraud or undue
9 influence;

10 (d) Is not related to me by blood, marriage or adoption;

11 (e) Is not a patient or resident in a facility that I or my relative owns
12 or operates;

13 (f) Is not my patient and does not receive mental health services from
14 me or my relative; and

15 (g) Has not appointed me as a representative in this document.
16

17 Witnessed by:

18 _____

19 (Signature of Witness/ (Printed Name of Witness)

20 Date)

21 _____

22 (Signature of Witness/ (Printed Name of Witness)

23 Date)
24

25 ACCEPTANCE OF APPOINTMENT

26 AS REPRESENTATIVE

27 I accept this appointment and agree to serve as representative to make
28 mental health treatment decisions. I understand that I must act consistently
29 with the desires of the person I represent, as expressed in this declaration
30 or, if not expressed, as otherwise known by me. If I do not know the desires

1 of the person I represent, I have a duty to act in what I believe in good faith
2 to be that person's best interest. I understand that this document gives me
3 authority to make decisions about mental health treatment only while that
4 person has been determined to be incapable of making those decisions by a
5 court or two [*physicians*] **capacity evaluators**. I understand that the person
6 who appointed me may revoke this declaration in whole or in part by com-
7 municating the revocation to the attending physician or other provider when
8 the person is not incapable.

9 _____

10 (Signature of (Printed name)
11 Representative/Date)

12 _____

13 (Signature of Alternate (Printed name)
14 Representative/Date)

15
16 NOTICE TO PERSON
17 MAKING A DECLARATION FOR
18 MENTAL HEALTH TREATMENT

19 This is an important legal document. It creates a declaration for mental
20 health treatment. Before signing this document, you should know these im-
21 portant facts:

22 This document allows you to make decisions in advance about certain
23 types of mental health treatment: psychoactive medication, short-term (not
24 to exceed [*17 days*] **the number of days you indicate above**) admission to
25 a treatment facility, convulsive treatment and outpatient services. Outpa-
26 tient services are mental health services provided by appointment by licensed
27 professionals and programs. The instructions that you include in this decla-
28 ration will be followed only if a court or two [*physicians*] **capacity evalu-**
29 **ators** believe that you are incapable of making treatment decisions.
30 Otherwise, you will be considered capable to give or withhold consent for the

1 treatments. Your instructions may be overridden if you are being held pur-
2 suant to [*civil commitment law*] **a court order**.

3 You may also appoint a person as your representative to make treatment
4 decisions for you if you become incapable. The person you appoint has a duty
5 to act consistently with your desires as stated in this document or, if not
6 stated, as otherwise known by the representative. If your representative does
7 not know your desires, he or she must make decisions in your best interests.
8 For the appointment to be effective, the person you appoint must accept the
9 appointment in writing. The person also has the right to withdraw from
10 acting as your representative at any time. A “representative” is also referred
11 to as an “attorney-in-fact” in state law but this person does not need to be
12 an attorney at law.

13 This document will continue in effect for a period of three years unless
14 you become incapable of participating in mental health treatment decisions.
15 If this occurs, the directive will continue in effect until you are no longer
16 incapable.

17 You have the right to revoke this document in whole or in part at any
18 time you have not been determined to be incapable. **YOU MAY NOT RE-**
19 **VOKE THIS DECLARATION WHEN YOU ARE CONSIDERED INCAPA-**
20 **BLE BY A COURT OR TWO [PHYSICIANS] CAPACITY EVALUATORS.**
21 A revocation is effective when it is communicated to your attending physi-
22 cian or other provider.

23 If there is anything in this document that you do not understand, you
24 should ask a lawyer to explain it to you. This declaration will not be valid
25 unless it is signed by **a notary or** two qualified witnesses who are personally
26 known to you and who are present when you sign or acknowledge your sig-
27 nature.

28 NOTICE TO PHYSICIAN OR PROVIDER

29 Under Oregon law, a person may use this declaration to provide consent
30 for mental health treatment or to appoint a representative to make mental

1 health treatment decisions when the person is incapable of making those
2 decisions. A person is “incapable” when, in the opinion of a court or two
3 [*physicians*] **capacity evaluators**, the person’s ability to receive and evalu-
4 ate information effectively or communicate decisions is impaired to such an
5 extent that the person currently lacks the capacity to make mental health
6 treatment decisions. This document becomes operative when it is delivered
7 to the person’s physician or other provider and remains valid until revoked
8 or expired. Upon being presented with this declaration, a physician or pro-
9 vider must make it a part of the person’s medical record. When acting under
10 authority of the declaration, a physician or provider must comply with it to
11 the fullest extent possible. If the physician or provider is unwilling to comply
12 with the declaration, the physician or provider may withdraw from providing
13 treatment consistent with professional judgment and must promptly notify
14 the person and the person’s representative and document the notification in
15 the person’s medical record. A physician or provider who administers or does
16 not administer mental health treatment according to and in good faith reli-
17 ance upon the validity of this declaration is not subject to criminal prose-
18 cution, civil liability or professional disciplinary action resulting from a
19 subsequent finding of the declaration’s invalidity.

20 “

21
22 **“(Information Sharing)”**
23

24 **“SECTION 18.** ORS 426.155 is amended to read:

25 “426.155. (1) The provisions of this section apply to the release of infor-
26 mation about a person who is held in custody either pending a commitment
27 proceeding under ORS 426.070, 426.140, 426.228, 426.232, 426.233 or [426.237
28 (1)(b)] **section 8 of this 2025 Act** or while committed or recommitted under
29 ORS 426.005 to 426.390.

30 “(2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.355 (2)

1 and notwithstanding any other provision of ORS 426.005 to 426.390, a facility
2 or nonhospital facility where a person is held shall establish procedures for
3 releasing information as required under subsections (3) and (4) of this sec-
4 tion.

5 “(3)(a) If a person described in subsection (1) of this section authorizes
6 disclosure as provided in subsection (5) of this section, upon request of a
7 member of the family of the person, or any other designee of the person, a
8 facility or nonhospital facility where the person is held shall provide the
9 family member or the designee with the following information:

10 “(A) The person’s diagnosis;

11 “(B) The person’s prognosis;

12 “(C) The medications prescribed for the person and the side effects of
13 medications prescribed, if any;

14 “(D) The person’s progress;

15 “(E) Information about any civil commitment process, including the date,
16 time and location of the person’s commitment hearing; and

17 “(F) Where and when the person may be visited.

18 “(b) If a request for information is made under this subsection and the
19 person is unable to authorize disclosure as provided in subsection (5) of this
20 section, the requester shall be provided notice of the presence of the person
21 in any facility or nonhospital facility. Information shall not be provided un-
22 der this paragraph if the licensed independent practitioner who is treating
23 the person determines that it would not be in the person’s best interest to
24 provide the information or if providing the information is prohibited by fed-
25 eral law.

26 “(4) Upon the admission of any person to a facility or nonhospital facility
27 under ORS 426.005 to 426.390, the facility or nonhospital facility shall make
28 reasonable attempts to notify the person’s next of kin, or any other designee
29 of the person, of the person’s admission, unless the person requests that this
30 information not be provided. The facility or nonhospital facility shall make

1 reasonable attempts to notify the person's next of kin, or any other designee
2 of the person, of the person's release, transfer, serious illness, injury or death
3 upon request of the family member or designee, unless the person requests
4 that this information not be provided. The person shall be advised by the
5 facility or nonhospital facility that the person has the right to request that
6 this information not be provided.

7 “(5) The person who is held in custody shall be notified by the facility
8 or nonhospital facility that information about the person has been requested.
9 Except as provided in subsection (3) of this section, the consent of the person
10 who is held is required for release of information under subsections (3) and
11 (4) of this section. If, when initially informed of the request for information,
12 the person is unable to give voluntary and informed consent to authorize the
13 release of information, notation of the attempt shall be made in the person's
14 treatment record and daily efforts shall be made to secure the person's con-
15 sent or refusal of authorization.

16 “(6) Notwithstanding any other provision of this section, an individual
17 eligible to receive information under subsection (3) of this section may not
18 receive information unless the individual first agrees to make no further
19 disclosure of the information. The agreement may be made orally.

20 “(7) A facility or nonhospital facility that releases information under
21 subsection (3) or (4) of this section shall:

22 “(a) Notify the person who is held to whom, when and what information
23 was released; and

24 “(b) Note in the medical record of the person who is held:

25 “(A) The basis for finding that the person gave voluntary and informed
26 consent;

27 “(B) The oral or written consent of the person who is held;

28 “(C) To whom, when and what information was released;

29 “(D) The agreement to the requirements of subsection (6) of this section
30 by the requester; and

1 “(E) Any determination made by the licensed independent practitioner
2 under subsection (3)(b) of this section regarding the provision of notice of
3 the presence of the person in any facility or nonhospital facility.

4 “(8) A facility or nonhospital facility, including the staff of such facilities
5 and nonhospital facilities, that releases information under this section or
6 rules adopted under ORS 426.236 may not be held civilly or criminally liable
7 for damages caused or alleged to be caused by the release of information or
8 the failure to release information as long as the release was done in good
9 faith and in compliance with subsections (3) and (4) of this section or rules
10 adopted under ORS 426.236.

11 “(9) The provisions of subsections (3) and (4) of this section do not limit
12 the ability or obligation of facilities, nonhospital facilities, licensed inde-
13 pendent practitioners, mental health care providers or licensed mental health
14 professionals to provide information:

15 **“(a) To other health care services providers, the Department of**
16 **Corrections, the Oregon Health Authority or a local correctional fa-**
17 **cility when necessary or beneficial to the person’s treatment, as pro-**
18 **vided under ORS 179.505 (6); or**

19 **“(b) As otherwise allowed or required by state or federal law or by**
20 **order of the court.**

21
22 **“(Conforming Amendments)**
23

24 **“SECTION 19.** ORS 426.060 is amended to read:

25 **“426.060. (1) Commitments to the Oregon Health Authority shall be made**
26 **only by the judge of a circuit court in a county of this state.**

27 **“(2) The following is a nonexclusive list of powers the authority may ex-**
28 **ercise concerning the placement of persons committed or persons receiving**
29 **emergency care and treatment under ORS 426.070, 426.228 to 426.235 or**
30 **[426.237] section 8 of this 2025 Act:**

1 “(a) In its discretion and for reasons which are satisfactory to the au-
2 thority, the authority may direct any court-committed person to the facility
3 best able to treat the person. The decision of the authority on such matters
4 shall be final.

5 “(b) At any time, for good cause and in the best interest of the person
6 with mental illness, the authority may transfer a committed person from one
7 facility to another. When transferring a person under this paragraph, the
8 authority shall make the transfer:

9 “(A) If the transfer is from a facility in one class to a facility of the same
10 class, as provided by rule of the authority;

11 “(B) If the transfer is from a facility in one class to a facility in a less
12 restrictive class, by following the procedures for trial visits under ORS
13 426.273; and

14 “(C) If the transfer is from a facility in one class to a facility in a more
15 restrictive class, by following the procedures under ORS 426.275.

16 “(c) At any time, for good cause and in the best interest of the person
17 with mental illness, the authority may transfer a person receiving emergency
18 care and treatment under ORS 426.070 or 426.228 to 426.235, or [*intensive*
19 *treatment under ORS 426.237*] **diversion from commitment under section**
20 **8 of this 2025 Act**, between hospitals and nonhospital facilities approved by
21 the authority to provide emergency care or treatment as defined by rule of
22 the authority.

23 “(d) Pursuant to its rules, the authority may delegate to a community
24 mental health program director the responsibility for assignment of persons
25 with mental illness to suitable facilities or transfer between such facilities
26 under conditions which the authority may define.

27 **“SECTION 20.** ORS 426.072 is amended to read:

28 “426.072. (1) A hospital or nonhospital facility must comply with pro-
29 visions of subsection (2) of this section when a person alleged to have a
30 mental illness **and to be in need of treatment** is placed in custody at the

1 hospital or nonhospital facility:

2 “(a) By a warrant of detention under ORS 426.070;

3 “(b) By a peace officer under ORS 426.228 or other individual authorized

4 under ORS 426.233; or

5 “(c) By a licensed independent practitioner under ORS 426.232.

6 “(2) In circumstances described under subsection (1) of this section, the

7 hospital or nonhospital facility and a treating licensed independent practi-

8 tioner must comply with all the following:

9 “(a) The person shall receive the care, custody and treatment required for

10 mental and physical health and safety.

11 “(b) The treating licensed independent practitioner shall report any care,

12 custody and treatment to the court as required in ORS 426.075.

13 “(c) All methods of treatment, including the prescription and adminis-

14 tration of drugs, shall be the sole responsibility of the treating licensed in-

15 dependent practitioner. However, the person [*shall not be subject to*

16 *electroshock therapy or unduly hazardous treatment*] **may not be subjected**

17 **to unusual or hazardous treatment procedures, including convulsive**

18 **therapy**, and shall receive usual and customary treatment in accordance

19 with medical standards in the community.

20 “(d) The treating licensed independent practitioner shall be notified im-

21 mediately of any seclusion of the person or use of mechanical restraints on

22 the person. Every use of seclusion or mechanical restraint and the reasons

23 for the use shall be made a part of the clinical record of the person over the

24 signature of the treating licensed independent practitioner.

25 “(e) The treating licensed independent practitioner shall give the person

26 the warning under ORS 426.123 at times the treating licensed independent

27 practitioner determines the person will reasonably understand the notice.

28 This paragraph only requires the notice to be given as often as the licensed

29 independent practitioner determines is necessary to assure that the person

30 is given an opportunity to be aware of the notice.

1 “(3) The Oregon Health Authority shall adopt rules necessary to carry
2 out this section, including rules regarding the content of the medical record
3 compiled during the current period of custody.

4 **“SECTION 21.** ORS 426.075 is amended to read:

5 “426.075. This section establishes procedures that are required to be fol-
6 lowed before the hearing if a court, under ORS 426.070, orders a hearing
7 under ORS 426.095. The following apply as described:

8 “(1) The court shall be fully advised of all drugs and other treatment
9 known to have been administered to the person alleged to have a mental
10 illness **and to be in need of treatment** that may substantially affect the
11 ability of the person to prepare for or function effectively at the hearing.
12 The following shall advise the court as required by this subsection:

13 “(a) When not otherwise provided by paragraph (b) of this subsection, the
14 community mental health program director or designee.

15 “(b) When the person has been detained by a warrant of detention under
16 ORS 426.070[,] **or under ORS 426.180, 426.228, 426.232 or 426.233**, the treating
17 licensed independent practitioner.

18 “(2) The court shall appoint examiners under ORS 426.110 sufficiently in
19 advance of the hearing so that the examiners may begin their preparation
20 for the hearing. The records established by the Oregon Health Authority by
21 rule and the investigation report shall be made available to the examiners
22 at least 24 hours before the hearing in order that the examiners may review
23 the medical record and have an opportunity to inquire of the medical per-
24 sonnel concerning the treatment [*of the person alleged to have a mental ill-*
25 *ness*] during the detention period prior to the hearing **of the person alleged**
26 **to have a mental illness and to be in need of treatment.**

27 “(3) The medical record described in subsection (2) of this section shall
28 be made available **at least 24 hours prior to the hearing** to counsel for the
29 person alleged to have a mental illness **and to be in need of treatment**
30 [*at least 24 hours prior to the hearing*].

1 “(4) When requested by a party to the action, the party’s attorney shall
2 subpoena licensed independent practitioners who are or have been treating
3 the person. Any treating licensed independent practitioner subpoenaed under
4 this subsection shall be subpoenaed as an expert witness.

5 **“SECTION 22.** ORS 426.133 is amended to read:

6 “426.133. (1) As used in ORS 426.005 to 426.390, ‘assisted outpatient
7 treatment’ may not be construed to be a commitment under ORS 426.130 and
8 does not include taking a person into custody or the forced medication of a
9 person.

10 “(2) A court may issue an order requiring a person to participate in as-
11 sisted outpatient treatment if the court finds that the person:

12 “(a)(A) Is 18 years of age or older;

13 “(B) Has a mental disorder;

14 “(C) Will not obtain treatment in the community voluntarily; and

15 “(D) Is unable to make an informed decision to seek or to comply with
16 voluntary treatment; and

17 “(b) As a result of being a person described in paragraph (a) of this sub-
18 section:

19 “(A) Is incapable of surviving safely in the community without treatment;
20 and

21 “(B) Requires treatment to prevent a deterioration in the person’s condi-
22 tion that will predictably result in the person becoming a person with mental
23 illness.

24 “(3) In determining whether to issue the order under subsection (2) of this
25 section, the court shall consider, but is not limited to considering, the fol-
26 lowing factors:

27 “(a) The person’s ability to access finances in order to get food or medi-
28 cine.

29 “(b) The person’s ability to obtain treatment for the person’s medical
30 condition.

1 “(c) The person’s ability to access necessary resources in the community
2 without assistance.

3 “(d) The degree to which there are risks to the person’s safety.

4 “(e) The likelihood that the person will decompensate without immediate
5 care or treatment.

6 “(f) The person’s previous attempts to inflict physical injury on self or
7 others.

8 “(g) The person’s history of mental health treatment in the community.

9 “(h) The person’s patterns of decompensation in the past.

10 “(i) The person’s risk of being victimized or harmed by others.

11 “(j) The person’s access to the means to inflict harm on self or others.

12 “(4) The community mental health program director may recommend to
13 the court a treatment plan for a person participating in assisted outpatient
14 treatment. The court may adopt the plan as recommended or with modifica-
15 tions.

16 “(5) As part of the order under subsection (2) of this section, the court
17 may prohibit the person from purchasing or possessing a firearm during the
18 period of assisted outpatient treatment if, in the opinion of the court, there
19 is a reasonable likelihood the person [*would constitute*] **is** a danger to self
20 or others, or to the community at large, as a result of the person’s mental
21 or psychological state, as demonstrated by past behavior or participation in
22 incidents involving unlawful violence or threats of unlawful violence, or by
23 reason of a single incident of extreme, violent, unlawful conduct. When a
24 court adds a firearm prohibition to an order under subsection (2) of this
25 section, the court shall cause a copy of the order to be delivered to the
26 sheriff of the county, who shall enter the information into the Law
27 Enforcement Data System.

28 “(6) The court retains jurisdiction over the person until the earlier of the
29 end of the period of the assisted outpatient treatment established under ORS
30 426.130 [(2)] or until the court finds that the person no longer meets the

criteria in subsection (2) of this section.

“(7) This section does not:

“(a) Prevent a court from appointing a guardian ad litem to act for the person; or

“(b) Require a community mental health program to provide treatment or services to, or supervision of, the person:

“(A) If the county lacks sufficient funds for such purposes; or

“(B) In the case of a county that has declined to operate or contract for a community mental health program, if the public agency or private corporation that contracts with the Oregon Health Authority to provide the program, as described in ORS 430.640, lacks sufficient funds for such purposes.

“SECTION 23. ORS 426.160 is amended to read:

“426.160. (1) The court having jurisdiction over any proceeding conducted pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to 426.292, 426.300 to 426.309, 426.385, 426.395, 426.701 [*and*] **or** 426.702 may not disclose any part of the record of the proceeding or commitment to any person except:

“(a) The court shall, pursuant to rules adopted by the Department of State Police, transmit the minimum information necessary, as defined in ORS 181A.290, to the Department of State Police for persons described in ORS 181A.290 (1)(a) or (b) to enable the department to access and maintain the information and transmit the information to the federal government as required under federal law;

“(b) As provided in ORS 426.070 (5)(c), 426.130 [(3)] **(4)** or 426.170;

“(c) On request of the person subject to the proceeding;

“(d) On request of the person’s legal representative or [*the attorney for the person or*] **legal counsel or the attorney for** the state; or

“(e) Pursuant to court order.

“(2) In any proceeding described in subsection (1) of this section that is before the Supreme Court or the Court of Appeals, the limitations on dis-

1 closure imposed by this section apply to the appellate court record and to
2 the trial court record while it is in the appellate court's custody. The ap-
3 pellate court may disclose information from the trial or appellate court re-
4 cord in a decision, as defined in ORS 19.450, provided that the court uses
5 initials, an alias or some other convention for protecting against public dis-
6 closure the identity of the person subject to the proceeding.

7 **"SECTION 24.** ORS 426.180 is amended to read:

8 "426.180. (1) ORS 426.180 to 426.210 apply to the commitment of an indi-
9 vidual in Indian country if a federally recognized Indian tribe that has In-
10 dian country located within this state chooses to exercise the tribe's
11 authority over the commitment.

12 "(2) As used in this section and ORS 426.200 and 426.210, 'hospital' means
13 a hospital that is licensed under ORS chapter 441, other than an institution
14 listed in ORS 426.010.

15 "(3) If the court of a tribe having jurisdiction over an individual issues
16 an order finding that the individual is [*dangerous*] **a danger** to self or [*to*
17 *any other person*] **others** and is in need of immediate care, custody or treat-
18 ment for mental illness, a person may request that the individual be taken
19 by a tribal police officer or other peace officer to a hospital or nonhospital
20 facility by submitting to the officer a certified copy of the order and an af-
21 fidavit that includes:

22 "(a) The name and address of the nearest relative or legal guardian of the
23 individual; and

24 "(b) A medical history completed by one of the following, who may not
25 be related to the individual by blood or marriage:

26 "(A) The tribe's mental health authority, if the tribe has entered into an
27 agreement with the state pursuant to ORS 430.630 (9)(a)(B);

28 "(B) A qualified mental health professional; or

29 "(C) A licensed independent practitioner.

30 "(4) Upon receipt of the order and affidavit described in subsection (3) of

1 this section, the tribal police officer or other peace officer shall immediately
2 transport the individual to a hospital or a nonhospital facility and present
3 the individual to the hospital or nonhospital facility accompanied by the
4 court order and affidavit.

5 “(5) The director of the hospital or nonhospital facility may refuse to
6 admit the individual if a licensed independent practitioner, after reviewing
7 the documents accompanying the individual, is not satisfied that an emer-
8 gency exists or that the individual is [*dangerous*] **a danger** to self or others
9 and **is** in need of immediate care, custody or treatment for mental illness.

10 “(6) If the hospital or nonhospital facility admits the individual, the di-
11 rector or a licensed independent practitioner shall notify the community
12 mental health program director for the area and the circuit court with ju-
13 risdiction in the area where the facility is located. Upon receipt of the no-
14 tice, the community mental health program director shall initiate
15 commitment proceedings in accordance with ORS 426.070.

16 “(7) If an individual is admitted to a hospital or nonhospital facility under
17 this section, any licensed independent practitioner who is treating the indi-
18 vidual shall give the individual the warning under ORS 426.123.

19 “(8) This section may be applied as provided by agreement with the gov-
20 erning body of the reservation. Payment of costs for a commitment made
21 under this section shall be as provided under ORS 426.250.

22 “(9) The director of the hospital or nonhospital facility or licensed inde-
23 pendent practitioner shall notify the appropriate tribe regarding all actions
24 taken under ORS 426.180 to 426.210 no later than 24 hours after the action
25 is taken, except for information protected from disclosure by state or federal
26 law.

27 **“SECTION 25.** ORS 426.223 is amended to read:

28 “426.223. In retaking custody of a person with mental illness who has been
29 committed to the Oregon Health Authority under ORS 426.130 and who has,
30 without lawful authority, left the custody of the facility to which the person

1 has been assigned under ORS 426.060, or in the case of a person alleged to
2 have a mental illness **and to be in need of treatment** who is in custody
3 under ORS 426.070, 426.095, 426.228 to 426.235 or [426.237] **section 8 of this**
4 **2025 Act** at a hospital or nonhospital facility and who has, without lawful
5 authority, left the hospital or nonhospital facility, the facility director or
6 designee has all the powers provided by ORS 133.225 and 161.255 and may
7 require the assistance of any peace officer or other authorized individual.

8 **“SECTION 26.** ORS 426.225 is amended to read:

9 “426.225. (1) If any person who has been committed to the Oregon Health
10 Authority under ORS 426.127 or 426.130 [(1)(a)(B)] **(2)(a)(B)** or (C) requests,
11 during this period of commitment, voluntary admission to a state hospital,
12 the superintendent shall cause the person to be examined immediately by a
13 licensed independent practitioner. If the licensed independent practitioner
14 finds the person to be in need of immediate care or treatment for mental
15 illness, the person shall be voluntarily admitted.

16 “(2) If any person who has been committed to the authority under ORS
17 426.127 or 426.130 [(1)(a)(B)] **(2)(a)(B)** or (C) requests, during this period of
18 commitment, voluntary admission to a facility approved by the authority, the
19 administrator of the facility shall cause the person to be examined imme-
20 diately by a licensed independent practitioner. If the licensed independent
21 practitioner finds the person to be in need of immediate care or treatment
22 for mental illness, and the authority grants approval, the person shall be
23 voluntarily admitted.

24 **“SECTION 27.** ORS 426.228 is amended to read:

25 “426.228. (1) A peace officer may take into custody a person who the of-
26 ficer has probable cause to believe is [*dangerous*] **a danger** to self or [*to any*
27 *other person*] **others** and is in need of immediate care, custody or treatment
28 for mental illness. As directed by the community mental health program di-
29 rector, a peace officer shall remove a person taken into custody under this
30 section to the nearest hospital or nonhospital facility approved by the

Oregon Health Authority. The officer shall prepare a written report and deliver it to the licensed independent practitioner who is treating the person. The report shall state:

“(a) The reason for custody;

“(b) The date, time and place the person was taken into custody; and

“(c) The name of the community mental health program director and a telephone number where the director may be reached at all times.

“(2) A peace officer shall take a person into custody when the community mental health program director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to believe that the person is [*imminently dangerous*] **an imminent danger** to self or [*to any other person*] **others**. As directed by the community mental health program director, the peace officer shall remove the person to a hospital or nonhospital facility approved by the authority. The community mental health program director shall prepare a written report that the peace officer shall deliver to the licensed independent practitioner who is treating the person. The report shall state:

“(a) The reason for custody;

“(b) The date, time and place the person was taken into custody; and

“(c) The name of the community mental health program director and a telephone number where the director may be reached at all times.

“(3) If more than one hour will be required to transport the person to the hospital or nonhospital facility from the location where the person was taken into custody, the peace officer shall obtain, if possible, a certificate from a licensed independent practitioner stating that the travel will not be detrimental to the person’s physical health and that the person is [*dangerous*] **a danger** to self or [*to any other person*] **others** and is in need of immediate care or treatment for mental illness. The licensed independent practitioner shall have personally examined the person within 24 hours prior to signing the certificate.

1 “(4) When a peace officer or other authorized individual, acting under this
2 section, delivers a person to a hospital or nonhospital facility, a licensed
3 independent practitioner shall examine the person immediately. If the li-
4 censed independent practitioner finds the person to be in need of emergency
5 care or treatment for mental illness, the licensed independent practitioner
6 shall proceed under ORS 426.232, otherwise the person may not be retained
7 in custody. If the person is to be released from custody, the peace officer or
8 the community mental health program director shall return the person to the
9 place where the person was taken into custody unless the person declines
10 that service.

11 “(5) A peace officer may transfer a person in custody under this section
12 to the custody of an individual authorized by the community mental health
13 program director under ORS 426.233 (3). The peace officer may meet the
14 authorized individual at any location that is in accordance with ORS 426.140
15 to effect the transfer. When transferring a person in custody to an authorized
16 individual, the peace officer shall deliver the report required under sub-
17 sections (1) and (2) of this section to the authorized individual.

18 “(6) An individual authorized under ORS 426.233 (3) shall take a person
19 into custody when directed to do so by a peace officer or by a community
20 mental health program director under ORS 426.233.

21 “(7) An individual authorized under ORS 426.233 (3) shall perform the
22 duties of the peace officer or the community mental health program director
23 required by this section and ORS 426.233 if the peace officer or the director
24 has not already done so.

25 “(8) An individual authorized under ORS 426.233 (3) may transfer a person
26 in custody under this section to the custody of another individual authorized
27 under ORS 426.233 (3) or a peace officer. The individual transferring custody
28 may meet another authorized individual or a peace officer at any location
29 that is in accordance with ORS 426.140 to effect the transfer.

30 “(9)(a) When a peace officer takes a person into custody under this sec-

tion, and the peace officer reasonably suspects that the person is a foreign national, the peace officer shall inform the person of the person's right to communicate with an official from the consulate of the person's country.

“(b) A peace officer is not civilly or criminally liable for failure to provide the information required by this subsection. Failure to provide the information required by this subsection does not in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

“**SECTION 28.** ORS 426.231 is amended to read:

“426.231. (1) A licensed independent practitioner may hold a person for transportation to a treatment facility for up to 12 hours in a health care facility licensed under ORS chapter 441 and approved by the Oregon Health Authority if:

“(a) The licensed independent practitioner believes the person is [*dangerous*] **a danger** to self or [*to any other person*] **others** and is in need of emergency care or treatment for mental illness;

“(b) The licensed independent practitioner is not related to the person by blood or marriage; and

“(c) A licensed independent practitioner with admitting privileges at the receiving facility consents to the transporting.

“(2) Before transporting the person, the licensed independent practitioner shall prepare a written statement that:

“(a) The licensed independent practitioner has examined the person within the preceding 12 hours;

“(b) A licensed independent practitioner with admitting privileges at the receiving facility has consented to the transporting of the person for examination and admission if appropriate; and

“(c) The licensed independent practitioner believes the person is [*dangerous*] **a danger** to self or [*to any other person*] **others** and is in need of emergency care or treatment for mental illness.

1 “(3) The written statement required by subsection (2) of this section au-
2 thorizes a peace officer, an individual authorized under ORS 426.233 or the
3 designee of a community mental health program director to transport a per-
4 son to the treatment facility indicated on the statement.

5 **“SECTION 29.** ORS 426.232 is amended to read:

6 “426.232. (1) If a licensed independent practitioner believes a person who
7 is brought to a hospital or nonhospital facility by a peace officer under ORS
8 426.228 or by an individual authorized under ORS 426.233, or believes a per-
9 son who is at a hospital or nonhospital facility, is [*dangerous*] **a danger** to
10 self or [*to any other person*] **others** and is in need of emergency care or
11 treatment for mental illness, and the licensed independent practitioner is not
12 related to the person by blood or marriage, the licensed independent practi-
13 tioner may do one of the following:

14 “(a) Detain the person and cause the person to be admitted or, if the
15 person is already admitted, cause the person to be retained in a hospital
16 where the licensed independent practitioner has admitting privileges or is
17 on staff.

18 “(b) Approve the person for emergency care or treatment at a nonhospital
19 facility approved by the authority.

20 “(2) When approving a person for emergency care or treatment at a non-
21 hospital facility under this section, the licensed independent practitioner
22 shall notify immediately the community mental health program director in
23 the county where the person was taken into custody and maintain the per-
24 son, if the person is being held at a hospital, for as long as is feasible given
25 the needs of the person for mental or physical health or safety. However,
26 under no circumstances may the person be held for longer than five judicial
27 days.

28 **“SECTION 30.** ORS 426.233 is amended to read:

29 “426.233. (1)(a) A community mental health program director operating
30 under ORS 430.610 to 430.695 or a designee of the director may take one of

1 the actions listed in paragraph (b) of this subsection when the community
2 mental health program director or designee has probable cause to believe a
3 person:

4 “(A) Is [*dangerous*] **a danger** to self or [*to any other person*] **others** and
5 is in need of immediate care, custody or treatment for mental illness; or

6 “(B)(i) Is a person with mental illness placed on conditional release under
7 ORS 426.125, outpatient commitment under ORS 426.127 or trial visit under
8 ORS 426.273; and

9 “(ii) Is [*dangerous*] **a danger** to self or [*to any other person*] **others** or is
10 unable to provide for basic personal needs and is not receiving the care that
11 is necessary for health and safety and is in need of immediate care, custody
12 or treatment for mental illness.

13 “(b) The community mental health program director or designee under the
14 circumstances set out in paragraph (a) of this subsection may:

15 “(A) Notify a peace officer to take the person into custody and direct the
16 officer to remove the person to a hospital or nonhospital facility approved
17 by the Oregon Health Authority;

18 “(B) Authorize involuntary admission of, or, if already admitted, cause to
19 be involuntarily retained in a nonhospital facility approved by the authority,
20 a person approved for care or treatment at a nonhospital facility by a li-
21 censed independent practitioner under ORS 426.232;

22 “(C) Notify an individual authorized under subsection (3) of this section
23 to take the person into custody and direct the authorized individual to re-
24 move the person in custody to a hospital or nonhospital facility approved by
25 the authority;

26 “(D) Direct an individual authorized under subsection (3) of this section
27 to transport a person in custody from a hospital or a nonhospital facility
28 approved by the authority to another hospital or nonhospital facility ap-
29 proved by the authority as provided under ORS 426.235; or

30 “(E) Direct an individual authorized under subsection (3) of this section

1 to transport a person in custody from a facility approved by the authority
2 to another facility approved by the authority as provided under ORS 426.060.

3 “(2) A designee under subsection (1) of this section must meet the stan-
4 dards established by rule of the authority and be approved by the community
5 mental health program director before assuming the authority permitted un-
6 der subsection (1) of this section.

7 “(3) The community mental health program director may authorize any
8 individual to provide custody and secure transportation services for a person
9 in custody under ORS 426.228. In authorizing an individual under this sub-
10 section, the community mental health program director shall grant the indi-
11 vidual the authority to do the following:

12 “(a) Accept custody from a peace officer of a person in custody under ORS
13 426.228;

14 “(b) Take custody of a person upon notification by the community mental
15 health program director under the provisions of this section;

16 “(c) Remove a person in custody to an approved hospital or nonhospital
17 facility as directed by the community mental health program director;

18 “(d) Transfer a person in custody to another individual authorized under
19 this subsection or a peace officer;

20 “(e) Transfer a person in custody from a hospital or nonhospital facility
21 to another hospital facility or nonhospital facility when directed to do so by
22 the community mental health program director; and

23 “(f) Retain a person in custody at the approved hospital or nonhospital
24 facility until a licensed independent practitioner makes a determination un-
25 der ORS 426.232.

26 “(4) An individual authorized under subsection (3) of this section must
27 meet the standards established by rule of the authority and be approved by
28 the community mental health program director before assuming the authority
29 granted under this section.

30 “(5) The costs of transporting a person under ORS 426.060, 426.228 or

1 426.235 by an individual authorized under subsection (3) of this section shall
2 be the responsibility of the community mental health program in the county
3 in which the authorized individual is directed by a peace officer or a com-
4 munity mental health program director to take custody of a person and to
5 transport the person to a facility approved by the authority, but the com-
6 munity mental health program shall not be responsible for costs that exceed
7 the amount provided by the state for that transportation. An individual au-
8 thorized to act under subsection (3) of this section shall charge the cost of
9 emergency medical transportation to, and collect that cost from, the person,
10 third party payers or other legally or financially responsible individuals or
11 entities in the same manner that costs for the transportation of other persons
12 are charged and collected.

13 **“SECTION 31.** ORS 426.234 is amended to read:

14 “426.234. (1) At the time a person alleged to have a mental illness is ad-
15 mitted to or retained in a hospital or nonhospital facility under ORS 426.232
16 or 426.233, a licensed independent practitioner, nurse or qualified mental
17 health professional at the hospital or nonhospital facility shall:

18 “(a) Inform the person of the person’s right to representation by or ap-
19 pointment of counsel as described in ORS 426.100;

20 “(b) Give the person the warning under ORS 426.123;

21 “(c) Immediately examine the person;

22 “(d) Set forth, in writing, the condition of the person and the need for
23 emergency care or treatment; and

24 “(e) If the licensed independent practitioner, nurse or qualified mental
25 health professional reasonably suspects that the person is a foreign national,
26 inform the person of the person’s right to communicate with an official from
27 the consulate of the person’s country. A licensed independent practitioner,
28 nurse or qualified mental health professional is not civilly or criminally li-
29 able for failure to provide the information required by this paragraph. Fail-
30 ure to provide the information required by this paragraph does not in itself

1 constitute grounds for the exclusion of evidence that would otherwise be
2 admissible in a proceeding.

3 “(2)(a) At the time the person is admitted to or retained in a hospital
4 under ORS 426.232, the licensed independent practitioner shall contact the
5 community mental health program director of the county in which the person
6 resides, if the county of residence is different from the county in which the
7 hospital is located. The community mental health program director may re-
8 quest that the licensed independent practitioner notify the circuit court in
9 the county in which the person resides. If the community mental health
10 program director does not make the request, the licensed independent prac-
11 titioner shall notify, immediately and in writing, the circuit court in the
12 county in which the person is hospitalized.

13 “(b) At the time the person is admitted to a hospital under ORS 426.232
14 after being brought to the hospital by a peace officer under ORS 426.228, the
15 licensed independent practitioner shall contact the community mental health
16 program director of the county in which the person is hospitalized. The
17 community mental health program director of the county in which the person
18 is hospitalized may request that the licensed independent practitioner notify
19 the circuit court in the county in which the person is hospitalized. If the
20 community mental health program director does not make the request, the
21 licensed independent practitioner shall notify, immediately and in writing,
22 the circuit court in the county in which the person was taken into custody.

23 “(c) If, at any time prior to the hearing under ORS 426.070 to [426.130]
24 **426.170**, the licensed independent practitioner responsible for a person ad-
25 mitted or retained under ORS 426.232 determines that the person is not
26 [*dangerous*] **a danger** to self or [*to any other person*] **others** and is not in
27 need of emergency care or treatment for mental illness, the licensed inde-
28 pendent practitioner may release the person from the detention authorized
29 by ORS 426.232. The licensed independent practitioner shall immediately no-
30 tify the circuit court notified under this subsection and the community

1 mental health program director of the person's release from detention.

2 “(3)(a) At the time the person is admitted to or retained in a nonhospital
3 facility under ORS 426.233, the community mental health program director
4 in the county where the person was taken into custody shall contact the
5 community mental health program director of the county in which the person
6 resides, if the county of residence is different from the county in which the
7 person was taken into custody. The community mental health program di-
8 rector of the county in which the person resides may request that the com-
9 munity mental health program director of the county in which the person
10 was taken into custody notify the circuit court in the county where the
11 person resides. Otherwise, the community mental health program director of
12 the county in which the person was taken into custody shall notify, imme-
13 diately and in writing, the circuit court in the county in which the person
14 was taken into custody.

15 “(b) If, at any time prior to the hearing under ORS 426.070 to [426.130]
16 **426.170**, a community mental health program director, after consultation with
17 a licensed independent practitioner, determines that a person admitted or
18 retained under ORS 426.233 is not [*dangerous*] **a danger** to self or [*to any*
19 *other person*] **others** and is not in need of immediate care, custody or treat-
20 ment for mental illness, the community mental health program director may
21 release the person from detention. The community mental health program
22 director shall immediately notify the circuit court originally notified under
23 paragraph (a) of this subsection of the person's release from detention.

24 “(4) When the judge of the circuit court receives notice under subsection
25 (2) or (3) of this section, the judge immediately shall commence proceedings
26 under ORS 426.070 to [426.130] **426.170**. In a county having a population of
27 100,000 or more, and when feasible in a county with a lesser population, the
28 community mental health program director or designee who directs the peace
29 officer or other authorized individual to take a person into custody under
30 ORS 426.233 [*shall*] **may** not also conduct the investigation as provided for

1 under ORS 426.074. Except when a person is [*being held under ORS 426.237*
2 (*1(b)*)] **participating in diversion from commitment under section 8 of**
3 **this 2025 Act**, a person [*shall*] **may** not be held under ORS 426.232 or 426.233
4 for more than five judicial days without a hearing being held under ORS
5 426.070 to [*426.130*] **426.170**.

6 “(5) When the judge of the circuit court receives notice under subsection
7 (2)(c) or (3)(b) of this section that a person has been released, and unless the
8 court receives the recommendation required by ORS 426.070 (4), the judge
9 shall dismiss the case no later than 14 days after the date the person was
10 initially detained.

11 **“SECTION 32.** ORS 426.235 is amended to read:

12 “426.235. (1) The community mental health program director may transfer
13 a person in custody under ORS 426.232, 426.233 or [*426.237 (1)(b)*] **section 8**
14 **of this 2025 Act** to a hospital or nonhospital facility approved by the Oregon
15 Health Authority at any time during the period of detention.

16 “(2) A person in custody at a hospital may be transferred from the hos-
17 pital only with the consent of the licensed independent practitioner who is
18 treating the person and when the director of a nonhospital facility approved
19 by the authority agrees to admit the person.

20 “(3) A person in custody at a nonhospital facility approved by the au-
21 thority may be transferred to a hospital approved by the authority only when
22 a licensed independent practitioner with admitting privileges agrees to admit
23 the person.

24 “(4) In transporting a person between a hospital and nonhospital facility
25 under this section, the community mental health program director has all the
26 powers provided in ORS 133.225 and 161.255 and may compel the assistance
27 of any peace officer or other authorized individual.

28 “(5) When a person is transferred under this section, the community
29 mental health program director shall notify immediately the court notified
30 under ORS 426.234 (2) or (3) of the fact of the transfer and of the location

1 of the person.

2 **“SECTION 33.** ORS 426.236 is amended to read:

3 “426.236. The Oregon Health Authority shall adopt rules necessary to
4 carry out the provisions of ORS 426.155 [*and*], 426.228 to **426.235, 426.237 and**
5 **426.238.**

6 **“SECTION 34.** ORS 426.238 is amended to read:

7 “426.238. The Oregon Health Authority may assign classifications, as de-
8 fined by rule of the authority, to facilities that provide care and treatment
9 for persons committed to the authority under ORS 426.130 or provide emer-
10 gency care or treatment for persons pursuant to ORS 426.070, 426.228 to
11 426.235 or [*426.237*] **section 8 of this 2025 Act.** The authority may authorize
12 a facility to retake custody of a person who unlawfully leaves a facility as
13 provided in ORS 426.223.

14 **“SECTION 35.** ORS 426.241 is amended to read:

15 “426.241. (1) The cost of emergency psychiatric care, custody and treat-
16 ment related to or resulting from such psychiatric condition, provided by a
17 hospital or other facility approved by the Oregon Health Authority and the
18 community mental health program director of the county in which the fa-
19 cility is located, except a state hospital, for a person alleged to have a
20 mental illness **and to be in need of treatment** who is admitted or detained
21 under ORS 426.070, 426.140, 426.228, 426.232 or 426.233, or for a person with
22 mental illness who is admitted or detained under ORS 426.150, 426.223,
23 426.273, 426.275 or 426.292, shall be paid by the community mental health
24 program in the county of which the person is a resident from state funds
25 provided to the community mental health program for this purpose. The
26 community mental health program is responsible for the cost when state
27 funds provided to the community mental health program are exhausted. The
28 hospital or other facility shall charge to and collect from the person, third
29 party payers or other legally or financially responsible individuals or entities
30 the costs of the emergency care, custody and treatment, as it would for any

1 other patient, and any funds received shall be applied as an offset to the cost
2 of the services provided under this section.

3 “(2) If any person is admitted to or detained in a state hospital under ORS
4 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency
5 care, custody or treatment, the authority shall charge to and collect from the
6 person, third party payers or other legally or financially responsible indi-
7 viduals or entities the costs as it would for other patients of the state hos-
8 pitals under the provisions of ORS 179.610 to 179.770.

9 “(3) If any person is adjudged to have a mental illness under the pro-
10 visions of ORS 426.130, or determined to be an extremely dangerous person
11 with mental illness under ORS 426.701 or 426.702, and the person receives
12 care and treatment in a state hospital, the person, third party payers or
13 other legally or financially responsible individuals or entities shall be re-
14 quired to pay for the costs of the hospitalization at the state hospital, as
15 provided by ORS 179.610 to 179.770, if financially able to do so.

16 “(4) For purposes of this section and ORS 426.310, ‘resident’ means resi-
17 dent of the county in which the person maintains a current mailing address
18 or, if the person does not maintain a current mailing address within the
19 state, the county in which the person is found, or the county in which a
20 court-committed person has been conditionally released.

21 “(5)(a) The authority may deny payment for part or all of the emergency
22 psychiatric services provided by a hospital or nonhospital facility under ORS
23 426.232, 426.233 or [426.237] **section 8 of this 2025 Act** when the authority
24 finds, upon review, that the condition of the person alleged to have a mental
25 illness did not meet the admission criteria in ORS 426.232 (1), 426.233 (1) or
26 [426.237 (1)(b)(A)] **section 8 (1)(a) of this 2025 Act**. The payer responsible
27 under this section shall make a request for denial of payment for emergency
28 psychiatric services provided under ORS 426.232, 426.233 or [426.237] **section**
29 **8 of this 2025 Act** in writing to the authority.

30 “(b) The authority may require the following to provide the authority

1 with any information that the authority determines is necessary to review
2 a request for denial of payment made under this subsection or to conduct a
3 review of emergency psychiatric services for the purpose of planning or de-
4 fining authority rules:

5 “(A) A hospital or nonhospital facility approved under ORS 426.228 to
6 426.235 or [426.237] **section 8 of this 2025 Act.**

7 “(B) A physician or a person providing emergency psychiatric services
8 under ORS 426.228 to 426.235 or [426.237] **section 8 of this 2025 Act.**

9 “(c) The authority shall adopt rules necessary to carry out the purposes
10 of this subsection.

11 **“SECTION 36.** ORS 426.385 is amended to read:

12 “426.385. (1) Every person with mental illness committed to the Oregon
13 Health Authority shall have the right to:

14 “(a) Communicate freely in person and by reasonable access to telephones;

15 “(b) Send and receive sealed mail, except that this right may be limited
16 for security reasons in state institutions as described in ORS 426.010;

17 “(c) Wear the clothing of the person;

18 “(d) Keep personal possessions, including toilet articles;

19 “(e) Religious freedom;

20 “(f) A private storage area with free access thereto;

21 “(g) Be furnished with a reasonable supply of writing materials and
22 stamps;

23 “(h) A written treatment plan, kept current with the progress of the per-
24 son;

25 “(i) Be represented by counsel whenever the substantial rights of the
26 person may be affected;

27 “(j) Petition for a writ of habeas corpus;

28 “(k) Not be required to perform routine labor tasks of the facility except
29 those essential for treatment;

30 “(L) Be given reasonable compensation for all work performed other than

1 personal housekeeping duties;

2 “(m) Daily access to fresh air and the outdoors, except that this right may
3 be limited when it would create significant risk of harm to the person or
4 others;

5 “(n) Reasonable privacy and security in resting, sleeping, dressing, bath-
6 ing, personal hygiene and toileting, except that this right may be limited
7 when it would create significant risk of harm to the person or others;

8 “(o) Such other rights as may be specified by rule; and

9 “(p) Exercise all civil rights in the same manner and with the same effect
10 as one not admitted to the facility, including, but not limited to, the right
11 to dispose of real property, execute instruments, make purchases, enter con-
12 tractual relationships, and vote, unless the person has been adjudicated in-
13 competent and has not been restored to legal capacity. Disposal of personal
14 property in possession of the person in a state institution described in ORS
15 426.010 is subject to limitation for security reasons.

16 “(2)(a) A person must be immediately informed, orally and in writing, of
17 any limitation:

18 “(A) Of the right to send or receive sealed mail under subsection (1)(b)
19 of this section;

20 “(B) Regarding the disposal of personal property under subsection (1)(p)
21 of this section;

22 “(C) Of the right to reasonable privacy and security in resting, sleeping,
23 dressing, bathing, personal hygiene and toileting under subsection (1)(n) of
24 this section; and

25 “(D) Of the right to daily access to fresh air and the outdoors under
26 subsection (1)(m) of this section.

27 “(b) Any limitation under this subsection and the reasons for the limita-
28 tion must be stated in the person’s written treatment plan.

29 “(c) The person has the right to challenge any limitation under this sub-
30 section pursuant to rules adopted by the authority. The person must be in-

1 formed, orally and in writing, of this right.

2 “(3) A person with mental illness committed to the authority shall have
3 the right to be free from potentially unusual or hazardous treatment proce-
4 dures, including convulsive therapy, unless the person has given express and
5 informed consent or authorized the treatment pursuant to **a declaration for**
6 **mental health treatment described in** ORS 127.700 to 127.737. This right
7 may be denied to a person for good cause as defined in administrative rule
8 only by the director of the facility in which the person is confined, but only
9 after consultation with and approval of an independent examining physician.
10 Any denial shall be entered into the person’s treatment record and shall in-
11 clude the reasons for the denial. A person with mental illness may not be
12 subjected to psychosurgery, as defined in ORS 677.190 (21)(b).

13 “(4) Mechanical restraints [*shall*] **may** not be applied to a person admit-
14 ted to a facility unless it is determined by the chief medical officer of the
15 facility or designee to be required by the medical needs of the person. Every
16 use of a mechanical restraint and the reasons for using a mechanical re-
17 straint shall be made a part of the clinical record of the person over the
18 signature of the chief medical officer of the facility or designee.

19 “(5) Nothing in this section prevents the authority from acting to exclude
20 contraband from its facilities and to prevent possession or use of contraband
21 in its facilities.

22 “(6) As used in this section:

23 “(a) ‘Contraband’ has the meaning given that term in ORS 162.135.

24 “(b) ‘Security reasons’ means the protection of the person with mental
25 illness from serious and immediate harm and the protection of others from
26 threats or harassment as defined by rule of the authority.

27
28 **“COMMITMENT OF EXTREMELY DANGEROUS PERSONS**

29
30 **“SECTION 37. ORS 426.701 is amended to read:**

1 “426.701. (1) For the purposes of this section and ORS 426.702:

2 “(a) A person is ‘extremely dangerous’ if the person:

3 “(A) Is at least 18 years of age;

4 “(B) Is exhibiting symptoms or behaviors of a qualifying mental disorder
5 substantially similar to those that preceded the act described in subsection
6 (3)(a)(C) of this section; and

7 “(C) Because of a qualifying mental disorder:

8 “(i) Presents a serious danger to the safety of other persons by reason of
9 an extreme risk that the person will inflict grave or potentially lethal
10 physical injury on other persons; and

11 “(ii) Unless committed, will continue to represent an extreme risk to the
12 safety of other persons in the foreseeable future.

13 “(b) ‘Qualifying mental disorder’ does not include:

14 “(A) A disorder manifested solely by repeated criminal or otherwise anti-
15 social conduct; or

16 “(B) A disorder constituting solely a personality disorder.

17 “(c) A qualifying mental disorder is ‘resistant to treatment’ if, after re-
18 ceiving care from a licensed psychiatrist and exhausting all reasonable psy-
19 chiatric treatment, or after refusing psychiatric treatment, the person
20 continues to be significantly impaired in the person’s ability to make com-
21 petent decisions and to be aware of and control extremely dangerous behav-
22 ior.

23 **“(d) A person ‘attempted to’ cause a result or engage in specified**
24 **conduct if the person intentionally engaged in conduct that consti-**
25 **tuted a substantial step toward causing the result or completing the**
26 **specified conduct, and the substantial step created an actual and ex-**
27 **treme risk of grave or potentially lethal physical injury to another**
28 **person.**

29 “(2)(a) A district attorney may petition the court to initiate commitment
30 proceedings described in this section if there is reason to believe a person

1 is an extremely dangerous person with mental illness. Venue is proper in the
2 county in which the person is alleged to have committed the qualifying act
3 or the county in which the person lives. The petition shall immediately be
4 served upon the person.

5 “(b) If a person is committed to a state hospital under ORS 161.365 or
6 161.370 and the state hospital intends to discharge the person, the district
7 attorney may provide notice to the superintendent of the state hospital in-
8 dicating an intent to file a petition under this section. Upon receipt of the
9 notice, the superintendent may delay discharge of the person for up to seven
10 judicial days to allow for the petition to be filed and for the court to make
11 findings under paragraph (f) of this subsection.

12 “(c) The person shall be advised in writing of:

13 “(A) The allegation that the person is an extremely dangerous person with
14 mental illness and may be committed to the jurisdiction of the Psychiatric
15 Security Review Board for a maximum period of 24 months; and

16 “(B) The right to a hearing to determine whether the person is an ex-
17 tremely dangerous person with mental illness, unless the person consents to
18 the commitment by waiving the right to a hearing in writing after consul-
19 tation with legal counsel.

20 “(d) A person against whom a petition described in this subsection is filed
21 shall have the following:

22 “(A) The right to obtain suitable legal counsel possessing skills and ex-
23 perience commensurate with the nature of the allegations and complexity of
24 the case and, if the person is without funds to retain legal counsel, the right
25 to have the court appoint legal counsel;

26 “(B) The right to subpoena witnesses and to offer evidence on behalf of
27 the person at the hearing;

28 “(C) The right to cross-examine any witnesses who appear at the hearing;
29 and

30 “(D) The right to examine all reports, documents and information that the

1 court considers, including the right to examine the reports, documents and
2 information prior to the hearing, if available.

3 “(e) Upon receipt of the petition, the court shall schedule a hearing and
4 shall appoint an examiner as described in ORS 426.110 to evaluate the per-
5 son. If the person is in custody or committed while the hearing is pending,
6 the hearing must commence within 30 days of filing the petition unless good
7 cause is found by the court. If the court finds good cause, the hearing must
8 commence no later than 60 days after the filing of the petition or, if the
9 district attorney provided notice under paragraph (b) of this subsection, the
10 date of the notice, whichever occurs first. As used in this paragraph, ‘good
11 cause’ means:

12 “(A) The person who would be considered the victim of the act described
13 in subsection (3)(a)(C) of this section if the act were criminally prosecuted,
14 or an essential witness for either the state or the person, is unable to testify
15 within the 30-day period.

16 “(B) The attorney for the person cannot reasonably be expected to par-
17 ticipate in the hearing within the 30-day period, cannot be adequately pre-
18 pared to represent the person at the hearing within the 30-day period, or has
19 a schedule conflict that cannot be resolved in a manner that allows the at-
20 torney to represent the person at a hearing within the 30-day period.

21 “(C) An examiner cannot be appointed to conduct the examination, or
22 conduct the examination and prepare a report, within the 30-day period.

23 “(D) If a guardian ad litem is appointed on the case, the guardian ad litem
24 cannot be prepared for a hearing within the 30-day period.

25 “(f)(A) The court may order that the person be committed to the custody
26 of the superintendent of a state hospital or the director of a secure mental
27 health facility while the petition is pending if the court finds probable cause
28 that:

29 “(i) The person is at least 18 years of age;

30 “(ii) The person has a qualifying mental disorder that is resistant to

1 treatment;

2 “(iii) The person committed an act described in subsection (3)(a)(C) of this
3 section; and

4 “(iv) Failure to commit the person while the hearing is pending would
5 pose serious harm or danger to the person or others.

6 “(B) If a person committed under this paragraph is held in a secure fa-
7 cility other than a state hospital or secure mental health facility, including
8 but not limited to a jail or prison, at the time the petition is filed, the court
9 may further order that the person remain at that placement for sufficient
10 time to allow the superintendent or director to safely admit the person. Any
11 order of the court concerning the placement of a person under this subpara-
12 graph must be in accordance with the person’s constitutional right to due
13 process. If the person remains in a secure facility under this subparagraph,
14 the superintendent, director or designee may consult with the facility to en-
15 sure continuity of care for the person.

16 “(C) Commitment to the custody of the superintendent of a state hospital
17 or the director of a secure mental health facility under this paragraph may
18 not exceed 60 days. If the hearing does not occur within 60 days, if the dis-
19 trict attorney dismisses the petition, or if the court holds the hearing but
20 does not commit the person, the person shall be returned to the county in
21 which the petition was filed and the court shall hold a disposition hearing
22 within five judicial days to determine how to proceed on the petition and
23 any outstanding criminal charges. A person who is returned to a secure fa-
24 cility other than a state hospital or secure mental health facility, including
25 but not limited to a jail or prison, under this paragraph may remain at the
26 placement until the disposition hearing.

27 “(g) If the hearing is not commenced within the time period required by
28 paragraph (e) of this subsection, the court shall either dismiss the petition
29 or release the person on personal recognizance, to the custody of a third
30 party or upon any additional reasonable terms and conditions the court

1 deems appropriate.

2 “(3)(a) At the hearing on the petition, the court shall order the person
3 committed as an extremely dangerous person with mental illness under the
4 jurisdiction of the Psychiatric Security Review Board for a maximum of 24
5 months if the court finds, by clear and convincing evidence, that:

6 “(A) The person is extremely dangerous;

7 “(B) The person suffers from a qualifying mental disorder that is resistant
8 to treatment; and

9 “(C) Because of the qualifying mental disorder that is resistant to treat-
10 ment, the person committed one of the following acts:

11 “(i) Caused **or attempted to cause** the death of another person;

12 “(ii) Caused **or attempted to cause** serious physical injury to another
13 person by means of a dangerous weapon;

14 “(iii) Caused **or attempted to cause** physical injury to another person
15 by means of a firearm as defined in ORS 166.210 or an explosive as defined
16 in ORS 164.055;

17 “(iv) Engaged **or attempted to engage** in oral-genital contact with a
18 child under 14 years of age;

19 “(v) Forcibly compelled **or attempted to forcibly compel** sexual inter-
20 course, oral-genital contact or the penetration of another person’s anus or
21 vagina; or

22 “(vi) Caused **or attempted to cause** a fire or explosion that damaged,
23 **or was reasonably likely to damage**, the protected property of another,
24 as those terms are defined in ORS 164.305, or **that** placed another person in
25 danger of physical injury, and the fire or explosion **or attempted fire or**
26 **explosion** was not the incidental result of normal and usual daily activities.

27 “(b) The court shall further commit the person to a state hospital for
28 custody, care and treatment if the court finds, by clear and convincing evi-
29 dence, that the person cannot be controlled in the community with proper
30 care, medication, supervision and treatment on conditional release.

1 “(c) The court shall specify in the order whether any person who would
2 be considered a victim as defined in ORS 131.007 of the act described in
3 paragraph (a)(C) of this subsection, if the act had been criminally prosecuted,
4 requests notification of any order or hearing, conditional release, discharge
5 or escape of the person committed under this section.

6 “(d) The court shall be fully advised of all drugs and other treatment
7 known to have been administered to the alleged extremely dangerous person
8 with mental illness that may substantially affect the ability of the person to
9 prepare for, or to function effectively at, the hearing.

10 “(e) The provisions of ORS 40.230, 40.235, 40.240, 40.250 and 179.505 do not
11 apply to the use of the examiner’s report and the court may consider the
12 report as evidence.

13 “(4) The findings of the court that a person committed an act described
14 in subsection (3)(a)(C) of this section may not be admitted in a criminal
15 prosecution.

16 “(5)(a) If the court commits a person under this section and the person
17 has pending criminal charges at the time of the hearing, the court shall
18 dismiss the criminal charges without prejudice, and if the person is further
19 committed to a state hospital under this section, the dismissal shall not take
20 effect until the person’s transportation to the state hospital.

21 “(b) If the court commits a person to the state hospital under this section
22 and:

23 “(A) The person is in a setting other than a state hospital, the court may
24 additionally order that the person remain in that placement until the person
25 can be safely transported to a state hospital pursuant to the order. Any order
26 of the court concerning the placement of the person under this subparagraph
27 must be in accordance with the person’s constitutional right to due process.

28 “(B) The person is at a state hospital at the time of the hearing, the
29 person may remain at the state hospital under the commitment.

30 “(c) A person committed under this section shall remain under the juris-

1 diction of the board for a maximum of 24 months unless the board conducts
2 a hearing and makes the findings described in subsection (6)(d) of this sec-
3 tion.

4 “(6)(a) The board shall hold a hearing six months after the initial com-
5 mitment described in subsection (3) of this section, and thereafter six months
6 after a further commitment described in ORS 426.702, to determine the
7 placement of the person and whether the person is eligible for conditional
8 release or early discharge. The board shall provide written notice of the
9 hearing to the person, the person’s legal counsel and the office of the district
10 attorney who filed the initial petition under subsection (2) of this section
11 within a reasonable time prior to the hearing. The board shall further notify
12 the person of the following:

13 “(A) The nature of the hearing and possible outcomes;

14 “(B) The right to appear at the hearing and present evidence;

15 “(C) The right to be represented by legal counsel and, if the person is
16 without funds to retain legal counsel, the right to have the court appoint
17 legal counsel;

18 “(D) The right to subpoena witnesses;

19 “(E) The right to cross-examine witnesses who appear at the hearing; and

20 “(F) The right to examine all reports, documents and information that the
21 board considers, including the right to examine the reports, documents and
22 information prior to the hearing if available.

23 “(b) If the board determines at the hearing that the person still suffers
24 from a qualifying mental disorder that is resistant to treatment and contin-
25 ues to be extremely dangerous, and that the person cannot be controlled in
26 the community with proper care, medication, supervision and treatment if
27 conditionally released, the person shall remain committed to a state hospital.

28 “(c) If the board determines at the hearing that the person still suffers
29 from a qualifying mental disorder that is resistant to treatment and contin-
30 ues to be extremely dangerous, but finds that the person can be controlled

1 in the community with proper care, medication, supervision and treatment
2 if conditionally released, the board shall conditionally release the person.

3 “(d) If the board determines at the hearing that the person no longer
4 suffers from a qualifying mental disorder that is resistant to treatment or is
5 no longer extremely dangerous, the board shall discharge the person. The
6 discharge of a person committed under this section does not preclude com-
7 mitment of the person pursuant to ORS 426.005 to 426.390.

8 “(7)(a) At any time during the commitment to a state hospital, the su-
9 perintendent of the state hospital may request a hearing to determine the
10 status of the person’s commitment under the jurisdiction of the board. The
11 request shall be accompanied by a report setting forth the facts supporting
12 the request. If the request is for conditional release, the request shall be
13 accompanied by a verified conditional release plan. The hearing shall be
14 conducted as described in subsection (6) of this section.

15 “(b) The board may make the findings described in subsection (6)(c) of this
16 section and conditionally release the person without a hearing if the office
17 of the district attorney who filed the initial petition under subsection (2) of
18 this section does not object to the conditional release.

19 “(c) At any time during conditional release, a state or local mental health
20 facility providing treatment to the person may request a hearing to deter-
21 mine the status of the person’s commitment under the jurisdiction of the
22 board. The hearing shall be conducted as described in subsection (6) of this
23 section.

24 “(8)(a) If the board orders the conditional release of a person under sub-
25 section (6)(c) of this section, the board shall order conditions of release that
26 may include a requirement to report to any state or local mental health fa-
27 cility for evaluation. The board may further require cooperation with, and
28 acceptance of, psychiatric or psychological treatment from the facility. Con-
29 ditions of release may be modified by the board from time to time.

30 “(b) When a person is referred to a state or local mental health facility

1 for an evaluation under this subsection, the facility shall perform the eval-
2 uation and submit a written report of its findings to the board. If the facility
3 finds that treatment of the person is appropriate, the facility shall include
4 its recommendations for treatment in the report to the board.

5 “(c) Whenever treatment is provided to the person by a state or local
6 mental health facility under this subsection, the facility shall furnish reports
7 to the board on a regular basis concerning the progress of the person.

8 “(d) Copies of all reports submitted to the board pursuant to this sub-
9 section shall be furnished to the person and to the person’s legal counsel, if
10 applicable. The confidentiality of these reports is determined pursuant to
11 ORS 192.338, 192.345 and 192.355.

12 “(e) The state or local mental health facility providing treatment to the
13 person under this subsection shall comply with the conditional release order
14 and any modifications of the conditions ordered by the board.

15 “(9)(a) If at any time while the person is conditionally released it appears
16 that the person has violated the terms of the conditional release, the board
17 may order the person returned to a state hospital for evaluation or treat-
18 ment. A written order of the board is sufficient warrant for any law
19 enforcement officer to take the person into custody. A sheriff, municipal
20 police officer, parole or probation officer or other peace officer shall execute
21 the order, and the person shall be returned to the state hospital as soon as
22 practicable.

23 “(b) The director of a state or local mental health facility providing
24 treatment to a person under subsection (8) of this section may request that
25 the board issue a written order for a person on conditional release to be
26 taken into custody if there is reason to believe that the person can no longer
27 be controlled in the community with proper care, medication, supervision and
28 treatment.

29 “(c) Within 30 days following the return of the person to a state hospital,
30 the board shall conduct a hearing to determine if, by a preponderance of the

1 evidence, the person is no longer fit for conditional release. The board shall
2 provide written notice of the hearing to the person, the person's legal coun-
3 sel and the office of the district attorney who filed the initial petition under
4 subsection (2) of this section within a reasonable time prior to the hearing.
5 The notice shall advise the person of the nature of the hearing, the right to
6 have the court appoint legal counsel and the right to subpoena witnesses,
7 examine documents considered by the board and cross-examine all witnesses
8 who appear at the hearing.

9 “(10)(a) If the person had unadjudicated criminal charges at the time of
10 the filing of the petition for the person's initial commitment under this sec-
11 tion and the state hospital or the state or local mental health facility pro-
12 viding treatment to the person intends to recommend discharge of the person
13 at an upcoming hearing, the superintendent of the state hospital or the di-
14 rector of the facility shall provide written notice to the board and the dis-
15 trict attorney of the county where the criminal charges were initiated of the
16 discharge recommendation at least 45 days before the hearing. The notice
17 shall be accompanied by a report describing the person's diagnosis and the
18 treatment the person has received.

19 “(b) Upon receiving the notice described in this subsection, the district
20 attorney may request an order from the court in the county where the
21 criminal charges were initiated for an evaluation to determine if the person
22 is fit to proceed in the criminal proceeding. The court may order the state
23 hospital or the state or local mental health facility providing treatment to
24 the person to perform the evaluation. The hospital or facility shall provide
25 copies of the evaluation to the district attorney, the person and the person's
26 legal counsel, if applicable.

27 “(c) The person committed under this section may not waive an evalu-
28 ation ordered by the court to determine if the person is fit to proceed with
29 the criminal proceeding as described in this subsection.

30 “(11) The board shall make reasonable efforts to notify any person de-

1 scribed in subsection (3)(c) of this section of any order or hearing, condi-
2 tional release, discharge or escape of the person committed under this
3 section.

4 “(12) Unless the court orders otherwise or either party objects, any party
5 or witness may attend a hearing held under this section via simultaneous
6 electronic transmission.

7 “(13) The board shall adopt rules to carry out the provisions of this sec-
8 tion and ORS 426.702.

9 “(14) Any time limitation described in ORS 131.125 to 131.155 does not run
10 during a commitment described in this section or a further commitment de-
11 scribed in ORS 426.702.

12
13 **“TRIBAL/STATE COURT INTERSECTION**

14
15 **“SECTION 38. (1)(a) The Judicial Department shall study tribal and**
16 **state interactions relating to the involuntary hospitalization and**
17 **mental or behavioral health treatment of tribal members in the state**
18 **civil or criminal justice systems.**

19 **“(b) The department shall collect the following existing data:**

20 **“(A) Data related to civil commitment proceedings involving mem-**
21 **bers of one or more federally recognized tribes;**

22 **“(B) Data related to competency proceedings for criminal defend-**
23 **ants who are members of one or more federally recognized tribes;**

24 **“(C) Data related to findings of guilt except for insanity for criminal**
25 **defendants who are members of one or more federally recognized**
26 **tribes;**

27 **“(D) Data related to the participation of members of one or more**
28 **federally recognized tribes in specialty courts, including regarding**
29 **culturally specific services provided or available to those members in**
30 **relation to their participation in the specialty court; and**

1 “(E) Other data determined by the department to be relevant to the
2 intersection between state and tribal mental and behavioral health
3 judicial proceedings.

4 “(c)(A) The department shall prepare a report analyzing the data
5 collected under this subsection. The department shall include in the
6 report a descriptive analysis of the barriers, if any, the department
7 encounters collecting or analyzing the data described in this sub-
8 section.

9 “(B) Data contained in the report must be aggregated at the state-
10 wide, countywide and tribal level for each subject identified in sub-
11 section (1) of this section.

12 “(C) The report may not include personally identifiable information
13 regarding any individual.

14 “(2)(a) The Oregon Health Authority shall assist the department in
15 the collection of the data described in subsection (1) of this section
16 and, to the extent permitted by state and federal law, provide the de-
17 partment with information the department considers necessary to
18 conduct the study described in subsection (1) of this section.

19 “(b) Information and data collected by the department or the au-
20 thority under this section may be used only for statistical purposes.

21 “(3) The department shall submit the report described in subsection
22 (1) of this section in the manner provided by ORS 192.245, and may
23 include recommendations for legislation, to the interim committees
24 of the Legislative Assembly related to the judiciary and behavioral
25 health no later than December 15, 2025.

26 “SECTION 39. (1) The Task Force on the Intersection of Tribal and
27 State Forensic Behavioral Health is established.

28 “(2) The task force consists of 17 members appointed as follows:

29 “(a) The Governor shall appoint four members, as follows:

30 “(A) One member who represents the office of the Governor;

1 **“(B) One member who represents the Oregon Health Authority;**
2 **“(C) One member who represents the Department of Justice; and**
3 **“(D) One member who represents community mental health pro-**
4 **viders.**

5 **“(b) The Governor, in consultation with the Commission on Indian**
6 **Services, shall appoint 11 members, as follows:**

7 **“(A) Nine members who are tribal court judges or staff or other**
8 **individuals designated by an Indian tribe, and who shall each represent**
9 **one of the nine federally recognized Indian tribes located in Oregon;**
10 **and**

11 **“(B) Two members who represent tribal service providers.**

12 **“(c) The Chief Justice of the Supreme Court shall appoint two**
13 **members, as follows:**

14 **“(A) One member who is a judge with expertise in the competency**
15 **to proceed process; and**

16 **“(B) One member who is a representative of the Tribal, State, and**
17 **Federal Court Forum.**

18 **“(3) The task force shall examine tribal and state interactions re-**
19 **lating to involuntary hospitalization and mental or behavioral health**
20 **treatment of tribal members in the state civil and criminal systems**
21 **and:**

22 **“(a) Identify data sharing needs between tribal service providers,**
23 **tribal courts and nontribal service providers, the Oregon Health Au-**
24 **thority and Oregon courts, and identify methods for resolving barriers**
25 **to data sharing;**

26 **“(b) Examine mental and behavioral health care services provided**
27 **within tribal lands and to tribal members and identify barriers to**
28 **providing care to tribal individuals;**

29 **“(c) Determine barriers to tribal members receiving care at the**
30 **Oregon State Hospital pursuant to competency restoration orders or**

1 **civil commitment;**

2 **“(d) Examine models for tribal and state interactions relating to**
3 **mental or behavioral health;**

4 **“(e) Examine the results of the study described in section 38 of this**
5 **2025 Act; and**

6 **“(f) Develop recommendations concerning tribal court needs that**
7 **intersect with state services and barriers to services.**

8 **“(4) The task force shall invite and consider perspectives involving**
9 **forensic or mental health matters before tribal courts, including**
10 **prosecutors, defenders, people with lived experience, family members**
11 **of persons with unmet behavioral needs and members of tribal gov-**
12 **ernments.**

13 **“(5) Members of the task force who are appointed by the Chief**
14 **Justice of the Supreme Court are nonvoting members and may act in**
15 **an advisory capacity only.**

16 **“(6) Members of the task force who are tribal court judges or staff**
17 **appointed under subsection (2)(b)(A) of this section shall act as liai-**
18 **sons between the task force and the tribal government of the tribal**
19 **court on which the member serves if the tribal government designates**
20 **the member to act as a liaison and, if so designated, the member shall**
21 **coordinate with a person designated by the relevant tribal government,**
22 **if any, to facilitate inviting and considering the perspectives of tribal**
23 **members and to consult with the tribal government on the activities**
24 **of the task force.**

25 **“(7) A majority of the voting members of the task force constitutes**
26 **a quorum for the transaction of business.**

27 **“(8) Official action by the task force requires the approval of a**
28 **majority of the voting members of the task force.**

29 **“(9) The Governor shall select one member of the task force to**
30 **serve as chairperson and another to serve as vice chairperson, for the**

1 terms and with the duties and powers necessary for the performance
2 of the functions of the offices as the Governor determines.

3 “(10) If there is a vacancy for any cause, the appointing authority
4 shall make an appointment to become immediately effective.

5 “(11) The task force shall meet at times and places specified by the
6 call of the chairperson or of a majority of the voting members of the
7 task force.

8 “(12) The task force may adopt rules necessary for the operation
9 of the task force.

10 “(13) The task force shall submit a report in the manner provided
11 in ORS 192.245 regarding the task force’s examinations, identifications,
12 determinations and recommendations described in subsection (3) of
13 this section, and may include recommendations for legislation, to the
14 interim committees of the Legislative Assembly related to the judici-
15 ary and behavioral health no later than December 15, 2026.

16 “(14) The Judicial Department shall provide staff support to the
17 task force.

18 “(15) Members of the task force serve as volunteers on the task
19 force and, unless they are qualified members, as defined in ORS
20 292.495, are not entitled to compensation or reimbursement for ex-
21 penses.

22 “(16) All agencies of state government, as defined in ORS 174.111,
23 are directed to assist the task force in the performance of the duties
24 of the task force and, to the extent permitted by laws relating to
25 confidentiality, to furnish information and advice the members of the
26 task force consider necessary to perform their duties.

27 “(17) All appointments to the task force made under subsection (2)
28 of this section must be completed on or before December 31, 2025.

29 “(18) The task force shall have its first meeting on or before Feb-
30 ruary 1, 2026.

1 **“SECTION 40. Sections 38 and 39 of this 2025 Act are repealed on**
2 **January 2, 2027.**

3
4 **“ADMINISTRATIVE LAW JUDGE EXEMPTION**

5
6 **“SECTION 41.** ORS 183.635 is amended to read:

7 “183.635. (1) Except as provided in this section, all agencies must use ad-
8 ministrative law judges assigned from the Office of Administrative Hearings
9 established under ORS 183.605 to conduct contested case hearings, without
10 regard to whether those hearings are subject to the procedural requirements
11 for contested case hearings.

12 “(2) The following agencies need not use administrative law judges as-
13 signed from the office:

14 “(a) Attorney General.

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

16 “(c) Bureau of Labor and Industries and the Commissioner of the Bureau
17 of Labor and Industries.

18 “(d) Department of Corrections.

19 “(e) Department of Education, State Board of Education and Superinten-
20 dent of Public Instruction.

21 “(f) Department of Human Services for vocational rehabilitation services
22 cases under 29 U.S.C. 722(c) and disability determination cases under 42
23 U.S.C. 405.

24 “(g) Department of Revenue.

25 “(h) Department of State Police.

26 “(i) Employment Appeals Board.

27 “(j) Employment Relations Board.

28 “(k) Energy Facility Siting Council.

29 “(L) Fair Dismissal Appeals Board.

30 “(m) Governor.

1 “(n) Land Conservation and Development Commission.

2 “(o) Land Use Board of Appeals.

3 “(p) Local government boundary commissions created pursuant to ORS
4 199.430.

5 “(q) Public universities listed in ORS 352.002.

6 “(r) Oregon Youth Authority.

7 “(s) Psychiatric Security Review Board.

8 “(t) **Oregon Health Authority, for purposes of contested case**
9 **hearings involving informed consent at the Oregon State Hospital.**

10 “[t)] (u) Public Utility Commission.

11 “[u)] (v) State Accident Insurance Fund Corporation.

12 “[v)] (w) State Apprenticeship and Training Council.

13 “[w)] (x) State Board of Parole and Post-Prison Supervision.

14 “[x)] (y) State Land Board.

15 “[y)] (z) State Treasurer, except the State Treasurer shall use an admin-
16 istrative law judge for contested cases involving claims arising under ORS
17 98.302 to 98.436, 98.992 or 116.253 or any other claim to escheated or un-
18 claimed property.

19 “(3) The Workers’ Compensation Board is exempt from using administra-
20 tive law judges assigned from the office for any hearing conducted by the
21 board under ORS chapters 147, 654 and 656. Except as specifically provided
22 in this subsection, the Department of Consumer and Business Services must
23 use administrative law judges assigned from the office only for contested
24 cases arising out of the department’s powers and duties under:

25 “(a) ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59;

26 “(b) ORS chapter 455;

27 “(c) ORS chapter 674;

28 “(d) ORS chapters 706 to 716;

29 “(e) ORS chapter 717;

30 “(f) ORS chapters 723, 725 and 726; and

1 “(g) ORS chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744,
2 746, 748 and 750.

3 “(4) Notwithstanding any other provision of law, in any proceeding in
4 which an agency is required to use an administrative law judge assigned
5 from the office, an officer or employee of the agency may not conduct the
6 hearing on behalf of the agency.

7 “(5) Notwithstanding any other provision of ORS 183.605 to 183.690, an
8 agency is not required to use an administrative law judge assigned from the
9 office if:

10 “(a) Federal law requires that a different administrative law judge or
11 hearing officer be used; or

12 “(b) Use of an administrative law judge from the office could result in a
13 loss of federal funds.

14 “(6) Notwithstanding any other provision of this section, the Department
15 of Environmental Quality must use administrative law judges assigned from
16 the office only for contested case hearings conducted under the provisions
17 of ORS 183.413 to 183.470.

18 **“SECTION 42. The amendments to ORS 183.635 by section 41 of this**
19 **2025 Act apply to contested case hearings occurring on or after the**
20 **effective date of this 2025 Act.**

21
22 **“FITNESS TO PROCEED PROCESS CHANGES**

23 **“(Restoration Time Limits)**

24
25 **“SECTION 43. Sections 44 to 46 of this 2025 Act are added to and**
26 **made a part of ORS 161.355 to 161.371.**

27 **“SECTION 44. (1) As used in this section and section 45 of this 2025**
28 **Act:**

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

30 **“(b) ‘Contempt charge’ means a contempt charge alleging the vio-**

1 lation of a court order issued under ORS 30.866, 107.700 to 107.735,
2 124.005 to 124.040, 133.035, 163.730 to 163.750, 163.760 to 163.777 or 166.525
3 to 166.543.

4 “(c) ‘Person Class A misdemeanor’ has the meaning given that term
5 in the rules of the Oregon Criminal Justice Commission.

6 “(d) ‘Violent felony’ means a felony offense in which there was an
7 actual or threatened serious physical injury to the victim, or a felony
8 sexual offense.

9 “(2) When the court has determined that a defendant lacks fitness
10 to proceed under ORS 161.370 (2), the provisions of this section and
11 section 45 of this 2025 Act apply notwithstanding any provision to the
12 contrary in ORS 161.370 and 161.371.

13 “(3) Notwithstanding ORS 161.370 (4) and 161.371 (8)(a):

14 “(a) If the most serious offense in the charging instrument is a vi-
15 olation or a misdemeanor other than a person Class A misdemeanor,
16 the court may not commit the defendant to the custody of the super-
17 intendent of a state mental hospital or director of a facility designated
18 by the authority if the defendant is at least 18 years of age, or to the
19 custody of the director of a secure intensive community inpatient fa-
20 cility designated by the authority if the defendant is under 18 years
21 of age, under any circumstances.

22 “(b) If the most serious offense in the charging instrument is a
23 person Class A misdemeanor or a contempt charge, the maximum time
24 period that the defendant may be committed to the custody of the
25 superintendent of a state mental hospital or director of a facility des-
26 ignated by the authority if the defendant is at least 18 years of age,
27 or to the custody of the director of a secure intensive community in-
28 patient facility designated by the authority if the defendant is under
29 18 years of age, is 90 days. The time period may be extended by the
30 court as described in subsection (5) of this section by an additional 90

1 days, up to a total of 180 days.

2 “(c) If the most serious offense in the charging instrument is a
3 felony other than aggravated murder, a violent felony or a crime listed
4 in ORS 137.700 (2), the maximum time period that the defendant may
5 be committed to the custody of the superintendent of a state mental
6 hospital or director of a facility designated by the authority if the de-
7 fendant is at least 18 years of age, or to the custody of the director
8 of a secure intensive community inpatient facility designated by the
9 authority if the defendant is under 18 years of age, is six months. The
10 time period may be extended by the court as described in subsection
11 (5) of this section by an additional six months, up to a total of 12
12 months.

13 “(d) If the most serious offense in the charging instrument is ag-
14 gravated murder, a violent felony or a crime listed in ORS 137.700 (2),
15 the maximum time period that the defendant may be committed to the
16 custody of the superintendent of a state mental hospital or director
17 of a facility designated by the authority if the defendant is at least 18
18 years of age, or to the custody of the director of a secure intensive
19 community inpatient facility designated by the authority if the de-
20 fendant is under 18 years of age, is 12 months. The time period may
21 be extended by the court as described in subsection (5) of this section
22 by an additional six months, up to a total of 18 months.

23 “(4)(a) The superintendent of the state mental hospital or director
24 of another facility to which a defendant is committed shall provide
25 notice to the court and the parties that the defendant is reaching the
26 end of the initial maximum period of commitment described in sub-
27 section (3)(b) to (d) of this section at least 60 days before the end of
28 the period.

29 “(b) Upon the receipt by the court of a petition or other request for
30 an extension of a maximum period of commitment under subsections

1 (5) to (9) of this section, the defendant shall remain committed at the
2 state mental hospital or other facility pending a decision on the re-
3 quest.

4 “(c) Upon reaching a decision on a request for an extension of a
5 maximum commitment period under subsections (5) to (9) of this sec-
6 tion, the court shall prepare a written order, and shall include in the
7 order the reasons for granting or denying the request.

8 “(5)(a) The court may extend the initial maximum period of com-
9 mitment, up to the total amounts specified in subsection (3)(b) to (d)
10 of this section, upon the request of a party as provided in this sub-
11 section.

12 “(b) Upon receipt of the notice described in subsection (4)(a) of this
13 section, a party may petition for an extension to the initial maximum
14 period of commitment. If the most serious offense in the charging in-
15 strument is a felony, the petition must be filed within 30 days of re-
16 ceipt of the notice. If the most serious offense in the charging
17 instrument is a misdemeanor, the petition must be filed no later than
18 five days prior to the end of the initial maximum period of commit-
19 ment.

20 “(c) Notwithstanding paragraph (b) of this subsection, if the most
21 serious offense in the charging instrument is a misdemeanor and the
22 evaluation and notice required under ORS 161.371 (1) is submitted to
23 the court within five days before the expiration of the initial maximum
24 commitment period, the commitment of the defendant is automat-
25 ically extended by five days to allow for the filing of a petition under
26 this subsection.

27 “(d) The court may grant the petition and extend the initial maxi-
28 mum commitment period, up to the total amounts specified in sub-
29 section (3)(b) to (d) of this section, if the court finds:

30 “(A) The person continues to meet the requirements for commit-

1 **ment under ORS 161.370 (3)(a) or (4)(a), as applicable; and**

2 **“(B) There is a substantial probability that continued commitment**
3 **will lead to a determination that the defendant has gained or regained**
4 **fitness to proceed within the extension time period.**

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

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

9 **“(B) Evidence that the defendant’s lack of fitness is not due to a**
10 **condition that is unlikely to result in the defendant gaining or re-**
11 **gaining fitness to proceed, such as a significant neurocognitive disorder**
12 **or a significant neurodevelopmental disability disorder;**

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

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

16 **“(f) If the court grants the petition and:**

17 **“(A) The most serious offense in the charging instrument is a fel-**
18 **ony, the superintendent or director must receive any order extending**
19 **the commitment under this subsection prior to the expiration of the**
20 **initial maximum commitment period described in subsection (3) of this**
21 **section or, if the report required by ORS 161.371 (2)(a) is submitted to**
22 **the court fewer than 10 days prior to the expiration of the initial**
23 **maximum commitment period, no later than 10 days after the receipt**
24 **of the report.**

25 **“(B) The most serious offense in the charging instrument is a**
26 **misdemeanor, the superintendent or director must receive any order**
27 **extending the commitment under this subsection prior to the expira-**
28 **tion of the initial maximum commitment period described in sub-**
29 **section (3) of this section or, if the evaluation and notice required**
30 **under ORS 161.371 (1) is submitted to the court fewer than five days**

1 prior to the expiration of the initial maximum commitment period,
2 no later than five days after the petition for the extension is filed.

3 “(6)(a) The court may extend the period of commitment by up to
4 30 days for the purposes of discharge planning and coordination, as
5 provided in this subsection.

6 “(b) The superintendent of the state mental hospital, the director
7 of the facility to which the defendant is committed, or the designee
8 of the superintendent or director, shall provide notice to the court and
9 to the parties if the defendant cannot be placed immediately in an
10 identified placement after a referral has been submitted, but there is
11 a reasonable expectation that the placement will be secured within 30
12 days.

13 “(c) Prior to the end of the commitment period, either party, or the
14 court on its own motion, may request an extension of the period of
15 commitment of up to 30 days. Either party may object to the exten-
16 sion.

17 “(d) The court may grant the request for an extension if the court
18 determines that the defendant cannot be placed immediately in an
19 identified placement after a referral has been submitted, but there is
20 a reasonable expectation that the placement will be secured within 30
21 days.

22 “(e) The failure of the community mental health program director
23 to coordinate discharge planning does not constitute justification for
24 granting a request for an extension under this subsection.

25 “(f) An order granting a request for an extension under this sub-
26 section must be received by the superintendent of the state mental
27 hospital, or the director of the facility to which the defendant is
28 committed, at least five days prior to the expiration of the applicable
29 maximum period of commitment described in subsection (3) of this
30 section and any extensions previously authorized, or within five days

1 of the request for an extension under this subsection, if fewer than
2 five days remained in the maximum commitment and extension period
3 when the request was submitted.

4 “(g) An extension of commitment under this subsection is inde-
5 pendent of and may be authorized in addition to any other extension
6 authorized under this section, but when combined with other exten-
7 sions the total period of commitment may not exceed the time period
8 described in subsection (10)(d) of this section.

9 “(7)(a) Notwithstanding subsection (3) of this section, any maxi-
10 mum periods of commitment described in subsection (3)(b) to (d) of
11 this section may be extended when there is evidence that the defend-
12 ant is engaging in malingering or impression management as provided
13 in this subsection.

14 “(b) Upon receipt of the notice described in subsection (4)(a) of this
15 section, the district attorney may petition for an extension to the
16 maximum period of commitment. The petition must be submitted
17 within 30 days of receipt of the notice.

18 “(c) The court may grant the petition if the court finds that an
19 evaluation prepared by a certified evaluator states that there is evi-
20 dence that the defendant is engaging in malingering or impression
21 management and the evaluator has determined that additional time
22 is necessary to resolve the defendant’s clinical picture for restoration.

23 “(d) If the court grants the petition:

24 “(A) The superintendent or director must receive any order ex-
25 tending the commitment under this subsection prior to the expiration
26 of the applicable maximum commitment and extension period.

27 “(B) The court shall conduct a review hearing on the status of the
28 defendant’s fitness to proceed at least every 180 days in accordance
29 with ORS 161.371. At each review hearing, the court may continue the
30 commitment for an additional 180 days if the court makes the findings

1 described in paragraph (c) of this subsection, but under no circum-
2 stances may the total commitment period, including any other exten-
3 sion authorized under this section, exceed the time period described
4 subsection (10)(d) of this section.

5 “(8)(a) Notwithstanding subsection (3) of this section, if the most
6 serious charge in the charging instrument is aggravated murder, a
7 violent felony or a crime listed in ORS 137.700 (2), any maximum period
8 of commitment described in subsection (3)(d) of this section may be
9 extended as provided in this subsection.

10 “(b) Upon receipt of the notice described in subsection (4)(a) of this
11 section, the district attorney may petition for an extension to the
12 maximum period of commitment. The petition must be submitted
13 within 30 days of receipt of the notice.

14 “(c) The court may grant the petition if the court determines:

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

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

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

24 “(d) When making the determinations described in paragraph (c)
25 of this subsection, the court shall consider:

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

28 “(B) Evidence that the defendant’s lack of fitness is not due to a
29 condition that is unlikely to result in the defendant gaining or re-
30 gaining fitness to proceed, such as a significant neurocognitive disor-

1 **der or a significant neurodevelopmental disability disorder;**

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

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

5 **“(e) If the court grants the petition:**

6 **“(A) The superintendent or director must receive any order ex-**
7 **tending the commitment under this subsection prior to the expiration**
8 **of the applicable maximum commitment period described in subsection**
9 **(3) of this section and any extensions previously authorized.**

10 **“(B) The court shall conduct a review hearing on the status of the**
11 **defendant’s fitness to proceed at least every 180 days in accordance**
12 **with ORS 161.371. At each review hearing, the court may continue the**
13 **commitment for an additional 180 days if the court makes the deter-**
14 **minations described in paragraph (d) of this subsection, but under no**
15 **circumstances may the total commitment period, including any other**
16 **extension authorized under this section, exceed 36 months.**

17 **“(9)(a) Upon receipt of a report filed under ORS 161.372 (1) con-**
18 **cerning the involuntary administration of medication to the defend-**
19 **ant, the district attorney may file a petition requesting an extension**
20 **to any maximum periods of commitment described in subsection (3)(b)**
21 **to (d) of this section as provided in this section.**

22 **“(b) If the report filed under ORS 161.372 (1) is received within 10**
23 **days prior to the end of a maximum commitment period described in**
24 **subsection (3)(b) to (d) of this section, the district attorney may file**
25 **the petition within 10 days after receipt of the report, and the com-**
26 **mitment of the defendant shall continue until the end of the 10-day**
27 **time period.**

28 **“(c) Upon receipt of a petition described in paragraph (a) of this**
29 **subsection, the court shall hold a hearing. If the court orders the in-**
30 **voluntary administration of medication under ORS 161.372 at the**

1 hearing, the court may extend any maximum periods of commitment
2 described in subsection (3)(b) to (d) of this section by up to 180 days.
3 The court may renew the extension if the court finds that the criteria
4 described in ORS 161.372 (3)(c) continue to be met.

5 “(d) The superintendent or director must receive any order extend-
6 ing the commitment under this subsection within 30 days of entry of
7 the order.

8 “(e) An extension of commitment under this subsection is inde-
9 pendent of and may be authorized in addition to any other extension
10 authorized under this section, but when combined with other exten-
11 sions the total period of commitment may not exceed the time limits
12 described in subsection (10)(d) of this section.

13 “(10) Notwithstanding ORS 161.371 (8):

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

16 “(b) The defendant may not receive credit toward the maximum
17 period of commitment for any day the defendant is held in jail before
18 or after the initial date of commitment.

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

22 “(d) Under no circumstances may the total commitment period,
23 including any extensions authorized under this section, exceed which-
24 ever of the following is shorter:

25 “(A) The statutory maximum sentence of imprisonment the court
26 could have imposed if the defendant had been convicted of the offense;
27 or

28 “(B) Thirty-six months.

29 “SECTION 45. (1) For purposes of this section, the purpose of com-
30 munity restoration is the restoration of the defendant’s fitness to

1 proceed in order to continue the criminal case.

2 “(2)(a) If the most serious offense in the charging instrument is a
3 violation or a misdemeanor other than a Class A misdemeanor, the
4 maximum time period that the defendant may be ordered to engage
5 in community restoration services is 90 days. The time period may
6 be extended by the court as described in subsection (3) of this section
7 by an additional 90 days, up to a total of 180 days.

8 “(b) If the most serious offense in the charging instrument is a
9 Class A misdemeanor other than a person Class A misdemeanor, the
10 maximum time period that the defendant may be ordered to engage
11 in community restoration services is 90 days. The time period may be
12 extended by the court as described in subsection (3) of this section by
13 additional increments of 90 days, to up to a total of 365 days.

14 “(c) If the most serious offense in the charging instrument is a
15 person Class A misdemeanor or a contempt charge, the maximum time
16 period that the defendant may be ordered to engage in community
17 restoration services is six months. The time period may be extended
18 by the court as described in subsection (3) of this section by additional
19 increments of six months, to up to a total of 18 months.

20 “(d) If the most serious offense in the charging instrument is a
21 felony other than aggravated murder, a violent felony or a crime listed
22 in ORS 137.700 (2), the maximum time period that the defendant may
23 be ordered to engage in community restoration services is 12 months.
24 The time period may be extended by the court as described in sub-
25 section (3) of this section by additional increments of six months, to
26 up to a total of 24 months.

27 “(e) If the most serious offense in the charging instrument is ag-
28 gravated murder, a violent felony or a crime listed in ORS 137.700 (2),
29 the maximum time period that the defendant may be ordered to en-
30 gage in community restoration services is 18 months. The time period

1 may be extended by the court as described in subsection (3) of this
2 section by additional increments of six months, to up to a total of 24
3 months.

4 “(3)(a) The court may extend the maximum time periods of com-
5 munity restoration services, up to the total amounts specified in sub-
6 section (2) this section, upon the request of a party as provided in this
7 subsection.

8 “(b) A party may petition for an extension to the maximum period
9 of community restoration described in subsection (2) of this section.
10 The petition must be submitted at least five days prior to the expira-
11 tion of the maximum period of community restoration. The court may
12 extend the deadline for filing a petition for good cause.

13 “(c) Upon receipt of a petition described in paragraph (b) of this
14 subsection, the court shall hold a hearing. The hearing must occur
15 within 30 days after the filing of the petition.

16 “(d) The court may extend the community restoration period if the
17 court finds:

18 “(A) There is clear evidence of progress toward the defendant
19 gaining or regaining fitness to proceed; and

20 “(B) That appropriate services are being made available to the de-
21 fendant.

22 “(e) The petitioning party has the burden of proof.

23 “(f) The court may continue the order for the defendant to partic-
24 ipate in community restoration services pending the outcome of the
25 petition.

26 “(4) The following time periods may not be considered when calcu-
27 lating the maximum period of community restoration services under
28 subsection (2) of this section:

29 “(a) A period of time between a scheduled court appearance at
30 which the defendant fails to appear and the next scheduled court ap-

1 pearance at which the defendant appears, other than an appearance
2 that occurs for the purpose of addressing the failure to appear;

3 “(b) A period of time between a scheduled fitness to proceed evalu-
4 ation at which the defendant fails to appear and the next scheduled
5 court appearance at which the defendant appears;

6 “(c) A period of time during which the defendant is in violation of
7 a release agreement condition that the court finds negatively impacts
8 the defendant’s ability to participate or engage in community resto-
9 ration services, as determined by the court;

10 “(d) A period of time during which the defendant is in the custody
11 of a local or state correctional facility;

12 “(e) A period of time during which the defendant fails to make
13 reasonable efforts toward gaining or regaining fitness to proceed, as
14 determined by the court;

15 “(f) A period of time during which the defendant is not attending
16 or complying with community restoration services treatment, and any
17 nonattendance is not excused, as determined by the court;

18 “(g) A period of time during which the defendant is noncompliant
19 with taking or receiving, or verbally refuses to take or receive, pre-
20 scribed medications, as determined by the court; and

21 “(h) A period of time between the defendant’s absconsion from a
22 secure residential treatment facility or other secure placement and the
23 next scheduled court appearance at which the defendant appears.

24 “(5) When a defendant has been ordered to engage in community
25 restoration services:

26 “(a) The court shall conduct regular status reviews at least every
27 45 days. The status review may consist of the court reviewing a report
28 to the court by the community mental health program director con-
29 cerning the defendant’s progress. Any report provided to the court for
30 a status review must include information concerning whether the de-

1 defendant is making progress toward gaining or regaining fitness to
2 proceed, what services that are being provided to the defendant and
3 the identification of any additional services that are required to meet
4 the defendant's restoration needs.

5 “(b) The court shall conduct a review hearing at least every 180
6 days, or every 90 days if the most serious offense in the charging in-
7 strument is a violation, a Class B or Class C misdemeanor or a Class
8 A misdemeanor other than a person Class A misdemeanor. At the re-
9 view hearing, the court shall determine whether the purpose of com-
10 munity restoration is being met, and the court may take any action
11 authorized under ORS 161.370 (2)(c) at the hearing.

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

15 “(d) If the most serious offense in the charging instrument is a vi-
16 olation, a Class B or Class C misdemeanor or a Class A misdemeanor
17 other than a person Class A misdemeanor, the court shall order that
18 an updated evaluation, to determine whether the defendant has gained
19 or regained fitness to proceed, be conducted and a report submitted
20 to the court prior to the review hearing occurring 90 days after the
21 order to engage in community restoration services is entered.

22 “(e) A community restoration services provider shall immediately
23 notify the court following the defendant's noncompliance with taking
24 or receiving, or verbal refusal to take or receive, prescribed
25 medications, or noncompliance or unexcused absence from community
26 restoration services treatment. The notice shall contain a description
27 of efforts taken to engage the defendant in taking or receiving
28 medication or attending and complying with treatment services. The
29 community restoration services provider shall additionally notify the
30 court if the defendant thereafter begins taking or receiving prescribed

1 medications or attending and complying with treatment services.

2 **“SECTION 46.** (1) Upon the issuance of a court order directed to the
3 Oregon Health Authority or the Oregon State Hospital, pursuant to
4 section 44 or 45 of this 2025 Act, continuing the maximum periods of
5 commitment or community restoration services, or continuing com-
6 mitment to a state mental hospital or other facility under ORS 161.371,
7 the authority or the hospital, by and through counsel, may file a re-
8 port with the court. The report must be submitted no later than 10
9 days after entry of the order. The report may consist of a review of
10 the procedural facts of the case and an analysis of those facts under
11 any applicable federal court order or statute.

12 **“(2)** Upon the request of the court, the Department of Justice may
13 appear on behalf of the authority or hospital to present the report.

14 **“(3)** Nothing in this section is intended to make the Oregon Health
15 Authority or the Oregon State Hospital a party to the underlying
16 criminal proceeding.

17 **“(4)** Nothing in this section requires or obligates the court to mod-
18 ify an order described in subsection (1) of this section.

19 **“SECTION 47.** (1) Sections 44 to 46 of this 2025 Act become operative
20 on September 29, 2025.

21 **“(2)** Section 44 of this 2025 Act applies to persons:

22 **“(a)** Who currently lack fitness to proceed, as previously deter-
23 mined by a court under ORS 161.370, on September 29, 2025; and

24 **“(b)** Who are determined by a court, under ORS 161.370 and section
25 50 of this 2025 Act, to lack fitness to proceed on or after September 29,
26 2025.

27 **“(3)** Section 45 of this 2025 Act applies to persons who are deter-
28 mined by a court, under ORS 161.370 and section 50 of this 2025 Act,
29 to lack fitness to proceed on or after September 29, 2025.

30 **“SECTION 48.** Sections 44 to 46 of this 2025 Act are repealed on

1 **January 1, 2028.**

2
3 **“(Fitness to Proceed Determinations)”**
4

5 **“SECTION 49. Section 50 of this 2025 Act is added to and made a**
6 **part of ORS 161.355 to 161.371.**

7 **“SECTION 50. (1) When the defendant’s fitness to proceed is drawn**
8 **in question, the issue shall be determined by the court. In making the**
9 **determination, the court may consider:**

10 **“(a) An examination ordered under ORS 161.365 (1)(c);**

11 **“(b) Evidence of a prior diagnosis of the defendant made by a cer-**
12 **tified evaluator or a qualified mental health practitioner;**

13 **“(c) A prior examination or evaluation of the defendant conducted**
14 **under ORS 161.309, 161.315, 161.365, 161.370 or 161.371;**

15 **“(d) Prior judicial determinations that the defendant lacked fitness**
16 **to proceed;**

17 **“(e) Prior commitments of the defendant under ORS 427.235 to**
18 **427.292 or ORS chapter 426;**

19 **“(f) The defendant’s conduct as observed by the court;**

20 **“(g) Prior court records or assessments relating to actions involving**
21 **the defendant that contain a mental health diagnosis of the defendant;**

22 **“(h) Relevant information on the defendant’s mental health diag-**
23 **nosis in the possession of the local supervisory authority, if the de-**
24 **fendant is under active supervision; and**

25 **“(i) Any other information the court deems relevant.**

26 **“(2)(a) The court may hear a motion to find that the defendant is**
27 **fit to proceed or lacks fitness to proceed from either party. The motion**
28 **may be made orally or in writing.**

29 **“(b) If a motion under this subsection is uncontested, the court may**
30 **make the determination of fitness based on the motion and any sup-**

1 porting evidence. If the motion is contested, the moving party shall
2 file a written motion and supporting evidence with the court, if a
3 written motion has not already been filed.

4 “(3)(a) The court shall hold a hearing on a contested motion as soon
5 as practicable and in accordance with this subsection. If either party
6 requests, or upon the court’s own motion, the court shall hold a status
7 conference to determine when the contested motion hearing will occur
8 and take up any preliminary matters, including whether to order an
9 examination under ORS 161.365 or to allow additional time for either
10 party to seek an examination or evaluation, or to make any other or-
11 ders as necessary to ensure expedient resolution of the motion.

12 “(b) When determining when to schedule a contested motion hear-
13 ing for the purpose of determining whether a defendant is fit or unfit
14 to proceed, the court shall consider:

15 “(A) The condition of the defendant and whether allowing more
16 time will result in the deterioration of the defendant’s mental or
17 physical condition;

18 “(B) Whether allowing more time will impact the state of the evi-
19 dence supporting the motion;

20 “(C) Whether there are any pending evaluations, and the time
21 needed to complete the examinations or evaluations if ordered or ap-
22 proved by the court;

23 “(D) The nature of the charges; and

24 “(E) Any other factor determined to be relevant to the court.

25 “(4) At the hearing:

26 “(a) The moving party has the burden of proving that the defendant
27 is fit to proceed or lacks fitness to proceed, as applicable, by a pre-
28 ponderance of the evidence.

29 “(b) Either party may call and cross-examine witnesses. Unless the
30 court orders otherwise or either party objects, any party or witness

1 may appear at the hearing by simultaneous electronic transmission
2 at the hearing.

3 “(c) ORS 40.450 to 40.475, 40.505, 40.510 and 40.515 do not apply to the
4 following evidence, if offered for the purpose of establishing a prior
5 diagnosis:

6 “(A) A report from an examination or evaluation of the defendant
7 filed with the court under ORS 161.365, 161.370 or 161.371 for the same
8 defendant from the preceding five years; or

9 “(B) Records from a civil commitment proceeding under ORS 427.235
10 to 427.292 or ORS chapter 426 concerning the defendant from the pre-
11 ceding five years.

12 “(5) Notwithstanding ORS 161.362 and 426.160, the court may enter
13 an order allowing either party to access or use one or more reports
14 from examinations or evaluations of the defendant filed with the court
15 under ORS 161.365, 161.370 or 161.371 in any case concerning the de-
16 fendant from the preceding five years, or records from a civil com-
17 mitment proceeding under ORS 427.235 to 427.292 or ORS chapter 426
18 concerning the defendant from the preceding five years. Records dis-
19 closed under this subsection may only be used for the determination
20 of fitness to proceed.

21 “(6) After the hearing described in this subsection, the court may
22 enter a finding that the defendant is fit to proceed or lacks fitness to
23 proceed, or may request additional information to aid in its determi-
24 nation.

25 “(7) If the court determines that the defendant lacks fitness to
26 proceed, and the court did not receive an examination or evaluation
27 from a certified evaluator for the proceeding before the court, there
28 is a presumption that there is a substantial probability that the de-
29 fendant may gain or regain fitness to proceed in the foreseeable fu-
30 ture.

1 **“(8) The failure to contest any issue relating to a fitness to proceed**
2 **determination under this section does not preclude either party from**
3 **contesting the same issue at a later time.**

4 **“SECTION 51.** ORS 161.365 is amended to read:

5 “161.365. (1)(a) When the court has reason to doubt the defendant’s fitness
6 to proceed by reason of incapacity as described in ORS 161.360, the court
7 may call any witness to assist it in reaching its decision. [*and,*] Except as
8 provided in paragraph (b) of this subsection, **the court** shall order that a
9 community mental health program director, or the director’s designee, con-
10 sult with the defendant and with any local entity that would be responsible
11 for providing community restoration services to the defendant if the defend-
12 ant were to be released in the community, to determine whether appropriate
13 community restoration services are present and available in the community.
14 **The court may order the consultation either before or after deter-**
15 **mining the issue of fitness to proceed.** After the consultation, the pro-
16 gram director or the director’s designee shall provide to the court a copy of
17 the findings resulting from the consultation.

18 “(b) If the defendant is charged with one or more of the following offenses
19 the court is not required to, but may in its discretion, order the consultation
20 described in paragraph (a) of this subsection:

21 “(A) Aggravated murder;

22 “(B) Murder in any degree;

23 “(C) Attempted aggravated murder;

24 “(D) Attempted murder in any degree;

25 “(E) Manslaughter in any degree;

26 “(F) Aggravated vehicular homicide;

27 “(G) Arson in the first degree when classified as crime category 10 of the
28 sentencing guidelines grid of the Oregon Criminal Justice Commission;

29 “(H) Assault in the first degree;

30 “(I) Assault in the second degree;

1 “(J) Kidnapping in the first degree;

2 “(K) Kidnapping in the second degree;

3 “(L) Rape in the first degree;

4 “(M) Sodomy in the first degree;

5 “(N) Unlawful sexual penetration in the first degree;

6 “(O) Robbery in the first degree; or

7 “(P) Robbery in the second degree.

8 “(c) If the court determines the assistance of a psychiatrist or psychol-
9 ogist would be helpful **to the court in making a determination under**
10 **section 50 of this 2025 Act**, the court may:

11 “(A) Order that a psychiatric or psychological examination of the de-
12 fendant be conducted by a certified evaluator and a report of the examina-
13 tion be prepared; or

14 “(B) Order the defendant to be committed for the purpose of an examina-
15 tion to a state mental hospital or other facility designated by the Oregon
16 Health Authority if the defendant is at least 18 years of age, or to a secure
17 intensive community inpatient facility designated by the authority if the
18 defendant is under 18 years of age. The state mental hospital or other facility
19 may retain custody of a defendant committed under this paragraph for the
20 duration necessary to complete the examination of the defendant, not to ex-
21 ceed 30 days. The examination may include a period of observation.

22 “(d) The court shall provide a copy of any order entered under this sub-
23 section to the community mental health program director or designee and to
24 the state mental hospital or other facility by the end of the next judicial day.

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

28 “(b) At the conclusion of the examination, the superintendent of the state
29 mental hospital or the superintendent’s designee or the director of the facil-
30 ity may:

1 “(A) Return the defendant to the facility from which the defendant was
2 transported; or

3 “(B) Inform the court and the parties that the defendant requires a hos-
4 pital level of care due to the acuity of symptoms of the defendant’s qualifying
5 mental disorder and request that the defendant remain at the state mental
6 hospital or other facility pending a hearing or order under ORS 161.370 **and**
7 **section 50 of this 2025 Act.**

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

10 “(a) A description of the nature of the examination;

11 “(b) A statement of the mental condition of the defendant;

12 “(c) If the defendant suffers from a qualifying mental disorder, an opinion
13 as to whether the defendant is incapacitated within the description set out
14 in ORS 161.360; and

15 “(d) If the defendant is incapacitated within the description set out in
16 ORS 161.360, a recommendation of treatment and services necessary to allow
17 the defendant to gain or regain capacity, including whether a hospital level
18 of care is required due to the acuity of symptoms of the defendant’s quali-
19 fying mental disorder.

20 “(4) Except when the defendant and the court both request to the con-
21 trary, the report may not contain any findings or conclusions as to whether
22 the defendant as a result of a qualifying mental disorder was subject to the
23 provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

24 “(5) If the examination by the certified evaluator cannot be conducted by
25 reason of the unwillingness of the defendant to participate in the examina-
26 tion, the report must so state and must include, if possible, an opinion as to
27 whether the unwillingness of the defendant was the result of a qualifying
28 mental disorder affecting fitness to proceed.

29 “(6) The report resulting from the examination of a defendant under this
30 section may be filed electronically and must be filed with the clerk of the

1 court, who shall cause copies to be delivered to the district attorney and to
2 counsel for defendant.

3 “(7)(a) When upon motion of the court or a financially eligible defendant,
4 the court has ordered a psychiatric or psychological examination of the de-
5 fendant, a county or justice court shall order the county to pay, a municipal
6 court shall order the city to pay, and a circuit court shall order the execu-
7 tive director of the Oregon Public Defense Commission to pay from funds
8 available for the purpose:

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

11 “(B) All costs including transportation of the defendant if the examina-
12 tion is conducted by a certified evaluator in the employ of the Oregon Health
13 Authority or a community mental health program established under ORS
14 430.610 to 430.670.

15 “(b) When an examination is ordered at the request or with the
16 acquiescence of a defendant who is determined not to be financially eligible,
17 the examination shall be performed at the defendant’s expense. When an ex-
18 amination is ordered at the request of the prosecution, the county shall pay
19 for the expense of the examination.

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

22 “**SECTION 52.** ORS 161.370 is amended to read:

23 “161.370. [(1)(a)] (1) When the defendant’s fitness to proceed is drawn in
24 question, the issue shall be determined by the court **as described in section**
25 **50 of this 2025 Act.**

26 “[b) *If neither the prosecuting attorney nor counsel for the defendant con-*
27 *tests the finding of the report filed under ORS 161.365, the court may make the*
28 *determination on the basis of the report. If the finding is contested, the court*
29 *shall hold a hearing on the issue. If the report is received in evidence in the*
30 *hearing, the party who contests the finding has the right to summon and to*

1 *cross-examine any certified evaluator who submitted the report and to offer*
2 *evidence upon the issue. Other evidence regarding the defendant's fitness to*
3 *proceed may be introduced by either party.]*

4 “(2)(a) If the court determines **under section 50 of this 2025 Act** that the
5 defendant lacks fitness to proceed, the criminal proceeding against the de-
6 fendant shall be suspended and the court shall proceed in accordance with
7 this subsection.

8 “(b) After making the determination under paragraph (a) of this sub-
9 section, the court shall receive a recommendation from a community mental
10 health program director or the director's designee, and from any local entity
11 that would be responsible for treating the defendant if the defendant were
12 to be released in the community, concerning whether appropriate community
13 restoration services are present and available in the community.

14 “(c) If the parties agree as to the appropriate action under this section,
15 the court may, after making all findings required by law, enter any order
16 authorized by this section. If the parties do not agree as to the appropriate
17 action, the court and the parties shall, at a hearing, consider an appropriate
18 action in the case, and the court shall make a determination and enter an
19 order necessary to implement the action. In determining the appropriate
20 action, the court shall consider the primary and secondary release criteria
21 as defined in ORS 135.230, the least restrictive option appropriate for the
22 defendant, the needs of the defendant and the interests of justice. Actions
23 may include but are not limited to:

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

26 “(B) An order to engage in community restoration services, as recom-
27 mended by the community mental health program director or designee, under
28 subsection (6) of this section;

29 “(C) Commencement of a civil commitment proceeding under ORS 426.070
30 to 426.170, 426.701 or 427.235 to 427.292;

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

2 “(E) Dismissal of the charges pursuant to ORS 135.755 and in accordance
3 with ORS 161.367 (6).

4 “(d) If the court, while considering or ordering an appropriate action un-
5 der this subsection, does not order the defendant committed to a state mental
6 hospital or other facility, but finds that appropriate community restoration
7 services are not present and available in the community, for any defendant
8 remaining in custody after such determination, the court shall set a review
9 hearing seven days from the date of the determination under paragraph (a)
10 of this subsection. At the review hearing, the court shall consider all rele-
11 vant information and determine if commitment to the state mental hospital
12 or other facility is appropriate under subsection (3) or (4) of this section, or
13 if another action described in paragraph (c) of this subsection is appropriate.
14 At the conclusion of the hearing the court shall enter an order in accordance
15 with the defendant’s constitutional rights to due process.

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

23 “(3)(a) If the most serious offense in the charging instrument is a felony,
24 the court shall commit the defendant to the custody of the superintendent
25 of a state mental hospital or director of a facility designated by the Oregon
26 Health Authority if the defendant is at least 18 years of age, or to the cus-
27 tody of the director of a secure intensive community inpatient facility des-
28 ignated by the authority if the defendant is under 18 years of age, if the
29 court makes the following findings:

30 “(A) The defendant requires a hospital level of care due to public safety

1 concerns if the defendant is not hospitalized or in custody or the acuity of
2 symptoms of the defendant's qualifying mental disorder; and

3 “(B) Based on the findings resulting from a consultation described in ORS
4 161.365 (1), if applicable, from any information provided by community-based
5 mental health providers or any other sources, and primary and secondary
6 release criteria as defined in ORS 135.230, the appropriate community resto-
7 ration services are not present and available in the community.

8 “(b) If the defendant is committed under this subsection, the community
9 mental health program director, or director's designee, shall at regular in-
10 tervals, during any period of commitment, review available community res-
11 toration services and maintain communication with the defendant and the
12 superintendent of the state mental hospital or director of the facility in order
13 to facilitate an efficient transition to treatment in the community when or-
14 dered.

15 “(c) If the court does not order the commitment of the defendant under
16 this subsection, the court shall proceed in accordance with subsection (2)(c)
17 of this section to determine and order an appropriate action other than
18 commitment.

19 “(4)(a) If the most serious offense in the charging instrument is a
20 misdemeanor, the court may not commit the defendant to the custody of the
21 superintendent of a state mental hospital or director of a facility designated
22 by the Oregon Health Authority if the defendant is at least 18 years of age,
23 or to the custody of the director of a secure intensive community inpatient
24 facility designated by the authority if the defendant is under 18 years of age,
25 unless the court:

26 “(A)(i) Receives a recommendation from a certified evaluator that the
27 defendant requires a hospital level of care due to the acuity of symptoms of
28 the defendant's qualifying mental disorder; and

29 “(ii) Receives a recommendation from a community mental health program
30 director, or director's designee, that the appropriate community restoration

1 services are not present and available in the community; or

2 “(B) Determines that the defendant requires a hospital level of care after
3 making all of the following written findings:

4 “(i) The defendant needs a hospital level of care due to the acuity of the
5 symptoms of the defendant’s qualifying mental disorder;

6 “(ii) There are public safety concerns; and

7 “(iii) The appropriate community restoration services are not present and
8 available in the community.

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

12 “(A) Has not received a recommendation from a certified evaluator as to
13 whether the defendant requires a hospital level of care due to the acuity of
14 symptoms of the defendant’s qualifying mental disorder, the court shall order
15 a certified evaluator to make such a recommendation.

16 “(B) Has not received a recommendation from the community mental
17 health program director or designee concerning whether appropriate com-
18 munity restoration services are present and available in the community, the
19 court shall order the director or designee to make such a recommendation.

20 “(c) If the court does not order the commitment of the defendant under
21 this subsection, the court shall proceed in accordance with subsection (2)(c)
22 of this section to determine and order an appropriate action other than
23 commitment.

24 “(d) If the defendant is committed under this subsection, the community
25 mental health program director, or director’s designee, shall at regular in-
26 tervals, during any period of commitment, review available community res-
27 toration services and maintain communication with the defendant and the
28 superintendent of the state mental hospital or director of the facility in order
29 to facilitate an efficient transition to treatment in the community when or-
30 dered.

1 “(5) If the most serious offense in the charging instrument is a violation,
2 the court may not commit the defendant to the custody of the superintendent
3 of a state mental hospital or director of a facility designated by the Oregon
4 Health Authority if the defendant is at least 18 years of age, or to the cus-
5 tody of the director of a secure intensive community inpatient facility des-
6 ignated by the authority if the defendant is under 18 years of age.

7 “(6)(a) If the court does not order the commitment of the defendant under
8 subsection (3) or (4) of this section, if commitment is precluded under sub-
9 section (5) of this section or if the court determines that care other than
10 commitment would better serve the defendant and the community, the court
11 shall release the defendant, pursuant to an order that the defendant engage
12 in community restoration services, until the defendant has gained or re-
13 gained fitness to proceed, or until the court finds there is no substantial
14 probability that the defendant will, within the foreseeable future, gain or
15 regain fitness to proceed. The court may not order the defendant to engage
16 in community restoration services in another county without permission
17 from the other county.

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

23 “(c) A community mental health program director coordinating the
24 defendant’s treatment in the community shall notify the court if the defend-
25 ant gains or regains fitness to proceed. The notice shall be filed with the
26 court and may be filed electronically. The clerk of the court shall cause
27 copies of the notice to be delivered to both the district attorney and the
28 counsel for the defendant.

29 “(d) When a defendant is ordered to engage in community restoration
30 services under this subsection[,]:

1 **“(A) The court may place conditions that the court deems appropriate on**
2 **the release, including the requirement that the defendant regularly report to**
3 **a state mental hospital or a certified evaluator for examination to determine**
4 **if the defendant has gained or regained fitness to proceed.**

5 **“(B) Following discharge from commitment at a state mental hos-**
6 **pital or other facility, and the court finds that the defendant has vio-**
7 **lated a condition of the release agreement, the court may order that**
8 **the defendant be recommitted to the custody of the superintendent of**
9 **the state mental hospital or director of the facility.**

10 **“(7)(a) As part of an order committing the defendant under this**
11 **section, the court shall additionally determine whether the defendant**
12 **may only be discharged to a facility that is of the most restrictive**
13 **class under the classification system described in ORS 426.238, if the**
14 **superintendent of the state mental hospital or director of the facility**
15 **to which the defendant is committed determines that the defendant**
16 **no longer requires a hospital level of care due to the acuity of the**
17 **symptoms of the defendant’s qualifying mental disorder.**

18 **“(b) When making the determination described in this subsection,**
19 **the court shall consider the charges, primary and secondary release**
20 **criteria as defined in ORS 135.230 and public safety concerns, and may**
21 **consider any other information relevant to the court’s determination.**

22 **“(c) A determination described in this subsection is a critical stage**
23 **of the proceeding for purposes of ORS 147.500 to 147.550.**

24 **“(d) The court may reconsider a determination described in this**
25 **subsection under the same circumstances in which the court may**
26 **modify a release decision as defined in ORS 135.230.**

27 **“(e) A defendant whose release was denied under ORS 135.240 is not**
28 **eligible for discharge, from the state hospital or other facility to which**
29 **the defendant was committed under this section, to any other facility**
30 **for treatment to gain or regain fitness to proceed.**

1 “[7] (8) The Oregon Health Authority shall establish by rule standards
2 for the recommendation provided to the court described in subsection (2) of
3 this section.

4
5 **“(Placement after Commitment)”**
6

7 **“SECTION 53.** ORS 161.371 is amended to read:

8 “161.371. (1) The superintendent of a state mental hospital or director of
9 a facility to which the defendant is committed under ORS 161.370 shall cause
10 the defendant to be evaluated within 60 days from the defendant’s delivery
11 into the superintendent’s or director’s custody, for the purpose of determin-
12 ing whether there is a substantial probability that, in the foreseeable future,
13 the defendant will have fitness to proceed. In addition, the superintendent
14 or director shall:

15 “(a) Immediately notify the committing court if the defendant, at any
16 time, gains or regains fitness to proceed or if there is no substantial proba-
17 bility that, within the foreseeable future, the defendant will gain or regain
18 fitness to proceed.

19 “(b) Within 90 days of the defendant’s delivery into the superintendent’s
20 or director’s custody, notify the committing court that:

21 “(A) The defendant has present fitness to proceed;

22 “(B) There is no substantial probability that, in the foreseeable future, the
23 defendant will gain or regain fitness to proceed; or

24 “(C) There is a substantial probability that, in the foreseeable future, the
25 defendant will gain or regain fitness to proceed. If the probability exists, the
26 superintendent or director shall give the court an estimate of the time in
27 which the defendant, with appropriate treatment, is expected to gain or re-
28 gain fitness to proceed.

29 “(c) Notify the court if court-ordered involuntary medication is necessary
30 for the defendant to gain or regain fitness to proceed and, if appropriate,

1 submit a report to the court under ORS 161.372.

2 “(2)(a) If the superintendent of the state mental hospital or director of the
3 facility to which the defendant is committed determines that there is a sub-
4 stantial probability that, in the foreseeable future, the defendant will gain
5 or regain fitness to proceed, unless the court otherwise orders, the defendant
6 shall remain in the superintendent’s or director’s custody where the defend-
7 ant shall receive treatment designed for the purpose of enabling the defend-
8 ant to gain or regain fitness to proceed. In keeping with the notice
9 requirement under subsection (1)(b) of this section, the superintendent or
10 director shall, for the duration of the defendant’s period of commitment,
11 submit a progress report to the committing court, concerning the defendant’s
12 fitness to proceed, at least once every 180 days as measured from the date
13 of the defendant’s delivery into the superintendent’s or director’s custody.

14 “(b) A progress report described in paragraph (a) of this subsection may
15 consist of an update to:

16 “(A) The original examination report conducted under ORS 161.365; or

17 “(B) An evaluation conducted under subsection (1) of this section, if the
18 defendant did not receive an examination under ORS 161.365.

19 “(3)(a) Notwithstanding subsection (2) of this section, if [*the most serious*
20 *offense in the charging instrument is a felony, and*] the superintendent of the
21 state mental hospital or director of the facility to which the defendant is
22 committed determines that a hospital level of care is no longer necessary due
23 to [*present public safety concerns and*] the acuity of symptoms of the
24 defendant’s qualifying mental disorder, the superintendent or director may
25 file notice of the determination with the court. Upon receipt of the notice,
26 the court shall order that a community mental health program director or
27 the director’s designee, within five judicial days:

28 “(A) Consult with the defendant and with any local entity that would be
29 responsible for providing community restoration services, if the defendant
30 were to be released in the community, to determine whether community res-

1 toration services are present and available in the community; *[and]*

2 “(B) Determine, if the defendant is subject to a secure placement
3 determination under ORS 161.370 (7), whether a placement at a facility
4 that is of the most restrictive class under the classification system
5 described in ORS 426.238 is present and available; and

6 “[*(B)*] (C) Provide the court and the parties with a report with recom-
7 mendations from the consultation.

8 “[*(b)*] Notwithstanding subsection (2) of this section, if the most serious of-
9 fense in the charging instrument is a felony, and the community mental health
10 program director determines that community restoration services that would
11 mitigate any risk posed by the defendant are present and available in the
12 community, the community mental health program director may file notice of
13 the determination with the court. Upon receipt of the notice, the court shall
14 order that the superintendent of the state mental hospital or director of the
15 facility to which the defendant is committed, within five judicial days:]

16 “[*(A)*] Evaluate the defendant to determine whether a hospital level of care
17 is no longer necessary due to present public safety concerns, or no longer nec-
18 essary due to the acuity of symptoms of the defendant’s qualifying mental
19 disorder; and]

20 “[*(B)*] Provide the court and the parties with recommendations from the
21 evaluation.]

22 “[*(c)*] Within 10 judicial days of receiving the recommendations described
23 in paragraph (a) or (b) of this subsection, the court shall hold a hearing to
24 determine an appropriate action in accordance with ORS 161.370 (2)(c) as fol-
25 lows:]

26 “[*(A)*] If, after consideration of the factors and possible actions described in
27 ORS 161.370 (2)(c) and any recommendations received under paragraph (a) or
28 (b) of this subsection, the court determines that a hospital level of care is
29 necessary due to public safety concerns or the acuity of symptoms of the
30 defendant’s qualifying mental disorder, and that based on the consultation or

1 *evaluation described in paragraph (a) or (b) of this subsection, any information*
2 *provided by community-based mental health providers or any other sources,*
3 *primary and secondary release criteria as defined in ORS 135.230, and any*
4 *other information the court finds to be trustworthy and reliable, the appropri-*
5 *ate community restoration services are not present and available in the com-*
6 *munity, the court may continue the commitment of the defendant.]*

7 *“(B) If the court does not make the determination described in subpara-*
8 *graph (A) of this paragraph, the court shall terminate the commitment and*
9 *shall set a review hearing seven days from the date of the commitment termi-*
10 *nation for any defendant remaining in custody. At the review hearing, the*
11 *court shall consider all relevant information, determine an appropriate action*
12 *in the case as described in ORS 161.370 (2)(c) and enter an order in accordance*
13 *with the defendant’s constitutional rights to due process.]*

14 *“(4)(a) Notwithstanding subsection (2) of this section, if the most serious*
15 *offense in the charging instrument is a misdemeanor, and the superintendent*
16 *of the state mental hospital or director of the facility to which the defendant*
17 *is committed determines that the defendant no longer needs a hospital level*
18 *of care due to the acuity of symptoms of the defendant’s qualifying mental*
19 *disorder or there are not present public safety concerns, the superintendent or*
20 *director shall file notice of the determination with the court, along with rec-*
21 *ommendations regarding the necessary community restoration services that*
22 *would mitigate any risk presented by the defendant. Upon receipt of the notice,*
23 *the court shall order that a community mental health program director or the*
24 *director’s designee, within five judicial days:]*

25 *“(A) Consult with the defendant and with any local entity that would be*
26 *responsible for providing community restoration services, if the defendant were*
27 *to be released in the community, to determine whether appropriate community*
28 *restoration services are present and available in the community; and]*

29 *“(B) Provide the court and the parties with recommendations from the*
30 *consultation.]*

1 “(b) Notwithstanding subsection (2) of this section, if the most serious of-
2 fense in the charging instrument is a misdemeanor, and the community mental
3 health program director determines that the community restoration services
4 that would mitigate any risk posed by the defendant are present and available
5 in the community, the community mental health program director may file no-
6 tice of the determination with the court. Upon receipt of the notice, the court
7 shall order that the superintendent of the state mental hospital or director of
8 the facility to which the defendant is committed, within five judicial days:]

9 “(A) Evaluate the defendant to determine whether a hospital level of care
10 is no longer necessary due to present public safety concerns, or no longer nec-
11 essary due to the acuity of symptoms of the defendant’s qualifying mental
12 disorder; and]

13 “(B) Provide the court and the parties with recommendations from the
14 evaluation.]

15 “(c) Within 10 judicial days of receiving the recommendations described
16 in paragraph (a) or (b) of this subsection, the court shall hold a hearing to
17 determine an appropriate action in accordance with ORS 161.370 (2)(c) as fol-
18 lows:]

19 “(A) After consideration of the factors and possible actions described in
20 ORS 161.370 (2)(c), the consultation or evaluation and any recommendations
21 described in paragraph (a) or (b) of this subsection, and any other information
22 the court finds to be trustworthy and reliable, the court may continue the
23 commitment of the defendant if the court makes written findings that a hospi-
24 tal level of care is necessary due to public safety concerns and the acuity of
25 symptoms of the defendant’s qualifying mental disorder, and that appropriate
26 community restoration services are not present and available in the
27 community.]

28 “(B) If the court does not make the findings described in subparagraph (A)
29 of this paragraph, the court shall terminate the commitment and shall set a
30 review hearing seven days from the date of the commitment termination for any

1 *defendant remaining in custody. At the review hearing, the court shall con-*
2 *sider all relevant information, determine an appropriate action in the case as*
3 *described in ORS 161.370 (2)(c) and enter an order in accordance with the*
4 *defendant's constitutional rights to due process.]*

5 **“(b) As part of the consultation described in paragraph (a) of this**
6 **subsection, the director or designee may be assisted by any staff**
7 **member of the Oregon Health Authority who is able to assist in iden-**
8 **tifying and securing placements. If the director or designee identifies**
9 **one or more appropriate placements for the defendant, the director or**
10 **designee shall specify the placements in the consultation report.**

11 **“(c) If the defendant is subject to a secure placement determination**
12 **under ORS 161.370 (7), the director or designee may recommend a**
13 **placement option other than a placement at a facility that is of the**
14 **most restrictive class under the classification system described in ORS**
15 **426.238 only if, in the opinion of the director, the defendant may be**
16 **appropriately served in such an environment.**

17 **“(d)(A) If, during the consultation, the director or designee deter-**
18 **mines that there are one or more appropriate placements for the de-**
19 **fendant, the consultation report must contain information, when**
20 **available, on whether the proposed placements are currently accepting**
21 **referrals or have an open waiting list.**

22 **“(B) If, during the consultation, the director or designee determines**
23 **that there are no appropriate placements for the defendant, the di-**
24 **rector shall notify the Oregon Health Authority. The director or**
25 **designee shall provide in the consultation report information con-**
26 **cerning why there are no appropriate placements. Upon the court's**
27 **receipt of the report, the defendant's commitment is continued, and**
28 **no further action of the court is required except as described in sub-**
29 **section (6) of this section.**

30 **“(4)(a) Upon the provision to the court and the parties of a consul-**

1 tation report with recommended placements under subsection (3)(d)(A)
2 of this section, either party may object to any placement option by
3 filing a motion within 10 days after the date the consultation report
4 was provided.

5 “(b) Except as otherwise provided in paragraphs (c) and (d) of this
6 subsection, the court shall, within 10 days after the filing of an ob-
7 jection under paragraph (a) of this subsection, set a hearing for the
8 purpose of hearing the objection.

9 “(c) At either party’s request, or on the court’s own motion, the
10 court may defer hearing the objection until the placement hearing
11 described in subsection (5) of this section.

12 “(d) If both parties object to all proposed placements, the
13 defendant’s commitment is continued, and no further action of the
14 court is required except as described in subsection (6) of this sub-
15 section.

16 “(e) If both parties indicate, prior to the expiration of the time pe-
17 riod for filing an objection, that neither party will be filing an ob-
18 jection, the court shall notify the community mental health program
19 director and proceed as described in subsection (5) of this section.

20 “(f) At the hearing on the objection, the court shall determine
21 whether to grant the objection to a proposed placement. If the court:

22 “(A) Finds that a proposed placement subject to the objection is not
23 appropriate, the court shall grant the objection motion with respect
24 to that placement. If a proposed placement option remains following
25 the court’s decision on the motion, the court shall proceed as de-
26 scribed in subsection (5) of this section. If no proposed placement
27 options remain following the court’s decision, the commitment of the
28 defendant is continued, and no further action of the court is required
29 except as described in subsection (6) of this section.

30 “(B) Finds that a proposed placement subject to an objection is ap-

1 appropriate, the court shall deny the motion with respect to that place-
2 ment and proceed as described in subsection (5) of this section.

3 “(g) At a hearing described in this subsection, the court may enter
4 an order continuing the defendant’s commitment and directing the
5 community mental health program director to discontinue attempts
6 to identify appropriate placements for the defendant.

7 “(h) A hearing described in this subsection is a critical stage of the
8 proceeding for purposes of ORS 147.500 to 147.550.

9 “(5)(a) If a motion to object to a proposed placement is not filed, if
10 the court defers hearing an objection to a proposed placement or if an
11 appropriate placement option remains following a hearing described in
12 subsection (4) of this section, the community mental health program
13 director shall continue to attempt to secure all proposed placements
14 for the defendant that were not subject to a granted objection and
15 shall provide a placement status update, in the form of a written
16 memo or report, to the court no less frequently than every 30 days.

17 “(b) As soon as the director has secured a placement for the de-
18 fendant and obtained an anticipated availability date for the place-
19 ment, the director shall immediately notify the court and the parties,
20 and when possible provide information concerning the availability date
21 and the timing of transfer to the placement.

22 “(c) The court shall hold a hearing as soon as practicable after re-
23 ceiving the notice described in paragraph (b) of this subsection to
24 confirm the placement and set any conditions of release. The court
25 may hear an objection filed under subsection (4) of this section that
26 was deferred, or may hear a new or renewed objection upon the
27 showing of changed circumstances or new information by the object-
28 ing party.

29 “(d) A hearing described this subsection is a critical stage of the
30 proceeding for purposes of ORS 147.500 to 147.550.

1 “(6)(a) If the report from the consultation described in subsection
2 (3) of this section does not identify any appropriate placements for the
3 defendant, if no appropriate placement options remain following the
4 granting of a motion objecting to a proposed placement, or if both
5 parties object to all proposed placements:

6 “(A) The community mental health program director shall continue
7 to regularly evaluate placement options for the defendant, using
8 guidance from the consultation report, and provide status updates to
9 the court, in the form of a written memo or report, no less frequently
10 than every 30 days.

11 “(B) The court may at any time set a hearing on the case and enter
12 appropriate orders, including an order directing the community men-
13 tal health program director to discontinue evaluating placement
14 options for the defendant until a new notice is received under sub-
15 section (3)(a) of this section. If the court enters such an order, the
16 superintendent of the state mental hospital or director of the facility
17 to which the defendant is committed may only issue a new notice un-
18 der subsection (3)(a) of this section if circumstances regarding the
19 defendant or available placement options have changed.

20 “(b) If the community mental health program director identifies an
21 appropriate placement for the defendant while evaluating placement
22 options under paragraph (a)(A) of this subsection, the director shall
23 immediately notify the court and the parties. If the defendant is sub-
24 ject to a secure placement determination under ORS 161.370 (7), the
25 director or designee may recommend a placement option other than
26 a placement at a facility that is of the most restrictive class under the
27 classification system described in ORS 426.238 only if, in the opinion
28 of the director, the defendant may be appropriately served in such an
29 environment. The parties may file a motion objecting to any of the
30 placement options as described in subsection (4) of this section.

1 **“(7)(a) Notwithstanding ORS 161.370 (7)(d), the determination by a**
2 **court under ORS 161.370 (7), that the defendant may only be discharged**
3 **to a facility that is of the most restrictive class under the classifica-**
4 **tion system described in ORS 426.238, may be reconsidered by the court**
5 **at the request of either party, or on the court’s own motion, as part**
6 **of a hearing on an objection to a placement under subsection (4) of**
7 **this section or during a hearing described in subsection (5) of this**
8 **section, only when there has been a substantial change in the**
9 **defendant’s circumstances since the original determination.**

10 **“(b) The court shall consider the criteria described in ORS 161.370**
11 **(7)(b) when reconsidering the determination under this subsection.**

12 **“(c) A hearing at which the court reconsiders the determination**
13 **under this subsection is a critical stage of the proceeding for purposes**
14 **of ORS 147.500 to 147.550.**

15 **“[(5)(a)] (8)(a) If a defendant remains committed under this section, the**
16 **court shall determine within a reasonable period of time whether there is a**
17 **substantial probability that, in the foreseeable future, the defendant will**
18 **gain or regain fitness to proceed. However, regardless of the number of**
19 **charges with which the defendant is accused, in no event shall the defendant**
20 **be committed for longer than whichever of the following, measured from the**
21 **defendant’s initial custody date, is shorter:**

22 **“(A) Three years; or**

23 **“(B) A period of time equal to the maximum sentence the court could have**
24 **imposed if the defendant had been convicted.**

25 **“(b) For purposes of calculating the maximum period of commitment de-**
26 **scribed in paragraph (a) of this subsection:**

27 **“(A) The initial custody date is the date on which the defendant is first**
28 **committed under this section on any charge alleged in the accusatory in-**
29 **strument; and**

30 **“(B) The defendant shall be given credit against each charge alleged in**

1 the accusatory instrument:

2 “(i) For each day the defendant is committed under this section, whether
3 the days are consecutive or are interrupted by a period of time during which
4 the defendant has gained or regained fitness to proceed; and

5 “(ii) Unless the defendant is charged on any charging instrument with
6 aggravated murder or a crime listed in ORS 137.700 (2), for each day the
7 defendant is held in jail before and after the date the defendant is first
8 committed, whether the days are consecutive or are interrupted by a period
9 of time during which the defendant lacks fitness to proceed.

10 “(c) The superintendent of the state mental hospital or director of the
11 facility to which the defendant is committed shall notify the committing
12 court of the defendant’s impending discharge 30 days before the date on
13 which the superintendent or director is required to discharge the defendant
14 under this subsection.

15 “[~~(6)(a)~~] **(9)(a)** All notices required under this section shall be filed with
16 the court and may be filed electronically. The clerk of the court shall cause
17 copies of the notices to be delivered to both the district attorney and the
18 counsel for the defendant.

19 “(b) When the committing court receives a notice from the superintendent
20 or director under subsection (1) of this section concerning the defendant’s
21 progress or lack thereof, or under subsection [~~(5)~~] **(8)** of this section con-
22 cerning the defendant’s impending discharge, the committing court shall de-
23 termine, after a hearing if a hearing is requested, whether the defendant
24 presently has fitness to proceed.

25 “[~~(7)~~] **(10)** If at any time the court determines that the defendant lacks
26 fitness to proceed, the court shall further determine whether the defendant
27 is entitled to discharge under subsection [~~(5)~~] **(8)** of this section. If the court
28 determines that the defendant is entitled to discharge under subsection [~~(5)~~]
29 **(8)** of this section, the court shall dismiss, without prejudice and in accord-
30 ance with ORS 161.367 (6), all charges against the defendant and:

1 “(a) Order that the defendant be discharged; or

2 “(b) Initiate commitment proceedings under ORS 426.070, 426.701 or
3 427.235 to 427.292.

4
5 “(Information Sharing)
6

7 “**SECTION 54.** ORS 161.362 is amended to read:

8 “161.362. (1) A recommendation provided by a certified evaluator, pursu-
9 ant to ORS 161.355 to 161.371, that a defendant requires a hospital level of
10 care due to the acuity of the defendant’s symptoms must be based upon the
11 defendant’s current diagnosis and symptomology, the defendant’s current
12 ability to engage in treatment, present safety concerns relating to the de-
13 fendant and any other pertinent information known to the evaluator. If the
14 defendant is in a placement in a facility, the evaluator may defer to the
15 treatment provider’s recommendation regarding whether a hospital level of
16 care is needed.

17 “(2) A determination by a community mental health program director, or
18 the director’s designee, pursuant to ORS 161.355 to 161.371, that appropriate
19 community restoration services are not present and available in the commu-
20 nity must include information concerning the specific services necessary to
21 safely allow the defendant to gain or regain fitness to proceed in the com-
22 munity and must specify the necessary services that are not present and
23 available in the community.

24 “(3)(a) Reports resulting from examinations performed by a certified
25 evaluator, and documents containing the recommendations of or resulting
26 from consultations with a community mental health program director or the
27 director’s designee, prepared under ORS 161.355 to 161.371, and any document
28 submitted to the court by a state mental hospital **or other facility to which**
29 **the defendant is committed or in which the defendant is placed,** related
30 to the proceedings under ORS 161.355 to 161.371, are confidential and may

1 be made available only:

2 “(A) To the court, prosecuting attorney, defense attorney, agent of the
3 prosecuting or defense attorney, defendant, community mental health pro-
4 gram director or designee, state mental hospital and any facility in which
5 the defendant is housed; or

6 “(B) As ordered by a court.

7 “(b) Any facility in which a defendant is housed may not use a report or
8 document described in paragraph (a) of this subsection to support a disci-
9 plinary action against the defendant.

10 “(c) Nothing in this subsection prohibits:

11 “(A) The prosecuting attorney, defense attorney or agent of the prose-
12 cuting or defense attorney from discussing the contents of a report or docu-
13 ment described in paragraph (a) of this subsection with witnesses or victims
14 as otherwise permitted by law.

15 “(B) **The disclosure of reports or documents described in paragraph**
16 **(a) of this subsection, information contained in such reports or docu-**
17 **ments and any records or information used in the preparation of such**
18 **reports or documents, as permitted under ORS 192.567 or for the pur-**
19 **pose of continuity of care as authorized by law or ordered by the court.**

20 “(4) The court shall ensure that an order entered under ORS 161.355 to
21 161.371 is provided, by the end of the next judicial day, to any entity ordered
22 to provide restoration services.

23 “(5) Unless the court orders otherwise or either party objects, a defendant
24 committed to a state mental hospital or other facility, or a certified evalu-
25 ator or other expert witness, may attend hearings held under ORS 161.355
26 to 161.371 via simultaneous electronic transmission.

27
28 “(Conforming Amendments)

29
30 “**SECTION 55.** ORS 135.748 is amended to read:

1 “135.748. (1) All applicable periods of elapsed time as follows are excluded
2 from the time limits described in ORS 135.746:

3 “(a) A period of time during which the defendant is:

4 “(A) Under observation or examination for fitness to proceed under ORS
5 161.365, beginning when the issue of the defendant’s possible lack of fitness
6 to proceed has been raised by the defendant or the defendant’s counsel, until
7 a final determination regarding the defendant’s fitness to proceed has been
8 made by the court;

9 “(B) Determined to be unfit to proceed by the court pursuant to ORS
10 161.360 and 161.370 **and section 50 of this 2025 Act**;

11 “(C) Under observation or examination after notice of the issue of the
12 defendant’s qualifying mental disorder, partial responsibility, diminished ca-
13 pacity, insanity or other mental defense is raised by the defendant or the
14 defendant’s counsel, until the trial date; or

15 “(D) Unable to appear by reason of illness or physical disability.

16 “(b) A period of time following the filing of an interlocutory appeal or
17 an appeal from the dismissal of the charge or charging instrument, or that
18 results from a stay issued by an appellate court in a mandamus or habeas
19 proceeding, until the appellate judgment is issued or the stay is lifted by the
20 appellate court.

21 “(c) A period of time between a scheduled court appearance at which the
22 defendant fails to appear and the next scheduled court appearance other than
23 an appearance that occurs for the purpose of addressing a warrant resulting
24 from the defendant’s failure to appear.

25 “(d) A period of time during which the defendant’s location is known but
26 the defendant’s presence for trial cannot be obtained, or during which the
27 defendant is outside this state and resists being returned to this state for
28 trial.

29 “(e) A period of time during which the defendant’s location is unknown
30 and:

1 “(A) The defendant has attempted to avoid apprehension or prosecution;

2 or

3 “(B) The defendant’s location cannot be determined by due diligence.

4 “(f) A period of time while the defendant is on trial or engaged in court
5 proceedings in an unrelated matter, whether in the same court or a different
6 court, and was therefore physically unavailable for trial.

7 “(g) A period of time between a mistrial on the charging instrument and
8 a subsequent trial on the charging instrument, not to exceed three months
9 for each mistrial. The three-month limit may be extended by the court for
10 good cause upon request from either party or upon the court’s own motion.

11 “(h) A period of time between a continuance or a rescheduling of a trial
12 date, granted at the request of, or with the consent of, the defendant or the
13 defendant’s counsel, and the new trial date. A defendant who is proceeding
14 without counsel may not consent to a continuance or a rescheduling unless
15 the court has advised the defendant of the defendant’s right to a speedy trial
16 within the time limit required in ORS 135.746 and the consequences of the
17 defendant’s consent to the continuance or rescheduling.

18 “(2) Any period of time excluded pursuant to subsection (1) of this section
19 from the time limits described in ORS 135.746 that applies to a defendant
20 shall apply to all other defendants charged in the charging instrument.
21 However, if the court finds that it is clearly inappropriate to apply the time
22 exclusion to all of the other defendants, the court may order any relief that
23 justice requires.

24 **“SECTION 56.** ORS 166.273 is amended to read:

25 “166.273. (1) A person barred from transporting, shipping, possessing or
26 receiving a firearm may file a petition with the Psychiatric Security Review
27 Board for relief from the bar if:

28 “(a) The person is barred from possessing a firearm under ORS 166.250
29 (1)(c)(D) or (E);

30 “(b) The person is barred from receiving a firearm under ORS 166.470

1 (1)(e) or (f) or, if the person has been found guilty except for insanity of a
2 misdemeanor involving violence, ORS 166.470 (1)(g); or

3 “(c) The person is barred from possessing, receiving, shipping or trans-
4 porting a firearm under 18 U.S.C. 922(d)(4) or (g)(4) as the result of a state
5 mental health determination.

6 “(2) The petitioner shall serve a copy of the petition on:

7 “(a) The Department of Human Services and the Oregon Health Author-
8 ity; and

9 “(b) The district attorney in each county in which:

10 “(A) The person was committed by a court to the Oregon Health Au-
11 thority, or adjudicated by a court as a person with mental illness, under ORS
12 426.130;

13 “(B) The person was committed by a court to the Department of Human
14 Services, or adjudicated by a court as in need of commitment for residential
15 care, treatment and training, under ORS 427.290;

16 “(C) The person was found guilty except for insanity under ORS 161.295;

17 “(D) The person was found responsible except for insanity under ORS
18 419C.411; or

19 “(E) The person was found by a court to lack fitness to proceed under
20 ORS 161.370 **and section 50 of this 2025 Act.**

21 “(3) Following receipt of the petition, the board shall conduct a contested
22 case hearing, make written findings of fact and conclusions of law on the
23 issues before the board and issue a final order. Board members from the
24 adult panel, the juvenile panel or a combination of both panels of the board
25 may conduct the hearings described in this section.

26 “(4) The state and any person or entity described in subsection (2) of this
27 section may appear and object to and present evidence relevant to the relief
28 sought by the petitioner.

29 “(5) The board shall grant the relief requested in the petition if the
30 petitioner demonstrates, based on the petitioner’s reputation, the petitioner’s

1 record, the circumstances surrounding the firearm disability and any other
2 evidence in the record, that the petitioner will not be likely to act in a
3 manner that is dangerous to public safety and that granting the relief would
4 not be contrary to the public interest.

5 “(6) If the board grants the relief requested in the petition, the board
6 shall provide to the Department of State Police the minimum information
7 necessary, as defined in ORS 181A.290, to enable the department to:

8 “(a) Maintain the information and transmit the information to the federal
9 government as required under federal law; and

10 “(b) Maintain a record of the person’s relief from the disqualification to
11 possess or receive a firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470
12 (1)(e), (f) or (g).

13 “(7) The petitioner may petition for judicial review of a final order of the
14 board. The petition shall be filed in the circuit court of a county described
15 in subsection (2)(b) of this section. The review shall be conducted de novo
16 and without a jury.

17 “(8) A petitioner may take an appeal from the circuit court to the Court
18 of Appeals. Review by the Court of Appeals shall be conducted in accordance
19 with ORS 183.500.

20 “(9) A person may file a petition for relief under this section no more
21 than once every two years.

22 “(10) The board shall adopt procedural rules to carry out the provisions
23 of this section.

24 “(11) As used in this section, ‘state mental health determination’ means:

25 “(a) A finding by a court that a person lacks fitness to proceed under ORS
26 161.370 **and section 50 of this 2025 Act**;

27 “(b) A finding that a person is guilty except for insanity of a crime under
28 ORS 161.295 or responsible except for insanity of an act under ORS 419C.411
29 or any determination by the Psychiatric Security Review Board thereafter;

30 “(c) A commitment by a court to the Oregon Health Authority, or an ad-

1 judication by a court that a person is a person with mental illness, under
2 ORS 426.130; or

3 “(d) A commitment by a court to the Department of Human Services, or
4 an adjudication by a court that a person is in need of commitment for resi-
5 dential care, treatment and training, under ORS 427.290.

6 “**SECTION 57.** ORS 181A.290 is amended to read:

7 “181A.290. (1) The Department of Human Services, the Oregon Health
8 Authority, the Psychiatric Security Review Board and the Judicial Depart-
9 ment shall provide the Department of State Police with the minimum infor-
10 mation necessary to identify persons who:

11 “(a) Have been committed by a court to the Oregon Health Authority
12 under ORS 426.130, based on a finding that the person is [*dangerous*] **a**
13 **danger** to self or others;

14 “(b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting
15 the person from purchasing or possessing a firearm;

16 “(c) Have been committed by a court to the Department of Human Ser-
17 vices under ORS 427.290, based on a finding that the person is [*dangerous*]
18 **a danger** to self or others;

19 “(d) Have been found by a court to lack fitness to proceed under ORS
20 161.370 **and section 50 of this 2025 Act**;

21 “(e) Have been found guilty except for insanity of a crime under ORS
22 161.290 to 161.373;

23 “(f) Have been found responsible except for insanity for an act under ORS
24 419C.411;

25 “(g) Have been placed under the jurisdiction of the Psychiatric Security
26 Review Board under ORS 161.315 to 161.351; or

27 “(h) Have been committed to a state hospital or facility under ORS
28 161.315 to 161.351 or 419C.529 to 419C.544.

29 “(2) Upon receipt of the information described in this section, the De-
30 partment of State Police shall access and maintain the information and

1 transmit the information to the federal government as required under federal
2 law.

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

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

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

12 “(b) Describing the method and manner of maintaining the information
13 described in this section and transmitting the information to the federal
14 government.

15 “(5) As used in this section, ‘minimum information necessary’ means data
16 elements or nominal information that is necessary or required under federal
17 law to accurately identify a person described in this section and includes the
18 person’s name, date of birth, gender and reference information that identifies
19 the originating agency or court and enables the originating agency or court
20 to locate an underlying record or file of a person described in this section.
21 ‘Minimum information necessary’ does not include any medical, psychiatric
22 or psychological information, case histories or files of a person described in
23 this section or any record or file of an originating agency or court.

24 25 “FACILITY SITING 26

27 “**SECTION 58.** Sections 59 and 60 of this 2025 Act are added to and
28 made a part of ORS chapter 197A.

29 “**SECTION 59.** (1) Within an urban growth boundary, a local gov-
30 ernment shall allow a residential treatment facility or residential

1 treatment home, as those terms are defined in ORS 443.400, without
2 requiring a plan amendment, zone change or conditional use permit
3 for property that is:

4 “(a) Owned by a public body, as defined in ORS 174.109; or

5 “(b) Zoned for:

6 “(A) Residential uses;

7 “(B) Commercial uses;

8 “(C) Employment uses;

9 “(D) Public lands, not including park land; or

10 “(E) Industrial uses, provided that if the property is:

11 “(i) Publicly owned or owned by a public benefit corporation as de-
12 fined in ORS 65.001;

13 “(ii) Within 250 feet of lands zoned for residential use; and

14 “(iii) Not specifically designated for heavy industrial uses.

15 “(2) This section does not apply on land where the local government
16 determines that:

17 “(a) The facility cannot be adequately served by water, sewer, storm
18 water drainage or streets, or will not be adequately served at the time
19 that development on the property is complete; or

20 “(b) The development of the property is constrained by land use
21 regulations based on statewide land use planning goals relating to:

22 “(A) Natural disasters and hazards; or

23 “(B) Natural resources, including air, water, land or natural areas,
24 but not including open spaces or historic resources.

25 “(3) This section does not trigger any requirement that a local
26 government consider or update an analysis as required by a statewide
27 land use planning goal relating to economic development.

28 “(4) A decision made under this section is not a land use decision
29 as defined in ORS 197.015 and is not subject to the jurisdiction of the
30 Land Use Board of Appeals. A decision under this section may only

1 be appealed by writ of review under ORS 34.010 to 34.100.

2 “(5) A local government shall issue a final decision under this sec-
3 tion within 120 days after a completed application is filed with the local
4 government.

5 **“SECTION 60. (1) Within an urban growth boundary, a local gov-**
6 **ernment shall allow a crisis stabilization center as defined in ORS**
7 **430.626 and licensed under ORS 430.627, and may not require a plan**
8 **amendment, zone change or conditional use permit for the property**
9 **on which the facility is sited if the property is:**

10 **“(a) Owned by a public body, as defined in ORS 174.109; and**

11 **“(b) Adjacent to where a mental or psychiatric hospital licensed**
12 **under ORS 441.025 is or will be located as established by a pending**
13 **development application.**

14 **“(2) Within an urban growth boundary, a local government shall**
15 **allow a mental or psychiatric hospital licensed under ORS 441.025, and**
16 **may not require a plan amendment, zone change or conditional use**
17 **permit for the property on which the facility is sited if the property**
18 **is:**

19 **“(a) Zoned for:**

20 **“(A) Commercial uses;**

21 **“(B) Employment uses;**

22 **“(C) Public lands, not including park land; or**

23 **“(D) Industrial uses; and**

24 **“(b) Adjacent to where a crisis stabilization center as defined in**
25 **ORS 430.626 and licensed under ORS 430.627 is or will be located as es-**
26 **tablished by a pending development application.**

27 **“(3) This section does not apply on land where the local government**
28 **determines that the facility cannot be adequately served by water,**
29 **sewer, storm water drainage or streets, or will not be adequately**
30 **served at the time that development on the property is complete.**

1 “(4) This section does not trigger any requirement that a local
2 government consider or update an analysis as required by a statewide
3 land use planning goal relating to economic development.

4 “(5) A decision made under this section is not a land use decision
5 as defined in ORS 197.015 and is not subject to the jurisdiction of the
6 Land Use Board of Appeals. A decision under this section may only
7 be appealed by writ of review under ORS 34.010 to 34.100.

8 “(6) A local government shall issue a final decision under this sec-
9 tion within 30 days after a completed application is filed with the local
10 government.

11 “SECTION 61. ORS 197.670 is repealed.

12 “SECTION 62. ORS 197.660 is amended to read:

13 “197.660. As used in ORS 197.660 to 197.670[, 215.213, 215.263, 215.283,
14 215.284 and 443.422]:

15 “(1) ‘Residential facility’ means a residential care[, *residential training or*
16 *residential treatment*] **or residential training** facility, as those terms are
17 defined in ORS 443.400, that provides residential care alone or in conjunction
18 with treatment or training or a combination thereof for six to fifteen indi-
19 viduals who need not be related. Staff persons required to meet licensing
20 requirements shall not be counted in the number of facility residents, and
21 need not be related to each other or to any resident of the residential facil-
22 ity.

23 “(2) ‘Residential home’ means a residential treatment or training home,
24 as defined in ORS 443.400, a residential facility registered under ORS 443.480
25 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that
26 provides residential care alone or in conjunction with treatment or training
27 or a combination thereof for five or fewer individuals who need not be re-
28 lated. Staff persons required to meet licensing requirements shall not be
29 counted in the number of facility residents, and need not be related to each
30 other or to any resident of the residential home.

1 “(3) ‘Zoning requirement’ means any standard, criteria, condition, review
2 procedure, permit requirement or other requirement adopted by a city or
3 county under the authority of ORS chapter 215 or 227 that applies to the
4 approval or siting of a residential facility or residential home. A zoning re-
5 quirement does not include a state or local health, safety, building, occu-
6 pancy or fire code requirement.

7 **“SECTION 63.** ORS 197.665 is amended to read:

8 **“197.665. In addition to allowing residential homes within an urban**
9 **growth boundary under section 59 of this 2025 Act:**

10 “(1) Residential homes shall be a permitted use in:

11 “(a) Any residential zone, including a residential zone which allows a
12 single-family dwelling; and

13 “(b) Any commercial zone which allows a single-family dwelling.

14 “(2) A city or county may not impose any zoning requirement on the es-
15 tablishment and maintenance of a residential home in a zone described in
16 subsection (1) of this section that is more restrictive than a zoning require-
17 ment imposed on a single-family dwelling in the same zone.

18 “(3) A city or county may:

19 “(a) Allow a residential home in an existing dwelling in any area zoned
20 for farm use, including an exclusive farm use zone established under ORS
21 215.203;

22 “(b) Impose zoning requirements on the establishment of a residential
23 home in areas described in paragraph (a) of this subsection, provided that
24 these requirements are no more restrictive than those imposed on other
25 nonfarm single-family dwellings in the same zone; and

26 “(c) Allow a division of land for a residential home in an exclusive farm
27 use zone only as described in ORS 215.263 (9).

28
29 **“OPERATIVE DATE**
30

1 **“SECTION 64.** (1) Sections 2, 3, 8, 15 and 50 of this 2025 Act and the
2 amendments to statutes by sections 4 to 6, 9 to 13, 16 to 37, 41 and 51
3 to 57 of this 2025 Act become operative on January 1, 2026.

4 **“(2)** The Oregon Health Authority may take any action before the
5 operative date specified in subsection (1) of this section that is neces-
6 sary to enable the authority, on and after the operative date specified
7 in subsection (1) of this section, to undertake and exercise all of the
8 duties, functions and powers conferred on the authority by this 2025
9 Act.

10
11 **“CAPTIONS**
12

13 **“SECTION 65.** The unit captions used in this 2025 Act are provided
14 only for the convenience of the reader and do not become part of the
15 statutory law of this state or express any legislative intent in the
16 enactment of this 2025 Act.

17
18 **“EMERGENCY CLAUSE**
19

20 **“SECTION 66.** This 2025 Act being necessary for the immediate
21 preservation of the public peace, health and safety, an emergency is
22 declared to exist, and this 2025 Act takes effect on its passage.”.
23
