

Senate Bill 1522

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Human Services)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act repeals the statutes that allowed a person to be ordered by a court to stay in a facility against their will on the basis of having an IDD.

The Act forbids a public body from denying services meant for persons with mental illness on the basis that a person also has an IDD.

The Act takes effect on July 1, 2025. (Flesch Readability Score: 63.3).

Repeals statutes authorizing the involuntary commitment of an individual based on an intellectual disability.

Prohibits a public body from denying services related to mental illness on the basis that the individual seeking services also has an intellectual or developmental disability.

Takes effect on July 1, 2025.

A BILL FOR AN ACT

1
2 Relating to individuals with intellectual disabilities; creating new provisions; amending ORS 21.010,
3 109.322, 161.367, 161.370, 161.371, 166.273, 179.325, 179.471, 179.485, 179.492, 181A.290, 421.245,
4 421.284, 421.296, 426.005, 427.101, 428.210, 428.220, 428.230, 428.240, 428.260, 428.270 and 480.225;
5 repealing ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265, 427.270, 427.275, 427.280,
6 427.285, 427.290, 427.292, 427.293, 427.295, 427.300 and 427.306; and prescribing an effective date.

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

8 **SECTION 1. ORS 179.478, 427.215, 427.235, 427.245, 427.255, 427.265, 427.270, 427.275, 427.280,**
9 **427.285, 427.290, 427.292, 427.293, 427.295, 427.300 and 427.306 are repealed.**

10 **SECTION 2. (1) As used in this section, “services” includes but is not limited to hospital**
11 **services, psychiatric services, community-based services and residential services.**

12 **(2) A public body, as defined in ORS 174.109, may not deny access to services provided to**
13 **individuals with mental illness on the basis that the individual seeking the services also has**
14 **an intellectual disability.**

15 **SECTION 3. ORS 21.010 is amended to read:**

16 21.010. (1) Except as provided in this section, the appellant in an appeal or the petitioner in a
17 judicial review in the Supreme Court or the Court of Appeals shall pay a filing fee of \$391 in the
18 manner prescribed by ORS 19.265. The respondent in such case and any other person appearing in
19 the appeal, upon entering first appearance or filing first brief in the court, shall pay to the State
20 Court Administrator a filing fee of \$391. The party entitled to costs and disbursements on such ap-
21 peal shall recover from the opponent the amount so paid.

22 (2) Filing and appearance fees may not be assessed in appeals from habeas corpus proceedings
23 under ORS 34.710, post-conviction relief proceedings under ORS 138.650, juvenile court under ORS
24 419A.200[,] **or** the involuntary commitment of persons determined to be persons with mental illness
25 under ORS 426.135 [*or persons determined to have an intellectual disability under ORS 427.295*] or

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

1 orders of the State Board of Parole and Post-Prison Supervision or on judicial review of orders en-
 2 tered under ORS 161.315 to 161.351 by the Psychiatric Security Review Board.

3 (3) Filing and appearance fees shall be assessed in an appeal from an appeal to a circuit court
 4 from a justice court or municipal court in an action alleging commission of a state offense desig-
 5 nated as a violation or an action alleging violation of a city charter or ordinance, but not in an
 6 action alleging commission of a state crime.

7 (4) Filing and appearance fees shall only be assessed in an appeal in a contempt proceeding
 8 seeking imposition of remedial sanctions under the provisions of ORS 33.055.

9 (5) The filing and appearance fees established by this section apply to cases of original juris-
 10 diction in the Supreme Court.

11 **SECTION 4.** ORS 109.322 is amended to read:

12 109.322. (1) If a parent has been adjudged to be a person with mental illness under ORS 426.130
 13 [*or a person with an intellectual disability who is in need of commitment for residential care, treatment*
 14 *and training under ORS 427.290,*] and remains so at the time of the adoption proceedings, or if a
 15 parent is imprisoned in a state or federal prison under a sentence for a term of not less than three
 16 years and has actually served three years, the petitioner, in accordance with ORS 109.330, shall
 17 serve on the parent, if the parent has not consented in writing to the adoption, a summons and a
 18 motion and order to show cause why the adoption of the child should not be ordered without the
 19 parent's consent.

20 (2) In the case of a parent adjudged to be a person with mental illness under ORS 426.130 [*or*
 21 *a person with an intellectual disability who is in need of commitment for residential care, treatment*
 22 *and training under ORS 427.290,*] the petitioner shall also serve the summons and the motion and
 23 order to show cause upon the guardian of the parent. If the parent has no guardian, the court shall
 24 appoint a guardian ad litem to appear for the parent in the adoption proceedings.

25 (3) Upon hearing, except as provided in ORS 109.330 (8) if the child is an Indian child, if the
 26 court finds that the adoption is in the best interests of the child, the consent of the parent who is
 27 imprisoned or adjudged to be a person with mental illness [*or an intellectual disability*] is not re-
 28 quired, and the court may proceed regardless of the objection of the parent.

29 (4) This section does not apply when consent is given in loco parentis under ORS 109.325 or
 30 109.327.

31 **SECTION 5.** ORS 161.367 is amended to read:

32 161.367. (1) If at any time the court determines that the defendant lacks fitness to proceed, the
 33 court shall further determine whether there is a substantial probability that the defendant, in the
 34 foreseeable future, will gain or regain fitness to proceed. If the court determines that there is no
 35 substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to
 36 proceed, the court shall dismiss, without prejudice and in accordance with subsection (6) of this
 37 section, all charges against the defendant and:

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

39 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or 427.235 to 427.292*].

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

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

1 (c) The court may, upon its own motion or the request of either party, hold a hearing to deter-
 2 mine whether the defendant has gained or regained fitness to proceed. If the court determines that
 3 the defendant has gained or regained fitness to proceed, the court shall resume the criminal pro-
 4 ceeding unless the court determines that so much time has elapsed since the commitment or release
 5 of the defendant to community restoration services that it would be unjust to resume the criminal
 6 proceeding. If the court determines that it would be unjust to resume the criminal proceeding, the
 7 court, on motion of either party, may dismiss the charge in accordance with subsection (6) of this
 8 section, and may order the defendant to be discharged or cause a proceeding to be commenced
 9 forthwith under ORS 426.070 to 426.170[,] **or** 426.701 [*or 427.235 to 427.292*].

10 (3) If the defendant gains or regains fitness to proceed, the defendant shall be given credit
 11 against each charge alleged in the accusatory instrument for each day the defendant was committed
 12 under ORS 161.370 to the custody of a state mental hospital, or to the custody of a secure intensive
 13 community inpatient facility designated by the Oregon Health Authority.

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

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

24 (6) If the court intends to dismiss all charges involving orders of commitment against a defend-
 25 ant who is committed to and currently located at a state mental hospital or other facility, the court
 26 shall order that the defendant be immediately transported back to the jurisdiction in which the
 27 charges were initiated, and the dismissal shall take effect only upon the defendant's arrival in that
 28 jurisdiction.

29 **SECTION 6.** ORS 161.370 is amended to read:

30 161.370. (1)(a) When the defendant's fitness to proceed is drawn in question, the issue shall be
 31 determined by the court.

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

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

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

1 (c) If the parties agree as to the appropriate action under this section, the court may, after
 2 making all findings required by law, enter any order authorized by this section. If the parties do not
 3 agree as to the appropriate action, the court and the parties shall, at a hearing, consider an ap-
 4 propriate action in the case, and the court shall make a determination and enter an order necessary
 5 to implement the action. In determining the appropriate action, the court shall consider the primary
 6 and secondary release criteria as defined in ORS 135.230, the least restrictive option appropriate for
 7 the defendant, the needs of the defendant and the interests of justice. Actions may include but are
 8 not limited to:

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

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

13 (C) Commencement of a civil commitment proceeding under ORS 426.070 to 426.170[,] **or** 426.701
 14 [or 427.235 to 427.292];

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

16 (E) Dismissal of the charges pursuant to ORS 135.755 and in accordance with ORS 161.367 (6).

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

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

33 (3)(a) If the most serious offense in the charging instrument is a felony, the court shall commit
 34 the defendant to the custody of the superintendent of a state mental hospital or director of a facility
 35 designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the
 36 custody of the director of a secure intensive community inpatient facility designated by the author-
 37 ity if the defendant is under 18 years of age, if the court makes the following findings:

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

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

45 (b) If the defendant is committed under this subsection, the community mental health program

1 director, or director's designee, shall at regular intervals, during any period of commitment, review
2 available community restoration services and maintain communication with the defendant and the
3 superintendent of the state mental hospital or director of the facility in order to facilitate an effi-
4 cient transition to treatment in the community when ordered.

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

8 (4)(a) If the most serious offense in the charging instrument is a misdemeanor, the court may
9 not commit the defendant to the custody of the superintendent of a state mental hospital or director
10 of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age,
11 or to the custody of the director of a secure intensive community inpatient facility designated by
12 the authority if the defendant is under 18 years of age, unless the court:

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

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

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

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

22 (ii) There are public safety concerns; and

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

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

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

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

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

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

41 (5) If the most serious offense in the charging instrument is a violation, the court may not
42 commit the defendant to the custody of the superintendent of a state mental hospital or director of
43 a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age,
44 or to the custody of the director of a secure intensive community inpatient facility designated by
45 the authority if the defendant is under 18 years of age.

1 (6)(a) If the court does not order the commitment of the defendant under subsection (3) or (4)
 2 of this section, if commitment is precluded under subsection (5) of this section or if the court de-
 3 termines that care other than commitment would better serve the defendant and the community, the
 4 court shall release the defendant, pursuant to an order that the defendant engage in community
 5 restoration services, until the defendant has gained or regained fitness to proceed, or until the court
 6 finds there is no substantial probability that the defendant will, within the foreseeable future, gain
 7 or regain fitness to proceed. The court may not order the defendant to engage in community resto-
 8 ration services in another county without permission from the other county.

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

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

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

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

23 **SECTION 7.** ORS 161.371 is amended to read:

24 161.371. (1) The superintendent of a state mental hospital or director of a facility to which the
 25 defendant is committed under ORS 161.370 shall cause the defendant to be evaluated within 60 days
 26 from the defendant's delivery into the superintendent's or director's custody, for the purpose of de-
 27 termining whether there is a substantial probability that, in the foreseeable future, the defendant
 28 will have fitness to proceed. In addition, the superintendent or director shall:

29 (a) Immediately notify the committing court if the defendant, at any time, gains or regains fit-
 30 ness to proceed or if there is no substantial probability that, within the foreseeable future, the de-
 31 fendant will gain or regain fitness to proceed.

32 (b) Within 90 days of the defendant's delivery into the superintendent's or director's custody,
 33 notify the committing court that:

34 (A) The defendant has present fitness to proceed;

35 (B) There is no substantial probability that, in the foreseeable future, the defendant will gain
 36 or regain fitness to proceed; or

37 (C) There is a substantial probability that, in the foreseeable future, the defendant will gain or
 38 regain fitness to proceed. If the probability exists, the superintendent or director shall give the court
 39 an estimate of the time in which the defendant, with appropriate treatment, is expected to gain or
 40 regain fitness to proceed.

41 (c) Notify the court if court-ordered involuntary medication is necessary for the defendant to
 42 gain or regain fitness to proceed and, if appropriate, submit a report to the court under ORS 161.372.

43 (2)(a) If the superintendent of the state mental hospital or director of the facility to which the
 44 defendant is committed determines that there is a substantial probability that, in the foreseeable
 45 future, the defendant will gain or regain fitness to proceed, unless the court otherwise orders, the

1 defendant shall remain in the superintendent's or director's custody where the defendant shall re-
2 ceive treatment designed for the purpose of enabling the defendant to gain or regain fitness to pro-
3 ceed. In keeping with the notice requirement under subsection (1)(b) of this section, the
4 superintendent or director shall, for the duration of the defendant's period of commitment, submit
5 a progress report to the committing court, concerning the defendant's fitness to proceed, at least
6 once every 180 days as measured from the date of the defendant's delivery into the superintendent's
7 or director's custody.

8 (b) A progress report described in paragraph (a) of this subsection may consist of an update to:

9 (A) The original examination report conducted under ORS 161.365; or

10 (B) An evaluation conducted under subsection (1) of this section, if the defendant did not receive
11 an examination under ORS 161.365.

12 (3)(a) Notwithstanding subsection (2) of this section, if the most serious offense in the charging
13 instrument is a felony, and the superintendent of the state mental hospital or director of the facility
14 to which the defendant is committed determines that a hospital level of care is no longer necessary
15 due to present public safety concerns and the acuity of symptoms of the defendant's qualifying
16 mental disorder, the superintendent or director may file notice of the determination with the court.
17 Upon receipt of the notice, the court shall order that a community mental health program director
18 or the director's designee, within five judicial days:

19 (A) Consult with the defendant and with any local entity that would be responsible for providing
20 community restoration services, if the defendant were to be released in the community, to determine
21 whether community restoration services are present and available in the community; and

22 (B) Provide the court and the parties with recommendations from the consultation.

23 (b) Notwithstanding subsection (2) of this section, if the most serious offense in the charging
24 instrument is a felony, and the community mental health program director determines that commu-
25 nity restoration services that would mitigate any risk posed by the defendant are present and
26 available in the community, the community mental health program director may file notice of the
27 determination with the court. Upon receipt of the notice, the court shall order that the superinten-
28 dent of the state mental hospital or director of the facility to which the defendant is committed,
29 within five judicial days:

30 (A) Evaluate the defendant to determine whether a hospital level of care is no longer necessary
31 due to present public safety concerns, or no longer necessary due to the acuity of symptoms of the
32 defendant's qualifying mental disorder; and

33 (B) Provide the court and the parties with recommendations from the evaluation.

34 (c) Within 10 judicial days of receiving the recommendations described in paragraph (a) or (b)
35 of this subsection, the court shall hold a hearing to determine an appropriate action in accordance
36 with ORS 161.370 (2)(c) as follows:

37 (A) If, after consideration of the factors and possible actions described in ORS 161.370 (2)(c) and
38 any recommendations received under paragraph (a) or (b) of this subsection, the court determines
39 that a hospital level of care is necessary due to public safety concerns or the acuity of symptoms
40 of the defendant's qualifying mental disorder, and that based on the consultation or evaluation de-
41 scribed in paragraph (a) or (b) of this subsection, any information provided by community-based
42 mental health providers or any other sources, primary and secondary release criteria as defined in
43 ORS 135.230, and any other information the court finds to be trustworthy and reliable, the appro-
44 priate community restoration services are not present and available in the community, the court
45 may continue the commitment of the defendant.

1 (B) If the court does not make the determination described in subparagraph (A) of this para-
2 graph, the court shall terminate the commitment and shall set a review hearing seven days from the
3 date of the commitment termination for any defendant remaining in custody. At the review hearing,
4 the court shall consider all relevant information, determine an appropriate action in the case as
5 described in ORS 161.370 (2)(c) and enter an order in accordance with the defendant's constitutional
6 rights to due process.

7 (4)(a) Notwithstanding subsection (2) of this section, if the most serious offense in the charging
8 instrument is a misdemeanor, and the superintendent of the state mental hospital or director of the
9 facility to which the defendant is committed determines that the defendant no longer needs a hos-
10 pital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder or
11 there are not present public safety concerns, the superintendent or director shall file notice of the
12 determination with the court, along with recommendations regarding the necessary community res-
13 toration services that would mitigate any risk presented by the defendant. Upon receipt of the no-
14 tice, the court shall order that a community mental health program director or the director's
15 designee, within five judicial days:

16 (A) Consult with the defendant and with any local entity that would be responsible for providing
17 community restoration services, if the defendant were to be released in the community, to determine
18 whether appropriate community restoration services are present and available in the community;
19 and

20 (B) Provide the court and the parties with recommendations from the consultation.

21 (b) Notwithstanding subsection (2) of this section, if the most serious offense in the charging
22 instrument is a misdemeanor, and the community mental health program director determines that
23 the community restoration services that would mitigate any risk posed by the defendant are present
24 and available in the community, the community mental health program director may file notice of
25 the determination with the court. Upon receipt of the notice, the court shall order that the super-
26 intendent of the state mental hospital or director of the facility to which the defendant is committed,
27 within five judicial days:

28 (A) Evaluate the defendant to determine whether a hospital level of care is no longer necessary
29 due to present public safety concerns, or no longer necessary due to the acuity of symptoms of the
30 defendant's qualifying mental disorder; and

31 (B) Provide the court and the parties with recommendations from the evaluation.

32 (c) Within 10 judicial days of receiving the recommendations described in paragraph (a) or (b)
33 of this subsection, the court shall hold a hearing to determine an appropriate action in accordance
34 with ORS 161.370 (2)(c) as follows:

35 (A) After consideration of the factors and possible actions described in ORS 161.370 (2)(c), the
36 consultation or evaluation and any recommendations described in paragraph (a) or (b) of this sub-
37 section, and any other information the court finds to be trustworthy and reliable, the court may
38 continue the commitment of the defendant if the court makes written findings that a hospital level
39 of care is necessary due to public safety concerns and the acuity of symptoms of the defendant's
40 qualifying mental disorder, and that appropriate community restoration services are not present and
41 available in the community.

42 (B) If the court does not make the findings described in subparagraph (A) of this paragraph, the
43 court shall terminate the commitment and shall set a review hearing seven days from the date of
44 the commitment termination for any defendant remaining in custody. At the review hearing, the
45 court shall consider all relevant information, determine an appropriate action in the case as de-

1 scribed in ORS 161.370 (2)(c) and enter an order in accordance with the defendant's constitutional
2 rights to due process.

3 (5)(a) If a defendant remains committed under this section, the court shall determine within a
4 reasonable period of time whether there is a substantial probability that, in the foreseeable future,
5 the defendant will gain or regain fitness to proceed. However, regardless of the number of charges
6 with which the defendant is accused, in no event shall the defendant be committed for longer than
7 whichever of the following, measured from the defendant's initial custody date, is shorter:

8 (A) Three years; or

9 (B) A period of time equal to the maximum sentence the court could have imposed if the de-
10 fendant had been convicted.

11 (b) For purposes of calculating the maximum period of commitment described in paragraph (a)
12 of this subsection:

13 (A) The initial custody date is the date on which the defendant is first committed under this
14 section on any charge alleged in the accusatory instrument; and

15 (B) The defendant shall be given credit against each charge alleged in the accusatory instru-
16 ment:

17 (i) For each day the defendant is committed under this section, whether the days are consecutive
18 or are interrupted by a period of time during which the defendant has gained or regained fitness to
19 proceed; and

20 (ii) Unless the defendant is charged on any charging instrument with aggravated murder or a
21 crime listed in ORS 137.700 (2), for each day the defendant is held in jail before and after the date
22 the defendant is first committed, whether the days are consecutive or are interrupted by a period
23 of time during which the defendant lacks fitness to proceed.

24 (c) The superintendent of the state mental hospital or director of the facility to which the de-
25 fendant is committed shall notify the committing court of the defendant's impending discharge 30
26 days before the date on which the superintendent or director is required to discharge the defendant
27 under this subsection.

28 (6)(a) All notices required under this section shall be filed with the court and may be filed
29 electronically. The clerk of the court shall cause copies of the notices to be delivered to both the
30 district attorney and the counsel for the defendant.

31 (b) When the committing court receives a notice from the superintendent or director under
32 subsection (1) of this section concerning the defendant's progress or lack thereof, or under sub-
33 section (5) of this section concerning the defendant's impending discharge, the committing court
34 shall determine, after a hearing if a hearing is requested, whether the defendant presently has fit-
35 ness to proceed.

36 (7) If at any time the court determines that the defendant lacks fitness to proceed, the court
37 shall further determine whether the defendant is entitled to discharge under subsection (5) of this
38 section. If the court determines that the defendant is entitled to discharge under subsection (5) of
39 this section, the court shall dismiss, without prejudice and in accordance with ORS 161.367 (6), all
40 charges against the defendant and:

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

42 (b) Initiate commitment proceedings under ORS 426.070[,] **or** 426.701 [*or 427.235 to 427.292*].

43 **SECTION 8.** ORS 166.273 is amended to read:

44 166.273. (1) A person barred from transporting, shipping, possessing or receiving a firearm may
45 file a petition with the Psychiatric Security Review Board for relief from the bar if:

- 1 (a) The person is barred from possessing a firearm under ORS 166.250 (1)(c)(D) or (E);
- 2 (b) The person is barred from receiving a firearm under ORS 166.470 (1)(e) or (f) or, if the person
- 3 has been found guilty except for insanity of a misdemeanor involving violence, ORS 166.470 (1)(g);
- 4 or
- 5 (c) The person is barred from possessing, receiving, shipping or transporting a firearm under 18
- 6 U.S.C. 922(d)(4) or (g)(4) as the result of a state mental health determination.
- 7 (2) The petitioner shall serve a copy of the petition on:
- 8 (a) The *[Department of Human Services and the]* Oregon Health Authority; and
- 9 (b) The district attorney in each county in which:
- 10 (A) The person was committed by a court to the Oregon Health Authority, or adjudicated by a
- 11 court as a person with mental illness, under ORS 426.130;
- 12 *[(B) The person was committed by a court to the Department of Human Services, or adjudicated*
- 13 *by a court as in need of commitment for residential care, treatment and training, under ORS*
- 14 *427.290;]*
- 15 *[(C)] (B)* The person was found guilty except for insanity under ORS 161.295;
- 16 *[(D)] (C)* The person was found responsible except for insanity under ORS 419C.411; or
- 17 *[(E)] (D)* The person was found by a court to lack fitness to proceed under ORS 161.370.
- 18 (3) Following receipt of the petition, the board shall conduct a contested case hearing, make
- 19 written findings of fact and conclusions of law on the issues before the board and issue a final order.
- 20 Board members from the adult panel, the juvenile panel or a combination of both panels of the board
- 21 may conduct the hearings described in this section.
- 22 (4) The state and any person or entity described in subsection (2) of this section may appear and
- 23 object to and present evidence relevant to the relief sought by the petitioner.
- 24 (5) The board shall grant the relief requested in the petition if the petitioner demonstrates,
- 25 based on the petitioner's reputation, the petitioner's record, the circumstances surrounding the
- 26 firearm disability and any other evidence in the record, that the petitioner will not be likely to act
- 27 in a manner that is dangerous to public safety and that granting the relief would not be contrary
- 28 to the public interest.
- 29 (6) If the board grants the relief requested in the petition, the board shall provide to the De-
- 30 partment of State Police the minimum information necessary, as defined in ORS 181A.290, to enable
- 31 the department to:
- 32 (a) Maintain the information and transmit the information to the federal government as required
- 33 under federal law; and
- 34 (b) Maintain a record of the person's relief from the disqualification to possess or receive a
- 35 firearm under ORS 166.250 (1)(c)(D) or (E) or 166.470 (1)(e), (f) or (g).
- 36 (7) The petitioner may petition for judicial review of a final order of the board. The petition
- 37 shall be filed in the circuit court of a county described in subsection (2)(b) of this section. The re-
- 38 view shall be conducted de novo and without a jury.
- 39 (8) A petitioner may take an appeal from the circuit court to the Court of Appeals. Review by
- 40 the Court of Appeals shall be conducted in accordance with ORS 183.500.
- 41 (9) A person may file a petition for relief under this section no more than once every two years.
- 42 (10) The board shall adopt procedural rules to carry out the provisions of this section.
- 43 (11) As used in this section, "state mental health determination" means:
- 44 (a) A finding by a court that a person lacks fitness to proceed under ORS 161.370;
- 45 (b) A finding that a person is guilty except for insanity of a crime under ORS 161.295 or re-

1 sponsible except for insanity of an act under ORS 419C.411 or any determination by the Psychiatric
2 Security Review Board thereafter; **or**

3 (c) A commitment by a court to the Oregon Health Authority, or an adjudication by a court that
4 a person is a person with mental illness, under ORS 426.130[; *or*].

5 *[(d) A commitment by a court to the Department of Human Services, or an adjudication by a court
6 that a person is in need of commitment for residential care, treatment and training, under ORS
7 427.290.]*

8 **SECTION 9.** ORS 179.325 is amended to read:

9 179.325. *[(1) The Department of Human Services may order the change, in all or part, of the pur-
10 pose and use of any state institution being used as an institution for the care and treatment of persons
11 with developmental disabilities in order to care for persons committed to its custody whenever the de-
12 partment determines that a change in purpose and use will better enable this state to meet its respon-
13 sibilities to persons with developmental disabilities. In determining whether to order the change, the
14 department shall consider changes in the number and source of the admissions of persons with devel-
15 opmental disabilities.]*

16 *[(2)]* The Oregon Health Authority may order the change, in all or part, of the purpose and use
17 of any state institution being used as an institution for the care and treatment of persons with
18 mental illness in order to care for persons committed to its custody whenever the authority deter-
19 mines that a change in purpose and use will better enable this state to meet its responsibilities to
20 persons with mental illness. In determining whether to order the change, the authority shall con-
21 sider changes in the number and source of the admissions of persons with mental illness.

22 **SECTION 10.** ORS 179.471 is amended to read:

23 179.471. As used in ORS 179.473 *[and 179.478]*, unless the context requires otherwise:

24 (1) “Adjudicated youth” has the meaning given that term in ORS 419A.004.

25 (2) “Youth correction facility” has the meaning given that term in ORS 420.005.

26 **SECTION 11.** ORS 179.485 is amended to read:

27 179.485. Persons transferred to a state institution for persons with mental illness *[or intellectual
28 disabilities]* under ORS 179.473*[, 179.478]* and 420.505 shall be entitled to the same legal rights as
29 any other persons admitted to those institutions.

30 **SECTION 12.** ORS 179.492 is amended to read:

31 179.492. (1) The Department of Corrections, the Department of Human Services or the Oregon
32 Health Authority shall dispense as written a prescription for a brand-name mental health drug pre-
33 scribed for a person while the person is in the custody of an institution described in ORS 179.321
34 *[or who has been committed pursuant to ORS 427.235 to 427.292]*, if the prescription specifies “dis-
35 pensate as written” or contains the notation “D.A.W.” or other words of similar meaning.

36 (2) If, at the time of commitment to the custody of an institution described in ORS 179.321 *[or
37 to the custody of the Department of Human Services under ORS 427.290]*, a person has a prescription
38 for a specified brand-name mental health drug and the prescription specifies “dispense as written”
39 or contains the notation “D.A.W.” or other words of similar meaning, the Department of
40 Corrections*[, the Department of Human Services]* or the Oregon Health Authority shall ensure that
41 the person is prescribed the specified brand-name drug until a licensed health professional with
42 prescriptive privileges evaluates the person and becomes responsible for the treatment of the person.

43 **SECTION 13.** ORS 181A.290 is amended to read:

44 181A.290. (1) The *[Department of Human Services, the]* Oregon Health Authority, the Psychiatric
45 Security Review Board and the Judicial Department shall provide the Department of State Police

1 with the minimum information necessary to identify persons who:

2 (a) Have been committed by a court to the Oregon Health Authority under ORS 426.130, based
 3 on a finding that the person is dangerous to self or others;

4 (b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting the person from pur-
 5 chasing or possessing a firearm;

6 [(c) Have been committed by a court to the Department of Human Services under ORS 427.290,
 7 based on a finding that the person is dangerous to self or others;]

8 [(d)] (c) Have been found by a court to lack fitness to proceed under ORS 161.370;

9 [(e)] (d) Have been found guilty except for insanity of a crime under ORS 161.290 to 161.373;

10 [(f)] (e) Have been found responsible except for insanity for an act under ORS 419C.411;

11 [(g)] (f) Have been placed under the jurisdiction of the Psychiatric Security Review Board under
 12 ORS 161.315 to 161.351; or

13 [(h)] (g) Have been committed to a state hospital or facility under ORS 161.315 to 161.351 or
 14 419C.529 to 419C.544.

15 (2) Upon receipt of the information described in this section, the Department of State Police
 16 shall access and maintain the information and transmit the information to the federal government
 17 as required under federal law.

18 (3) The [Department of Human Services, the] Oregon Health Authority, the Psychiatric Security
 19 Review Board and the Judicial Department shall enter into agreements with the Department of State
 20 Police describing the access to information provided under this section.

21 (4) The Department of State Police shall adopt rules:

22 (a) After consulting with the [Department of Human Services, the] Oregon Health Authority, the
 23 Psychiatric Security Review Board and the Judicial Department, describing the type of information
 24 provided to the Department of State Police under this section; and

25 (b) Describing the method and manner of maintaining the information described in this section
 26 and transmitting the information to the federal government.

27 (5) As used in this section, “minimum information necessary” means data elements or nominal
 28 information that is necessary or required under federal law to accurately identify a person described
 29 in this section and includes the person’s name, date of birth, gender and reference information that
 30 identifies the originating agency or court and enables the originating agency or court to locate an
 31 underlying record or file of a person described in this section. “Minimum information necessary”
 32 does not include any medical, psychiatric or psychological information, case histories or files of a
 33 person described in this section or any record or file of an originating agency or court.

34 **SECTION 14.** ORS 421.245 is amended to read:

35 421.245. The Interstate Corrections Compact is enacted into law and entered into by this state
 36 with all other jurisdictions legally joining therein in the form substantially as follows:

37
 38
 39 **ARTICLE I**
 40 **PURPOSE AND POLICY**

41 The party states, desiring by common action to fully utilize and improve their institutional fa-
 42 cilities and provide adequate programs for the confinement, treatment and rehabilitation of various
 43 types of offenders, declare that it is the policy of each of the party states to provide such facilities
 44 and programs on a basis of cooperation with one another, thereby serving the best interests of such
 45 offenders and of society and effecting economies in capital expenditures and operational costs. The

1 purpose of this compact is to provide for the mutual development and execution of such programs
 2 of cooperation for the confinement, treatment and rehabilitation of offenders with the most eco-
 3 nomical use of human and material resources.

4 ARTICLE II
 5 DEFINITIONS

6 As used in this compact, unless the context clearly requires otherwise:

7 (1) "State" means a state of the United States, the United States of America, a territory or
 8 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico.

9 (2) "Sending state" means a state party to this compact in which conviction or court commit-
 10 ment was had.

11 (3) "Receiving state" means a state party to this compact to which an inmate is sent for con-
 12 finement other than a state in which conviction or court commitment was had.

13 (4) "Inmate" means a male or female offender who is committed, under sentence to or confined
 14 in a penal or correctional institution.

15 (5) "Institution" means any penal or correctional facility, including but not limited to a facility
 16 for persons with mental illness [*or intellectual disabilities*], in which inmates as defined in subsection
 17 (4) of this Article may lawfully be confined.

18 ARTICLE III
 19 CONTRACTS

20 (1) Each party state may make one or more contracts with any one or more of the other party
 21 states for the confinement of inmates on behalf of a sending state in institutions situated within
 22 receiving states. Any such contract shall provide for:

23 (a) Its duration.

24 (b) Payments to be made to the receiving state by the sending state for inmate maintenance,
 25 extraordinary medical and dental expenses, and any participation in or receipt by inmates of
 26 rehabilitative or correctional services, facilities, programs or treatment not reasonably included as
 27 part of normal maintenance.

28 (c) Participation in programs of inmate employment, if any, the disposition or crediting of any
 29 payments received by inmates on account thereof, and the crediting of proceeds from or disposal of
 30 any products resulting therefrom.

31 (d) Delivery and retaking of inmates.

32 (e) Such other matters as may be necessary and appropriate to fix the obligations, responsibil-
 33 ities and rights of the sending and receiving states.

34 (2) The terms and provisions of this compact shall be a part of any contract entered into by the
 35 authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

36 ARTICLE IV
 37 PROCEDURES AND RIGHTS

38 (1) Whenever the duly constituted authorities in a state party to this compact, and which has
 39 entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an
 40 inmate to, an institution within the territory of another party state is necessary or desirable in or-
 41 der to provide adequate quarters and care or an appropriate program of rehabilitation or treatment,
 42 said officials may direct that the confinement be within an institution within the territory of said
 43 other party state, the receiving state to act in that regard solely as agent for the sending state.

44 (2) The appropriate officials of any state party to this compact shall have access, at all reason-
 45 able times, to any institution in which it has a contractual right to confine inmates for the purpose

1 of inspecting the facilities thereof and visiting such of its inmates as may be confined in the insti-
2 tution.

3 (3) Inmates confined in an institution pursuant to the terms of this compact shall at all times
4 be subject to the jurisdiction of the sending state and may at any time be removed therefrom for
5 transfer to a prison or other institution within the sending state, for transfer to another institution
6 in which the sending state may have a contractual or other right to confine inmates, for release on
7 probation or parole, for discharge, or for any other purpose permitted by the laws of the sending
8 state; provided, that the sending state shall continue to be obligated to such payments as may be
9 required pursuant to the terms of any contract entered into under the terms of Article III.

10 (4) Each receiving state shall provide regular reports to each sending state on the inmates of
11 that sending state in institutions pursuant to this compact including a conduct record of each inmate
12 and certify said record to the official designated by the sending state, in order that each inmate
13 may have official review of his or her record in determining and altering the disposition of said in-
14 mate in accordance with the law which may obtain in the sending state and in order that the same
15 may be a source of information for the sending state.

16 (5) All inmates who may be confined in an institution pursuant to the provisions of this compact
17 shall be treated in a reasonable and humane manner and shall be treated equally with such similar
18 inmates of the receiving state as may be confined in the same institution. The fact of confinement
19 in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate
20 would have had if confined in an appropriate institution of the sending state.

21 (6) Any hearing or hearings to which an inmate confined pursuant to this compact may be en-
22 titled by the laws of the sending state may be had before the appropriate authorities of the sending
23 state, or of the receiving state if authorized by the sending state. The receiving state shall provide
24 adequate facilities for such hearings as may be conducted by the appropriate officials of a sending
25 state. In the event such hearing or hearings are had before officials of the receiving state, the gov-
26 erning law shall be that of the sending state and a record of the hearing or hearings as prescribed
27 by the sending state shall be made. Said record together with any recommendations of the hearing
28 officials shall be transmitted forthwith to the official or officials before whom the hearing would
29 have been had if it had taken place in the sending state. In any and all proceedings had pursuant
30 to the provisions of this subsection, the officials of the receiving state shall act solely as agents of
31 the sending state and no final determination shall be made in any matter except by the appropriate
32 officials of the sending state.

33 (7) Any inmate confined pursuant to this compact shall be released within the territory of the
34 sending state unless the inmate, and the sending and receiving states, shall agree upon release in
35 some other place. The sending state shall bear the cost of such return to its territory.

36 (8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to
37 participate in and derive any benefits or incur or be relieved of any obligations or have such obli-
38 gations modified or the status of the inmate changed on account of any action or proceeding in
39 which the inmate could have participated if confined in any appropriate institution of the sending
40 state located within such state.

41 (9) The parent, guardian, trustee, or other person or persons entitled under the laws of the
42 sending state to act for, advise, or otherwise function with respect to any inmate shall not be de-
43 prived of or restricted in the exercise of any power in respect of any inmate confined pursuant to
44 the terms of this compact.

45 ARTICLE V

ACTS NOT REVIEWABLE IN RECEIVING STATE; EXTRADITION

(1) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(2) An inmate who escapes from an institution in which the inmate is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained in this compact shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

FEDERAL AID

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision; provided, that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

ENTRY INTO FORCE

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII

WITHDRAWAL AND TERMINATION

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

OTHER ARRANGEMENTS UNAFFECTED

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, reha-

1 bilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the
 2 making of cooperative institutional arrangements.

3 ARTICLE X

4 CONSTRUCTION AND SEVERABILITY

5 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
 6 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
 7 participating state or of the United States or the applicability thereof to any government, agency,
 8 person or circumstance is held invalid, the validity of the remainder of this compact and the appli-
 9 cability thereof to any government, agency, person or circumstance shall not be affected thereby.
 10 If this compact shall be held contrary to the constitution of any state participating therein, the
 11 compact shall remain in full force and effect as to the remaining states and in full force and effect
 12 as to the state affected as to all severable matters.

13 _____
 14
 15 **SECTION 15.** ORS 421.284 is amended to read:

16 421.284. The Western Interstate Corrections Compact hereby is enacted into law and entered
 17 into on behalf of this state with all other states legally joining therein in a form substantially as
 18 follows:
 19 _____

20
 21 ARTICLE I

22 PURPOSE AND POLICY

23 The party states, desiring by common action to improve their institutional facilities and provide
 24 programs of sufficiently high quality for the confinement, treatment and rehabilitation of various
 25 types of offenders, declare that it is the policy of each of the party states to provide such facilities
 26 and programs on a basis of cooperation with one another, thereby serving the best interests of such
 27 offenders and of society. The purpose of this compact is to provide for the development and exe-
 28 cution of such programs of cooperation for the confinement, treatment and rehabilitation of
 29 offenders.

30 ARTICLE II

31 DEFINITIONS

32 As used in this compact, unless the context clearly requires otherwise:

33 (a) "State" means a state of the United States or, subject to the limitation contained in Article
 34 VII, Guam.

35 (b) "Sending state" means a state party to this compact in which conviction was had.

36 (c) "Receiving state" means a state party to this compact to which an inmate is sent for con-
 37 finement other than a state in which conviction was had.

38 (d) "Inmate" means a male or female offender who is under sentence to or confined in a prison
 39 or other correctional institution.

40 (e) "Institution" means any prison, reformatory or other correctional facility (including but not
 41 limited to a facility for persons with mental illness [*or intellectual disabilities*]) in which inmates may
 42 lawfully be confined.

43 ARTICLE III

44 CONTRACTS

45 (a) Each party state may make one or more contracts with any one or more of the other party

1 states for the confinement of inmates on behalf of a sending state in institutions situated within
2 receiving states. Any such contract shall provide for:

3 1. Its duration.

4 2. Payments to be made to the receiving state by the sending state for inmate maintenance, ex-
5 traordinary medical and dental expenses, and any participation in or receipt by inmates of
6 rehabilitative or correctional services, facilities, programs or treatment not reasonably included as
7 part of normal maintenance.

8 3. Participation in programs of inmate employment, if any; the disposition or crediting of any
9 payments received by inmates on account thereof; and the crediting of proceeds from or disposal of
10 any products resulting therefrom.

11 4. Delivery and retaking of inmates.

12 5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities
13 and rights of the sending and receiving states.

14 (b) Prior to the construction or completion of construction of any institution or addition thereto
15 by a party state, any other party state or states may contract therewith for the enlargement of the
16 planned capacity of the institution or addition thereto, or for the inclusion therein of particular
17 equipment or structures, and for the reservation of a specific percentum of the capacity of the in-
18 stitution to be kept available for use by inmates of the sending state or states so contracting. Any
19 sending state so contracting may, to the extent that monies are legally available therefor, pay to the
20 receiving state, a reasonable sum as consideration for such enlargement of capacity, or provision
21 of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in
22 installments as provided in the contract.

23 (c) The terms and provisions of this compact shall be a part of any contract entered into by the
24 authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

25 ARTICLE IV

26 PROCEDURES AND RIGHTS

27 (a) Whenever the duly constituted judicial or administrative authorities in a state party to this
28 compact, and which has entered into a contract pursuant to Article III, shall decide that confine-
29 ment in, or transfer of an inmate to, an institution within the territory of another party state is
30 necessary in order to provide adequate quarters and care or desirable in order to provide an ap-
31 propriate program of rehabilitation or treatment, said officials may direct that the confinement be
32 within an institution within the territory of said other party state, the receiving state to act in that
33 regard solely as agent for the sending state.

34 (b) The appropriate officials of any state party to this compact shall have access, at all reason-
35 able times, to any institution in which it has a contractual right to confine inmates for the purpose
36 of inspecting the facilities thereof and visiting such of its inmates as may be confined in the insti-
37 tution.

38 (c) Inmates confined in an institution pursuant to the terms of this compact shall at all times
39 be subject to the jurisdiction of the sending state and may at any time be removed therefrom for
40 transfer to a prison or other institution within the sending state, for transfer to another institution
41 in which the sending state may have a contractual or other right to confine inmates, for release on
42 probation or parole, for discharge, or for any other purpose permitted by the laws of the sending
43 state; provided that the sending state shall continue to be obligated to such payments as may be
44 required pursuant to the terms of any contract entered into under the terms of Article III.

45 (d) Each receiving state shall provide regular reports to each sending state on the inmates of

1 that sending state in institutions pursuant to this compact including a conduct record of each inmate
2 and certify said record to the official designated by the sending state, in order that each inmate
3 may have the benefit of his or her record in determining and altering the disposition of said inmate
4 in accordance with the law which may obtain in the sending state and in order that the same may
5 be a source of information for the sending state.

6 (e) All inmates who may be confined in an institution pursuant to the provisions of this compact
7 shall be treated in a reasonable and humane manner and shall be cared for and treated equally with
8 such similar inmates of the receiving state as may be confined in the same institution. The fact of
9 confinement in a receiving state shall not deprive any inmate so confined of any legal rights which
10 said inmate would have had if confined in an appropriate institution of the sending state.

11 (f) Any hearing or hearings to which an inmate confined pursuant to this compact may be enti-
12 tled by the laws of the sending state may be had before the appropriate authorities of the sending
13 state, or of the receiving state if authorized by the sending state. The receiving state shall provide
14 adequate facilities for such hearings as may be conducted by the appropriate officials of a sending
15 state. In the event such hearing or hearings are had before officials of the receiving state, the gov-
16 erning law shall be that of the sending state and a record of the hearing or hearings as prescribed
17 by the sending state shall be made. Said record together with any recommendations of the hearing
18 officials shall be transmitted forthwith to the official or officials before whom the hearing would
19 have been had if it had taken place in the sending state. In any and all proceedings had pursuant
20 to the provisions of this subdivision, the officials of the receiving state shall act solely as agents
21 of the sending state and no final determination shall be made in any matter except by the appro-
22 priate officials of the sending state. Costs of records made pursuant to this subdivision shall be
23 borne by the sending state.

24 (g) Any inmate confined pursuant to this compact shall be released within the territory of the
25 sending state unless the inmate, and the sending and receiving states, shall agree upon release in
26 some other place. The sending state shall bear the cost of such return to its territory.

27 (h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to
28 participate in and derive any benefits or incur or be relieved of any obligations or have such obli-
29 gations modified or the status of the inmate changed on account of any action or proceeding in
30 which the inmate could have participated if confined in any appropriate institution of the sending
31 state located within such state.

32 (i) The parent, guardian, trustee, or other person or persons entitled under the laws of the
33 sending state to act for, advise, or otherwise function with respect to any inmate shall not be de-
34 prived of or restricted in the exercise of any power in respect of any inmate confined pursuant to
35 the terms of this compact.

36 ARTICLE V

37 ACTS NOT REVIEWABLE IN RECEIVING STATE: EXTRADITION

38 (a) Any decision of the sending state in respect of any matter over which it retains jurisdiction
39 pursuant to this compact shall be conclusive upon and not reviewable within the receiving state,
40 but if at the time the sending state seeks to remove an inmate from an institution in the receiving
41 state there is pending against the inmate within such state any criminal charge or if the inmate is
42 suspected of having committed within such state a criminal offense, the inmate shall not be returned
43 without the consent of the receiving state until discharged from prosecution or other form of pro-
44 ceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state
45 shall be permitted to transport inmates pursuant to this compact through any and all states party

1 to this compact without interference.

2 (b) An inmate who escapes from an institution in which the inmate is confined pursuant to this
3 compact shall be deemed a fugitive from the sending state and from the state in which the institu-
4 tion is situated. In the case of an escape to a jurisdiction other than the sending or receiving state,
5 the responsibility for institution of extradition proceedings shall be that of the sending state, but
6 nothing contained herein shall be construed to prevent or affect the activities of officers and agen-
7 cies of any jurisdiction directed toward the apprehension and return of an escapee.

8 ARTICLE VI

9 FEDERAL AID

10 Any state party to this compact may accept federal aid for use in connection with any institu-
11 tion or program, the use of which is or may be affected by this compact or any contract pursuant
12 hereto and any inmate in a receiving state pursuant to this compact may participate in any such
13 federally aided program or activity for which the sending and receiving states have made contrac-
14 tual provision provided that if such program or activity is not part of the customary correctional
15 regimen the express consent of the appropriate official of the sending state shall be required there-
16 for.

17 ARTICLE VII

18 ENTRY INTO FORCE

19 This compact shall enter into force and become effective and binding upon the state so acting
20 when it has been enacted into law by any two contiguous states from among the states of Alaska,
21 Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon,
22 Utah, Washington and Wyoming. For the purposes of this article, Alaska and Hawaii shall be
23 deemed contiguous to each other; to any and all of the states of California, Oregon and Washington;
24 and to Guam. Thereafter, this compact shall enter into force and become effective and binding as
25 to any other of said states, or any other state contiguous to at least one party state upon similar
26 action by such state. Guam may become party to this compact by taking action similar to that pro-
27 vided for joinder by any other eligible party state and upon the consent of Congress to such joinder.
28 For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California,
29 Oregon and Washington.

30 ARTICLE VIII

31 WITHDRAWAL AND TERMINATION

32 This compact shall continue in force and remain binding upon a party state until it shall have
33 enacted a statute repealing the same and providing for the sending of formal written notice of
34 withdrawal from the compact to the appropriate officials of all other party states. An actual with-
35 drawal shall not take effect until two years after the notices provided in said statute have been sent.
36 Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder
37 prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing
38 state shall remove to its territory, at its own expense, such inmates as it may have confined pursu-
39 ant to the provisions of this compact.

40 ARTICLE IX

41 OTHER ARRANGEMENTS UNAFFECTED

42 Nothing contained in this compact shall be construed to abrogate or impair any agreement or
43 other arrangement which a party state may have with a nonparty state for the confinement, reha-
44 bilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the
45 making of cooperative institutional arrangements.

ARTICLE X

CONSTRUCTION AND SEVERABILITY

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

SECTION 16. ORS 421.296 is amended to read:

421.296. The Interstate Forest Fire Suppression Compact is enacted into law and entered into on behalf of this state with all other states legally joining therein in a form substantially as follows:

ARTICLE I

Purpose

The purpose of this compact is to provide for the development and execution of programs to facilitate the use of offenders in the forest fire suppression efforts of the party states for the ultimate protection of life, property and natural resources in the party states. The purpose of this compact is also, in emergent situations, to allow a sending state to cross state lines with an inmate when, because of weather or road conditions, it is necessary to cross state lines to facilitate the transport of an inmate.

ARTICLE II

Definitions

(1) "Sending state" means a state party to this compact from which a fire suppression unit is traveling.

(2) "Receiving state" means a state party to this compact to which a fire suppression unit is traveling.

(3) "Inmate" means a male or female offender who is under sentence to or confined in a prison or other correctional institution.

(4) "Institution" means any prison, reformatory, honor camp or other correctional facility, except facilities for persons with mental illness [*or intellectual disabilities*], in which inmates may lawfully be confined.

(5) "Fire suppression unit" means a group of inmates selected by the sending states, corrections personnel and any other persons deemed necessary for the transportation, supervision, care, security and discipline of inmates to be used in forest fire suppression efforts in the receiving state.

(6) "Forest fire" means any fire burning in any land designated by a party state or the federal land management agencies as forestland.

ARTICLE III

Contracts

(1) Each party state may make one or more contracts with any one or more of the other party states for the assistance of one or more fire suppression units in forest fire suppression efforts. Any

1 such contract shall provide for matters as may be necessary and appropriate to fix the obligations,
 2 responsibilities and rights of the sending and receiving states.

3 (2) The terms and provisions of this compact shall be part of any contract entered into by the
 4 authority of, or pursuant to, this compact. Nothing in any such contract may be inconsistent with
 5 this compact.

6 ARTICLE IV

7 Procedures and Rights

8 (1) Each party state shall appoint a liaison for the coordination and deployment of the fire
 9 suppression units of each party state.

10 (2) Whenever the duly constituted judicial or administrative authorities in a state party to this
 11 compact, which has entered into a contract pursuant to this compact, decide that the assistance of
 12 a fire suppression unit of a party state is required for forest fire suppression efforts, the authorities
 13 may request the assistance of one or more fire suppression units of any state party to this compact
 14 through an appointed liaison.

15 (3) Inmates who are members of a fire suppression unit shall at all times be subject to the ju-
 16 risdiction of the sending state and at all times shall be under the ultimate custody of corrections
 17 officers duly accredited by the sending state.

18 (4) The receiving state must make adequate arrangements for the confinement of inmates who
 19 are members of a fire suppression unit of a sending state in the event corrections officers duly ac-
 20 credited by the sending state make a discretionary determination that an inmate requires institu-
 21 tional confinement.

22 (5) Cooperative efforts shall be made by corrections officers and personnel of the receiving state
 23 located at a fire camp with the corrections officers and other personnel in the establishment and
 24 maintenance of fire suppression unit base camps.

25 (6) All inmates who are members of a fire suppression unit of a sending state shall be cared for
 26 and treated equally with such similar inmates of the receiving state.

27 (7) Further, in emergent situations, a sending state shall be granted authority and all the pro-
 28 tections of this compact to cross state lines with an inmate when, because of road conditions, it is
 29 necessary to facilitate the transport of an inmate.

30 ARTICLE V

31 Acts Not Reviewable

32 in Receiving State: Extradition

33 (1) If while located within the territory of a receiving state there occurs against the inmate
 34 within such state any criminal charge or if the inmate is suspected of committing within such state
 35 a criminal offense, the inmate shall not be returned without the consent of the receiving state until
 36 discharged from prosecution or other form of proceeding, imprisonment or detention for such offense.
 37 The duly accredited officers of the sending state shall be permitted to transport inmates pursuant
 38 to this compact through any and all states party to this compact without interference.

39 (2) An inmate member of a fire suppression unit of the sending state who is deemed to have
 40 escaped by a duly accredited corrections officer of a sending state shall be under the jurisdiction
 41 of both the sending state and the receiving state. Nothing contained in this Article shall be con-
 42 strued to prevent or affect the activities of officers and guards of any jurisdiction directed toward
 43 the apprehension and return of an escapee.

44 ARTICLE VI

45 Entry into Force

1 This compact shall enter into force and become effective and binding upon approval of this
 2 compact by at least two of the states from among the States of Idaho, Oregon and Washington.

3 ARTICLE VII

4 Withdrawal and Termination

5 This compact shall continue in force and remain binding upon a party state until it shall have
 6 enacted a statute repealing the same and providing for the sending of formal written notice of
 7 withdrawal from the compact to the appropriate officials of all other party states.

8 ARTICLE VIII

9 Other Arrangements Unaffected

10 Nothing contained in this compact shall be construed to abrogate or impair any agreement
 11 which a party state may have with a nonparty state for the confinement, rehabilitation or treatment
 12 of inmates nor to repeal any other laws of a party state authorizing the making of cooperative in-
 13 stitutional arrangements.

14 ARTICLE IX

15 Construction and Severability

16 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
 17 clause, sentence or provision of this compact is declared to be contrary to the constitution of any
 18 participating state or of the United States or the applicability thereof to any government, agency,
 19 person or circumstance is held invalid, the validity of the remainder of this compact and the appli-
 20 cability thereof to any government, agency, person or circumstance shall not be affected thereby.
 21 If this compact shall be held contrary to the constitution of any state participating therein, the
 22 compact shall remain in full force and effect as to the remaining states and in full force and effect
 23 as to the state affected as to all severable matters.

24
 25 **SECTION 17.** ORS 426.005 is amended to read:

26 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

27 (a) "Community mental health program director" means the director of an entity that provides
 28 the services described in ORS 430.630 (3) to (5).

29 (b) "Director of the facility" means a superintendent of a state mental hospital, the chief of
 30 psychiatric services in a community hospital or the person in charge of treatment and rehabilitation
 31 programs at other treatment facilities.

32 (c) "Facility" means a state mental hospital, community hospital, residential facility,
 33 detoxification center, day treatment facility or such other facility as the authority determines suit-
 34 able that provides diagnosis and evaluation, medical care, detoxification, social services or rehabil-
 35 itation to persons who are in custody during a prehearing period of detention or who have been
 36 committed to the Oregon Health Authority under ORS 426.130.

37 (d) "Licensed independent practitioner" means:

38 (A) A physician, as defined in ORS 677.010;

39 (B) A nurse practitioner licensed under ORS 678.375 and authorized to write prescriptions under
 40 ORS 678.390; or

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

42 (e) "Nonhospital facility" means any facility, other than a hospital, that is approved by the au-
 43 thority to provide adequate security, psychiatric, nursing and other services to persons under ORS
 44 426.232 or 426.233.
 45

1 (f) “Person with mental illness” means a person who, because of a mental disorder, is one or
 2 more of the following:

3 (A) Dangerous to self or others.

4 (B) Unable to provide for basic personal needs that are necessary to avoid serious physical harm
 5 in the near future, and is not receiving such care as is necessary to avoid such harm.

6 (C) A person:

7 (i) With a chronic mental illness, as defined in ORS 426.495;

8 (ii) Who, within the previous three years, has twice been placed in a hospital or approved in-
 9 patient facility by the authority or the Department of Human Services under ORS 426.060;

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

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

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

18 (2) Whenever a community mental health program director, director of the facility, superinten-
 19 dent of a state hospital or administrator of a facility is referred to **in ORS 426.005 to 426.390**, the
 20 reference includes any designee such person has designated to act on the person’s behalf in the ex-
 21 ercise of duties.

22 **(3) A person with mental illness may be a person with a mental illness who also has an**
 23 **intellectual or developmental disability, but an intellectual or developmental disability is not**
 24 **a mental disorder as used in subsection (1)(f) of this section.**

25 **SECTION 18.** ORS 427.101 is amended to read:

26 427.101. As used in this section and ORS 427.115, 427.121, 427.154, [427.215,] 430.662 and 430.664:

27 (1) “Community living setting” means:

28 (a) A residential setting;

29 (b) An individual’s home or the home of the individual’s family; or

30 (c) Other nonresidential setting.

31 (2) “Developmental disability services” means the following services as provided for individuals
 32 with intellectual or developmental disabilities:

33 (a) Services designed to develop or maintain the individual’s skills in the following areas:

34 (A) Eating, bathing, dressing, personal hygiene, mobility and other personal needs;

35 (B) Self-awareness and self-control, social responsiveness, social amenities, interpersonal skills,
 36 interpersonal relationships and social connections;

37 (C) Community participation, recreation and the ability to use available community services,
 38 facilities or businesses;

39 (D) Expressive and receptive skills in verbal and nonverbal language, the functional application
 40 of acquired reading and writing skills and other communication needs; and

41 (E) Planning and preparing meals, budgeting, laundering, housecleaning and other personal en-
 42 vironmental needs;

43 (b) Case management;

44 (c) Services described in ORS 430.215;

45 (d) Employment services;

- 1 (e) Environmental accessibility adaptations;
- 2 (f) Specialized supports; and
- 3 (g) Specialized medical equipment and supplies.
- 4 (3) "Employment services" means services provided to develop or maintain the skills necessary
- 5 for an individual to obtain and retain employment, including job assessment, job exploration, job
- 6 development, job training, job coaching, work skills, and ongoing supports.
- 7 (4) "Environmental accessibility adaptations" means physical modifications to an individual's
- 8 home that are necessary to ensure the health, welfare and safety of the individual in the home, or
- 9 that enable the individual to function with greater independence in the home.
- 10 (5) "Individualized service plan" means a plan described in ORS 427.107 (2)(i), (j) and (k) that
- 11 identifies the resources, services and purchases necessary for an individual with a developmental
- 12 disability to achieve identified personal goals and maximize self-determination.
- 13 (6) "Person-centered planning" means an informal or formal process for gathering and organizing
- 14 information that helps an individual to:
- 15 (a) Enhance self-determination by choosing personal goals and lifestyle preferences;
- 16 (b) Design strategies and networks of support to achieve personal goals and a preferred lifestyle
- 17 using individual strengths, relationships and resources; and
- 18 (c) Identify, use and strengthen naturally occurring opportunities for support in the home and
- 19 in the community.
- 20 (7) "Residential setting" means one of the following community living settings licensed or regu-
- 21 lated by the Department of Human Services:
- 22 (a) Residential facilities licensed under ORS 443.400 to 443.455;
- 23 (b) Licensed adult foster homes, as defined in ORS 443.705;
- 24 (c) Developmental disability child foster homes certified under ORS 443.835;
- 25 (d) Group homes; and
- 26 (e) Supported living programs.
- 27 (8) "Self-determination" means empowering individuals to:
- 28 (a) Make their own choices and decisions;
- 29 (b) Select and plan, together with freely chosen family members and friends, the developmental
- 30 disability services that are necessary for an individual to live, work and recreate in the setting that
- 31 the individual chooses and in the community;
- 32 (c) Control, or have input regarding, the manner in which resources are used to obtain needed
- 33 services and supports, with the help of a social support network if needed;
- 34 (d) Live an autonomous life in the community, rich in community affiliations, through formal or
- 35 informal arrangements of resources and personnel and contribute to their community in the ways
- 36 they choose;
- 37 (e) Have a valued role in the community through competitive employment, organizational affil-
- 38 iations, personal development and general caring for others in the community, and to be accountable
- 39 for spending public dollars in ways that are life-enhancing for the individual; and
- 40 (f) Speak or act on their own behalf or on behalf of others, including participating in policy-
- 41 making and legislative processes.
- 42 (9) "Service provider" means any person who is paid a service rate by the department to provide
- 43 one or more of the services identified in the individualized service plan of an individual with an
- 44 intellectual or developmental disability regardless of where the service is provided.
- 45 (10) "Service rate" means the amount of reimbursement paid to a service provider to care for

1 an individual with an intellectual or developmental disability.

2 (11)(a) "Specialized medical equipment and supplies" means:

3 (A) Devices, aids, controls, supplies or appliances that enable individuals:

4 (i) To increase their ability to perform activities of daily living; or

5 (ii) To perceive, control or communicate with the environment in which they live;

6 (B) Items necessary for life support, including ancillary supplies and equipment necessary to the
7 proper functioning of these items; and

8 (C) Medical equipment not available in the medical assistance program.

9 (b) "Specialized medical equipment and supplies" does not include items that have no direct
10 medical or remedial benefit to the individual.

11 (12) "Specialized supports" means treatment, training, consultation or other unique services that
12 are not available through the medical assistance program but are necessary to achieve the goals
13 identified in the individualized service plan, or other developmental disability services prescribed
14 by the department by rule.

15 (13) "Support service brokerage" means an entity that contracts with the department to provide
16 or to arrange for developmental disability services.

17 **SECTION 19.** ORS 428.210 is amended to read:

18 428.210. As used in ORS 428.210 to 428.270:

19 (1) "Authority" means the Oregon Health Authority.

20 (2) "Department" means the Department of Human Services.

21 [(3) "Facility" has the meaning given that term in ORS 427.005.]

22 [(4)] (3) "Foreign hospital" means an institution in any other state that corresponds to a state
23 hospital.

24 [(5)] (4) "Nonresident" means any person who is not a resident of this state.

25 [(6)] (5) "Other state" includes all the states, territories, possessions, commonwealths and
26 agencies of the United States and the District of Columbia, with the exception of the State of
27 Oregon.

28 [(7)] (6) "Patient" means any person who has been committed by a court of competent jurisdic-
29 tion to a [facility pursuant to ORS 427.235 to 427.292 or to a] state hospital, except a person com-
30 mitted to a state hospital pursuant to ORS 161.341 or 161.370.

31 [(8)] (7) "Resident of this state" means a person who resides in this state and who has not ac-
32 quired legal residence in any other state. However, a service man or woman on active duty in the
33 Armed Forces of the United States who was domiciled in Oregon upon entry into active duty and
34 who has acquired no other domicile shall be entitled to have his or her child considered a resident
35 of this state so long as no other domicile is acquired by the service man or woman.

36 [(9)] (8) "State hospital" means any institution listed in ORS 426.010.

37 **SECTION 20.** ORS 428.220 is amended to read:

38 428.220. (1) In determining whether or not any person committed by a court of competent juris-
39 diction to a state hospital[,] or foreign hospital [or facility] is a resident of this state:

40 (a) The time spent in a state hospital or foreign hospital or on parole from a state hospital or
41 foreign hospital[, or in a facility] shall not be counted in determining the residence of such person
42 in this or any other state.

43 (b) The residence of such person at the time of commitment shall remain the residence of the
44 person for the duration of the commitment of the person.

45 [(2) The Department of Human Services may give written authorization for the admission to a fa-

1 *cility whenever:]*

2 [(a) *The residence of any person cannot be established after reasonable and diligent investigation*
3 *and effort.*]

4 [(b) *The peculiar circumstances of a case, in the judgment of the department, provide a sufficient*
5 *reason for the suspension of the residence requirement provided by ORS 428.210 (8).*]

6 [(3)] (2) The Oregon Health Authority may give written authorization for the admission to the
7 Oregon State Hospital whenever:

8 (a) The residence of any person cannot be established after reasonable and diligent investigation
9 and effort.

10 (b) The peculiar circumstances of a case, in the judgment of the authority, provide a sufficient
11 reason for the suspension of the residence requirement provided by ORS 428.210 [(8)] (7).

12 **SECTION 21.** ORS 428.230 is amended to read:

13 428.230. (1) Except as provided in ORS 428.205, 428.220 and 428.330, the [*Department of Human*
14 *Services and the*] Oregon Health Authority shall return nonresident patients to any other state in
15 which they may have legal residence.

16 [(2) *The department may give written authorization for the return to a facility of a resident of*
17 *Oregon who has been committed by a court of competent jurisdiction to a foreign hospital.*]

18 [(3) *The facility shall admit and care for any person eligible for admission pursuant to subsection*
19 *(2) of this section or ORS 428.220 (2) upon receipt of a certified copy of the commitment papers and the*
20 *written authorization of the department.*]

21 [(4)] (2) The authority may give written authorization for the return to the Oregon State Hos-
22 pital of a resident of Oregon who has been committed by a court of competent jurisdiction to a
23 foreign hospital.

24 [(5)] (3) The superintendent of the Oregon State Hospital shall admit and care for any person
25 eligible for admission pursuant to subsection [(4)] (2) of this section or ORS 428.220 [(3)] (2) upon
26 receipt of a certified copy of the commitment papers and the written authorization of the authority.

27 **SECTION 22.** ORS 428.240 is amended to read:

28 428.240. [(1) *For the purpose of facilitating the return of nonresident patients, the Department of*
29 *Human Services may enter into a reciprocal agreement with any other state for the mutual exchange*
30 *of persons committed by a court of competent jurisdiction to a facility pursuant to ORS 427.235 to*
31 *427.292 or to a foreign hospital, whose legal residence is in the other's jurisdiction.*]

32 [(2)] (1) For the purpose of facilitating the return of nonresident patients, the Oregon Health
33 Authority may enter into a reciprocal agreement with any other state for the mutual exchange of
34 persons committed by a court of competent jurisdiction to the Oregon State Hospital or a foreign
35 hospital, whose legal residence is in the other's jurisdiction.

36 [(3)] (2) In such agreements, the [*department or*] authority may:

37 (a) Only for purposes of mutual exchange with the other state, vary the period of residence re-
38 quired by ORS 428.210 [(8)] (7).

39 (b) Provide for the arbitration of disputes arising out of the mutual exchange of such persons
40 between this state and any other state.

41 **SECTION 23.** ORS 428.260 is amended to read:

42 428.260. (1) For the purpose of carrying out the provisions of ORS 428.210 to 428.270, the [*De-*
43 *partment of Human Services or the*] Oregon Health Authority may employ all help necessary in ar-
44 ranging for and transporting nonresident patients.

45 (2) The cost and expense of providing such assistance and all expenses incurred in effecting the

1 transportation of such patients shall be paid from funds appropriated for that purpose upon vouchers
2 approved by the [*department, the*] authority or the superintendent of the Oregon State Hospital.

3 **SECTION 24.** ORS 428.270 is amended to read:

4 428.270. (1) Any person, except an officer, agent or employee of a common carrier acting in the
5 line of duty, who brings or in any way aids in bringing into this state any patient without the
6 written authorization of the [*Department of Human Services or the*] Oregon Health Authority[,] shall
7 be liable to this state for all expenses incurred in the care of such patient and in the transportation
8 of such patient to the other state where the patient legally resides.

9 (2) Hospitals, other than state hospitals, that care for and treat persons with mental illness shall
10 be responsible for the return of those persons to their places of residence or domicile outside the
11 state if they are brought into this state for treatment and care and are discharged from such insti-
12 tutions without being fully recovered.

13 (3) Failure to comply with the provisions of subsection (2) of this section shall render the person
14 operating the hospital liable to reimburse the state for all expenses incurred in the care, mainte-
15 nance and return of the persons with mental illness to their places of residence or domicile outside
16 the state.

17 **SECTION 25.** ORS 480.225 is amended to read:

18 480.225. (1) A person is eligible for a certificate of possession under ORS 480.235 if:

19 (a) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
20 of a misdemeanor involving violence, as defined in ORS 166.470, within the previous four years. A
21 person who has been so convicted is eligible under this subsection following the expiration of seven
22 years after the date of final and unconditional discharge from all imprisonment, probation and parole
23 resulting from the conviction.

24 (b) The person has not been convicted, or found guilty except for insanity under ORS 161.295,
25 of, and is not under indictment for, any felony.

26 (c) The person is not a fugitive from justice, has no outstanding warrants for arrest and is not
27 free on any form of pretrial release for any offenses listed in paragraphs (a) and (b) of this sub-
28 section.

29 (d) The person has not been determined to be a person with mental illness under ORS 426.130
30 [*or to have an intellectual disability under ORS 427.290*]. A person who previously has been so de-
31 termined is eligible under this subsection if, at the time of application for such a certificate, the
32 person produces a certified copy of a full discharge from the proper state hospital. The Oregon
33 Health Authority shall provide the State Fire Marshal with direct electronic access to the
34 authority's database of information identifying persons meeting the criteria of this section who were
35 committed or subject to an order under ORS 426.130. The State Fire Marshal and the authority shall
36 enter into an agreement describing the access to information under this subsection.

37 (e) The person is at least 21 years of age.

38 (f) The person does not use a fictitious name or make a material misrepresentation in applica-
39 tion for such a certificate.

40 (g)(A) The person has not been convicted of, and is not under indictment for, a criminal offense
41 involving a controlled substance as defined in ORS 475.005, other than the offense of driving under
42 the influence of intoxicants.

43 (B) Notwithstanding subparagraph (A) of this paragraph, a person who has had a certificate
44 denied or revoked due to conviction of a criminal offense involving a controlled substance is eligible
45 under this section following the expiration of seven years after the date of final and unconditional

1 discharge from all imprisonment, probation and parole resulting from the conviction.

2 (h) The person has been discharged from the jurisdiction of the juvenile court for more than four
 3 years for an act that, if committed by an adult, would constitute a felony or a misdemeanor involv-
 4 ing violence, as defined in ORS 166.470.

5 (i) The person is not the subject of a restraining order that alleges the person’s possession of
 6 explosives presents a credible threat to another person.

7 (j) The person has passed an examination administered by the State Fire Marshal that assesses
 8 the person’s knowledge of safety in the transportation and storage of explosives as required under
 9 federal and state laws and regulations pertaining to explosives. The State Fire Marshal shall ex-
 10 amine each applicant prior to issuance of a certificate of possession to the applicant. The State Fire
 11 Marshal may by rule establish and collect an examination fee in an amount necessary to cover the
 12 cost of administering the examination.

13 (k) The person certifies on the application for a certificate of possession that all explosives in
 14 the person’s possession will be used, stored and transported in accordance with federal, state and
 15 local requirements.

16 (L) The person certifies that all explosives will be possessed, used, stored and transported in
 17 accordance with federal, state and local requirements.

18 (2) Subsection (1)(a) and (b) of this section does not apply to a conviction or indictment that has
 19 been expunged from a person’s record under the laws of this state or equivalent laws of another
 20 jurisdiction.

21 **SECTION 26. This 2024 Act takes effect on July 1, 2025.**

22