

House Bill 2804

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Psychiatric Security Review Board)

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 gets rid of the juvenile panel of the PSRB and changes its membership. (Flesch Readability Score: 67.5).

Repeals provisions related to the juvenile panel of the Psychiatric Security Review Board. Provides that the board consists of a single panel of five members and a discretionary alternate member who carry out the board's duties.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Psychiatric Security Review Board; creating new provisions; amending ORS 161.348,
3 161.385, 166.273, 181A.290, 419C.520, 419C.529, 419C.530, 419C.531, 419C.532, 419C.533, 419C.535,
4 419C.538, 419C.540 and 419C.542; repealing ORS 419C.544; and declaring an emergency.

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

REPEAL OF JUVENILE PANEL

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9 **SECTION 1.** ORS 161.385 is amended to read:

10 161.385. (1) There is hereby created a Psychiatric Security Review Board consisting of [10] **the**
11 **members described in subsection (2) of this section** appointed by the Governor and subject to
12 confirmation by the Senate under section 4, Article III of the Oregon Constitution.

13 (2)(a) The membership of the board may not include any district attorney, deputy district at-
14 torney or public defender.

15 (b) The Governor shall appoint:

16 [(a)] (A) A psychiatrist experienced in the criminal justice system and not otherwise employed
17 on a full-time basis by the Oregon Health Authority or a community mental health program;

18 [(b)] (B) A licensed psychologist experienced in the criminal justice system and not otherwise
19 employed on a full-time basis by the authority or a community mental health program;

20 [(c)] (C) A member with substantial experience in the processes of parole and probation;

21 [(d)] (D) A lawyer with substantial experience in criminal trial practice; **and**

22 [(e) *A psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psy-*
23 *chiatry who is experienced in the juvenile justice system and not employed on a full-time basis by the*
24 *authority or a community mental health program;*]

25 [(f) *A licensed psychologist who is experienced in child psychology and the juvenile justice system*
26 *and not employed on a full-time basis by the authority or a community mental health program;*]

27 [(g) *A member with substantial experience in the processes of juvenile parole and probation;*]

28 [(h) *A lawyer with substantial experience in juvenile law practice; and*]

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 *[(i) Two members of the general public.]*

2 **(E) A member of the general public.**

3 **(c) The Governor may appoint a sixth member, to serve as an alternate member as de-**
 4 **scribed in subsection (6)(b) of this section, who has previously served on the board for one**
 5 **or more terms, has demonstrated commitment to the board’s strategic plan and is well-**
 6 **versed in the board’s operations, policies and procedures.**

7 (3) The term of office of each member is four years. The Governor at any time may remove any
 8 member for inefficiency, neglect of duty or malfeasance in office. Before the expiration of the term
 9 of a member, the Governor shall appoint a successor whose term begins on July 1 next following.
 10 A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make
 11 an appointment to become immediately effective for the unexpired term.

12 (4) A member of the board not otherwise employed full-time by the state shall be paid on a per
 13 diem basis an amount equal to \$289.22, adjusted according to the executive pay plan for the
 14 biennium, for each day during which the member is engaged in the performance of official duties,
 15 including necessary travel time. In addition, subject to ORS 292.220 to 292.250 regulating travel and
 16 other expenses of state officers and employees, the member shall be reimbursed for actual and nec-
 17 essary travel and other expenses incurred in the performance of official duties.

18 (5) Subject to any applicable provision of the State Personnel Relations Law, the board may hire
 19 employees to aid it in performing its duties.

20 **(6)(a) The board consists of *[two five-member panels]* a single panel of five members appointed**
 21 **under subsection (2)(b) of this section.** The *[adult]* panel is responsible for persons placed under
 22 the board’s jurisdiction under ORS 161.315 to 161.351 and *[419C.544 and consists of those members*
 23 *appointed under subsection (2)(a) to (d) of this section and one of the public members. The juvenile*
 24 *panel is responsible for]* young persons placed under the board’s jurisdiction under ORS 419C.529
 25 *[and consists of those members appointed under subsection (2)(e) to (h) of this section and the other*
 26 *public member]*, **and for carrying out the board’s duties described in ORS 163A.125, 166.273,**
 27 **426.701 and 426.702.**

28 **(b) If a member is appointed under subsection (2)(c) of this section, that member serves**
 29 **as an alternate member of the panel, and may participate as a voting member of the panel**
 30 **for board hearings described in ORS 161.315 to 161.351, 163A.125, 419C.529 to 419C.542, 426.701**
 31 **and 426.702, when a member appointed under subsection (2)(b) of this section is unavailable.**

32 (7)(a) *[Each]* **The** panel shall select one of its members as chairperson to serve for a one-year
 33 term with such duties and powers as the panel determines.

34 (b) A majority of the voting members of *[a]* **the** panel constitutes a quorum for the transaction
 35 of business of the panel.

36 (8) *[Each]* **The** panel shall meet at least twice every month, unless the chairperson determines
 37 that there is not sufficient business before the panel to warrant a meeting at the scheduled time.
 38 The panel shall also meet at other times and places specified by the call of the chairperson or of a
 39 majority of the members of the panel.

40 **SECTION 2.** ORS 419C.529 is amended to read:

41 419C.529. (1) After the entry of a jurisdictional order under ORS 419C.411 (2), if the court finds
 42 by a preponderance of the evidence that the young person, at the time of disposition, has a serious
 43 mental condition or has a qualifying mental disorder other than a serious mental condition and
 44 presents a substantial danger to others, requiring conditional release or commitment to a hospital
 45 or facility designated on an individual case basis by the Department of Human Services or the

1 Oregon Health Authority as provided in subsection (6) of this section, the court shall order the
 2 young person placed under the jurisdiction of the Psychiatric Security Review Board.

3 (2) The court shall determine whether the young person should be committed to a hospital or
 4 facility designated on an individual case basis by the department or the authority, as provided in
 5 subsection (6) of this section, or conditionally released pending a hearing before [*the juvenile panel*
 6 *of*] the Psychiatric Security Review Board as follows:

7 (a) If the court finds that the young person is not a proper subject for conditional release, the
 8 court shall order the young person committed to a secure hospital or a secure intensive community
 9 inpatient facility designated on an individual case basis by the department or the authority, as
 10 provided in subsection (6) of this section, for custody, supervision and treatment pending a hearing
 11 before the [*juvenile panel*] **board** in accordance with ORS 419C.532, 419C.535, 419C.538, 419C.540 and
 12 419C.542 and shall order the young person placed under the jurisdiction of the board.

13 (b) If the court finds that the young person can be adequately controlled with supervision and
 14 treatment services if conditionally released and that necessary supervision and treatment services
 15 are available, the court may order the young person conditionally released, subject to those super-
 16 visory orders of the court that are in the best interests of justice and the young person. The court
 17 shall designate a qualified mental health or developmental disabilities treatment provider or state,
 18 county or local agency to supervise the young person on release, subject to those conditions as the
 19 court directs in the order for conditional release. Prior to the designation, the court shall notify the
 20 qualified mental health or developmental disabilities treatment provider or agency to whom condi-
 21 tional release is contemplated and provide the qualified mental health or developmental disabilities
 22 treatment provider or agency an opportunity to be heard before the court. After receiving an order
 23 entered under this paragraph, the qualified mental health or developmental disabilities treatment
 24 provider or agency designated shall assume supervision of the young person subject to the direction
 25 of the [*juvenile panel*] **board**. The qualified mental health or developmental disabilities treatment
 26 provider or agency designated as supervisor shall report in writing no less than once per month to
 27 the [*juvenile panel*] **board** concerning the supervised young person's compliance with the conditions
 28 of release.

29 (c) For purposes of determining whether to order commitment to a hospital or facility or con-
 30 ditional release, the primary concern of the court is the protection of society.

31 (3) In determining whether a young person should be conditionally released, the court may order
 32 examinations or evaluations deemed necessary.

33 (4) Upon placing a young person on conditional release and ordering the young person placed
 34 under the jurisdiction of the board, the court shall notify the [*juvenile panel*] **board** in writing of the
 35 court's conditional release order, the supervisor designated and all other conditions of release
 36 pending a hearing before the [*juvenile panel*] **board** in accordance with ORS 419C.532, 419C.535,
 37 419C.538, 419C.540 and 419C.542.

38 (5) When making an order under this section, the court shall:

39 (a) Determine whether the parent or guardian of the young person is able and willing to assist
 40 the young person in obtaining necessary mental health or developmental disabilities services and is
 41 willing to acquiesce in the decisions of the [*juvenile panel*] **board**. If the court finds that the parent
 42 or guardian:

43 (A) Is able and willing to do so, the court shall order the parent or guardian to sign an irrev-
 44 ocable consent form in which the parent agrees to any placement decision made by the [*juvenile*
 45 *panel*] **board**.

1 (B) Is unable or unwilling to do so, the court shall order that the young person be placed in the
 2 legal custody of the Department of Human Services for the purpose of obtaining necessary devel-
 3 opmental disabilities services or mental health services.

4 (b) Make specific findings on whether there is a victim and, if so, whether the victim wishes to
 5 be notified of any board hearings and orders concerning the young person and of any conditional
 6 release, discharge or escape of the young person.

7 (c) Include in the order a list of the persons who wish to be notified of any board hearing con-
 8 cerning the young person.

9 (d) Determine on the record the act committed by the young person for which the young person
 10 was found responsible except for insanity.

11 (e) State on the record the qualifying mental disorder on which the young person relied for the
 12 responsible except for insanity defense.

13 (6) When the department designates a facility for the commitment of a young person with a de-
 14 velopmental disability under this section, or the authority designates a hospital or facility for com-
 15 mitment of a young person with mental illness under this section, the department and the authority
 16 shall take into account the care and treatment needs of the young person, the resources available
 17 to the department or the authority and the safety of the public.

18 **SECTION 3.** ORS 419C.530 is amended to read:

19 419C.530. The [*juvenile panel of the*] Psychiatric Security Review Board exercises continuing ju-
 20 risdiction over a young person committed to, or retained in, a hospital or facility designated by the
 21 Department of Human Services or the Oregon Health Authority under ORS 419C.529. If the board
 22 determines after review that the placement of a young person in the particular hospital or facility
 23 is so inappropriate as to create a substantial danger to others, the board may direct the department
 24 or the authority to place the young person in a specific type of facility or direct specific care or
 25 supervision, but the actual placement of the young person is the responsibility of the department
 26 or the authority.

27 **SECTION 4.** ORS 419C.531 is amended to read:

28 419C.531. (1) If the juvenile court or [*the juvenile panel of*] the Psychiatric Security Review
 29 Board determines that a victim desires notification as described in ORS 419C.529, the [*panel*] **board**
 30 shall make a reasonable effort to notify the victim of [*panel*] **board** hearings and orders, conditional
 31 release, discharge or escape. Nothing in this subsection authorizes the [*panel*] **board** to disseminate
 32 information that is otherwise privileged by law.

33 (2) When the [*panel*] **board** conducts a hearing involving a young person found responsible ex-
 34 cept for insanity for an act for which there is a victim, the [*panel*] **board** shall afford the victim an
 35 opportunity to be heard, either orally or in writing, at the hearing.

36 (3)(a) If the [*panel*] **board** fails to make a reasonable effort to notify the victim of a [*panel*] **board**
 37 hearing under subsection (1) of this section or fails to afford the victim an opportunity to be heard
 38 under subsection (2) of this section, the victim may request that the [*panel*] **board** reconsider the
 39 order of the [*panel*] **board**.

40 (b) If the [*panel*] **board** determines that the [*panel*] **board** failed to make a reasonable effort to
 41 notify the victim or failed to afford the victim an opportunity to be heard, except as provided in
 42 paragraph (c) of this subsection, the [*panel*] **board** shall grant the request for reconsideration. Upon
 43 reconsideration, the [*panel*] **board** shall consider the statement of the victim and may consider any
 44 other information that was not available to the [*panel*] **board** at the previous hearing.

45 (c) The [*panel*] **board** may not grant a request for reconsideration that is made:

1 (A) After the young person has been discharged from the jurisdiction of the Psychiatric Security
 2 Review Board;

3 (B) After the *[panel]* **board** has held a subsequent hearing involving the young person; or

4 (C) If the *[panel]* **board** failed to make a reasonable effort to notify the victim of a hearing, more
 5 than 30 days after the victim knew or reasonably should have known of the hearing.

6 **SECTION 5.** ORS 419C.532 is amended to read:

7 419C.532. (1) The *[juvenile panel of the]* Psychiatric Security Review Board shall conduct
 8 hearings on an application for discharge, conditional release, commitment or modification filed under
 9 or required by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before
 10 the *[juvenile panel]* **board**.

11 (2) In every hearing before the *[juvenile panel]* **board**, the *[juvenile panel]* **board** shall determine
 12 whether the young person:

13 (a) Has a serious mental condition; or

14 (b) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 15 stantial danger to others.

16 (3) The *[juvenile panel]* **board** shall order a young person discharged from commitment or con-
 17 ditional release if the *[juvenile panel]* **board** finds that the young person:

18 (a) No longer has a qualifying mental disorder; or

19 (b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-
 20 sents a substantial danger to others.

21 (4) The *[juvenile panel]* **board** shall order a young person conditionally released subject to ORS
 22 419C.538 if the *[juvenile panel]* **board** finds that:

23 (a) The young person:

24 (A) Has a serious mental condition; or

25 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 26 stantial danger to others;

27 (b) The young person can be adequately controlled with treatment services as a condition of
 28 release; and

29 (c) Necessary supervision and treatment services are available.

30 (5) The *[juvenile panel]* **board** shall order a young person committed to, or retained in, a hospital
 31 or facility designated by the Department of Human Services or the Oregon Health Authority for
 32 custody, supervision and treatment subject to ORS 419C.540 if the *[juvenile panel]* **board** finds that
 33 the young person:

34 (a)(A) Has a serious mental condition; or

35 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 36 stantial danger to others; and

37 (b) Cannot be adequately controlled if conditionally released.

38 (6) In determining whether a young person should be committed to or retained in a hospital or
 39 facility, conditionally released or discharged, the primary concern of the *[juvenile panel]* **board** is
 40 the protection of society.

41 (7) In a hearing before the *[juvenile panel]* **board**, a young person who has a qualifying mental
 42 disorder in a state of remission is considered to have a qualifying mental disorder if the qualifying
 43 mental disorder may, with reasonable medical probability, occasionally become active.

44 (8) At any time, the *[juvenile panel]* **board** may appoint a psychiatrist certified, or eligible to be
 45 certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise

1 in child psychology to examine the young person and submit a written report to the [*juvenile*
 2 *panel*] **board**. Reports filed with the [*juvenile panel*] **board** pursuant to the examination must include,
 3 but need not be limited to, an opinion as to whether the young person:

4 (a)(A) Has a serious mental condition; or

5 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
 6 stantial danger to others; and

7 (b) Could be adequately controlled with treatment services as a condition of release.

8 (9) The [*juvenile panel*] **board** may make a determination regarding discharge or conditional re-
 9 lease based upon the written report submitted under subsection (8) of this section or ORS 419C.540
 10 (3). If a member of the [*juvenile panel*] **board** desires further information from the examining psy-
 11 chiatrist or licensed psychologist who submitted the report, the [*juvenile panel*] **board** shall summon
 12 the psychiatrist or psychologist to give testimony.

13 (10) The [*juvenile panel*] **board** shall consider all available evidence that is material, relevant
 14 and reliable regarding the issues before the [*juvenile panel*] **board**. Evidence may include, but is not
 15 limited to, the record of the juvenile court adjudication, information supplied by the attorney rep-
 16 resenting the state or by any other interested person, including the young person, information con-
 17 cerning the young person's mental condition and the entire psychiatric and juvenile court history
 18 of the young person. All evidence of a type commonly relied upon by reasonably prudent persons in
 19 the conduct of their serious affairs is admissible at the hearings. Testimony must be taken upon oath
 20 or affirmation of the witness from whom received. The officer presiding at the hearing shall admin-
 21 ister oaths and affirmations to witnesses.

22 (11) The standard of proof on all issues at a hearing of the [*juvenile panel*] **board** is by a pre-
 23 ponderance of the evidence.

24 (12)(a) The [*juvenile panel*] **board** shall furnish written notice of any hearing pending under this
 25 section within a reasonable time prior to the hearing to:

26 (A) The young person about whom the hearing is being conducted;

27 (B) The attorney representing the young person;

28 (C) The young person's parents or guardians, if known;

29 (D) The person having legal custody of the young person;

30 (E) The Attorney General or other attorney representing the state, if any; and

31 (F) The district attorney of the county in which the young person was adjudicated.

32 (b) The [*juvenile panel*] **board** shall include in the notice required by paragraph (a) of this sub-
 33 section:

34 (A) The time, place and location of the hearing;

35 (B) The nature of the hearing, the specific action for which the hearing has been requested, the
 36 issues to be considered at the hearing and a reference to the particular sections of the statutes and
 37 rules involved;

38 (C) A statement of the authority and jurisdiction under which the hearing is to be held; and

39 (D) A statement of all rights under subsection (13) of this section.

40 (13) A young person about whom a hearing is being held has the right:

41 (a) To appear at all proceedings held under this section, except [*juvenile panel*] **board** deliber-
 42 ations.

43 (b) To cross-examine all witnesses appearing to testify at the hearing.

44 (c) To subpoena witnesses and documents as provided in ORS 161.395.

45 (d) To be represented by suitable legal counsel possessing skills and experience commensurate

1 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
 2 nancially eligible, to have suitable counsel appointed at state expense.

3 (e) To examine all information, documents and reports that the [*juvenile panel*] **board** considers
 4 and, if the information, documents and reports are available to the [*juvenile panel*] **board** before the
 5 hearing, to examine them prior to the hearing.

6 (14) Except for deliberations of the [*juvenile panel*] **board**, the [*juvenile panel*] **board** shall keep
 7 a record of all hearings before the [*juvenile panel*] **board**.

8 (15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
 9 the [*juvenile panel*] **board** may continue a hearing for a reasonable period not to exceed 60 days to
 10 obtain additional information or testimony or for other good cause shown.

11 (16) Within 30 days after the conclusion of the hearing, the [*juvenile panel*] **board** shall provide
 12 written notice of the [*juvenile panel's*] **board's** decision to the young person, the attorney repre-
 13 senting the young person, the young person's parents or guardians, if known, the person having legal
 14 custody of the young person, the district attorney of the county in which the young person was
 15 adjudicated and the Attorney General or other attorney representing the state, if any.

16 (17) The [*juvenile panel*] **board** shall maintain and keep current the medical, social and delin-
 17 quency history of all young persons. The [*juvenile panel*] **board** shall determine the confidentiality
 18 of records maintained by the [*juvenile panel*] **board** pursuant to ORS 192.338, 192.345 and 192.355.

19 **SECTION 6.** ORS 419C.533 is amended to read:

20 419C.533. (1) The [*juvenile panel of the*] Psychiatric Security Review Board, by rule pursuant to
 21 ORS 183.325 to 183.410 and not inconsistent with law, may implement its policies and set out its
 22 procedure and practice requirements and may promulgate such interpretive rules as the [*panel*]
 23 **board** deems necessary or appropriate to carry out its statutory responsibilities.

24 (2) The [*juvenile panel of the*] Psychiatric Security Review Board shall adopt rules defining the
 25 type of dangerous behavior that requires the temporary placement of a young person with mental
 26 retardation in a secure hospital or facility.

27 (3) The [*juvenile panel of the*] Psychiatric Security Review Board shall consult with the Depart-
 28 ment of Human Services about proposed rules relating to developmental disabilities and the Oregon
 29 Health Authority about proposed rules relating to mental illness before issuing proposed rules for
 30 public comment and before adopting rules under this section.

31 **SECTION 7.** ORS 419C.535 is amended to read:

32 419C.535. (1) The [*juvenile panel of the*] Psychiatric Security Review Board shall appoint suitable
 33 counsel to represent a young person about whom a hearing under ORS 419C.532 is being held.
 34 Counsel appointed must be an attorney who satisfies the minimum standards established by the
 35 Oregon Public Defense Commission under ORS 151.216. The executive director of the commission
 36 shall determine and allow fair compensation for counsel appointed under this subsection and the
 37 reasonable expenses of the young person in respect to the hearing. Compensation payable to ap-
 38 pointed counsel may not be less than the applicable compensation level established under ORS
 39 151.216. The executive director shall pay compensation and expenses allowed from funds available
 40 for that purpose.

41 (2) The [*juvenile panel*] **board** may not order the young person, parent or guardian of the estate
 42 to pay any part of the administrative costs of appointing counsel for the young person or to pay for
 43 the costs of legal and other services that are related to the provision of appointed counsel.

44 (3) The Attorney General may represent the state at contested hearings before the [*juvenile*
 45 *panel*] **board** unless the district attorney of the county in which the young person was adjudicated

1 elects to represent the state. The district attorney of the county in which the young person was
 2 adjudicated shall cooperate with the Attorney General in securing the material necessary for pre-
 3 senting a contested hearing before the *[juvenile panel]* **board**. If the district attorney elects to rep-
 4 resent the state, the district attorney shall give timely written notice to the Attorney General, the
 5 *[juvenile panel]* **board** and the attorney representing the young person.

6 **SECTION 8.** ORS 419C.538 is amended to read:

7 419C.538. (1) When the *[juvenile panel of the]* Psychiatric Security Review Board orders a young
 8 person conditionally released under ORS 419C.532 (4), the *[juvenile panel]* **board** may designate a
 9 qualified mental health or developmental disabilities treatment provider or state, county or local
 10 agency to supervise the young person on release subject to those conditions as the *[juvenile panel]*
 11 **board** directs in the order for conditional release. Prior to the designation, the *[juvenile panel]*
 12 **board** shall notify the qualified mental health or developmental disabilities treatment provider or
 13 agency to whom conditional release is contemplated and provide the qualified mental health or de-
 14 velopmental disabilities treatment provider or agency an opportunity to be heard before the *[juvenile*
 15 *panel]* **board**. After receiving an order entered under ORS 419C.532 (4), the qualified mental health
 16 or developmental disabilities treatment provider or agency designated shall assume supervision of
 17 the young person pursuant to the direction of the *[juvenile panel]* **board**.

18 (2) Conditions of release contained in orders entered under ORS 419C.532 (4) may be modified
 19 from time to time and conditional release may be terminated by order of the *[juvenile panel]* **board**
 20 as provided in ORS 419C.532 and 419C.542.

21 (3)(a) As a condition of release, the *[juvenile panel]* **board** may require the young person to re-
 22 port to any state, county or local mental health or developmental disabilities facility for evaluation.
 23 Whenever medical, psychiatric or psychological treatment is recommended, the *[juvenile panel]*
 24 **board** may order the young person, as a condition of release, to cooperate with and accept the
 25 treatment of the facility.

26 (b) The facility to which the young person has been referred for evaluation shall perform the
 27 evaluation and submit a written report of its findings to the *[juvenile panel]* **board**. If the facility
 28 finds that treatment of the young person is appropriate, the facility shall include its recommen-
 29 dations for treatment in the report to the *[juvenile panel]* **board**.

30 (c) Whenever treatment is provided by the facility, the facility shall furnish reports to the *[ju-*
 31 *venile panel]* **board** on a regular basis concerning the progress of the young person.

32 (d) The facility shall comply with any other conditions of release prescribed by order of the
 33 *[juvenile panel]* **board**.

34 (4) If at any time it appears to the *[juvenile panel]* **board** or the chairperson of the *[juvenile*
 35 *panel]* **panel of the board** that a young person has violated the terms of conditional release or that
 36 the mental health of the young person has changed, the *[juvenile panel]* **board** or the chairperson
 37 *[of the juvenile panel]* may order the young person returned to a hospital or facility designated by
 38 the Department of Human Services or the Oregon Health Authority for evaluation and treatment.
 39 A written order of the *[juvenile panel]* **board**, or the chairperson *[of the juvenile panel]* on behalf of
 40 the *[juvenile panel]* **board**, is sufficient warrant for any peace officer to take the young person into
 41 custody and transport the young person accordingly. A peace officer shall execute the order, and
 42 the young person shall be returned as soon as practicable to a facility designated by the department
 43 or the authority. Within 20 days following the return of the young person to the facility designated
 44 by the department or the authority, the *[juvenile panel]* **board** shall conduct a hearing. At a hearing
 45 required by this subsection, the state has the burden of proving the young person's lack of fitness

1 for conditional release.

2 (5) The community mental health program director, the community developmental disabilities
 3 program director, the director of the facility providing treatment for the young person on condi-
 4 tional release, a peace officer or a person responsible for the supervision of a young person on
 5 conditional release may take a young person into custody or request that the young person be taken
 6 into custody if there is reasonable cause to believe the young person presents a substantial danger
 7 to others and that the young person is in need of immediate custody, supervision and treatment. A
 8 young person taken into custody under this subsection must immediately be transported to a hospi-
 9 tal or facility designated by the department or the authority. Within 20 days following the return
 10 of the young person to the facility designated by the department or the authority, the [*juvenile*
 11 *panel*] **board** shall conduct a hearing. At a hearing required by this subsection, the state has the
 12 burden of proving the young person’s lack of fitness for conditional release.

13 (6)(a) A young person conditionally released under ORS 419C.532 (4) may apply to the [*juvenile*
 14 *panel*] **board** for discharge from or modification of an order of conditional release on the ground that
 15 the young person no longer has a qualifying mental disorder or, if affected by a qualifying mental
 16 disorder other than a serious mental condition, no longer presents a substantial danger to others
 17 and no longer requires supervision or treatment services. Within 60 days after receiving an appli-
 18 cation under this paragraph, the [*juvenile panel*] **board** shall conduct a hearing. At a hearing re-
 19 quired by this paragraph, the young person has the burden of proving the young person’s fitness for
 20 discharge or modification of the order of conditional release. A young person may not apply for
 21 discharge or modification of conditional release more often than once every six months.

22 (b) Upon application by any qualified mental health or developmental disabilities treatment
 23 provider or state, county or local agency responsible for supervision or treatment services pursuant
 24 to an order of conditional release, the [*juvenile panel*] **board** shall conduct a hearing to determine
 25 if the conditions of release should be continued, modified or terminated. The application must be
 26 accompanied by a report setting forth the facts supporting the application. At a hearing required
 27 by this paragraph, the state has the burden of proving the young person’s lack of fitness for dis-
 28 charge or modification of the order of conditional release.

29 **SECTION 9.** ORS 419C.540 is amended to read:

30 419C.540. (1) The director of a hospital or facility to which a young person was committed under
 31 ORS 419C.532 (5) shall apply to the [*juvenile panel of the*] Psychiatric Security Review Board for an
 32 order of discharge or conditional release of the young person if, at any time after the commitment,
 33 the director is of the opinion that the young person:

- 34 (a) No longer has a qualifying mental disorder;
- 35 (b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-
 36 sents a substantial danger to others; or
- 37 (c) Can be controlled with proper supervision and treatment services if conditionally released.

38 (2) The director shall include in an application under subsection (1) of this section a report
 39 setting forth the facts that support the opinion of the director. If the application is for conditional
 40 release, the director shall also include a verified conditional release plan. The [*juvenile panel*] **board**
 41 shall hold a hearing on an application under subsection (1) of this section within 30 days of its re-
 42 ceipt. Not less than 10 days prior to the hearing before the [*juvenile panel*] **board**, copies of the re-
 43 port must be sent to the Attorney General or other attorney representing the state, if any, the
 44 district attorney of the county in which the young person was adjudicated, the young person, the
 45 young person’s attorney, the young person’s parents or guardians, if known, and the person having

1 legal custody of the young person.

2 (3) The attorney representing the state may choose a psychiatrist certified, or eligible to be
3 certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise
4 in child psychology to examine the young person prior to any decision of the *[juvenile panel]* **board**
5 on discharge or conditional release. The results of the examination must be in writing and filed with
6 the *[juvenile panel]* **board** and must include, but need not be limited to, an opinion as to whether the
7 young person:

8 (a)(A) Has a serious mental condition; or

9 (B) Has a qualifying mental disorder other than a serious mental condition and presents a sub-
10 stantial danger to others; and

11 (b) Could be adequately controlled with treatment services as a condition of release.

12 (4) A young person who has been committed to a hospital or facility under ORS 419C.532 (5) or
13 the young person's parents or guardians acting on the young person's behalf may apply to the *[ju-*
14 *venile panel]* **board** for an order of discharge or conditional release upon the grounds that the young
15 person:

16 (a) No longer has a qualifying mental disorder;

17 (b) Has a qualifying mental disorder other than a serious mental condition but no longer pre-
18 sents a substantial danger to others; or

19 (c) Can be controlled with proper supervision and treatment services if conditionally released.

20 (5) When an application is made under subsection (4) of this section, the *[juvenile panel]* **board**
21 shall require a report from the director of the hospital or facility. The director shall prepare and
22 transmit the report as provided in subsection (2) of this section.

23 (6) At a hearing on an application under subsection (4) of this section:

24 (a) The applicant has the burden of proving the young person's fitness for discharge or condi-
25 tional release; or

26 (b) If more than two years have passed since the state had the burden of proving the young
27 person's lack of fitness for discharge or conditional release, the state has the burden of proving the
28 young person's lack of fitness for discharge or conditional release.

29 (7) A person may not file an application for discharge or conditional release under subsection
30 (4) of this section:

31 (a) Sooner than 90 days after the initial *[juvenile panel]* **board** hearing concerning the young
32 person.

33 (b) If another application for discharge or conditional release of the young person was filed
34 during the immediately preceding 90 days.

35 (8) The *[juvenile panel]* **board** shall hold a hearing on an application under subsection (4) of this
36 section within 30 days after the application is filed.

37 (9)(a) The *[juvenile panel]* **board** and the director of a hospital or facility to which a young
38 person was committed under ORS 419C.532 (5) may not assess any fees or costs against the young
39 person or the young person's parent or guardian, including but not limited to court-appointed at-
40 torney fees, examination fees and costs and supervision expenses. This paragraph does not apply to
41 expenses associated with the young person's treatment.

42 (b) Notwithstanding paragraph (a) of this subsection, if the young person is committed to the
43 Oregon State Hospital, the young person's ability to pay and cost of care are determined under ORS
44 179.640 and 179.701.

45 **SECTION 10.** ORS 419C.542 is amended to read:

1 419C.542. (1) A young person committed by the court under ORS 419C.529 to a hospital or fa-
 2 cility designated by the Department of Human Services or the Oregon Health Authority may not be
 3 held in the hospital or facility for more than 90 days from the date of the court’s commitment order
 4 without an initial hearing before the [*juvenile panel of the*] Psychiatric Security Review Board to
 5 determine whether the young person should be discharged or conditionally released.

6 (2) A young person may not be held pursuant to an order under ORS 419C.532 (5) for a period
 7 of time exceeding one year without a hearing before the [*juvenile panel*] **board** to determine whether
 8 the young person should be discharged or conditionally released.

9 (3) When a young person has spent three years on conditional release, the [*juvenile panel*] **board**
 10 shall bring the young person before the [*juvenile panel*] **board** no later than 30 days after the expi-
 11 ration of the three-year period. The [*juvenile panel*] **board** shall review the young person’s status
 12 and determine whether the young person should be discharged from the jurisdiction of the board.

13 (4) Notwithstanding the fact that a young person who is brought before the [*juvenile panel*]
 14 **board** under subsection (3) of this section continues to have a serious mental condition, the [*juvenile*
 15 *panel*] **board** may discharge the young person if the young person did not exhibit behaviors that
 16 presented a substantial danger to others during the period of conditional release and no longer re-
 17 quires supervision by the [*juvenile panel*] **board**.

18 **SECTION 11. ORS 419C.544 is repealed.**

19
 20 **CONFORMING AMENDMENTS**

21
 22 **SECTION 12.** ORS 161.348 is amended to read:

23 161.348. (1) When a person over whom the Psychiatric Security Review Board exercises juris-
 24 diction under ORS 161.315 to 161.351 [*or 419C.544*] is adversely affected or aggrieved by a final order
 25 of the board, the person is entitled to judicial review of the final order. The person is entitled on
 26 judicial review to suitable counsel possessing skills and experience commensurate with the nature
 27 and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed
 28 by the reviewing court in the manner provided in ORS 138.500 (1). If the person is financially eligi-
 29 ble, the executive director of the Oregon Public Defense Commission shall determine and pay, as
 30 provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary to the review
 31 and compensation for counsel appointed for the person. The costs, expenses and compensation so
 32 allowed shall be paid as provided in ORS 138.500.

33 (2) The order and the proceedings underlying the order are subject to review by the Court of
 34 Appeals upon petition to that court filed within 60 days of the order for which review is sought. The
 35 board shall submit to the court the record of the proceeding or, if the person agrees, a shortened
 36 record. The record may include a certified true copy of a tape recording of the proceedings at a
 37 hearing in accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the
 38 person by the board.

39 (3) The court may affirm, reverse or remand the order on the same basis as provided in ORS
 40 183.482 (8).

41 (4) The filing of the petition does not stay the order of the board, but the board or the Court
 42 of Appeals may order a stay upon application on such terms as are deemed proper.

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

1 Security Review Board thereafter;

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

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

7 **SECTION 14.** ORS 181A.290 is amended to read:

8 181A.290. (1) The Department of Human Services, the Oregon Health Authority, the Psychiatric
9 Security Review Board and the Judicial Department shall provide the Department of State Police
10 with the minimum information necessary to identify persons who:

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

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

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

17 (d) Have been found by a court to lack fitness to proceed under ORS 161.370;

18 (e) Have been found guilty except for insanity of a crime under ORS 161.290 to 161.373;

19 (f) Have been found responsible except for insanity for an act under ORS 419C.411;

20 (g) Have been placed under the jurisdiction of the Psychiatric Security Review Board under ORS
21 161.315 to 161.351; or

22 (h) Have been committed to a state hospital or facility under ORS 161.315 to 161.351 or 419C.529
23 to ~~419C.544~~ **419C.542**.

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

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

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

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

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

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

43 **SECTION 15.** ORS 419C.520 is amended to read:

44 419C.520. As used in ORS 419C.411, 419C.522 to 419C.527 and 419C.529 to ~~419C.544~~ **419C.542**:

45 (1) “Conditional release” includes but is not limited to the monitoring of mental and physical

1 health treatment.

2 (2) "Qualifying mental disorder" does not include an abnormality:

3 (a) Manifested only by repeated criminal or otherwise antisocial conduct;

4 (b) Constituting solely a personality disorder; or

5 (c) Constituting solely a conduct disorder.

6 (3) "Serious mental condition" means a condition that requires supervision and treatment ser-
7 vices for the safety of others and is:

8 (a) A mental illness of major depression;

9 (b) A mental illness of bipolar disorder; or

10 (c) A mental illness of psychotic disorder.

11
12 **TRANSFER OF DUTIES**

13
14 **SECTION 16. On the effective date of this 2025 Act, all cases of the juvenile panel of the**
15 **Psychiatric Security Review Board are transferred to the single panel of the board described**
16 **in ORS 161.385 (6), as amended by section 1 of this 2025 Act.**

17
18 **CAPTIONS**

19
20 **SECTION 17. The unit captions used in this 2025 Act are provided only for the conven-**
21 **ience of the reader and do not become part of the statutory law of this state or express any**
22 **legislative intent in the enactment of this 2025 Act.**

23
24 **EMERGENCY CLAUSE**

25
26 **SECTION 18. This 2025 Act being necessary for the immediate preservation of the public**
27 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
28 **on its passage.**

29 _____