

## Chapter 169

### 1999 EDITION

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## DEFINITIONS

**169.005 Definitions for certain provisions of ORS 169.005 to 169.677 and 169.730 to 169.800.** As used in ORS 169.005 to 169.677 and 169.730 to 169.800, unless the context requires otherwise:

- (1) "Detainee" means a person held with no criminal charges.
- (2) "Juvenile detention facility" means a facility as described in ORS 419A.050 and 419A.052.
- (3) "Local correctional facility" means a jail or prison for the reception and confinement of prisoners that is provided, maintained and operated by a county or city and holds persons for more than 36 hours.
- (4) "Lockup" means a facility for the temporary detention of arrested persons held up to 36 hours, excluding holidays, Saturdays and Sundays, but the period in lockup shall not exceed 96 hours after booking.
- (5) "Month" means a period of 30 days.
- (6) "Prisoner" means a person held with criminal charges or sentenced to the facility.
- (7) "Temporary hold" means a facility, the principal purpose of which is the temporary detention of a prisoner for four or less hours while awaiting court appearance or transportation to a local correctional facility. [1973 c.740 s.1; 1979 c.487 s.1; 1985 c.499 s.4; 1993 c.33 s.309]

**169.010** [Amended by 1963 c.236 s.1; 1973 c.740 s.8; repealed by 1983 c.327 s.16]

**169.020** [Amended by 1973 c.740 s.9; repealed by 1983 c.327 s.16]

## LOCAL CORRECTIONAL FACILITIES

**169.030 Construction, maintenance and use of local correctional facilities by county and city; renting suitable structure; provision of facilities by another county or city.** (1) Every county and city in this state shall provide, keep and maintain within or without the county or city, as the case may be, a local correctional facility for the reception and confinement of prisoners committed thereto. The local correctional facility shall be constructed of fireproof materials and should have fire exits in sufficient number and suitably located for the removal of prisoners.

(2) Any county, or incorporated city may rent or lease any structure answering the requirements of subsection (1) of this section, either in connection with or separately from any other county or city building.

(3) Any county and any incorporated city may, by agreement, provide, maintain, and use for their separate requirements, such a local correctional facility as is required by this section.

(4) Any county or incorporated city may, by agreement with any other county or incorporated city, provide for one such county or city to furnish local correctional facility accommodations for the imprisonment of prisoners of the other such county or city. Pursuant to such agreement, an Oregon county or city may secure the use of jail accommodations outside the state, but only in a county that adjoins the Oregon county or the county in which the Oregon city is located.

(5) The jail accommodations provided by or furnished to a county under this section shall be considered to be jail accommodations of the county for purposes of ORS 135.215, 137.140 and 137.330. [Amended by 1963 c.236 s.2; 1973 c.740 s.10; 1987 c.550 s.1]

**169.040 Inspection of local correctional facilities.** (1) The county court or board of county commissioners of each county is inspector of the local correctional facilities of the county therein. The court or board shall visit them at least once in each regular term, and shall examine fully into the local correctional facility, health, cleanliness, and discipline. If it appears to the court or board that any provisions of law have been violated or neglected, it shall forthwith give notice of the violation or neglect to the district attorney of the district.

(2) The county health officer or the representative of the county health officer is authorized to conduct health and sanitation inspections of local correctional facilities on a semiannual basis. If the county health officer determines that the facility is in an insanitary condition or unfit for habitation for health reasons, the officer is authorized to notify the appropriate local governmental agency in writing of the required health and sanitation conditions or practices necessary to insure the health and sanitation of the facility. If the local governmental agency does not comply with the required health and sanitation conditions or practices within an appropriate length of time, the county health officer may recommend the suspension of the operation of the local correctional facility to the county board of health. If after

a hearing the county board of health finds that the local correctional facility is in an insanitary or unhealthful condition, it may suspend the operation of the facility until such time as it complies with the recommended health and sanitation conditions and practices. [Amended by 1973 c.740 s.11]

**169.042 Maximum facility population; recommendation.** The county court or board of commissioners of a county may institute an examination of the county's local correctional facility for the purpose of obtaining a recommendation regarding the maximum number of inmates that should be held in the facility. This recommendation shall be based on consideration of the following:

- (1) The advice of the district attorney, county counsel and sheriff concerning prevailing constitutional standards relating to conditions of incarceration;
- (2) The design capacity of the local correctional facility;
- (3) The physical condition of the local correctional facility; and
- (4) The programs provided for inmates of the local correctional facility. [1989 c.884 s.2]

**169.044 Action on recommendation.** When the county court or board has received a recommendation pursuant to ORS 169.042, it shall either:

- (1) Reject the recommendation and decline to adopt a limit on the number of inmates that may be held in the local correctional facility; or
- (2) Adopt the recommendation and, after consultation with the officials listed in ORS 169.046 (1), issue an order establishing the maximum allowable number of inmates that may be held in the local correctional facility. This shall include specific standards for determining a county jail population emergency and a specific plan for resolving the emergency. [1989 c.884 s.3]

**169.046 Notice of county jail population emergency; action to be taken; notification if release of inmates likely.** (1) If a county court or board adopts a jail capacity limit under ORS 169.044 and the number of inmates in its local correctional facility exceeds that capacity limit so that a county jail population emergency exists, the sheriff shall notify the presiding circuit judge, each municipal court judge and justice of the peace in the county, the district attorney for the county, the county counsel, the chief law enforcement officer for each city located in the county and the county court or board of commissioners that the number of inmates in the local correctional facility has exceeded capacity and that a county jail population emergency exists.

(2) If the county court or board has adopted a jail capacity limit and action plan under ORS 169.044 and if a county jail population emergency occurs under the terms of the plan, the county court or board and the county sheriff may carry out the steps of the plan. This includes any authorization, under the plan, for the sheriff to order inmates released in order to reduce the jail population. A sheriff shall be immune from criminal or civil liability for any good faith release of inmates under ORS 169.042 to 169.046.

(3) If it becomes necessary to order inmates released under ORS 169.042 to 169.046, or if it appears to the sheriff that release of inmates is likely to become necessary in the near future, the sheriff shall immediately notify all police agencies in the county to make maximum use of citations in lieu of custody pursuant to ORS 133.055 to 133.076 until further notice. [1989 c.884 ss.4,5,6; 1999 c.1051 s.71]

**169.050 Contracts for boarding of prisoners.** The county court or board of county commissioners of each county in this state, not having more than 300,000 inhabitants, shall advertise for bids for boarding of prisoners confined in the county local correctional facilities of the county, and may award the contract for boarding them to the lowest responsible bidder. If any responsible bidder, other than the sheriff, receives the contract from the county for the boarding of prisoners, such bidder shall receive compensation for boarding such prisoners rather than the sheriff, and the sheriff shall afford to such bidder all facilities for carrying out the county's contract for boarding prisoners. [Amended by 1973 c.740 s.12]

**169.053 Agreements with other counties or Department of Corrections for confinement and detention of offenders.** (1) A county may enter into an agreement with one or more other counties of this state under ORS 190.010 for the confinement and detention of offenders subject to the legal and physical custody of the county. The agreement may provide for the reception, detention, care and maintenance, and work assignment of:

- (a) Pretrial detainees;
- (b) Offenders convicted of a misdemeanor; and

(c) Offenders convicted of a felony who are:

(A) Sentenced, on or after January 1, 1997, to 12 months or less incarceration; or

(B) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, probation or post-prison supervision.

(2) A county may enter into an agreement with the Department of Corrections under ORS 190.110 for the confinement and detention of offenders subject to the legal and physical custody of the county. The agreement may provide for the reception, detention, care and maintenance, and work assignment of:

(a) Offenders convicted of a misdemeanor; and

(b) Offenders convicted of a felony who are:

(A) Sentenced, on or after January 1, 1997, to 12 months or less incarceration; or

(B) Sanctioned, on or after January 1, 1997, by a court or the State Board of Parole and Post-Prison Supervision to 12 months or less incarceration for a violation of a condition of parole, probation or post-prison supervision.

(3) An agreement entered into under ORS 190.110 and subsection (2) of this section shall include a provision that the county reimburse the Department of Corrections for its costs incurred in confining the county inmate.

Reimbursement shall be made on a per diem basis at a rate determined by the department to be its average daily incarceration cost per inmate. In lieu of reimbursement, the department and county may enter into an agreement providing for the comparable exchange of inmates as determined by the department. [1996 c.4 s.1]

**Note:** 169.053 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**169.055 Contracts with Department of Corrections for county prisoners awaiting sentencing.** (1) The Department of Corrections may enter into contracts or arrangements with the authorities of any county in this state to provide for the reception, detention, care, maintenance and employment of county prisoners convicted of a felony in the courts of this state who are awaiting sentencing and who, in the judgment of the sentencing court, pose an unusual security risk if they were to remain incarcerated in a local correctional facility pending sentencing.

(2) Nothing in this section requires the Department of Corrections to incarcerate a county prisoner in a Department of Corrections facility.

(3) A county prisoner poses an unusual security risk under this section if the prisoner poses a level of risk of violence or escape that exceeds the security level of the county facility. The risk of violence or escape may result from or be manifested by:

(a) A history of violence against law enforcement or corrections employees;

(b) A history of escape attempts;

(c) Documented enemies in the county facility; or

(d) A charge of aggravated murder. [1997 c.369 s.1]

**Note:** 169.055 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**169.060** [Repealed by 1983 c.327 s.16]

**169.070 Coordination of state services by Department of Corrections; inspections to determine compliance with standards.** The Department of Corrections shall provide and coordinate state services to local governments with respect to local correctional facilities and juvenile detention facilities. The Director of the Department of Corrections shall designate staff to provide technical assistance to local governmental agencies in the planning and operation of local correctional facilities, lockups, temporary holds and juvenile detention facilities, and advice on provisions of state law applicable to these facilities. The staff shall inspect local correctional facilities, lockups, temporary holds and juvenile detention facilities, to insure compliance with the standards established in ORS 169.076 to 169.078, 169.740, 419A.059 and 419B.180. [1973 c.740 s.2; 1979 c.338 s.2; 1979 c.487 s.2; 1987 c.320 s.91; 1993 c.33 s.310]

**169.075** [1973 c.740 s.3; repealed by 1979 c.487 s.5 (169.076, 169.077, 169.078 and 169.740 enacted in lieu of 169.075)]

**169.076 Standards for local correctional facilities.** Each local correctional facility shall:

(1) Provide sufficient staff to perform all audio and visual functions involving security, control, custody and supervision of all confined detainees and prisoners, with personal inspection at least once each hour. Such supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the area in which the facility is located.

(2) Have a comprehensive written policy with respect to:

(a) Legal confinement authority.

(b) Denial of admission.

(c) Telephone calls.

(d) Admission and release medical procedures.

(e) Medication and prescriptions.

(f) Personal property accountability which complies with ORS 133.455.

(g) Vermin and communicable disease control.

(h) Release process to include authority, identification and return of personal property.

(i) Rules of the facility governing correspondence and visitations.

(3) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies; and regulations for the operation of the facility.

(4) Not administer any physical punishment to any prisoner at any time.

(5) Provide for emergency medical and dental health, having written policies providing for:

(a) Licensed physician review of the facility's medical and dental plans.

(b) The security of medication and medical supplies.

(c) A medical and dental record system to include request for medical and dental attention, treatment prescribed, prescriptions, special diets and other services provided.

(d) First aid supplies and staff first aid training.

(6) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.

(7) Insure that confined detainees and prisoners:

(a) Will be fed daily at least three meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other such purposes.

(b) Will be fed nutritionally adequate meals in accordance with a plan reviewed by a registered dietician or the Health Division.

(c) Be provided special diets as prescribed by the designated facility physician.

(d) Shall have food procured, stored, prepared, distributed and served under sanitary conditions, as defined by the Health Division rules as authorized by ORS 624.100.

(8) Insure that the facility be clean, and provide each confined detainee or prisoner:

(a) Materials to maintain personal hygiene.

(b) Clean clothing twice weekly.

(c) Mattresses and blankets that are clean and fire-retardant.

(9) Require each prisoner to shower at least twice weekly.

(10) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.

(11) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

(12) Have and provide each prisoner with written rules for inmate conduct and disciplinary procedures. If a prisoner cannot read or is unable to understand the written rules, the information shall be conveyed to the prisoner orally.

(13) Not restrict the free exercise of religion unless failure to impose the restriction will cause a threat to facility or order.

(14) Safeguard and insure that the prisoner's legal rights to access to legal materials are protected. [1979 c.487 s.6 (enacted in lieu of 169.075); 1987 c.320 s.92]

**169.077 Standards for lockup facilities.** Each lockup facility shall:

(1) Maintain 24-hour supervision when persons are confined; such supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the area in which the facility is located.



- (2) Make a personal inspection of each person confined at least once each hour.
- (3) Prohibit firearms from the security area of the facility except in times of emergency as determined by the administrator of the facility.
- (4) Insure that confined detainees and prisoners will be fed daily at least three nutritionally adequate meals served at regular times, with no more than 14 hours between meals except when routinely absent from the facility for work or other such purposes.
- (5) Forward, without examination or censorship, each prisoner's outgoing written communications to the Governor, jail administrator, Attorney General, judge, Department of Corrections or the attorney of the prisoner.
- (6) Provide rules of the facility governing correspondence and visitations.
- (7) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.
- (8) Formulate and publish plans to meet emergencies involving escape, riots, assaults, fires, rebellions and other types of emergencies; and policies and regulations for the operation of the facility.
- (9) Insure that the facility be clean, provide mattresses and blankets that are clean and fire-retardant, and furnish materials to maintain personal hygiene.
- (10) Provide for emergency medical and dental health, having written policies providing for licensed physician review of the facility's medical and dental plans. [1979 c.487 s.7 (enacted in lieu of 169.075); 1987 c.320 s.93]

**169.078 Standards for temporary hold facilities.** Each temporary hold shall:

- (1) Provide access to sanitation facilities.
- (2) Provide adequate seating.
- (3) Maintain supervision of prisoners or detainees when confined. Such supervision may include the use of electronic monitoring equipment when approved by the Department of Corrections and the governing body of the area in which the facility is located.
- (4) Prohibit firearms from the secure area except in times of emergency.
- (5) Keep the facility safe and secure in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code. [1979 c.487 s.8 (enacted in lieu of 169.075); 1987 c.320 s.94]

**169.079** [1979 c.487 s.9 (enacted in lieu of 169.075); 1981 c.869 s.1; renumbered 169.740]

**ENFORCEMENT OF STANDARDS FOR LOCAL CORRECTIONAL AND JUVENILE DETENTION FACILITIES**

**169.080 Effect of failure to comply with standards; enforcement by Attorney General; private action.** (1) If the condition or treatment of prisoners in a local correctional facility, lockup or temporary hold or juvenile detention facility is not in accordance with the standards established in ORS 169.076 to 169.078, 169.740, 419A.059 or 419B.180, the staff of the Department of Corrections may notify in writing the appropriate local governmental agency of the standards which are not being met and specific recommendations for the agency to comply with the standards. Corrective measures shall be taken by the local governmental agency to insure compliance with all standards within a reasonable length of time jointly agreed upon by the agency and the Department of Corrections.

(2) The provisions of ORS 169.076 to 169.078, 169.740, 419A.059, 419B.160, 419B.180 and 419C.130 shall be enforceable by the Attorney General of the State of Oregon. The Attorney General, at the request of the Department of Corrections, may bring suit or action and may seek declaratory judgment as provided in ORS chapter 28 as well as pursue any other form of suit or action provided under Oregon law. Nothing in this section shall preclude a private right of suit or action. [1973 c.740 s.4; 1979 c.338 s.3; 1979 c.487 s.3; 1987 c.320 s.95; 1993 c.33 s.311]

**169.085 Submission of construction or renovation plans to Department of Corrections; recommendations by department.**

All plans of new construction or major renovation of local correctional facilities, lockups and juvenile detention facilities shall be submitted to the Department of Corrections for review and advisory recommendations to assist local governmental agencies to provide a safe and secure facility. The recommendations of the Department of Corrections shall be advisory and not binding upon the local governmental agency with the exception of those standards established in ORS 169.076 to 169.078, 169.740, 419A.059 and 419B.180. The Department of Corrections must notify the respective local governmental agency 45 days after submission of the plans of its recommendations on the proposed construction or major renovation of the local correctional facility. [1973 c.740 s.5; 1979 c.487 s.4; 1987

**169.090 Manual of guidelines for local correctional facility operation; guidelines for juvenile detention facility operation.** (1) The Director of the Department of Corrections shall publish and distribute a manual of recommended guidelines for the operation of local correctional facilities and lockups as developed by a jail standards committee appointed by the director. This manual shall be revised when appropriate with consultation and advice of the Oregon State Sheriffs' Association, the Oregon Association of Chiefs of Police, Association of Oregon Counties, the League of Oregon Cities and other appropriate groups and agencies and will be redistributed upon the approval of the Governor.

(2) The State Commission on Children and Families and the Department of Corrections shall develop guidelines pertaining to the operation of juvenile detention facilities, as defined in ORS 169.005 (2). Guidelines shall be revised by the commission and the Department of Corrections, whenever appropriate. The guidelines shall be included in the manual published and distributed under subsection (1) of this section. However, the commission may choose to publish and distribute the guidelines independently. [1973 c.740 s.6; 1981 c.869 s.7; 1987 c.320 s.97; 1993 c.18 s.28; 1993 c.676 s.40]

## TREATMENT OF PRISONERS

**169.105 Unconscious person not to be admitted to custody in facility.** No person who is unconscious shall be admitted to custody in a facility described in ORS 169.005, but shall instead be taken immediately to the nearest appropriate medical facility for medical diagnosis, care and treatment. [1983 c.547 s.2]

**169.110 Time credit for good behavior.** Each prisoner convicted of any offense against the laws of this state, who is confined, in execution of the judgment or sentence upon any such conviction, including confinement imposed as a condition of probation pursuant to ORS 137.540, in any county local correctional facility in this state for a definite term, whose record of conduct shows that the prisoner has faithfully observed all the rules of the facility, shall be entitled, in the discretion of the sheriff or other officer having custody of such prisoner, to a deduction from the term of the sentence of the prisoner to be calculated as follows, commencing on the first day of the arrival of the prisoner at the facility to serve the sentence of the prisoner:

- (1) Upon a sentence of not less than 10 nor more than 30 days, one day for each 10 days.
- (2) Upon a sentence of more than 30 days but not more than 90 days, three days for each 30-day period.
- (3) Upon a sentence of more than 90 days but not more than 180 days, four days for each 30-day period.
- (4) Upon a sentence of more than 180 days but not more than 270 days, five days for each 30-day period.
- (5) Upon a sentence of more than 270 days, six days for each 30-day period. [Amended by 1965 c.346 s.3; 1971 c.196 s.1; 1973 c.740 s.13; 1979 c.487 s.11]

**169.115 Temporary leave.** (1) Any prisoner serving a sentence in a county jail may be eligible for temporary leave for a period not to exceed 10 days for the purpose of visiting a seriously ill relative, attending the funeral of a relative, or obtaining medical services not otherwise available.

(2) All requests for temporary leave must be presented to the sheriff for examination. Exemptions shall be restricted to those prisoners who are considered a possible threat to society, or those who pose a risk of not returning at the termination of such leave.

(3) Upon determining that circumstances are suitable for a prisoner to be granted temporary leave, the sheriff may grant leave to the prisoner and fix the duration and conditions of the leave.

(4) In adopting rules governing temporary leave, the sheriff shall consult with the Department of Corrections in an effort to establish statewide uniform rules governing temporary leave for county jail prisoners. [1973 c.499 s.1; 1979 c.487 s.12; 1987 c.320 s.98]

**169.120 Credit for work.** In addition to the allowances provided for in ORS 169.110, all prisoners in a county local correctional facility who are engaged in any work either inside or outside the facility are entitled to an allowance of credits in time or compensation, or both, for such work. The allowances shall not be inconsistent with ORS 169.170 to 169.210. The credits provided by this section shall not be in excess of 10 days for a period of 30 days and shall be set by the county court, board of county commissioners or local correctional facility supervisor. However, in the case of a sentence of not less than 10 nor more than 30 days the credits provided by this section are one day of credit for

each 10 days of sentence. [Amended by 1967 c.284 s.1; 1971 c.196 s.2; 1973 c.740 s.14; 1979 c.487 s.13]

**169.130** [Amended by 1959 c.533 s.1; repealed by 1971 c.743 s.432]

**169.140 Furnishing prisoners food and clothing.** The keeper of each local correctional facility shall furnish and keep clean the necessary bedding and clothing for all prisoners in the custody of the keeper, and shall supply them with wholesome food, fuel and necessary medical aid. [Amended by 1973 c.740 s.15]

**169.150 Payment of expenses of keeping prisoners; health care fees.** (1) The charges and expenses for safekeeping and maintaining all persons duly committed to the local correctional facility of the county for trial, sentenced to imprisonment in the county local correctional facility, or committed for the nonpayment of any fine or for any contempt, shall, unless otherwise provided by law, be paid out of the treasury of the county. The account of the keeper shall be first allowed by the county court or board of county commissioners of the county from which the prisoner was committed.

(2) A city or, notwithstanding subsection (1) of this section or any other provision of law, the county may charge persons committed to the local correctional facility of the county or city a reasonable health care fee for any health care services, medications and equipment provided to the person while committed if the county or city:

(a) Provides necessary medical care regardless of the person's ability to pay;

(b) Provides equal treatment to all persons committed to the local correctional facility regardless of a person's ability to pay;

(c) Establishes a system that notifies the person of the fees and what services are covered; and

(d) Establishes a grievance system that allows a person to challenge the deduction of a fee from the person's account. [Amended by 1973 c.740 s.16; 1995 c.523 s.1; 1999 c.801 s.1]

**169.151 Expenses of keeping prisoners; reimbursement from prisoners; amounts; procedures.** (1) A city or, notwithstanding ORS 169.150 (1), a county may seek reimbursement from a person who is or was committed to the local correctional facility of the county or city upon conviction of a crime for any expenses incurred by the county or city in safekeeping and maintaining the person. The county or city may seek reimbursement:

(a) At a rate of \$60 per day or its actual daily cost of safekeeping and maintaining the person, whichever is less, multiplied by the total number of days the person was confined to the local correctional facility, including, but not limited to, any period of pretrial detention; and

(b) For any other charges or expenses that the county or city is entitled to recover under ORS 169.150.

(2) The county or city may seek reimbursement for expenses as provided in subsection (1) of this section by filing a civil action no later than one year after the person from whom reimbursement is sought is released from the local correctional facility.

(3) When a person is found liable for expenses described in subsection (1) of this section and an amount is determined, the court shall, before entering a judgment against the person, allow the person to present evidence on the issue of the person's ability to pay. When a person presents such evidence, the court shall determine the person's ability to pay taking into consideration:

(a) The financial resources of the person and the burden that payment will impose on the person in providing basic economic necessities to the person or the person's dependent family; and

(b) Any other monetary obligations imposed upon the person by the court as a result of the conviction for which the person was committed to the local correctional facility.

(4) The court, and not a jury, shall determine the defendant's ability to pay under subsection (3) of this section.

(5) Upon the conclusion of a proceeding under subsection (3) of this section, the court may enter a judgment:

(a) Of dismissal if the court finds that the person lacks the ability to pay;

(b) For less than the full amount determined if the court finds that the person has the ability to pay a portion of the amount; or

(c) For the full amount determined, plus costs and disbursements, if the court determines the person has the ability to pay.

(6) Any reimbursements collected under this section must be credited to the general fund of the county or city to be available for general fund purposes. [1997 c.349 s.2; 1999 c.801 s.2]

**169.152 Liability for costs of medical care for persons in county facility.** Notwithstanding ORS 169.140,

169.150 and 169.220, when a person is lawfully confined in a county local correctional facility for violation of a city ordinance, for nonpayment of a fine imposed by a municipal court or as a result of a warrant of arrest issued by a magistrate in another county, the county in which the warrant was issued or the city shall be liable for the costs of medical care provided to the person while confined in the county local correctional facility. The keeper of the local correctional facility shall bill the other county or city for the actual cost of the medical care provided, and the other county or city shall pay the charges within 60 days after receiving the cost statement from the keeper. [1985 c.530 s.2]

**169.153 Liability of public agency for costs of medical care provided to persons in transport.** (1) Subject to ORS 30.260 to 30.300 and 414.805, payment of the costs of medical care provided to a person who becomes ill or is injured while being lawfully transported in the custody of a law enforcement officer at the request of a public agency other than the public agency by which the officer is employed is the responsibility of the public agency that requested the transportation of the person.

(2) As used in this section, “law enforcement officer” and “public agency” have the meanings given those terms by ORS 414.805. [1985 c.530 s.3; 1993 c.196 s.5]

**169.155 Definitions for ORS 169.155 and 169.166.** As used in ORS 169.166, and this section:

(1) “Local correctional facility” includes lockups and temporary hold facilities.

(2) “Reasonable efforts to collect the charges and expenses” means that the provider has billed the individual to whom the emergency medical services were provided or the insurer or health care service contractor of the individual before seeking to collect from the keeper of the local correctional facility. [1979 c.530 s.4; 1993 c.196 s.6]

**169.160** [Repealed by 1971 c.743 s.432]

**169.165** [1979 c.530 s.2; 1981 c.690 s.1; repealed by 1993 c.196 s.12]

**169.166 Liability for costs of emergency medical services.** Notwithstanding ORS 169.140 and 169.150 and except as otherwise provided in ORS 414.805 and 414.807:

(1) An individual who receives medical services not provided by the county or city while in the custody of a local correctional facility or juvenile detention facility is liable:

(a) To the provider of the medical services not provided by the county or city for the charges and expenses therefor; and

(b) To the keeper of the local correctional facility for any charges or expenses paid by the keeper of the facility for the medical services not provided by the county or city.

(2) A person providing medical services not provided by the county or city to an individual described in subsection (1)(a) of this section shall first make reasonable efforts to collect the charges and expenses thereof from the individual before seeking to collect them from the keeper of the local correctional facility.

(3)(a) Except as otherwise provided in subsection (4) of this section, if the provider has not been paid within 45 days of the date of the billing, the provider may bill the keeper of the local correctional facility who shall pay the account in accordance with ORS 169.140 and 169.150.

(b) A bill submitted to the keeper of a local correctional facility under this subsection must be accompanied by evidence documenting that:

(A) The provider has billed the individual or the individual's insurer or health care contractor for the charges or expenses owed to the provider; and

(B) The provider has made a reasonable effort to collect from the individual or the individual's insurer or health care contractor the charges and expenses owed to the provider.

(c) If the provider receives payment from the individual or the insurer or health care contractor after receiving payment from the keeper of the facility, the provider shall repay the keeper the amount received from the keeper less any difference between payment received from the individual, insurer or contractor and the amount of the billing.

(4) Except as otherwise provided by ORS 30.260 to 30.300 and federal civil rights laws, upon release of the individual from the actual physical custody of the local correctional facility, the keeper of the local correctional facility is not liable for the payment of charges and expenses for medical services provided to the individual. [1991 c.778 s.6; 1999 c.801 s.3]

**Note:** 169.166 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS

chapter 169 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**169.170 Assignment of county prisoners to public works.** All convicts sentenced by any court or legal authority, whether in default of the payment of a fine, or committed for a definite number of days to serve sentence in a county local correctional facility, during the period of such sentence, for the purposes of ORS 169.120 and 169.170 to 169.210, are under the exclusive and absolute control of the county court or board of county commissioners of the county in which the crime was committed for which the convict was sentenced. The court or board has full power to place such convicts under the control of any road supervisor or other person appointed to take charge of them, and to cause them to work upon the public roads of the county, or such other work of a public nature as said court or board may direct. All such convicts shall be delivered to the supervisor or other person appointed to take charge of them, upon the written request of the court or board. The sheriff shall obtain a receipt from the person to whom such convicts are delivered for each of the convicts, and thereupon the sheriff's liability ceases. The county court may at any time return any convict, taken under the provisions of this section, to the sheriff, who shall thereupon take charge of the convict. The court or board is authorized and directed to provide rules and regulations in regard to the employment of said convicts not inconsistent with ORS 169.170 to 169.210. [Amended by 1959 c.530 s.7; 1973 c.740 s.17]

**169.180 Assignment of city prisoners to public works.** All convicts sentenced by any court or legal authority in any city, whether in default of the payment of a fine or committed for a definite number of days to serve sentence in any local correctional facility, during the period of the sentence shall, with the consent of the proper city authorities and for the purposes of ORS 169.120 and 169.170 to 169.210, be under the absolute and exclusive control of the county court or board of county commissioners of the county in which said city is located. Such city convicts shall be delivered to the county court by any officer having custody thereof in the same manner as county prisoners, and may be returned to the officer from whom they are received in the same manner, and shall be subject to the same rules and regulations as provided in ORS 169.170 for county prisoners. [Amended by 1973 c.740 s.18]

**169.190 Transfer of prisoners to another county for public work.** Any county court or board of county commissioners may transfer to the county court or board of county commissioners of any other county any of the convicts committed to its control, under ORS 169.170 or 169.180. The court or board to which such convicts are so transferred has the same power and authority respecting such convicts as if they had been sentenced to serve in that county. The transfer of convicts from one county to another shall be made upon such terms and conditions as may be agreed upon by the county courts or boards concerned in the transfer.

**169.200** [Repealed by 1973 c.740 s.28]

**169.210 Contracts for private employment of prisoners; agencies having power to work prisoners.** (1) Except for work release programs, no county or city shall enter into any agreement or contract with any private person, firm or corporation for the employment of any convict.

(2) If any board or tribunal is created which has charge and management of the public roads of the county, such board or tribunal shall have the same power and authority as is conferred upon the county court or board of county commissioners by ORS 169.120 and 169.170 to 169.210. [Amended by 1973 c.740 s.19]

**169.220 Care of county prisoners.** All persons lawfully confined in a county local correctional facility, or as prisoners engaged in work under the custody and jurisdiction of a county, shall be fed and maintained at actual cost to the county. All persons confined in a county local correctional facility shall be given three meals per day. An accurate account of each meal furnished to others than inmates of local correctional facilities, together with the names of the recipients thereof, whether facility employees or otherwise, shall be kept and reported by the sheriff each month to the county court or board of county commissioners. The county court or board of county commissioners shall furnish the sheriff with adequate equipment and supplies for carrying out the provisions of this section. The sheriff has authority to employ such assistance therefor as may be necessary. All supplies and equipment needed to feed and maintain such persons as provided in this section shall be purchased by the county court or board of county commissioners upon requisitions duly verified and presented by the sheriff to the county court or board of county commissioners. All supplies so purchased shall be paid for by warrant drawn upon the general fund of the county, upon presentation of vouchers containing itemized statements of all supplies so furnished, duly verified by the sheriff and by the person selling the same, each of whom shall certify that the supplies were actually furnished and received in the quantities

represented and were of good quality, and that the price charged therefor was reasonable and just. [Amended by 1957 c.698 s.1; 1973 c.740 s.20]

**169.310** [Repealed by 1957 c.698 s.2]

## DUTIES AND LIABILITIES OF SHERIFF

**169.320 Control over prisoners; work by prisoners.** (1) Except as otherwise provided in ORS 169.170 to 169.210, each county sheriff has custody and control of all persons legally committed or confined in the county local correctional facility of the county of the sheriff during the period of the commitment or confinement. Under the direction of the county court or board of county commissioners of the county, the sheriff may cause the prisoners in the county local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the court or board may direct. The sheriff may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(2)(a) If the county is located within an intergovernmental corrections entity formed under ORS 190.265, the county sheriff of the county in which the facility is located is responsible for the physical custody and control of all persons legally committed to or confined in the facility during the period of the commitment or confinement and as provided in the intergovernmental agreement. The county sheriff may cause the prisoners in the local correctional facility to engage in any work that is otherwise authorized by law. The work shall be performed at the places and times and in the manner as the governing body of the intergovernmental corrections entity may direct. The sheriff may retain and put to work any prisoners as may be required to perform necessary services in and about the facility.

(b) Notwithstanding paragraph (a) of this subsection, a sheriff oversight committee has the responsibilities described in paragraph (a) of this subsection if the following requirements have been met:

(A) The agreement establishing the intergovernmental corrections entity provides for the formation and operation of a sheriff oversight committee;

(B) A sheriff oversight committee consisting of the sheriff of each county that is a member of the intergovernmental corrections entity has been formed; and

(C) Each sheriff has an equal vote on the sheriff oversight committee.

(c) A sheriff oversight committee formed as described in this subsection has all the duties and liabilities regarding the management of the local correctional facility and the physical custody and control of all persons legally committed to or confined in the facility as described in ORS 169.320 to 169.360 and 169.610 to 169.677. [Amended by 1973 c.740 s.21; 1996 c.4 s.5; 1999 c.801 s.4]

**169.330 Civil liability for release of prisoner.** When a prisoner has been committed to the county local correctional facility to be held until the prisoner has paid a sum of money to a private party, or a fine or penalty to the state, and is permitted to depart the facility without legal order or process, the private party or the state may recover in a civil action against the sheriff, the damages sustained by reason of the prisoner's departure. [Amended by 1961 c.649 s.8; 1973 c.740 s.22]

**169.340 Liability for escape of defendant in a civil action.** (1) A sheriff who suffers the escape of a prisoner, arrested or in a local correctional facility, without the consent or connivance of the party on whose behalf the arrest or imprisonment was made, is liable to an action by such party, as follows:

(a) When the arrest is upon an order of arrest in a civil action, suit or proceeding; when the presence of the defendant at the return of the summons is necessary to enable the plaintiff to proceed therein, and the defendant does not appear at the time and place specified in the summons.

(b) When the arrest or imprisonment is upon an order of arrest in any other civil action, suit or proceeding, or upon a surrender in exoneration of the sheriff or security release, and the defendant is not found upon an execution against the person of the defendant issued to the proper county on a judgment or decree in such action, suit, or proceeding.

(c) When the arrest is on an execution or commitment to enforce the payment of money, and the party interested is not recaptured or surrendered into custody at the expiration of the time limited for the service thereof, or legally discharged therefrom.

(d) When a person is imprisoned on an execution or commitment to enforce the payment of money, and the person escapes after the time limited for the service, and is not recaptured or surrendered before an action is commenced for

the escape.

(2) The measure of damages in an action brought under subsection (1) of this section, is as follows:

(a) For the escape mentioned in subsection (1)(a) of this section, the actual damages sustained.

(b) In any other case, the amount expressed in the execution or commitment. [Amended by 1973 c.740 s.23; 1999 c.1051 s.259]

**169.350 Liability for failing to serve papers.** When a sheriff or the officer of the sheriff, upon whom is served a paper in a judicial proceeding directed to a prisoner in the custody of the sheriff or officer, fails to forthwith deliver it to the prisoner, with a note thereon of the time of its service, the sheriff is liable to the prisoner for all damages occasioned thereby, and if the sheriff or officer willfully fails to so act, such sheriff or officer is guilty of a misdemeanor.

**169.360 Appointment of keeper of local correctional facility.** The sheriff may appoint a keeper of the county local correctional facility, to be denominated the jailer, for whose acts as such the sheriff is responsible. The appointment shall be in writing, and the sheriff shall file a certified copy thereof in the office of the county clerk. [Amended by 1973 c.740 s.24]

**169.370** [Repealed by 1961 c.22 s.1]

**169.380** [Amended by 1973 c.740 s.25; repealed by 1981 c.41 s.3]

**169.510** [Repealed by 1963 c.547 s.11]

**169.520** [Amended by 1959 c.687 s.4; repealed by 1963 c.547 s.11]

## FEDERAL PRISONERS

**169.530 Duty to receive federal prisoners.** The sheriff shall receive and keep in the county local correctional facility every prisoner who is committed thereto under civil or criminal process issued by a court of the United States, until the prisoner is discharged according to the laws thereof, as if the prisoner had been committed under process issued by the authority of this state. The prisoner shall receive all sums payable by the United States for the use of the facility, and remit such sums to the county treasurer not later than the first day of the month succeeding their receipt. A sheriff or jailer to whose custody such prisoner is committed is answerable for the safekeeping of the prisoner in the courts of the United States, according to the laws thereof. [Amended by 1973 c.740 s.26]

**169.540 Liability for expenses of keeping federal prisoners.** The United States shall pay for the support and keeping of prisoners committed by virtue of legal process issued by or under its authority, the same charges and allowance provided for the support or keeping of prisoners committed under the laws of this state.

## REGIONAL FACILITIES

**169.610 Policy.** It is the policy of the Legislative Assembly to encourage better rehabilitative care to misdemeanants by encouraging the establishment of regional correctional facilities that can effectively provide a program that not only includes better custodial facilities than can be provided by cities or counties individually, but also that can provide work release, educational and other types of leave, and parole supervision by the Department of Corrections. [1971 c.636 s.1; 1987 c.320 s.99]

**169.620 “Regional correctional facility” defined.** As used in ORS 169.610 to 169.677, “regional correctional facility” means a correctional facility operated pursuant to agreement as described in ORS 169.630 and used to house prisoners of the parties to the agreement, such prisoners having either pretrial or post-trial status. [1971 c.636 s.2; 1985 c.708 s.2]

**169.630 Joint establishment or operation of facilities; agreement.** (1) Two or more counties, two or more cities, any combination of them, or the State of Oregon in combination with one or more cities or counties or both, may by

agreement entered into pursuant to ORS 190.003 to 190.620, construct, acquire or equip, or may by such agreement operate, a regional correctional facility.

(2) An agreement pursuant to this section shall set forth at least:

(a) The party or combination of parties to the agreement that shall be responsible for the operation and administration of the facility;

(b) The amount of funding to be contributed by each party toward the construction or acquisition and equipping of the facility, or toward the operation of the facility, or toward both, as the case may be; and

(c) The number of beds to be reserved to the use of each party to the agreement. [1971 c.636 s.3; 1985 c.708 s.3]

**169.640 Status of facility for custody of misdemeanants and violators.** (1) For purposes of sentencing and custody of a misdemeanor, a regional correctional facility shall be considered a county local correctional facility.

(2) For purposes of sentencing or custody of a person for violating a city ordinance, the regional correctional facility shall be considered a city local correctional facility. [1971 c.636 s.4; 1973 c.740 s.27]

**169.650 Status of facility operated by Department of Corrections.** A regional correctional facility operated under agreement by the Department of Corrections is not a state institution but it may be located in the same buildings as are used for a facility authorized by ORS 421.805. [1971 c.636 s.7; 1987 c.320 s.100]

**169.660 Status of persons confined in facility operated by Department of Corrections; assignment to regional facility.** (1) Persons confined in a regional correctional facility operated by the Department of Corrections shall be considered to be in the custody of the department and shall be subject to such rules as the department may prescribe.

(2) Persons committed to the custody of the Department of Corrections may be assigned to Department of Corrections bedspace at a regional correctional facility when the department is a party to the operation of the facility. Prisoners so assigned are subject to such rules as the department may prescribe and shall be considered to remain in the custody of the department regardless of whether, pursuant to agreement, the regional correctional facility is or is not under the actual administration of the department. [1971 c.636 s.5; 1985 c.708 s.4; 1987 c.320 s.101]

**169.670 Transfer of persons to facility operated by Department of Corrections; costs; return; exception.** Whenever the governing body of a county or city transfers a misdemeanor or violator or a person with pretrial or post-trial status to a regional correctional facility operated by the Department of Corrections, the county or city shall pay the cost of transportation to and from the facility and other expenses incidental thereto, including the expenses of law enforcement officers accompanying the misdemeanor, violator or person with pretrial or post-trial status. The Department of Corrections shall cause at the expense of the county or city, each misdemeanor, violator or person with pretrial or post-trial status transferred to its custody under ORS 169.660 to be returned upon request of the governing body of the county or city. However, such return is not required when the release is pursuant to work release or parole where other arrangements have been made for the placement of the misdemeanor, violator or person with pretrial or post-trial status. [1971 c.636 s.6; 1987 c.320 s.102]

**169.673 Conversion of state correctional institutions into regional correctional facilities.** (1) The Department of Corrections shall negotiate with Marion County and Umatilla County, respectively, the conversion of Oregon State Correctional Institution and Eastern Oregon Correctional Institution into regional correctional facilities to house both state and county prisoners. The department shall include in the negotiations any other nearby counties desiring to participate in the operation of the regional correctional facility.

(2) If agreement is reached with Marion County, in the case of the Oregon State Correctional Institution, and with Umatilla County, in the case of Eastern Oregon Correctional Institution, the department shall proceed to operate those institutions, or either of them as to which agreement is negotiated, as regional correctional facilities according to the terms of the agreement. [1985 c.708 s.6; 1987 c.320 s.103]

**169.677 Converted facilities to house felony or misdemeanor prisoners.** If a Department of Corrections institution is made to operate as a regional correctional facility pursuant to agreement under ORS 169.673, the purposes of the institution shall include the imprisonment of either felony or misdemeanor prisoners, or both, of the parties to the agreement under which the facility is operated. [1985 c.708 s.7; 1987 c.320 s.104]

**169.680** [1971 c.636 s.8; repealed by 1985 c.708 s.9]



## HALFWAY HOUSES

### **169.690 Citizen advisory committee; review of proposed halfway houses and other facilities; nomination and appointment of committee members; written report required of agency rejecting views of advisory committee.**

(1)(a) Before the Department of Corrections, Oregon Youth Authority or State Office for Services to Children and Families or any city, county or other public agency establishes a facility described in paragraph (c) of this subsection, the city, county, department, youth authority, state office or agency must designate a citizens advisory committee in the proposed affected geographic area.

(b) If there is an established citizens group or neighborhood organization in the affected geographic area which is established or recognized by the city or county where it is located, it shall be asked to nominate the committee. If there is none, the local government body having jurisdiction over the affected area shall appoint a committee selected from residents of the area.

(c) The facilities to which paragraph (a) of this subsection applies are:

(A) Halfway houses, work release centers or any other domiciliary facilities for persons released from any penal or correctional facility but still in the custody of the city, county or public agency; and

(B) Youth care centers or other facilities authorized to accept youth offenders under ORS 419C.478.

(2) The local governmental body having jurisdiction over the affected geographic area shall appoint to the citizens advisory committee persons from those nominated under subsection (1) of this section and shall invite the participation of officers of local governments having jurisdiction over the area.

(3) For each proposed house, center or other facility, the agency responsible for establishing the house, center or facility shall inform fully the citizens advisory committee of each affected geographic area of the following:

(a) The proposed location, estimated population size and use;

(b) The numbers and qualifications of resident professional staff;

(c) The proposed rules of conduct and discipline to be imposed on residents; and

(d) Such other relevant information as the agency responsible for establishing the house, center or facility considers appropriate or which the advisory committee requests.

(4) The citizens advisory committee shall advise the agency responsible for establishing the house, center or facility as to the suitability of the proposed house, center or other facility and may suggest changes in the proposal submitted under subsection (3) of this section. The advice shall be in writing and must represent the view of the majority of the committee.

(5) If the agency responsible for establishing the house, center or facility rejects any of the advice of the citizens advisory committee, it must submit its reasons in writing to the committee.

(6) No person serving on a committee established under this section should be entitled to receive any compensation or reimbursement for service on such committee. [1975 c.367 s.1; 1977 c.381 s.1; 1987 c.320 s.105; 1999 c.763 s.1]

**Note:** Section 2, chapter 763, Oregon Laws 1999, provides:

**Sec. 2.** The amendments to ORS 169.690 by section 1 of this 1999 Act apply to facilities established on or after the effective date of this 1999 Act [October 23, 1999]. [1999 c.763 s.2]

## JUVENILE DETENTION FACILITIES

### **169.730 Definitions for ORS 169.740 to 169.770.** As used in ORS 169.740 to 169.760:

(1) "Isolation" means confinement of a juvenile in any room which lacks toilet facilities, furniture, reading and recreation materials or access to light and air comparable to that in other rooms used for the detention of juveniles.

(2) "Roomlock" means confinement of a juvenile in any sleeping room, other than an isolation room, except during regular sleeping periods; except that, in the case of facilities serving counties with a population less than 70,000, based on the 1980 census, "roomlock" does not include confining a juvenile in a sleeping room when all detained juveniles of the same sex are similarly confined due solely to the limitations of physical facilities or staff. [1981 c.869 s.1a]

**169.740 Standards for juvenile detention facilities.** (1) The standards established in ORS 169.076 to 169.078 shall apply to juveniles detained in juvenile detention facilities.

(2) In addition, juvenile detention facilities shall:

- (a) Provide for personal inspection of each juvenile at least once each hour unless a particular situation requires more frequent inspection;
- (b) Provide for personal or electronically monitored supervision on each floor where juveniles are detained;
- (c) Provide for separation of detained juveniles from the sight and sound of detained adults. Juveniles shall not be placed in facilities that are designated for isolation of adult prisoners in order to meet this standard;
- (d) Provide for unrestricted contact between 8 a.m. and 5 p.m. for a period of not less than five hours per day between detained juveniles and their attorneys and unrestricted attorney access to the facility for private attorney-client consultation;
- (e) Unless otherwise ordered by the juvenile court following a hearing, provide for the private and unrestricted receipt of and sending of mail; except that incoming mail may be opened in the presence of the juvenile upon reasonable suspicion to believe that the mail contains contraband as defined in ORS 162.135 (1) and that incoming packages shall be opened in the presence of the juvenile and their contents may be held until the juvenile is released. The juvenile shall be informed of any confiscated contraband;
- (f) Provide for the payment of postage for the juvenile's mail to an attorney or to federal, state, county or municipal government officials;
- (g) Provide for nondispositional counseling and physical exercise of any juvenile held in excess of five judicial days and cause access to the juvenile held in excess of five judicial days for education pursuant to ORS 336.585;
- (h) Provide for the free exercise of religion by a detained juvenile, unless such provision will cause a threat to the security of the facility or a threat of disorderly conduct within the facility;
- (i) Make a written report, one copy of which shall be maintained in a general log, of each use of physical force, restraint, isolation, roomlock or internal search, setting forth in detail the reason such action was taken and the name of the staff person taking such action;
- (j) Notify the attorney and the parent or guardian of the detained juvenile after the use of any physical force, restraint, isolation or internal search upon the juvenile both:
  - (A) As soon as reasonable after the use thereof; and
  - (B) By mailing a copy of the written report within 24 hours after the use thereof;
- (k) For juveniles detained in an adult correctional facility, provide for in-person contact by juvenile department staff within 24 hours of the juvenile's admission and on a daily basis for as long as the juvenile shall remain in the facility; and
- (L) Provide for counseling of any detained juvenile found to be within the jurisdiction of the court. [Formerly 169.079; 1991 c.833 s.2]

**169.750 Restrictions on operation of juvenile detention facilities.** No juvenile detention facility shall:

- (1) Impose upon a detained juvenile for purposes of discipline or punishment any infliction of or threat of physical injury or pain, deliberate humiliation, physical restraint, withholding of meals, or isolation, or detention under conditions which violate the provisions of subsections (2) to (8) of this section, ORS 169.076 (7) to (11), (13) or (14) or 169.740;
- (2) Use any physical force, other means of physical control or isolation upon a detained juvenile except as reasonably necessary and justified to prevent escape from the facility, physical injury to another person, to protect a detained juvenile from physical self-injury or to prevent destruction of property, or to effectuate the confinement of the juvenile in roomlock or isolation as provided for in ORS 169.090, 169.730 to 169.800, 419A.050 and 419A.052, and for only so long as it appears that said danger exists. No use of force or other physical means of control shall employ:
  - (a) The use of restraining devices for a purpose other than to prevent physical injury or escape, or, in any case, for a period in excess of six hours. However, the time during which a detained juvenile is being transported to another facility pursuant to court order shall not be counted within the six hours; or
  - (b) Isolation for a period in excess of six hours;
- (3) Use roomlock except for the discipline and punishment of a detained juvenile for violation of a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or for conduct which constitutes a crime under the laws of this state or which would justify physical force, control or isolation under subsection (2) of this section;
- (4) Cause to be made an internal examination of a detained juvenile's anus or vagina, except upon probable cause that contraband, as defined in ORS 162.135 (1), will be found upon such examination and then only by a licensed physician or a nurse;
- (5)(a) Administer to any detained juvenile medication, except upon the informed consent of the juvenile or in the

case of an imminent threat to the life of the juvenile or where the juvenile has a contagious or communicable disease that poses an imminent threat to the health of other persons in the facility. However, in no case shall prescription medication be administered except upon a written prescription or written order by a licensed physician or licensed dentist and administered by a licensed physician, licensed dentist or other medical personnel authorized by the State of Oregon under ORS chapter 677, 678 or 679 to administer medication. Facility staff not otherwise authorized by law to administer medications may administer noninjectable medications in accordance with rules adopted by the Oregon State Board of Nursing pursuant to ORS 678.150 (9);

(b) Nonmedical personnel shall receive training for administering medications, including recognition of and response to drug reactions and unanticipated side effects, from the responsible physician or nurse and the official responsible for the facility. All personnel shall be responsible for administering the dosage medications according to orders and for recording the administrations of the dosage in a manner and on a form approved by the responsible physician; and

(c) Notwithstanding any other provision of law, no medication shall be administered unless a registered nurse or physician is either physically on the premises or readily available by telephone and within 30 minutes travel time of the patient;

(6) Administer to any detained juvenile any medication or medical procedure for purposes of experimentation;

(7) Discipline or punish any juvenile for conduct or behavior by roomlock, for a period in excess of 12 hours, or by denial of any privilege, regularly awarded other detained adults or juveniles, for more than one day, except after:

(a) Advising the juvenile in writing of the alleged offensive conduct or behavior;

(b) Providing the juvenile the opportunity to a hearing before a staff member who was not a witness to the alleged offensive conduct or behavior;

(c) Providing the juvenile the opportunity to produce witnesses and evidence and to cross-examine witnesses;

(d) Providing the detained juvenile the opportunity to testify, at the sole option of the juvenile; and

(e) A finding that the alleged conduct or behavior was proven by a preponderance of the evidence and that it violated a rule of conduct or behavior of the facility as provided for in ORS 169.076 (12) or constituted a crime under the laws of this state; and

(8) Detain juveniles who are emotionally disturbed, mentally retarded or physically handicapped on the same charges and circumstances for which other juveniles would have been released or provided with another alternative. [1981 c.869 s.3; 1983 c.598 s.1; 1993 c.33 s.313; 1997 c.765 s.1]

**169.760 Juvenile detention facilities to establish written policy.** All juvenile detention facilities, within six months following November 1, 1981, shall have established comprehensive written policies providing for the least restrictive alternative consistent with the safety and security of the facility, ORS 169.076, 169.078, 169.740 and 169.750, with respect to:

(1) The admission and release of juveniles to and from the facility and proper notification of the juvenile's parent, guardian or other person responsible for the juvenile;

(2) The use of physical restraints, physical force, chemical agents, internal searches and isolation of or upon a detained juvenile;

(3) A detained juvenile's access to medical and dental treatment, education, counseling and exercise;

(4) Access to the facility by the public and news media;

(5) Access to reading materials for detained juveniles;

(6) Dress and groom code which will allow for individual identity of detained juveniles;

(7) Access to visitation and telephone calls for a detained juvenile with family and friends;

(8) Sanctions for violating rules of inmate conduct made pursuant to ORS 169.076 (12) and procedures for fact-finding and imposition of discipline or punishment; and

(9) Access to records and grievance procedures for complaints by the detained juvenile, the attorney of the detained juvenile, parent or guardian or other interested person as provided for in ORS 419A.255. [1981 c.869 s.5; 1993 c.33 s.314]

**169.770 Release of detained juvenile when detention facility violates standards.** Notwithstanding the procedures set out in ORS 169.080 and 419A.061, the juvenile court in which venue lies pursuant to 419B.100 or 419C.005 shall, upon motion of any party or on its own motion, and after prompt hearing, release any juvenile detained in a facility which violates ORS 169.076 (7) to (11), (13) or (14), 169.740 or 169.750, unless the court finds that such violation is not likely to reoccur. The court may comply with the release provisions of this section by

transferring a detained juvenile to an available juvenile detention facility which it finds complies with ORS 169.076 (7) to (11), (13) or (14), 169.740 and 169.750, or by placing the juvenile in shelter care, or by releasing the juvenile to the custody of a responsible adult under terms and conditions specified by the court, or by releasing the juvenile on personal recognizance under terms and conditions specified by the court. An order under this section is a final order appealable pursuant to ORS 419A.200, but an appeal shall not suspend the jurisdiction of the juvenile court while the appeal is pending. No subsequent order of the juvenile court shall moot the appeal. [1981 c.869 s.4; 1985 c.499 s.8; 1985 c.618 s.11; 1993 c.33 s.315]

## MISCELLANEOUS

**169.800 Detention of juveniles before conviction and execution of sentence.** Notwithstanding a waiver order under ORS 419C.349, 419C.352, 419C.364 or 419C.370, if a person under 16 years of age is detained prior to conviction or after conviction but prior to execution of sentence, such detention shall be in a facility used by the county for detention of juveniles. [1985 c.631 s.3; 1993 c.33 s.316; 1993 c.546 s.120]

**169.810 Assumption of duties by regional correctional facility constitutes assumption by public employer; rights of transferred employees.** (1) Assumption by the regional correctional facility of those custodial duties formerly performed by a county or city jail constitutes an assumption of duties by a public employer subject to ORS 236.610 to 236.640.

(2) An employee who transfers from employment at a county or city jail to employment at a regional correctional facility operated by the county or city by which the employee has been employed shall be accorded the following rights:

(a) If a trial or probationary service period is required for employment at the county or city jail, the period of county or city employment of the employee shall apply to that requirement.

(b) An employee who transfers from employment at a county or city jail to employment at the regional correctional facility shall retain accumulated unused sick leave with pay and the accumulated unused vacation with pay to which the employee was entitled under county or city employment on the day before the transfer that are supported by written records of accumulation and use pursuant to a plan formally adopted and applicable to the employee under county or city employment.

(c) Notwithstanding any other provision of law applicable to a retirement system for county employees or city employees, an employee who transfers from employment at a county or city jail to employment at the regional correctional facility who was participating in a retirement system under county or city employment may elect, not later than the first day of the month following the month in which the employee transfers, to continue under the retirement system in which participating and not to become, if eligible, a member of another retirement system. The election shall be made in writing and shall be submitted to the regional correctional facility administrator, the Public Employees Retirement Board and the governing body of the counties and cities that operate the regional correctional facility.

(d) If an employee elects to continue under the retirement system in which participating under county or city employment, the employee shall continue to make required contributions to that system and the administration of the regional correctional facility shall make contributions on behalf of the employee required of an employer participating in that system.

(e) If an employee fails to elect to continue under the retirement system in which participating under county or city employment as provided in paragraph (c) of this subsection or was not participating in a retirement system under county or city employment, the employee shall become, if eligible, a member of the Public Employees Retirement System. If the employee is eligible to become a member of the Public Employees Retirement System, the period of continuous service of the employee under county or city employment immediately before the transfer of the employee shall apply to the six months' service requirement of ORS 238.015.

(3) The county or city employment records, or a copy thereof, applicable to an employee transferred under subsection (2) of this section shall be provided by the person having custody of the records to the regional correctional facility administrator. [1985 c.708 s.8]

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## CHAPTER 170

[Reserved for expansion]