

**CHAPTER 395**

AN ACT

SB 295

Relating to fitness to proceed; creating new provisions; amending ORS 161.365, 161.370, 161.372, 161.373, 161.390, 161.392, 181A.290 and 430.230; repealing section 48, chapter 97, Oregon Laws 2021 (Enrolled House Bill 3104); and declaring an emergency.

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

**PRELIMINARY PROVISIONS**

**SECTION 1.** (1) Sections 2 to 5 of this 2021 Act are added to and made a part of ORS 161.290 to 161.373.

(2) ORS 161.360, 161.365 and 161.370 are added to and made a part of sections 2 to 5 of this 2021 Act.

**SECTION 2.** As used in sections 2 to 5 of this 2021 Act:

(1) "Certified evaluator" has the meaning given that term in ORS 161.309.

(2) "Community restoration services" means services and treatment necessary to safely allow a defendant to gain or regain fitness to proceed in the community, which may include supervision by pretrial services.

(3) "Hospital level of care" means that a defendant requires the type of care provided by an inpatient hospital in order to gain or regain fitness to proceed.

(4) "Public safety concerns" means that the defendant presents a risk to self or to the public if not hospitalized or in custody.

**SECTION 3.** (1) A recommendation provided by a certified evaluator, pursuant to sections 2 to 5 of this 2021 Act, that a defendant requires a hospital level of care due to the acuity of the defendant's symptoms must be based upon the defendant's current diagnosis and symptomology, the defendant's current ability to engage in treatment, present safety concerns relating to the defendant and any other pertinent information known to the evaluator. If the defendant is in a placement in a facility, the evaluator may defer to the treatment provider's recommendation regarding whether a hospital level of care is needed.

(2) A determination by a community mental health program director, or the director's designee, pursuant to sections 2 to 5 of this 2021 Act, that appropriate community restoration services are not present and available in the community must include information concerning the specific services necessary to safely allow the defendant to gain or regain fitness to proceed in the community and must specify the

necessary services that are not present and available in the community.

(3)(a) Reports resulting from examinations performed by a certified evaluator, and documents containing the recommendations of or resulting from consultations with a community mental health program director or the director's designee, prepared under sections 2 to 5 of this 2021 Act, and any document submitted to the court by a state mental hospital related to the proceedings under sections 2 to 5 of this 2021 Act, are confidential and may be made available only:

(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee, state mental hospital and any facility in which the defendant is housed; or

(B) As ordered by a court.

(b) Any facility in which a defendant is housed may not use a report or document described in paragraph (a) of this subsection to support a disciplinary action against the defendant.

(c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report or document described in paragraph (a) of this subsection with witnesses or victims as otherwise permitted by law.

(4) The court shall ensure that an order entered under sections 2 to 5 of this 2021 Act is provided, by the end of the next judicial day, to any entity ordered to provide restoration services.

(5) Unless the court orders otherwise or either party objects, a defendant committed to a state mental hospital or other facility, or a certified evaluator or other expert witness, may attend hearings held under sections 2 to 5 of this 2021 Act via simultaneous electronic transmission.

**FITNESS TO PROCEED GENERALLY**

**SECTION 4.** (1) If at any time the court determines that the defendant lacks fitness to proceed, the court shall further determine whether there is a substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to proceed. If the court determines that there is no substantial probability that the defendant, in the foreseeable future, will gain or regain fitness to proceed, the court shall dismiss, without prejudice, all charges against the defendant and:

(a) Order that the defendant be discharged; or

(b) Initiate commitment proceedings under ORS 426.070, 426.701 or 427.235 to 427.290.

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

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

(c) The court may, upon its own motion or the request of either party, hold a hearing to determine whether the defendant has gained or regained fitness to proceed. If the court determines that the defendant has gained or regained fitness to proceed, the court shall resume the criminal proceeding unless the court determines that so much time has elapsed since the commitment or release of the defendant to community restoration services that it would be unjust to resume the criminal proceeding. If the court determines that it would be unjust to resume the criminal proceeding, the court, on motion of either party, may dismiss the charge and may order the defendant to be discharged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.290.

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

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

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

## COMMITTED DEFENDANTS

**SECTION 5.** (1) The superintendent of a state mental hospital or director of a facility to which the defendant is committed under ORS 161.370 shall cause the defendant to be evaluated within 60 days from the defendant's delivery into the superintendent's or director's custody, for the purpose of determining whether there is a substantial probability that, in the foreseeable future, the defendant will have fitness to proceed. In addition, the superintendent or director shall:

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

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

(A) The defendant has present fitness to proceed;

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

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

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

(2)(a) If the superintendent of the state mental hospital or director of the facility to which the defendant is committed determines that there is a substantial probability that, in the foreseeable future, the defendant will gain or regain fitness to proceed, unless the court otherwise orders, the defendant shall remain in the superintendent's or director's custody where the defendant shall receive treatment designed for the purpose of enabling the defendant to gain or regain fitness to proceed. In keeping with the notice requirement under subsection (1)(b) of this section, the superintendent or director shall, for the duration of the defendant's period of commitment, submit a progress report to the committing court, concerning the defendant's fitness to proceed, at least once every 180 days as measured from the date of the defendant's delivery into the superintendent's or director's custody.

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

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

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

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

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

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

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

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

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

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

(A) If, after consideration of the factors and possible actions described in ORS 161.370 (2)(c) and any recommendations received under paragraph (a) or (b) of this subsection, the court determines that a hospital level of care is necessary due to public safety concerns or the acuity of symptoms of the defendant's qualifying mental disorder, and that based on the consul-

tation or evaluation described in paragraph (a) or (b) of this subsection, any information provided by community-based mental health providers or any other sources, primary and secondary release criteria as defined in ORS 135.230, and any other information the court finds to be trustworthy and reliable, the appropriate community restoration services are not present and available in the community, the court may continue the commitment of the defendant.

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

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

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

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

(b) Notwithstanding subsection (2) of this section, if the most serious offense in the charging instrument is a misdemeanor, and the community mental health program director determines that the community restoration services that would mitigate any risk posed by the defendant are present and available in the community, the community mental health program director may file notice of the determination with the court. Upon receipt of the notice, the court shall order that the superintendent of the state mental hospital or director of the facility

to which the defendant is committed, within five judicial days:

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

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

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

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

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

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

(A) Three years; or

(B) A period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted.

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

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

(B) The defendant shall be given credit against each charge alleged in the accusatory instrument:

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

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

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

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

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

(7) If at any time the court determines that the defendant lacks fitness to proceed, the court shall further determine whether the defendant is entitled to discharge under subsection (5) of this section. If the court determines that the defendant is entitled to discharge under subsection (5) of this section, the court shall dismiss, without prejudice, all charges against the defendant and:

(a) Order that the defendant be discharged; or

(b) Initiate commitment proceedings under ORS 426.070, 426.701 or 427.235 to 427.290.

## EXAMINATION OF DEFENDANT

### SECTION 6. ORS 161.365 is amended to read:

161.365. (1)(a) When the court has reason to doubt the defendant's fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to assist it in reaching its decision and, **except as provided in paragraph (b) of this subsection**, shall order that a community mental health program director, or the director's

designee, consult with the defendant and with any local entity that would be responsible for *[supervising]* **providing community restoration services** to the defendant if the defendant were to be released in the community, to determine whether *[services and supervision necessary to safely allow the defendant to gain or regain fitness to proceed]* **appropriate community restoration services** are **present and** available in the community. After the consultation, the program director or the director's designee shall provide to the court a copy of the findings resulting from the consultation.

**(b) If the defendant is charged with one or more of the following offenses the court is not required to, but may in its discretion, order the consultation described in paragraph (a) of this subsection:**

- (A) Aggravated murder;**
- (B) Murder in any degree;**
- (C) Attempted aggravated murder;**
- (D) Attempted murder in any degree;**
- (E) Manslaughter in any degree;**
- (F) Aggravated vehicular homicide;**
- (G) Arson in the first degree when classified as crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;**
- (H) Assault in the first degree;**
- (I) Assault in the second degree;**
- (J) Kidnapping in the first degree;**
- (K) Kidnapping in the second degree;**
- (L) Rape in the first degree;**
- (M) Sodomy in the first degree;**
- (N) Unlawful sexual penetration in the first degree;**
- (O) Robbery in the first degree; or**
- (P) Robbery in the second degree.**

**(c)** If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

**(A)** Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator and a report of the examination be prepared; or

**(B)** Order the defendant to be committed for the purpose of an examination to a state mental hospital or other facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age. The state mental hospital or other facility may retain custody of a defendant committed under this paragraph for the duration necessary to complete the examination of the defendant, not to exceed 30 days. The examination may include a period of observation.

**[(b)] (d)** The court shall provide a copy of any order entered under this subsection to the community mental health program director or designee and to the state mental hospital or other facility by the end of the next judicial day.

**(2)(a)** A defendant committed under subsection **[(1)(a)(B)] (1)(c)(B)** of this section shall be trans-

ported to the state mental hospital or other facility for the examination.

**(b)** At the conclusion of the examination, the superintendent of the state mental hospital or the superintendent's designee or the director of the facility may:

**(A)** Return the defendant to the facility from which the defendant was transported; or

**(B)** Inform the court and the parties that the defendant requires a hospital level of care due to *[the defendant's dangerousness and]* the acuity of symptoms of the defendant's qualifying mental disorder and request that the defendant remain at the state mental hospital or other facility pending a hearing or order under ORS 161.370.

**[(c) If both parties consent, the court may, without holding a hearing, enter any order authorized by ORS 161.370 based on a report resulting from an examination conducted under this section.]**

**(3)** The report of an examination described in this section must include, but is not necessarily limited to, the following:

**(a)** A description of the nature of the examination;

**(b)** A statement of the mental condition of the defendant;

**(c)** If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and

**(d)** If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to allow the defendant to gain or regain capacity, including whether a hospital level of care is required due to *[the defendant's dangerousness and]* the acuity of symptoms of the defendant's qualifying mental disorder.

**(4)** Except when the defendant and the court both request to the contrary, the report may not contain any findings or conclusions as to whether the defendant as a result of a qualifying mental disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

**(5)** If the examination by the certified evaluator cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must so state and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of a qualifying mental disorder affecting *[capacity]* **fitness** to proceed.

**(6)[(a)]** The report resulting from the examination of a defendant under this section may be filed electronically and must be filed with the clerk of the court, who shall cause copies to be delivered to the district attorney and to counsel for defendant.

**[(b) The entity or evaluator conducting the examination shall provide a copy of the report resulting from the examination to the community mental health program director or designee in:]**

**[(A) The county in which the defendant is charged; and]**

*[(B) The county of the defendant's last known residence.]*

*[(c) Reports prepared under this section are confidential and may be made available only:]*

*[(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee and any facility in which the defendant is housed; or]*

*[(B) As ordered by a court.]*

*[(d) Any facility in which a defendant is housed may not use a report prepared under this section to support a disciplinary action against the defendant.]*

*[(e) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report prepared under this section with witnesses or victims as otherwise permitted by law.]*

(7)(a) When upon motion of the court or a financially eligible defendant, the court has ordered a psychiatric or psychological examination of the defendant, a county or justice court shall order the county to pay, a **municipal court shall order the city to pay**, and a circuit court shall order the public defense services executive director to pay from funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by a certified evaluator in private practice; and

(B) All costs including transportation of the defendant if the examination is conducted by a certified evaluator in the employ of the Oregon Health Authority or a community mental health program established under ORS 430.610 to 430.670.

(b) When an examination is ordered at the request or with the acquiescence of a defendant who is determined not to be financially eligible, the examination shall be performed at the defendant's expense. When an examination is ordered at the request of the prosecution, the county shall pay for the expense of the examination.

(8) The Oregon Health Authority shall establish by rule standards for the consultation described in subsection (1) of this section.

*[(9) As used in this section and ORS 161.370, "certified evaluator" has the meaning given that term in ORS 161.309.]*

## DISPOSITION UPON FINDING OF LACK OF FITNESS

**SECTION 7.** ORS 161.370 is amended to read:

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

(b) If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed under ORS 161.365, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence in the hearing, the party who contests the finding has

the right to summon and to cross-examine any certified evaluator who submitted the report and to offer evidence upon the issue. Other evidence regarding the defendant's fitness to proceed may be introduced by either party.

(2)(a) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended and the court shall, *at a hearing,* proceed in accordance with this subsection.

(b) After making the determination under paragraph (a) of this subsection, the court shall receive a recommendation, *to be considered at the hearing,* from a community mental health program director or the director's designee, and from any local entity that would be responsible for *[supervising]* **treating** the defendant if the defendant were to be released in the community, concerning whether *[services and supervision necessary to safely allow the defendant to gain or regain fitness to proceed are available]* **appropriate community restoration services are present and available** in the community.

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

(A) Commitment for the defendant to gain or regain fitness to proceed under subsection (3) or *[(5)]* (4) of this section;

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

*[(C) Release on supervision;]*

*[(D)]* (C) Commencement of a civil commitment proceeding under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.290;

*[(E)]* (D) Commencement of protective proceedings under ORS chapter 125; or

*[(F)]* (E) Dismissal of the charges pursuant to ORS 135.755.

(d) If the court, while considering or ordering an appropriate action under this subsection, *[determines that the defendant does not require a hospital level of care due to the defendant's dangerousness and the acuity of symptoms of the defendant's qualifying mental disorder, but that services and supervision necessary to safely allow the defendant to gain or regain fitness to proceed are not available]* **does not order the defendant committed to a state mental hospital or other facility, but finds that ap-**

**appropriate community restoration services are not present and available** in the community, for any defendant remaining in custody after such determination, the court shall set a review hearing seven days from the date of the determination under paragraph (a) of this subsection. At the review hearing, the court shall consider all relevant information and determine *[an appropriate action in the case as described in paragraph (c) of this subsection. If the defendant remains in custody following the initial review hearing, the court shall hold further review hearings every seven days thereafter until the defendant is no longer in custody.]* **if commitment to the state mental hospital or other facility is appropriate under subsection (3) or (4) of this section, or if another action described in paragraph (c) of this subsection is appropriate. At the conclusion of the hearing the court shall enter an order in accordance with the defendant's constitutional rights to due process.**

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

*[(3)(a) Unless the court orders an action other than commitment under subsection (2) of this section, and except as otherwise provided in subsections (4) and (5) of this section, if the court finds that the defendant is dangerous to self or others as a result of a qualifying mental disorder, that a hospital level of care is necessary due to the defendant's dangerousness and the acuity of symptoms of the defendant's qualifying mental disorder, and that, based on the findings resulting from the consultation described in ORS 161.365 (1) and from any information provided by community-based mental health providers or any other sources, the services and supervision necessary to allow the defendant to gain or regain fitness to proceed are not available in the community, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age.]*

**(3)(a) If the most serious offense in the charging instrument is a felony, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facil-**

**ity designated by the authority if the defendant is under 18 years of age, if the court makes the following findings:**

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

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

(b) **If the defendant is committed under this subsection, the community mental health program director, or director's designee, shall at regular intervals, during any period of commitment, review available community [resources] restoration services and maintain communication with the defendant and the superintendent of the state mental hospital or director of the facility in order to facilitate an efficient transition to treatment in the community when ordered.**

**(c) If the court does not order the commitment of the defendant under this subsection, the court shall proceed in accordance with subsection (2)(c) of this section to determine and order an appropriate action other than commitment.**

*[(4)(a) If the court does not make a finding described in subsection (3) of this section, if commitment is precluded under subsection (5) of this section or if the court determines that care other than commitment for incapacity to stand trial would better serve the defendant and the community, the court shall release the defendant on supervision for as long as the unfitness endures.]*

*[(b) The court may order a community mental health program director providing treatment to the defendant in the community to provide the court with status reports on the defendant's progress in gaining or regaining fitness to proceed.]*

*[(c) A community mental health program director providing treatment to the defendant in the community shall notify the court if the defendant gains or regains fitness to proceed.]*

*[(5)(a) If the most serious offense in the charging instrument is a violation, the court may not commit the defendant under subsection (3) of this section.]*

**[(b)] (4)(a) If the most serious offense in the charging instrument is a misdemeanor, the court may not commit the defendant [under subsection (3) of this section] to the custody of the superintendent of a state mental hospital or director of a facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age, unless the [finding that the defendant requires a hospital level of care due to the**

*defendant's dangerousness and the acuity of symptoms of the defendant's qualifying mental disorder is based on a recommendation by a certified evaluator as defined in ORS 161.309, or a community mental health program director or the director's designee, that the defendant requires such level of care.] court:*

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

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

(B) **Determines that the defendant requires a hospital level of care after making all of the following written findings:**

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

(ii) **There are public safety concerns; and**

(iii) **The appropriate community restoration services are not present and available in the community.**

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

(A) **Has not received a recommendation from a certified evaluator as to whether the defendant requires a hospital level of care due to [the defendant's dangerousness and] the acuity of symptoms of the defendant's qualifying mental disorder, the court shall order a certified evaluator [or a community mental health program director, or the director's designee,] to make such a recommendation.**

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

[(d)] (c) **If the court does not order the commitment of [a] the defendant [described in this subsection to the state mental hospital or other facility] under this subsection, the court shall [hold a hearing] proceed in accordance with subsection (2)(c) of this section to determine and order an appropriate action other than commitment.**

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

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

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

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

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

[(6)] (d) **When a defendant is [released on supervision] ordered to engage in community restoration services under [subsection (4) of this section] this subsection, the court may place conditions that the court deems appropriate on the release, including the requirement that the defendant regularly report to [the authority or a community mental health program] a state mental hospital or a certified evaluator for examination to determine if the defendant has gained or regained [capacity to stand trial] fitness to proceed.**

[(7)] **When the court, on its own motion or upon the application of the superintendent of the hospital or director of the facility in which the defendant is committed, a person examining the defendant as a condition of release on supervision, or either party, determines, after a hearing, if a hearing is requested, that the defendant has gained or regained fitness to proceed, the criminal proceeding shall be resumed. If,**



however, the court is of the view that so much time has elapsed since the commitment or release of the defendant on supervision that it would be unjust to resume the criminal proceeding, the court on motion of either party may dismiss the charge and may order the defendant to be discharged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170, 426.701 or 427.235 to 427.290.]

[(8) The superintendent of a state hospital or director of a facility to which the defendant is committed shall cause the defendant to be evaluated within 60 days from the defendant's delivery into the superintendent's or director's custody, for the purpose of determining whether there is a substantial probability that, in the foreseeable future, the defendant will have the capacity to stand trial. In addition, the superintendent or director shall:]

[(a) Immediately notify the committing court if the defendant, at any time, gains or regains the capacity to stand trial or will never have the capacity to stand trial.]

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

[(A) The defendant has the present capacity to stand trial;]

[(B) There is no substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial; or]

[(C) There is a substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial. If the probability exists, the superintendent or director shall give the court an estimate of the time in which the defendant, with appropriate treatment, is expected to gain or regain capacity.]

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

[(9)(a) If the superintendent or director determines that there is a substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial, unless the court otherwise orders, the defendant shall remain in the superintendent's or director's custody where the defendant shall receive treatment designed for the purpose of enabling the defendant to gain or regain capacity. In keeping with the notice requirement under subsection (8)(b) of this section, the superintendent or director shall, for the duration of the defendant's period of commitment, submit a progress report to the committing court, concerning the defendant's capacity or incapacity, at least once every 180 days as measured from the date of the defendant's delivery into the superintendent's or director's custody.]

[(b)(A) Notwithstanding paragraph (a) of this subsection, if the superintendent or director determines that a defendant committed under this section is no longer dangerous to self or others as a result of a qualifying mental disorder, that a hospital level of care is not necessary due to the defendant's dangerousness and the acuity of symptoms of the

defendant's qualifying mental disorder, or that the services and supervision necessary to allow the defendant to gain or regain fitness to proceed are available in the community, the superintendent or director shall file notice of that determination with the court.]

[(B) Upon receipt of the notice, the court shall order that a community mental health program director or the director's designee, within five judicial days:]

[(i) Consult with the defendant and with any local entity that would be responsible for supervising the defendant if the defendant were to be released in the community to determine whether services and supervision necessary to safely allow the defendant to gain or regain fitness to proceed are available in the community; and]

[(ii) Provide the court and the parties with recommendations from the consultation.]

[(C) Within 10 judicial days of receiving the recommendations from the consultation, the court shall hold a hearing to determine an appropriate action in accordance with subsection (2)(c) of this section as follows:]

[(i) If, after consideration of the factors and possible actions described in subsection (2)(c) of this section, and any recommendations from the consultation described in this paragraph, the court determines that the defendant remains dangerous to self or others as a result of a qualifying mental disorder, a hospital level of care is necessary due to the defendant's dangerousness and the acuity of symptoms of the defendant's qualifying mental disorder, and the services and supervision necessary to allow the defendant to gain or regain fitness to proceed are not available in the community, the court may, after making specific findings to that effect, continue the commitment.]

[(ii) If the court does not make the findings described in sub-subparagraph (i) of this subparagraph, the court shall terminate the commitment and shall set a review hearing seven days from the date of the commitment termination for any defendant remaining in custody. At the review hearing, the court shall consider all relevant information and determine an appropriate action in the case as described in subsection (2)(c) of this section. If the defendant remains in custody following the initial review hearing, the court shall hold further review hearings every seven days thereafter until the defendant is no longer in custody.]

[(c) A progress report described in paragraph (a) of this subsection may consist of an update to:]

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

[(B) An evaluation conducted under subsection (8) of this section, if the defendant did not receive an examination under ORS 161.365.]

[(10)(a) A defendant who remains committed under subsection (9) of this section shall be discharged within a period of time that is reasonable for making a determination concerning whether or not, and when, the defendant may gain or regain capacity. However, regardless of the number of charges with which the defendant is accused, in no event shall the defendant

be committed for longer than whichever of the following, measured from the defendant's initial custody date, is shorter:]

[(A) Three years; or]

[(B) A period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted.]

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

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

[(B) The defendant shall be given credit against each charge alleged in the accusatory instrument:]

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

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

[(11) The superintendent or director shall notify the committing court of the defendant's impending discharge 30 days before the date on which the superintendent or director is required to discharge the defendant under subsection (10) of this section.]

[(12) When the committing court receives a notice from the superintendent or director under subsection (8) or (11) of this section concerning the defendant's progress or lack thereof, the committing court shall determine, after a hearing, if a hearing is requested, whether the defendant presently has the capacity to stand trial.]

[(13) If at any time the court determines that the defendant lacks the capacity to stand trial, the court shall further determine whether there is a substantial probability that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial and whether the defendant is entitled to discharge under subsection (10) of this section. If the court determines that there is no substantial probability that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial or that the defendant is entitled to discharge under subsection (10) of this section, the court shall dismiss, without prejudice, all charges against the defendant and:]

[(a) Order that the defendant be discharged; or]

[(b) Initiate commitment proceedings under ORS 426.070 or 427.235 to 427.290.]

[(14) All notices required under this section shall be filed with the court and may be filed electronically. The clerk of the court shall cause copies of the notices to be delivered to both the district attorney and the counsel for the defendant.]

[(15) If the defendant gains or regains fitness to proceed, the term of any sentence received by the de-

fendant for conviction of the crime charged shall be reduced by the amount of time the defendant was committed under this section to the custody of a state mental hospital, or to the custody of a secure intensive community inpatient facility designated by the Oregon Health Authority.]

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

[(17) At the time that the court determines that the defendant lacks fitness to proceed under subsection (2) of this section, the court shall notify the defendant that federal law prohibits the defendant from purchasing or possessing a firearm unless the person obtains relief from the prohibition under federal law. The court shall again notify the defendant of the prohibition if the court finds that the defendant has gained or regained fitness to proceed under subsection (7) of this section.]

[(18)(a) The entity or evaluator conducting an examination of a defendant under this section shall provide a copy of any report described in this section to the community mental health program director or designee in:]

[(A) The county in which the defendant is charged; and]

[(B) The county of the defendant's last known residence.]

[(b) Reports prepared under this section are confidential and may be made available only:]

[(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee and any facility in which the defendant is housed; or]

[(B) As ordered by a court.]

[(c) Any facility in which a defendant is housed may not use a report prepared under this section to support a disciplinary action against the defendant.]

[(d) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report prepared under this section with witnesses or victims as otherwise permitted by law.]

[(19) The court shall ensure that an order entered under this section is provided, by the end of the next judicial day, to any entity ordered to provide services and supervision necessary to restore the defendant's fitness to proceed.]

[(20) Unless the court orders otherwise or either party objects, a defendant committed to a state hospital or other facility, or a certified evaluator or other expert witness, may attend hearings held under this section via simultaneous electronic transmission.]

[(21)] (7) The Oregon Health Authority shall establish by rule standards for the recommendation

provided to the court described in subsection (2) of this section.

## INVOLUNTARY MEDICATION

### **SECTION 8.** ORS 161.372 is amended to read:

**161.372. (1)** If, at any point while the defendant is in the custody of the superintendent of the state mental hospital **after commitment** under ORS 161.370, the superintendent determines that medication is the recommended treatment in order to allow the defendant to gain or regain fitness to proceed, the defendant is refusing to take the recommended medication and the defendant cannot be involuntarily medicated without a court order, the superintendent shall submit a report of the determination to the court.

(2) The report described in subsection (1) of this section shall include:

(a) Information regarding the benefits and side effects of each recommended medication;

(b) Information concerning the defendant's refusal to take the recommended medication; and

(c) The likelihood that the medication will allow the defendant to gain or regain fitness to proceed.

(3)(a) Based upon the report described in subsection (1) of this section, the prosecuting attorney may file a motion requesting that the court authorize the involuntary administration of medication to the defendant. The prosecuting attorney shall provide a copy of the motion to the defendant.

(b) The court shall hold a hearing on the motion if either the prosecuting attorney or the defendant requests a hearing. At the hearing, the court shall determine whether to issue an order authorizing the involuntary administration of medication to the defendant.

(c) In order to enter an order authorizing the involuntary administration of medication to the defendant, the court must find that:

(A) Involuntary medication of the defendant is not otherwise authorized by law;

(B) There are important state interests at stake in the prosecution of the defendant;

(C) The recommended medication will significantly further the important state interests because:

(i) It is substantially likely that the medication will render the defendant fit to proceed; and

(ii) It is substantially unlikely that the medication will cause side effects that will impair the fairness of the criminal proceeding;

(D) Involuntary administration of medication is necessary to further the important state interests because there are no alternative, less intrusive treatments that would produce the same result as the medication; and

(E) Administration of the medication is medically appropriate because it is in the defendant's best medical interest in light of the defendant's medical condition.

(d) A court order authorizing the involuntary administration of medication to a defendant under this section must specify:

(A) The specific medication or type of medications permitted to be administered to the defendant;

(B) The maximum dosage that may be administered; and

(C) The duration of time that the state mental hospital may involuntarily medicate the defendant before reporting back to the court on the defendant's mental condition and progress toward gaining or regaining fitness to proceed. The duration of time shall not exceed the maximum period of the defendant's commitment to the state mental hospital, or 180 calendar days, whichever is shorter.

**(4)(a) Reports, motions and orders concerning the involuntary medication of a defendant under this section are confidential and may be made available only:**

**(A) To the court, prosecuting attorney, defense attorney, agent of the prosecuting or defense attorney, defendant, community mental health program director or designee, state mental hospital and any facility in which the defendant is housed; or**

**(B) As ordered by a court.**

**(b) Any facility in which a defendant is housed may not use a report or document described in paragraph (a) of this subsection to support a disciplinary action against the defendant.**

**(c) Nothing in this subsection prohibits the prosecuting attorney, defense attorney or agent of the prosecuting or defense attorney from discussing the contents of a report or document described in paragraph (a) of this subsection with witnesses or victims as otherwise permitted by law.**

## CONFORMING AMENDMENTS

### **SECTION 9.** ORS 161.373 is amended to read:

**161.373. (1)** Unless otherwise prohibited by law or for good cause, all public bodies, as defined in ORS 174.109, and any private medical provider in possession of records concerning the defendant, shall, within five business days of receipt of the order, comply with a court order for the release of records to the state mental hospital or other facility designated by the Oregon Health Authority for the purpose of conducting an examination or evaluation under [ORS 161.365 or 161.370] **sections 2 to 5 of this 2021 Act.**

(2) Notwithstanding subsection (1) of this section, the Oregon Youth Authority, the Department of Corrections, a community college district, a community college service district, a public university, a school district or an education service district may, after notifying the state hospital or other facility designated by the Oregon Health Authority,

comply with the court order within 15 business days of receipt of the order without good cause.

(3) As used in this section, in the case of a community college district, a community college service district, a public university, a school district or an education service district, "business day" does not include any day on which the central administration offices of the district or university are closed.

**SECTION 10.** ORS 161.390 is amended to read:

161.390. (1) The Oregon Health Authority shall adopt rules for the assignment of persons to state mental hospitals or secure intensive community inpatient facilities **after commitment** under ORS 161.365 and 161.370 and for establishing standards for evaluation and treatment of persons committed to a state hospital or a secure intensive community inpatient facility or ordered to a community mental health program under ORS 161.315 to 161.351.

(2) When the Psychiatric Security Review Board requires the preparation of a pre-discharge or pre-conditional release plan before a hearing or as a condition of granting discharge or conditional release for a person committed under ORS 161.315 to 161.351 to a state hospital or a secure intensive community inpatient facility for custody, care and treatment, the authority is responsible for and shall prepare the plan.

(3) In carrying out a conditional release plan prepared under subsection (2) of this section, the authority may contract with a community mental health program, other public agency or private corporation or an individual to provide supervision and treatment for the conditionally released person.

(4)(a) The board shall maintain and keep current the medical, social and criminal history of all persons committed to its jurisdiction. The confidentiality of records maintained by the board shall be determined pursuant to ORS 192.338, 192.345, 192.355 and 192.398.

(b) Except as otherwise provided by law, upon request of the board, a state hospital, a community mental health program and any other health care service provider shall provide the board with all medical records pertaining to a person committed to the jurisdiction of the board.

(5) The evidentiary phase of a hearing conducted by the board under ORS 161.315 to 161.351 is not a deliberation for purposes of ORS 192.690.

**SECTION 11.** ORS 161.392 is amended to read:

161.392. (1) The Oregon Health Authority shall adopt rules necessary to certify psychiatrists and licensed psychologists for the purpose of performing evaluations and examinations described in ORS 161.309[ 161.365] and 419C.524 **and sections 2 to 5 of this 2021 Act.** The rules must include a description of the standards and qualifications necessary for certification. The authority may charge a fee for certification under this section in an amount determined by rule.

(2) The authority shall consult with the Psychiatric Security Review Board about proposed rules described in subsection (1) of this section before issuing the proposed rules for public comment and before adopting the rules.

**SECTION 12.** ORS 181A.290 is amended to read:

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

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

(b) Are subject to a court order under ORS 426.130 or 426.133 prohibiting the person from purchasing or possessing a firearm;

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

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

(e) Have been found guilty except for insanity of a crime under ORS [161.295 to 161.370] **161.290 to 161.373;**

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

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

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

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

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

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

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

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

(5) As used in this section, "minimum information necessary" means data elements or nominal information that is necessary or required under federal

law to accurately identify a person described in this section and includes the person's name, date of birth, gender and reference information that identifies the originating agency or court and enables the originating agency or court to locate an underlying record or file of a person described in this section. "Minimum information necessary" does not include any medical, psychiatric or psychological information, case histories or files of a person described in this section or any record or file of an originating agency or court.

**SECTION 13.** ORS 430.230 is amended to read: 430.230. As used in ORS 430.230 to 430.236:

(1) "Comprehensive community supports and services" includes:

(a) Community-based mental health or substance use disorder treatment programs;

(b) [*Community-based services necessary to restore a defendant's fitness to proceed, as described in ORS 161.370 (2)(a)*] **Community restoration services as defined in section 2 of this 2021 Act;**

(c) Evidence-based and tribal-based programs designed to reduce hospital and jail utilization by target populations; and

(d) Programs aimed at diverting individuals with nonperson criminal charges experiencing mental illness or substance use disorders from the criminal justice system.

(2) "County" includes a single county or a regional consortium of counties.

**SECTION 13a.** If House Bill 3104 becomes law, section 48, chapter 97, Oregon Laws 2021 (Enrolled House Bill 3104) (amending ORS 430.230), is repealed.

#### MISCELLANEOUS

**SECTION 14.** The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

#### EMERGENCY CLAUSE

**SECTION 15.** This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

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