

Chapter 427

1959 REPLACEMENT PART

Fairview Home for the Mentally Deficient

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§ 427.005 INSTITUTIONS FOR THE MENTALLY ILL AND MENTALLY DEFICIENT

427.005 "Physician" defined. As used in this chapter, unless the context requires otherwise, "physician" means a person licensed by the State Board of Medical Examiners to practice medicine and surgery. [1959 c.331 §10]

427.010 Oregon Fairview Home; personnel. The Oregon Fairview Home shall be used for the care and training of such epileptic and mentally deficient persons as are committed to its custody. The institution shall be quasi-educational in its nature. The superintendent shall appoint officers, teachers and other employes necessary to instruct such mentally deficient persons as, in the judgment of the superintendent, should receive instruction. The superintendent shall be a well educated physician. [Amended by 1953 c.155 §7]

427.020 [Reserved for expansion]

427.030 Application for commitment; examining board. The judge of any court having probate jurisdiction shall, upon application of any citizen in writing, setting forth that any person is mentally deficient or epileptic and by reason thereof is in need of care, custody or training, cause such person to be brought before him at such time and place as he may direct. The judge shall also cause to appear, at the same time and place, at least two physicians, or one physician and one psychologist, who shall constitute an examining board. [Amended by 1953 c.155 §7; 1957 c.403 §6; 1959 c.331 §7]

427.040 Examination and commitment. (1) The examining board shall proceed to examine carefully the person alleged to be mentally deficient. If the board certifies that the person is mentally deficient, the judge, if in his opinion the person is mentally deficient, shall commit the person to the Oregon Fairview Home for indeterminate detention or may commit such persons for purposes of a single observation and diagnosis for a period of not over 30 days.

(2) Whenever an order is made committing any person to the Fairview Home, a copy of the order, together with the personal and family history of such person, upon blanks to be furnished the judge by the superintendent of the Fairview Home, and a full copy of the report of the physicians, shall be mailed forthwith to the superintendent, who shall indorse thereon the date of receipt and file them in his office. [Amended by 1953 c.155 §7]

427.050 Admission on commitment; transportation. (1) Patients are entitled to admission to the Fairview Home in the order in which the copies of the orders for commitment are received and filed. Whenever there is room at the Fairview Home to receive additional patients, the superintendent shall at once notify the court which made the commitment earliest received and filed. The court shall within 30 days thereafter cause the patient to be taken to the Fairview Home or shall enter an order that such person is no longer entitled to admission, notify the superintendent thereof, and provide for the safe and suitable care of such person.

(2) The person committed shall be conveyed to the Fairview Home by a member of the family of the mentally deficient person or by a trained attendant of the institution in the same manner as is provided for the conveyance of mentally ill persons to the Oregon state hospitals. The expense of such transportation for the mentally deficient person to the Fairview Home shall be paid by the county from which the person is committed. No mentally deficient person who has not been a resident of this state for at least one year next preceding the examination provided in ORS 427.040 shall be admitted to the Fairview Home. [Amended by 1953 c.155 §7; 1957 c.388 §12]

427.060 Detention of mentally deficient person by relative or guardian. If any relative or guardian of any person who has been certified by the examining board to be mentally deficient agrees to furnish such means of private detention and supervision of the person as are satisfactory to the court, the judge may make the mentally deficient person a ward of the court. The court shall require the relative or guardian to give a good and sufficient bond, in a form to be prescribed by the Attorney General, to properly detain, guard and supervise the mentally deficient person.

427.070 Commitment of delinquent, dependent or convicted, mentally deficient person; detention of person pending proceedings. (1) If the judge of a court in which any person has been convicted of delinquency or crime or has been adjudged a dependent has cause to believe that such person is mentally deficient, the judge shall call in an examining board, as provided in ORS 427.030. If the board and the judge certify that the delin-

quent or dependent person is mentally deficient, the judge shall commit the mentally deficient person to the Fairview Home for an indeterminate period.

(2) No such allegedly mentally deficient person shall, during the pendency of the hearing of the petition, be detained in any place provided for the detention of persons charged with or convicted of any criminal or quasi-criminal offense.

427.080 Appeal; proceedings on appeal. Any proper party who is dissatisfied with the finding of the county court in any case brought under ORS 427.030 to 427.070 may appeal to the circuit court. Proceedings shall be conducted in the circuit court as outlined in ORS 427.030 to 427.050.

427.090 Information given in commitment papers. In all cases of commitment to the Oregon Fairview Home under ORS 427.030 to 427.080, the commitment papers shall furnish all available information concerning persons so committed, including the school record, family history and cause of condition, for the permanent records of the Fairview Home.

427.100 Payment of examining board, witnesses, cost of examination and commitment. The board employed for the examination of mentally deficient persons shall receive the same compensation as is provided for in the examination of allegedly mentally ill persons. Witnesses shall receive the same compensation as in civil cases. The cost of examination and commitment shall be paid by the county in which the examination is made.

427.104 Establishment of out-patient department. The Superintendent of the Oregon Fairview Home, with the approval of the Board of Control and with funds appropriated for that purpose by the legislature, may establish and maintain an out-patient department, to be operated as an instrumentality of the Oregon Fairview Home as a service to parents and guardians of mentally deficient children who are not admitted to a state institution. [1953 c.631 §1]

427.106 Services provided by out-patient departments. The out-patient department shall provide:

(1) Diagnostic services and advice to any parents or guardians of mentally deficient children who are not committed to a state institution, if the parents or guardians are

referred to the department by a health officer or a physician licensed by the State Board of Medical Examiners.

(2) Guidance and advice to parents or guardians of mentally deficient children who have been committed to the Oregon Fairview Home pursuant to ORS 427.030 to 427.100, but cannot be admitted until a vacancy occurs. [1953 c.631 §2]

427.108 Fee schedules for out-patient services. The Board of Control, by its rules and regulations, shall establish fee schedules for services under ORS 427.104 and 427.106. [1953 c.631 §3]

427.110 [Repealed by 1953 c.155 §7]

427.120 Reexamination, transfer or discharge of inmate; expense of return; examination on request of relative or guardian.

(1) The superintendent of the Oregon Fairview Home may require that a reexamination of any inmate be made by at least two physicians, or one physician and one psychologist. If the examination shows the inmate to be no longer a fit subject for the institution, the inmate shall be transferred by the Oregon State Board of Control to such state institution as is recommended by the superintendent of the Oregon Fairview Home or the inmate shall be discharged from the Oregon Fairview Home and returned to the court having jurisdiction over commitments to the Oregon Fairview Home in the county of which the inmate was a resident at time of commitment. The expense incurred in returning the inmate to the court shall be paid by the county of which the inmate was a resident at time of commitment. If a person is committed to Oregon Fairview Home while in another state institution or within 90 days after his release from another state institution, his residence shall be deemed to be the same as it was at the time he entered the prior state institution.

(2) The superintendent shall further require an examination to be made of any inmate upon written request of any relative or guardian of the inmate, when the relative or guardian pays to the state the fee required to be paid to the physicians or psychologists for making such examination. [Amended by 1953 c.155 §7; 1959 c.331 §8]

427.130 [Amended by 1955 c.651 §10; repealed by 1957 c.160 §6]

427.140 [Repealed by 1957 c.388 §17]

427.150 Leave of absence for inmate; damages caused by inmate while on leave; return to Fairview Home upon complaint.

(1) The superintendent may grant leave of absence to any inmate of the Oregon Fairview Home pursuant to the rules and regulations of the Board of Control. The Board of Control or the Oregon Fairview Home shall not be liable for the expenses of the inmate while on leave of absence nor shall they be liable for any damages resulting from the actions of the inmate while on leave of absence.

(2) Every inmate granted leave under this section shall be received back into the Oregon Fairview Home upon complaint in writing by a citizen of this state to the district attorney of the county in which the inmate resides. The district attorney shall promptly notify the Superintendent of Oregon Fairview Home of the complaint if the acts complained of are such as to indicate that the inmate should no longer be permitted to remain at large. Thereupon, the superintendent may cancel the leave of absence and have the inmate returned to the Oregon Fairview Home. [1953 c.155 §5]

427.160 to 427.190 [Reserved for expansion]

427.200 [1953 c.615 §1; repealed by 1957 c.202 §6]

427.210 Definitions for ORS 427.210 to 427.260. As used in ORS 427.210 to 427.260, unless the context requires otherwise:

(1) "Board" means the Oregon State Board of Control.

(2) "Custody" means the right of immediate physical control, retention and supervision.

(3) "Discharge" means the relinquishment by the superintendent of Oregon Fairview Home of all rights and responsibilities he may have acquired by reason of the admission of any resident.

(4) "Mental retardation" is synonymous with "mental deficiency."

(5) "Minor" means any unmarried person under the age of 21 years.

(6) "Person" includes any person, as defined in ORS 174.100, and public officials and public agencies.

(7) "Resident" means a minor admitted to Oregon Fairview Home under ORS 427.220.

(8) "Superintendent" means the Super-

intendent of Oregon Fairview Home. [1959 c.331 §1]

427.220 Application for admission of minors without commitment. Pursuant to reasonable rules and regulations of the board and in conformity with ORS 427.230, the superintendent shall admit as a resident and take custody of any minor as soon as possible after the receipt of a written application for such minor's admission, submitted in accordance with the following requirements:

(1) The application shall be made by the minor's parents or, if the parents are not entitled to custody, by the person entitled to custody.

(2) The application shall be supported by the affidavit of at least two physicians, or one physician and one psychologist, certifying that the minor is either (a) mentally retarded and in need of residential care, treatment, training or education at Oregon Fairview Home or (b) is suitable for observation at Oregon Fairview Home as to the existence of mental retardation.

(3) The application shall be made in the manner and form required by the board. [1959 c.331 §2]

427.230 Admission as resident; residence requirement; cancellation of application; continuous custody upon commitment.

(1) A minor is entitled to admission as a resident in Oregon Fairview Home as space in the appropriate unit becomes available. Such admissions are to be made in the order in which proper applications for admission under ORS 427.220 are received, giving priority, as space in appropriate units becomes available, to previously received, proper applications and previously filed orders for commitment. Except as provided by subsection (2) of ORS 428.220, no mentally deficient person who has not been a resident of this state for at least one year next preceding his proposed admission to the institution shall be admitted to Oregon Fairview Home.

(2) As space in an appropriate unit becomes available, the superintendent shall notify the person who made the application for admission of the minor that the minor may be admitted as a resident. The notice shall set the date when the admission is to be made. If within 30 days after the date set for admission, the minor is not brought to the Oregon Fairview Home, his application

may, in the discretion of the superintendent, be canceled.

(3) In case a resident, while in the custody of the superintendent, is committed to Oregon Fairview Home, such resident shall remain in custody under the order for commitment notwithstanding ORS 427.050. [1959 c.331 §6]

427.240 Termination of residency voluntarily or continuation of custody upon commitment. (1) Subject to the provisions of subsection (3) of this section, no resident shall be retained at Oregon Fairview Home for more than 30 days after the date when the person otherwise entitled to custody of the resident except for the custody of Oregon Fairview Home has given written notice to the superintendent of his desire to remove the resident from Oregon Fairview Home. Such notice shall indicate to the superintendent the proposed plan of future residence of the resident.

(2) Whenever the superintendent considers it to be in the best interests of the resident that he be committed to Oregon Fairview Home, the superintendent shall promptly make application to the court having probate jurisdiction in the county in which Oregon Fairview Home is located for commitment of the resident to Oregon Fairview Home. The superintendent shall send, by certified mail to the last-known address of the person who gave notice of desire to remove the resident, a copy of his application for commitment. If, within 15 days after the date of such mailing, the person who gave such notice notifies the superintendent and the court in writing that he objects to the commitment proceeding taking place in the county in which Oregon Fairview Home is located, the proceeding shall be transferred to the court which would otherwise have jurisdiction to make an order of commitment upon application under ORS 427.030. Upon transfer, the costs of transporting the resident and of continuing his custody during the proceeding and the costs of examination and commitment shall be paid, notwithstanding ORS 427.100, by the person giving notice of desire to remove the resident; otherwise, the state shall bear such costs.

(3) Pending final determination of the commitment proceeding, the superintendent shall retain custody of the resident. If, upon final determination, the court does not order commitment of the resident to Oregon Fair-

view Home, the superintendent shall discharge the resident. [1959 c.331 §3]

427.250 Discharge or commitment of resident upon reaching age of majority. Each resident shall be examined upon reaching the age of majority by at least two physicians, or one physician and one psychologist, on the staff of the Oregon Fairview Home who shall determine and certify as to the minor's mental retardation and need of further residential care, treatment, training or education at Oregon Fairview Home. If, in the opinion of the superintendent, their findings indicate the resident to be no longer a fit subject for Oregon Fairview Home, the resident shall be discharged. If the superintendent is of the opinion that the resident should be committed to Oregon Fairview Home, he shall promptly make application to the court having probate jurisdiction in the county in which the Oregon Fairview Home is located for commitment of the resident to Oregon Fairview Home. The superintendent shall send, by certified mail to the last-known address of the person who made application for the admission of the resident, a copy of his application for commitment. If, within 15 days after the date of such mailing, the person who made the application for admission, or the person otherwise entitled to custody of the resident except for the custody of Oregon Fairview Home, notifies the superintendent and the court in writing that he objects to the commitment proceeding taking place in the county in which Oregon Fairview Home is located, the proceeding shall be transferred to the court which would otherwise have jurisdiction to make an order of commitment upon application under ORS 427.030. Upon transfer, the costs of transporting the resident and of continuing his custody during the proceeding and the costs of examination and commitment shall be paid, notwithstanding ORS 427.100, by the person objecting to the commitment proceeding taking place in the county in which Oregon Fairview Home is located; otherwise, the state shall bear such costs. If, upon final determination, the court does not order commitment of the resident to Oregon Fairview Home, the superintendent shall discharge the resident. [1959 c.331 §4]

427.260 Discharge of residents; cost of care and maintenance of residents. (1) Residents may be discharged, but not transferred, in the same manner as is provided

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for inmates under ORS 427.120, except that, in the discretion of the superintendent, either (a) the resident may be returned to the person otherwise entitled to custody except for the custody of Oregon Fairview Home, in which case the state shall bear the cost of returning the former resident, or (b) the resident may be discharged at Oregon Fairview Home. In the case of dis-

charges of residents under subsection (3) of ORS 427.240 or ORS 427.250, the superintendent may exercise the same option.

(2) The cost of the care and maintenance of a resident shall be charged and collected in so far as possible in the same manner as is provided in ORS chapter 428 for a person voluntarily admitted to a state hospital under ORS 426.220. [1959 c.331 §5]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel