

## Chapter 427

### 1963 REPLACEMENT PART

## Fairview Home for the Mentally Deficient

- 427.005 Definitions  
427.010 Oregon Fairview Home; personnel  
427.015 Petition for commitment of mentally deficient person  
427.025 Precommitment examination required; examination facilities  
427.035 Precommitment examination at Oregon Fairview Home  
427.045 Report of findings; recommendations  
427.055 Costs of transportation and maintenance of person during examination  
427.059 Certification of mental deficiency; order of commitment; copy to Oregon Fairview Home  
427.065 Admission on commitment; cost of transportation; residence requirement  
427.067 Care of mentally deficient person by relative or guardian  
427.070 Commitment of delinquent or convicted mentally deficient person; detention  
427.085 Appeal from determination of mental deficiency  
427.090 Information given in commitment papers  
427.100 Payment of examining board, witnesses, cost of examination and commitment  
427.104 Establishment of outpatient department  
427.106 Services provided by outpatient departments  
427.108 Fee schedules for outpatient services  
427.120 Reexamination, transfer or discharge of inmate; expense of return; examination on request of relative or guardian  
427.150 Leave of absence for inmate; damages caused by inmate while on leave; return to Fairview Home upon complaint  
427.210 Definitions for ORS 427.210 to 427.260  
427.220 Application for admission of minors without commitment  
427.225 Preadmission examination of minors; costs of transportation and maintenance during examination  
427.230 Admission as resident; residence requirement; cancellation of application; continuous custody upon commitment  
427.240 Termination of residency voluntarily or continuation of custody upon commitment  
427.250 Discharge or commitment of resident upon reaching age of majority  
427.260 Discharge of residents; cost of care and maintenance of residents

### CROSS REFERENCES

- Administrative procedures governing state agencies, 183.310 to 183.510  
Admission and support of nonresident patients, Ch. 428  
Alien or nonresident public charges, Ch. 415  
Assisting inmate to escape, 162.340  
Barber training in state institution, 696.050, 696.060  
Clothing for mentally deficient, institution to provide, 179.760  
Cost of care of persons in state institutions, responsibility for, 179.610 to 179.770  
Deaths or injuries, report of by supervisor to coroner or medical investigator, Ch. 146  
Escape or release of certain persons, reporting, 181.530  
Escheat of property of inmates, 120.210  
Handicapped children, special instruction for, 343.265  
Juvenile court, jurisdiction over certain children, 419.476  
Liability for cost of maintaining institution inmates, Ch. 179  
Mental Health Division, Ch. 430  
Mentally retarded children, special instruction, 343.410 to 343.520  
Phenylketonuria control, 433.285  
State hospitals for the mentally ill, Ch. 426  
Statistical records to be kept by institution, 432.165  
Supervision by Board of Control over, and provisions of general application to, state institutions, Ch. 179  
University child guidance clinic services extension to public agencies, 343.940  
Work by inmates on state-owned land, 179.450  
427.010  
Admission to Columbia Park State Home, 428.340  
Application for admission of minors without commitment by a judge, 427.220  
Bond, oath and other provisions relating to superintendent and personnel, 179.330 to 179.400  
Compensation of superintendent, 179.340, 292.600  
Superintendent's report to State Board of Eugenics, 436.030  
427.015  
Probate jurisdiction, 3.130, 3.320, 3.330(d), 5.040, 46.092  
427.065  
Admission of minors, cancellation of admission if minor not brought to Fairview Home 30 days after date of admission, 427.230  
Admission of nonresident mentally deficient persons, 428.220, 428.310  
Appointment of woman to accompany female person to place of confinement on being ordered to eleemosynary institution, 137.360

Juvenile court, commitment of child to institution, 419.511  
 Return of public charges to state of legal residence, 415.030, 428.230  
 Transportation of mentally ill persons to state hospitals, 426.150

**427.070**

Commitment of mentally deficient defendant in criminal proceedings, 136.160  
 Determining liability for maintenance of mentally deficient person and appointment of guardian of his estate, 179.640, 179.740

**427.106**

Diagnosis of mentally retarded children for school districts, 343.490

**427.260**

Cost of care and maintenance of a minor, 179.610 to 179.770  
 Notifying Department of Motor Vehicles of released license driver unfit to drive, 482.120

**427.005 Definitions.** As used in this chapter, unless the context requires otherwise:

(1) "Mental Health Division" or "division" means the Mental Health Division of the Oregon State Board of Control.

(2) "Physician" means a person licensed by the State Board of Medical Examiners to practice medicine and surgery.  
 [1959 c.331 §10; 1961 c.706 §27]

**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 judgement of the superintendent, should receive instruction. The superintendent shall be a well-educated physician.  
 [Amended by 1953 c.155 §7]

**427.015 Petition for commitment of mentally deficient person.** The judge of any probate court may, upon written petition of any citizen, alleging that any person is mentally deficient 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.  
 [1961 c.661 §2]

**427.020** [Reserved for expansion]

**427.025 Precommitment examination required; examination facilities.** (1) If, after receiving a petition for commitment and viewing the person alleged to be mentally deficient, the judge considers the person to be in need of care, custody or training, he shall order a precommitment physical and mental examination of the person at a county facility or at the Oregon Fairview Home as provided in subsection (2) of this section.

No person shall be committed to the Oregon Fairview Home without a precommitment examination.

(2) If the county in which the petition for commitment is filed has no facility which is, in the opinion of the Mental Health Division, capable of making a proper precommitment examination, the judge shall order the person to be examined at the Oregon Fairview Home. Application for the precommitment examination shall be made in the manner and form prescribed by the examining authority and shall be accompanied by copies of all personal and family histories and medical and psychological reports available on the person alleged to be mentally deficient. The division shall notify all courts having probate jurisdiction which facility within the county, if any, is acceptable in making the precommitment examination.  
 [1961 c.661 §3]

**427.030** [Amended by 1953 c.155 §7; 1957 c.403 §6; 1959 c.331 §7; repealed by 1961 c.661 §20]

**427.035 Precommitment examination at Oregon Fairview Home.** Upon receipt of an application as provided in ORS 427.025, Oregon Fairview Home shall schedule a date for the person alleged to be mentally deficient to be brought to Oregon Fairview Home for examination. The person shall not be kept in residence at Oregon Fairview Home for a period longer than seven days.  
 [1961 c.661 §4]

**427.040** [Amended by 1953 c.155 §7; repealed by 1961 c.661 §20]

**427.045 Report of findings; recommendations.** (1) Oregon Fairview Home shall report its findings to the court within 30 days of completion of the examination. These findings shall indicate whether the person is mentally deficient, and recommend the type of treatment which is in the best interest of the person, his family and the community.

(2) If a person alleged to be mentally deficient has been examined by Oregon Fairview Home Outpatient Clinic within one year prior to the application for examination under ORS 427.025, the findings from such previous examination may at the discretion of the Oregon Fairview Home be reported to the court in lieu of a precommitment examination.

(3) The recommendation may be for commitment to Oregon Fairview Home, treatment through the Oregon Fairview Home Outpatient Clinic or through available local services, retention at his home or commitment to another state institution.  
[1961 c.661 §§5, 6]

**427.050** [Amended by 1953 c.155 §7; 1957 c.388 §12; 1961 c.661 §11; renumbered 427.065]

**427.055 Costs of transportation and maintenance of person during examination.**

(1) The cost of transportation from the county where the person alleged to be mentally deficient resides to the Oregon Fairview Home shall be at the expense of the county where the petition for commitment is filed. The cost of maintenance of the person while in residence at Oregon Fairview Home shall be determined by the Mental Health Division and shall be paid by the person being examined or those persons legally responsible for his support as such persons are specified in ORS 179.630. Where the person being examined or those persons specified in ORS 179.630 are unable to pay, in whole or in part, the cost of such maintenance as such ability and costs of maintenance are determined by the division, Oregon Fairview Home shall provide such maintenance without charge or obligation for that part of such costs which remains unpaid.

(2) If the petition has been filed in a county other than that in which the person alleged to be mentally deficient resides, the county where the petition is filed shall be reimbursed for transportation costs by the county in which the person resides.  
[1961 c.661 §§7, 8]

**427.059 Certification of mental deficiency; order of commitment; copy to Oregon Fairview Home.** (1) If the findings of the Oregon Fairview Home are that the person is mentally deficient, the judge may certify that the person is mentally deficient and may order the person committed to the Oregon Fairview Home for an indeterminate period,

if he certifies that the person is mentally deficient.

(2) Whenever an order is made committing a person to the Oregon Fairview Home, a certified copy of the order shall be mailed to the superintendent who shall indorse thereon the date of receipt and file the copy in his office. The order shall be entered on forms supplied by the Superintendent of the Oregon Fairview Home.

[1961 c.661 §§9, 10]

**427.060** [Amended by 1961 c.661 §12; renumbered 427.067]

**427.065 Admission on commitment; cost of transportation; residence requirement.**

(1) Persons are entitled to admission to the Oregon Fairview Home in the order in which the copies of the orders for commitment are received and filed. Whenever there is room at the Oregon 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 person to be taken to the Oregon 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 Oregon Fairview Home by a member of his family 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 person to the Oregon Fairview Home shall be paid by the county in which the petition of commitment is filed. No mentally deficient person who has not been a resident of this state for at least one year shall be committed under subsection (1) of ORS 427.059 or admitted under ORS 427.220 to the Oregon Fairview Home.

[Formerly 427.050]

**427.067 Care of mentally deficient person by relative or guardian.** If any relative or guardian of any person who has been certified by the judge to be mentally deficient agrees to furnish such means of private care 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 care for, protect and supervise the mentally deficient person. [Formerly 427.060]

**427.070 Commitment of delinquent or convicted mentally deficient person; detention.** (1) If the judge of a court in which any person has been convicted of delinquency or crime has cause to believe that such person is mentally deficient, the judge shall call in an examining board like that provided in ORS 427.085, which shall examine the person in the same manner as provided in ORS 427.085. If the board and the judge certify that the delinquent or dependent person is mentally deficient, the judge may order the person committed to the Oregon Fairview Home for an indeterminate period.

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

[Amended by 1961 c.661 §13]

**427.080** [Repealed by 1961 c.661 §20]

**427.085 Appeal from determination of mental deficiency.** Any proper party who is dissatisfied with the determination of the probate court as to mental deficiency as prescribed by ORS 427.059 may appeal to the circuit court. Upon such appeal the circuit court shall appoint an examining board to examine the person alleged to be mentally deficient. The board shall consist of at least two physicians or one physician and one psychologist. If the examining board certifies that the person is mentally deficient, the certification and order of commitment, if any, of the probate court shall be sustained. If the examining board does not certify that the person is mentally deficient, the circuit court may set aside the certification and order of commitment, if any, of the probate court.

[1961 c.661 §15]

**427.090 Information given in commitment papers.** In all cases of commitment to the Oregon Fairview Home under ORS 427.015 to 427.059, 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

Oregon Fairview Home except such information as shall have been furnished under ORS 427.035.

[Amended by 1961 c.661 §16]

**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 outpatient department.** The Superintendent of the Oregon Fairview Home, with the approval of the Mental Health Division and with funds appropriated for that purpose by the legislature, may establish and maintain an outpatient 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 outpatient departments.** The outpatient 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 outpatient services.** The Mental Health Division, 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 Mental Health Division 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 Mental Health Division. The Oregon Fairview Home, the superintendent thereof, the Administrator of the Mental Health Division, and the members and officers of the Board of Control shall not be liable for an inmate's expenses while on leave of absence nor shall they be liable for any damages whatsoever that are sustained by a person on account of the actions or misconduct of an 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; 1963 c.411 §1]

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

(2) "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.

(3) "Mental Health Division" or "division" means the Mental Health Division of the Oregon State Board of Control.

(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 Superintendent 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 Mental Health Division and in conformity with ORS 427.230 and 427.225, the superintendent shall admit as a resident and take custody of any minor shown by examination under ORS 427.225 to be mentally deficient 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 made in the manner and form required by the division. [1959 c.331 §2; 1961 c.661 §17]

**427.225 Preadmission examination of minors; costs of transportation and maintenance during examination.** (1) Upon receipt of an application provided in ORS 427.220, Oregon Fairview Home shall schedule a date for examination for mental deficiency of the minor on whose behalf the application for admission is made. The minor shall be brought to Oregon Fairview Home for the examination but no minor shall be kept in residence at Oregon Fairview Home for a period longer than seven days without an order of admission by the superintendent.

(2) The costs of transportation to Oregon Fairview Home shall be paid by the parents or persons entitled to custody of the minor. The cost of maintenance for the period of residence shall be determined by the Mental Health Division and paid by the parents or person entitled to custody. [1961 c.661 §19]

**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 427.065. [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 Fairview 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 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 discharges 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 December 1, 1963.

Sam R. Haley  
Legislative Counsel

