# Chapter 179

## 1969 REPLACEMENT PART

# Administration of State Institutions


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## DEFINITIONS

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

(1) "Administrator" means the Administrators of the Mental Health Division, of the Corrections Division and of the Special Schools Division.

(2) "Division" means the division designated by law to operate, control, maintain and supervise any institution, and includes the Mental Health Division, the Corrections Division and the Special Schools Division.

(3) "Institutions" means the institutions listed in ORS 179.321.

[Amended by 1969 c.597 §17; 1969 c.706 §62]

**179.020** [Repealed by 1969 c.199 §59]

**179.030** [Amended by 1961 c.271 §1; repealed by 1969 c.199 §59]

## DIVISION AUTHORITY

**179.040 General powers and duties of divisions.** (1) Each division shall:

(a) Govern, manage and administer the affairs of the public institutions and works within the jurisdiction of that division.

(b) Enter into contracts for the planning, erection, completion and furnishings of all new buildings or additions at the institutions.

(c) Subject to any applicable provisions of ORS 279.710 to 279.746 and 283.110 to 283.395, enter into contracts for the purchase of supplies for the institutions.

(d) Make and adopt rules, not inconsistent with law, for the guidance of that division and for the government of the institutions.

(2) Each division may:

(a) Sue and plead in all courts of law and equity.

(b) Perform all legal and peaceful acts requisite and necessary for the successful management and maintenance of the institutions within its jurisdiction.

[Amended by 1967 c.419 §57; 1969 c.597 §18; 1969 c.706 §63]

**179.045 Reports on convictions; forms; confidentiality.** (1) The clerk of a circuit, district or county court shall cause a report to be made to the Corrections Division on each offender convicted of a felony or misdemeanor in the court and on each juvenile found to be within the jurisdiction of the court by reason of a ground set forth in paragraph (a) or (b) of subsection (1) of ORS 419.476.

(2) The Corrections Division shall prescribe forms for the reports required under subsection (1) of this section. Information required may include the name, age, sex, crime or action and disposition of the offender or juvenile and such other information as the division by rule may require. Such reports are confidential and may not be used in evidence.

[1967 c.635 §1; 1969 c.597 §14]

**179.050 Divisions may take, assign and convey property.** Each division may receive, take and hold property, both real and personal for any institution within the jurisdiction of the division and may sell, transfer, assign, allot, set over or convey the property pursuant to legislative authority.

[Amended by 1969 c.597 §21]

**179.055 Disposition of income from property; maintenance of property.** (1) The revenue from the rental or lease of property owned or administered by an institution governed or managed by any division, except dormitory and housing rentals at institutions governed by the division shall be deposited in the State Treasury to the credit of the revolving fund established by ORS 179.160.

(2) The division may make necessary repairs and improvements on the property described in subsection (1) of this section. The proceeds derived from the rental or lease of the property shall be used to pay for the cost of administration, taxes, repairs and improvements.

[1961 c.652 §2(1), (2); 1969 c.597 §22; 1969 c.706 §64]

**179.060** [Repealed by 1969 c.597 §281]

**179.065 Furnishing utilities for institutions.** Each division shall have the same powers with respect to furnishing heat, light, power, sewage, fire protection and communications facilities to institutions under its jurisdiction as is granted to the Department of General Services under ORS 276.210 to 276.228, 276.234 to 276.244, 276.250 and 276.252. The powers shall be exercised in accordance with and subject to the provisions of such sections.

[1969 c.597 §20]

**179.070** [Repealed by 1969 c.199 §59]

**179.080** [Repealed by 1969 c.199 §59]

**179.090** [Amended by 1965 c.476 §9; 1967 c.2 §1; repealed by 1969 c.199 §59]

**179.100** [Repealed by 1969 c.199 §59]

**179.105 Divisions may accept federal or other assistance to carry out general powers and duties; legislative or Emergency Board approval prior to expenditure.** (1) For any of the purposes contemplated by ORS 179.040, including aid and support of research in any of the institutions, each division may in its discretion accept from the United States or any of its agencies financial assistance and grants in the form of money or labor, or from any other source any donation or grant of land or gift of money or any other thing. Any funds accepted in accordance with the provisions of this section and ORS 179.110 shall be deposited with the State Treasurer and subject to subsection (2) of this section, are appropriated to the division and may be expended by it according to the conditions and terms of the grant or donation.

(2) Funds received under subsection (1) of this section or ORS 179.110 shall be expended subject to expenditure limitations imposed on the division by the Legislative Assembly or, in the absence of such limitations, only after approval of the Legislative Assembly or of the Emergency Board, if approval is required during the interim between sessions of the Legislative Assembly.

(3) In any case where prior approval of the authority to expend any funds available under subsection (1) of this section or ORS 179.110 is imposed as a term or condition of receipt of such funds, the Legislative Assembly or the Emergency Board may approve expenditures of such funds prior to their receipt.

[1961 c.651 §4; 1967 c.55 §1; 1969 c.597 §23]

**179.110 Acceptance of federal grant of funds; cooperation with federal agencies; disposition of balances of appropriations.** Subject to the approval of the Director of the Executive Department, each division may accept and receive grants of funds from the United States or any of its agencies for the construction, equipment and betterment of any of the institutions under its jurisdiction and may cooperate with the United States or its agencies in such construction, equipment and betterment. Any balances of appropriations for capital outlay for any institution resulting from the use of funds so received shall be placed in a common fund. Each division is authorized and empowered in its discretion to expend such common fund or any portion thereof in the construction, equipment or betterment of any institution under its jurisdiction.

[Amended by 1961 c.651 §1, 1969 c.597 §24]

**179.115** [1957 c.602 §2, repealed by 1969 c.199 §59]

**179.120** [Amended by 1961 c.651 §2, repealed by 1967 c.55 §2]

**179.122** [1959 c.290 §13, 1965 c.616 §87, renumbered 423.070]

**179.130 Institutional petty cash fund; creation; reimbursement from appropriation for institution.** (1) The executive head of each institution may execute a claim voucher against the Institutional Betterment Fund to the credit of his institution, in favor of himself, in such amount as shall be approved by the Director of the Executive Department, for use by the institution as a cash revolving fund in paying the petty claims and incidental expenses arising in the proper conduct of the institution.

(2) The executive head shall present his claims on the first of each month, with proper vouchers attached, showing the expenditures from the revolving fund during the preceding month. The claims, when approved by the Director of the Executive Department, shall be paid by warrant upon the State Treasurer against the appropriation for that institution, and when so paid shall be used to reimburse the revolving fund of such institution created under subsection (1) of this section.

[Amended by 1969 c.597 §15]

**179.140 Auditing and paying claims; approval of vouchers.** Subject to any applicable provision of ORS 279.710 to 279.746, 283.110 to 283.395 and 291.232 to 291.260, the Secretary of State shall audit and pay all claims for supplies or materials furnished or services rendered to institutions upon the presentation of duly verified vouchers therefor, approved in writing by the executive head of the institution affected and the secretary and at least two members of the board.

**179.150 Interest in contracts by board or officers, employes or other persons connected with institution prohibited.** No member or officer of the board or officer, employe or other person connected with an institution shall be pecuniarily interested in any contract for supplies or services furnished or rendered to an institution, other than the services of his regular employment.

Note: The Oregon State Board of Control was abolished by section 1, chapter 199, Oregon Laws 1969. However, no editorial substitution was authorized for ORS 179.150.

**179.160 Revolving fund.** (1) There hereby is appropriated to the Executive Department out of the General Fund in the State Treasury the sum of $10,000, which sum shall be credited to the revolving fund. Such funds hereby are continuously appropriated for the payment of the film service for institutions and of other purchases or advances as required from time to time.

(2) At the end of each fiscal year the Executive Department shall transfer from the revolving fund to the General Fund all revenue from the rental or lease of property described in subsection (1) of ORS 179.055 not expended for administration, taxes, repairs or improvements.

[1955 c.242 §1; subsection (2) enacted as 1961 c.652 §2 (3), 1969 c.597 §25]

## CLAIM FOR INJURY OR DAMAGE

**179.210 Claim for injury or damage; rules; standards.** (1) The Special Schools, Mental Health and Corrections Divisions may audit, allow and pay a claim for injury to persons or damage to property subject to approval by the Director of the Executive Department when such injury or damage results from an accident occurring in connection with the maintenance or operation, by persons employed or authorized by the institutions in the performance of official duties or other activity or function of the institutions. A claim must be filed, established and determined pursuant to rules promulgated by the Executive Department.

(2) No claim shall be paid:

(a) That exceeds, in the aggregate with payments of other claims, the moneys appropriated for such purpose.

(b) To the extent that the person incurring injury or damage has been or may be compensated by liability insurance or otherwise.

(c) If the Executive Department determines the cause or occasion of the accident resulting in injury or damage is chargeable to the conduct or negligence of the party injured or damaged.

(d) If the claim was filed after the time when a suit or an action at law against a private person, on a cause based upon the same facts stated in the claim, would be barred by any applicable statute of limitations.

(e) Unless the claim has been presented to and disapproved by the Executive Department under ORS 293.300.

[1965 c.476 §§2, 3; 1967 c.454 §89, 1969 c.597 §29]

**179.220 Procedure for paying list of claims.** A group or number of different claims properly prepared and verified may be listed, accompanied by adequate definition and description to insure identification, and the list may be submitted to the Executive Department for approval. If the director is satisfied as to the correctness and validity of each of the claims, the director may indorse his approval on the list. In that event the director need not sign or indorse each individual claim, but the indorsement on the prepared list shall be sufficient. The Executive Department shall treat the indorsement of the list as an indorsement of each individual claim and proceed under ORS 179.230.

[1965 c.476 §4, 1969 c.597 §30]

**179.230 Payment of claim; rejection of claim final and not reviewable.** (1) If satisfied as to the correctness and validity of a claim, the Executive Department may allow it. When a claim has been allowed and indorsed the Executive Department shall pay a voucher for the claim, signed by the Director of the Executive Department, out of the account under ORS 179.250, subject to the procedure specified in ORS 179.240.

(2) The decision of the Executive Department to reject any claim filed under ORS 179.210 to 179.250 is final, and is not subject to review by any other agency or court.

[1965 c.476 §5, 1967 c.454 §90; 1969 c.597 §31]

**179.240 Procedure where award due person owing debt to state.** (1) If any person owes a debt to this state or a state agency, and the debt has been fixed by final judgment of a court of competent jurisdiction or is no longer subject to judicial review, the division shall deduct the amount of the debt from any award made to that person.

(2) The division shall request the State Treasurer to transfer, from the account from which payment of the claim would be made under ORS 179.250, to the appropriate fund or account to which the debt is owed, an amount equal to the amount deducted from the award under subsection (1) of this section, for use during that biennium in accordance with law by the state agency administering the fund or account to which the debt is owed. The State Treasurer shall evidence the transfer by proper bookkeeping

entries. If the division or State Treasurer cannot determine the appropriate fund or account, the amount shall be transferred to the General Fund for general governmental purposes.

(3) Any debt owed by a person to this state or a state agency is satisfied, upon the completion of a transfer made pursuant to subsection (2) of this section, to the extent of the amount so transferred.
[1965 c.476 §6]

**179.250 Institution Claims Account.** There is established in the General Fund of the State Treasury an account to be known as the Institution Claims Account. This account is appropriated continuously and shall be used only for the purposes of ORS 179.210 to 179.250.
[1965 c.476 §7; 1969 c.597 §32]

## SUPERVISION OF STATE INSTITUTIONS

**179.310 "Superintendent" defined.** When used in ORS 179.010 to 179.500, unless the context otherwise requires, "superintendents" means the executive heads of the institutions listed in ORS 179.321.

179.320 [Amended by 1955 c.651 §2; 1955 c.660 §25; 1959 c.588 §17; 1963 c.632 §5; repealed by 1965 c.616 §78 (179.321 enacted in lieu of 179.320)]

**179.321 Divisions to supervise state institutions.** (1) The Mental Health Division shall operate, control, manage and supervise: Eastern Oregon Hospital and Training Center, F. H. Dammasch State Hospital, Columbia Park Hospital and Training Center, Fairview Hospital and Training Center and Oregon State Hospital.

(2) The Corrections Division shall operate, control, manage and supervise: Oregon State Correctional Institution, Oregon State Penitentiary, Hillcrest School of Oregon and MacLaren School for Boys.

(3) The Special Schools Division shall operate, control, manage and supervise: Oregon State School for the Blind and Oregon State School for the Deaf.
[1965 c.616 §79 (enacted in lieu of 179.320); 1969 c.597 §38]

179.323 [1967 c.346 §§1, 2; repealed by 1969 c.199 §59]

**179.325 Change in use of institution for mentally ill or mentally deficient.** The Mental Health Division may order the change, in all or part, of the purpose and use of any state institution being used as an institution for the care and treatment of the mentally ill or mentally deficient in order to care for persons committed to its custody whenever the division determines that a change in purpose and use will better enable the state to meet its responsibilities to the mentally ill and mentally deficient. In determining whether to order the change, the division shall consider changes in the number and source of the commitments of mentally ill and mentally deficient persons.
[1965 c.595 §1; 1969 c.597 §39]

179.330 [Amended by 1963 c.471 §1; repealed by 1965 c.616 §80 (179.331 enacted in lieu of 179.330)]

**179.331 Appointment, suspension and removal of superintendents; merit system status.** (1) The superintendents shall be appointed and, whenever the public service requires such action, may be removed, suspended or discharged, as follows:

(a) Superintendents of institutions listed in subsection (1) of ORS 179.321, by the Administrator of the Mental Health Division.

(b) Superintendents of institutions listed in subsection (2) of ORS 179.321, by the Administrator of the Corrections Division.

(c) Superintendents of institutions listed in subsection (3) of ORS 179.321, by the Administrator of the Special Schools Division.

(2) For purposes of the State Merit System Law, the superintendents are assigned to the unclassified service.
[1965 c.616 §81 (enacted in lieu of 179.330); 1969 c.597 §26]

**179.340 Salaries and expenses of superintendents.** (1) Unless otherwise provided in ORS 292.505 to 292.790, the annual salaries of the superintendents shall be fixed, within the respective appropriations therefor and the limitations otherwise fixed by law by their respective appointing authorities.

(2) The superintendents shall receive no fees, emoluments or compensation other than salaries fixed under subsection (1) of this section, but shall receive their actual traveling expenses when traveling in the service of the state.
[Amended by 1963 c.471 §2; 1965 c.616 §82; 1969 c.597 §27]

**179.350 Oath and bond of superintendents.** (1) Before assuming the duties of his position, each superintendent shall take and subscribe to an oath that he will support the Constitution and laws of the United States and the State of Oregon.

(2) Each superintendent shall give an official bond, the premium payable from funds appropriated to the division, running to the State of Oregon, for the faithful performance of his duties as superintendent and the accounting of all property coming into his hands in that capacity, in the amount fixed in each instance by the administrator of the division having jurisdiction over the institution of which he is superintendent.
[Amended by 1969 c.597 §28]

**179.360 Powers and duties of superintendents.** (1) Each superintendent shall:

(a) Have control of the wards of the state at the institution under his jurisdiction.

(b) Direct the care, custody and discipline of such wards unless otherwise directed by law or by rule of the division.

(c) Adopt sanitary measures for the health and comfort of such wards.

(d) Promote the mental, moral and physical welfare and development of such wards.

(e) Enjoy the other powers and privileges and perform the other duties that are prescribed by law or by rule of the division or that naturally attach themselves to his position.

(f) Designate a well-qualified physician licensed by the Board of Medical Examiners for the State of Oregon to serve as chief medical officer as provided in ORS 426.020 and 427.010, who will be directly responsible to the superintendent for administration of the medical treatment programs at the institution and assume such other responsibilities as are assigned by the superintendent.

(2) The administrator shall prescribe:

(a) The duties of the superintendents where the duties are not prescribed by law.

(b) The additional duties, beyond those prescribed by law, that the administrator considers necessary for the good of the public service.
[Amended by 1969 c.391 §14; 1969 c.597 §34]

**179.370 Residence of superintendents at institutions.** The administrator may require that a superintendent reside at the institution under his jurisdiction. Any superintendent who is required to reside at the institution which he supervises shall be furnished, at such rates of payment therefor as the division from time to time may prescribe, a residence or housekeeping room or rooms for himself and his immediate family and household furniture, provisions, heat and light from the supplies of the institution.
[Amended by 1959 c.80 §1; 1969 c.597 §35]

**179.375 Chaplaincy services.** (1) The division shall insure that adequate chaplaincy services, including but not limited to Protestant and Roman Catholic, are available at all state institutions administered by the division.

(2) Chaplains serving the various institutions shall, with respect to the inmates or patients at such institutions:

(a) Provide for and attend to their spiritual needs.

(b) Visit them for the purpose of giving religious and moral instruction.

(c) Participate in the rehabilitation programs affecting them.
[1963 c.554 §2]

**179.380 Divisions to authorize employment of officers and employes; oaths and bonds.** (1) Each division shall authorize the employment of all necessary physicians, matrons, attendants, nurses, engineers, watchmen, messengers, clerks, guards, cooks, waiters and other officers and employes not specifically authorized by law and necessary to the successful maintenance of the institutions under its jurisdiction. The amounts expended for the services of such officers and employes shall not exceed the amounts provided therefor in the biennial appropriations for the institution.

(2) The division shall designate in its rules which employes shall be officers, and shall require all officers to take and subscribe to an oath of office and, if the circumstances require it, to furnish bonds.
[Amended by 1969 c.597 §36]

**179.385 Scholarship programs to train personnel for institutions.** The division may establish scholarship programs to provide assistance in securing qualified personnel at state institutions governed by the division. Scholarships authorized by this section shall be granted in accordance with rules and regulations adopted by the division.
[1961 c.363 §2]

**179.390 Appointment, suspension, removal and salaries of assistants, officers and employes.** The superintendent shall, subject to the approval of the administrator, appoint in the manner provided by law all assistants,

officers and other employes at the institution under his jurisdiction. The superintendent may suspend or remove an assistant, officer or other employe in the manner provided by law, reporting all acts of suspension or removal to the administrator for approval or disapproval. The administrator shall fix the salaries of assistants, officers and employes where their salary is not fixed by law. The administrator shall, subject to any applicable provisions of the State Merit System Law, suspend or discharge any subordinate of a superintendent when public service requires such action.
[Amended by 1969 c.597 §[illegible]]

**179.400 Officers and employes may be furnished board and lodging at institution.** Unless the superintendent of the institution permits the officer or employe to maintain his own establishment or to reside elsewhere, a regular officer or employe of an institution may be furnished board, lodging, heat and light at the institution to which he is attached at the rate of payment therefor that the board from time to time prescribes.

**179.410** [Repealed by 1969 c.597 §281]

**179.420** [Repealed by 1969 c.597 §281]

**179.430** [Repealed by 1969 c.597 §281]

**179.440 Work in production of articles and performance of labor for state.** In order to minimize the cost of maintaining the institutions, all wards of the state who are capable of a reasonable amount of work without physical or mental injury to themselves shall be used as fully as possible in the production and manufacture of articles for the use of the state and in the performance of labor for the state.

**179.450 Work on state-owned land.** The division may direct the employment of able-bodied persons at the state penitentiary, the Oregon State Correctional Institution or an institution for the mentally ill or mentally deficient, in the performance of useful work upon land owned by the state if it does not compete with free labor. No work shall be performed upon any such land except by consent and approval of the agency of the state having management of the land.
[Amended by 1955 c.660 §26, 1965 c.616 §86]

**179.460 Sale and exchange of surplus products of institutions; State Institutional Betterment Fund.** (1) In order to encourage industry and thereby increase productiveness in the institutions, the division shall prescribe rules and regulations for the sale and exchange of surplus products of each.

(2) The funds derived from the sale of the surplus products shall be paid into the State Treasury and become a part of a fund to be known as the State Institutional Betterment Fund, which fund shall be expended by the divisions for the benefit of the institutions in proportion to the amount earned by each.

**179.470** [Repealed by 1969 c.597 §281]

**179.473 Transfers from institution to institution.** (1) Notwithstanding any other provision of law, whenever the welfare of the person transferred and the efficient administration of the institutions require the transfer, subject to ORS 179.476:

(a) Any division, with the consent of the Mental Health Division, may make a permanent or nonpermanent transfer of a person at any institution under its jurisdiction to an institution for the mentally ill or mentally deficient, or, with the consent of the school, to the University of Oregon Medical School, or with the consent of the Corrections Division, from an institution for the mentally ill or mentally deficient to a juvenile training school.

(b) Except as provided in subsections (2) and (3) of this section, a division may make a permanent or nonpermanent transfer of a person from any institution under the jurisdiction of that division to any other institution under the jurisdiction of that same division.

(2) A student of a juvenile training school may not be transferred to the Oregon State Penitentiary under subsection (1) of this section. A student of a juvenile training school who has been transferred to another institution may not be transferred from such other institution to the Oregon State Penitentiary.

(3) A student of a juvenile training school may not be transferred to another institution under the supervision of the Corrections Division unless all of the following conditions are met.

(a) The student is 16 years of age or older.

(b) The behavior of the student at the training school is such as to endanger his own welfare or the welfare of others.

(c) The student continues to receive, at the institution to which he is transferred, training of a type and degree at least as well suited for juveniles as that prescribed by ORS 420.120 or 420.320.

(d) The consent of the committing court has been obtained after a hearing pursuant to ORS 419.498.

[1965 c.616 §84 (enacted in lieu of 179.474); 1969 c.597 §40]

179.474 [1957 c.160 §1; repealed by 1965 c.616 §83 (179.473 enacted in lieu of 179.474)]

**179.476 Duration of transfers; limitations on transfers to or between certain institutions; rules.** (1) A transfer may be made for such period as is necessary in each case. No nonpermanent transfer may be made for a period of longer than one year, but the division may renew a nonpermanent transfer with the consent required for the initial transfer for additional one year period or periods whenever, in its judgment, renewal is in the best interest of the inmate and the state.

(2) No inmate of an institution listed in ORS 179.321, unless he has been committed to an institution for the mentally ill or mentally deficient, may be permanently transferred to an institution for the mentally ill or mentally deficient except in the manner provided in this subsection.

(a) The inmate whose transfer is proposed shall be examined by one or more physicians of the institution to which transfer is proposed. If the examining physician finds the inmate mentally ill or mentally deficient, as the case may be, he shall so certify on oath and in writing.

(b) The physician's certificate shall be transmitted to the circuit court of the district in which is located the institution to which transfer is sought. The inmate may have legal counsel as provided in ORS 426.100 and the court may require examination of the inmate as provided in ORS 426.110.

(c) If upon the certificate provided in paragraph (a) of this subsection and such other evidence as may be submitted to the court, the court finds the inmate mentally ill or mentally deficient, as the case may be, it shall order the transfer made permanent. The court's decision shall be appealable as in other proceedings for the commitment of the mentally ill or mentally deficient.

(3) An inmate who has been transferred from one of the institutions may be retransferred to that institution or, pursuant to ORS 179.473, to any other institution listed in ORS 179.321.

(4) The duration of a transfer from a juvenile training school may not exceed the period of the original commitment. Any such individual must, prior to his release, be returned to the juvenile training school for release.

(5) Each division may prescribe rules governing the manner and basis of making transfers as provided in this section.

[1957 c.160 §2; 1965 c.616 §85; 1969 c.597 §41]

**179.479 Conveyance of inmates from institution to physician or hospital for treatment; rules.** (1) The superintendent or other chief executive officer of an institution listed in ORS 179.321 may, when authorized by regulation or direction of the division having jurisdiction over the institution, convey an inmate to a physician, clinic or hospital, including the University of Oregon Medical and Dental Schools, for medical, surgical or dental treatment when such treatment cannot satisfactorily be provided at the institution. An inmate conveyed for treatment pursuant to this section shall be kept in the custody of the institution from which he is conveyed.

(2) Each division shall prescribe rules and regulations governing conveyances authorized by this section.

[1957 c.160 §3; 1969 c.597 §42]

179.480 [Amended by 1955 c.86 §1; repealed by 1957 c.160 §6]

**179.483 Time spent pursuant to transfer or conveyance counted as part of sentence.** Any time spent by an inmate of a penal or correctional institution pursuant to a transfer or conveyance shall be counted as part of the sentence being served by him.

[1957 c.160 §4]

**179.486 Payment of costs in connection with transfers and conveyances; medical reports to accompany certain inmates.** (1) The institution from which a transfer or conveyance is made shall pay from its appropriation the cost of such of the following items as may be incurred in a particular case:

(a) Transportation and other expenses incidental to the transfer or conveyance, including the expenses of attendants where an attendant is directed to accompany the inmate.

(b) Hospital expenses incurred at the University of Oregon Medical or Dental Schools.

(c) Examination, treatment and hospital expenses incurred in favor of a physician, clinic or hospital, other than the University of Oregon Medical or Dental Schools.

(2) An inmate transferred or conveyed to the University of Oregon Medical or Dental Schools shall be accompanied by a report made by the physician in charge of the institution from which the transfer or conveyance is made, or by another physician designated by him. The report shall contain the history of the case and the information required by blanks prepared by the medical or dental school, as the case may be.
[1957 c.160 §5]

**179.490 Authorization and payment of cost of emergency and necessary operations.** In the case of a necessary or emergency operation, requiring the services of a specialist, and where the relatives or guardians, in the judgment of the division, are unable to pay a part or the whole cost of the operation, the division, in its discretion, may have the operation performed, the cost of the operation to be payable from the funds of the institution concerned.

**179.495 Inspection of medical records.** Medical case histories, clinical records, treatment charts, progress reports and other similar written accounts of the inmates or patients of any state institution listed in ORS 179.321, made and maintained in such institution by the officers or employes thereof, shall not be subject to inspection except upon permission given by the division having jurisdiction over the institution, within its discretion and for good cause, or upon order of a court of competent jurisdiction. The foregoing limitation shall not apply to inspection of records made with the consent of the individual concerned, or in case of his incompetence, by his legal guardian.
[1955 c.452 §1, 1969 c.597 §44]

**179.500** [Repealed by 1969 c.597 §281]

**179.510 Definitions; deposit of funds of wards of institutions with State Treasurer.** (1) The superintendent of each institution that has in his possession or under his control in a bank account or otherwise, funds that are the property of the wards of such institutions or that have been deposited for their use or for expenditure in their behalf shall deposit such funds, as they are received, together with any such funds as heretofore have accumulated, with the State Treasurer as a trust account.

(2) The word "funds" as used in ORS 179.510 to 179.530 shall include, but shall not be limited to, moneys deposited with the superintendents for medical care or assistance of wards, moneys derived from athletic activities, contributions for athletic, health, or recreation projects, and any other moneys received by the superintendents that are not required by law to be credited to other state funds or accounts.
[Formerly 179.710; 1969 c.597 §46]

**179.520 Superintendents authorized to receive funds of wards; separate accounts.** The said superintendents are authorized to receive any of the funds referred to in ORS 179.510 to 179.530. The State Treasurer shall carry such funds in separate accounts for such institutions, but he shall not credit such funds or any part thereof to any state fund for governmental purposes.
[Formerly 179.720]

**179.530 Disbursements from accounts; superintendents accountable.** Disbursements from the said accounts for the purposes for which the contributions or payments were made, and for payment to persons lawfully entitled thereto, may be made by the superintendent of the institution by which the funds were deposited, by checks or orders drawn upon the State Treasurer. The said superintendents shall be accountable for the proper handling of said account.
[Formerly 179.730]

**179.540 Escheat of money or property deposited with institution on death, escape or parole of inmate; notice and publication.** All money, certificates of deposit, securities, assets or other personal property which have been or shall be taken charge of by the officials of the state institutions listed in ORS 179.321, belonging to patients or inmates committed to any of such institutions and who die inmates thereof or escape or who are paroled therefrom, and which is not claimed by such person, or by the heirs or personal representative of such person within one year after such death, escape or parole, escheats to the state, and without other or further proceeding shall be paid or turned over by the officials of the above institutions to the Division of State Lands, which shall issue therefor receipts in duplicate. One of the re-

ceipts shall be filed in the office of the Secretary of State. However, if such escheated money, certificates of deposit, securities or other personal property exceeds the sum of $50, a notice of such escheated property shall be published under direction of the Division of State Lands in a newspaper of general circulation within the county in which such institution paying or turning over the same is situated, and also in a newspaper in the county from which the inmate was committed, once each week for not less than three consecutive weeks. The expense of such publication shall be paid out of the proceeds of the escheated property.
[Formerly 120.210]

**179.545 Collection and disposition by Division of State Lands.** The money, certificates of deposit, securities or other personal property mentioned in ORS 179.540 shall be collected or liquidated by the Division of State Lands, and the division may sell, indorse and collect all such money, certificates of deposit, securities or other personal property and place the proceeds thereof in the State Treasury.
[Formerly 120.220]

**179.550 Owners' and representatives' rights to reclaim property; limitation.** The money or the proceeds of the certificates of deposit, securities or other personal property which have escheated to the state under ORS 179.540, may be reclaimed by the original owner, or by his heirs or personal representatives, at any time within 10 years after such escheat, in the same manner as property belonging to estates of deceased persons which have escheated to the state.
[Formerly 120.230]

## RESPONSIBILITY FOR COST OF CARE OF PERSONS IN STATE INSTITUTIONS

**179.610 Definitions for ORS 179.610 to 179.770.** As used in ORS 179.610 to 179.770, unless the context requires otherwise:

(1) "Division" means the Institutional Services Division of the Executive Department.

(2) "Person in a state institution" or "person at a state institution," or any similar phrase, means:

(a) A patient at a state institution for the mentally ill.

(b) A resident at a state institution for the mentally deficient.

(c) A patient at a state tuberculosis hospital.

(d) A student at MacLaren School for Boys or Hillcrest School of Oregon, including a child placed in a foster home under ORS 420.810 to 420.840 who for the purposes of ORS 179.610 to 179.770 shall be considered as being at such institution.

(e) A patient at the Columbia Park Hospital and Training Center.

(3) "Ability to pay" means that the responsible persons are possessed of means sufficient to pay the amount determined by the division having jurisdiction over the institution to which the person is committed or the court after allowing for the current living expenses and other reasonable necessary obligations of the responsible persons and all their dependents.
[Subsections (1) and (2) enacted as 1959 c.652 §1; subsection (3) enacted as 1959 c.652 §3 (2); 1969 c.597 §43]

**179.620 Charge for care of persons in state institutions; liability of person or his estate for payment; limitation.** (1) If a person at a state institution or a responsible relative of such person is possessed of an estate or income sufficient so that he has the ability to pay the expenses of the care and maintenance of such person, the person at the state institution or the guardian or responsible relative of such person is required to reimburse the State of Oregon for the cost of the care and maintenance of such person during his stay at such state institution.

(2) A person at a state institution, and his estate or responsible relatives, or both, as their respective responsibility may appear, are liable for the payment of the monthly charge fixed as provided in ORS 179.701 for care and maintenance of persons at such institution, according to their ability to pay determined as provided in ORS 179.610 to 179.770.

(3) Upon the death of any person who is or has been a person at a state institution, his estate is liable for the total amount of the cost of care and maintenance of such person as computed under ORS 179.701 and under the laws applicable to prior years, less the total amount of all payments previously received by the division for the cost of care and maintenance of such person at the state institution.

(4) Liability of a responsible relative arising under ORS 179.610 to 179.770 is lim-

ited to that portion of the actual monthly cost which the responsible relative has been determined able to pay under ORS 179.640 and shall continue until that portion is paid in full.
[1959 c.652 §2; 1961 c.501 §1]

**179.630 Relatives' liability for payment generally.** (1) Relatives of a person at a state institution are liable for the care and maintenance of such person under ORS 179.620, according to their respective abilities to pay, as follows:

(a) The husband for the wife.
(b) The wife for the husband.
(c) The parents for their children.
(d) The children for their parents.

(2) No liability for the support of a person at a state institution shall be imposed under the provisions of ORS 179.610 to 179.770 upon that person's child if, for a period amounting to 25 percent of the minority of the child, such person wilfully deserted or abandoned the child, or, by expulsion or cruelty, drove the child from the parental home, or, without good cause, was responsible for the child's being "dependent" as defined by ORS 418.205.
[1959 c.652 §3 (1), 1963 c.598 §1, 1967 c.549 §3]

**179.635 Extent of liability for payment for resident of institution for mentally deficient.** (1) Notwithstanding any provision of ORS 179.610 to 179.770 (1967 Replacement Part), no liability for the cost of care and maintenance for any child who is resident of a state institution for the mentally deficient shall be imposed against his parents, if they are residents of this state, for any period of residency of the child at the institution of more than 10 years' duration or for any period of residency after the child becomes 21 years of age, whichever occurs last.

(2) Parents who are not residents of this state but have a child who is resident of a state institution for the mentally deficient shall be liable for the full cost of care and maintenance of the child until they show, to the satisfaction of the division, that they have made proper application to an appropriate state institution in their state of residence for admission thereto of the child and that such admission has been refused or delayed.

(3) If the division finds that the child will not be admitted to an appropriate state institution of the state wherein the parents reside, it shall act pursuant to ORS 179.640 in fixing the parents' liability according to the parents' ability to pay. The parents' liability shall be limited according to their ability to pay for as long as the child is not admitted to an appropriate institution in their state of residence. However, if the child is subsequently admitted and the parents fail to transfer the child to the institution in their state of residence, their liability for the cost of care and maintenance of the child in an institution in this state shall be for the full costs thereof.

(4) Notwithstanding subsections (1) and (3) of this section, the liability of parents of a child resident of a state institution for the mentally deficient who refuse to supply the division with information necessary to determine their ability to pay under ORS 179.640 shall be for the full cost of care and maintenance of the child until such time as a determination is made under ORS 179.640 by a court of competent jurisdiction.

(5) Nothing in subsection (1), (2) or (3) of this section is intended to affect the liability of the resident of a state institution for the mentally deficient or his estate for the cost of his care and maintenance while at the institution.
[1969 c.257 §§ 2, 3, 4, 5]

**179.640 Determination of ability to pay; enforcement.** (1) At the time of admission of a person to a state institution, the Institutional Services Division of the Executive Department shall determine whether or not the person at the state institution or his estate or responsible relatives are financially able to pay for the care and maintenance of such person at the state institution as required by ORS 179.610 to 179.770. If the board determines at the time of admission or at some later time while the person remains at the state institution that such person, his estate or responsible relatives are able to pay, in whole or in part, for the care and maintenance of such person at the state institution, the division shall make its order against the proper persons or estate found responsible, fixing the extent of the liability. Thereafter, from time to time while the person remains in the state institution, the division may make a modified order to recognize a change in the ability of the persons to pay which shall supersede any court order that has been in effect for more than two years, or any prior order of the division either of which fixes ability to pay.

(2) In any case where the person is discharged from the institution before the determination of the extent of liability can be

made by the division, the division may make its determination after the person's discharge. However, the determination shall be based on the ability to pay of the person, his estate or his responsible relatives during the time the person was in the institution.

(3) If the division is unable to determine to its satisfaction whether or not the person at the state institution, his estate or responsible relatives are financially able to and will contribute towards the care and maintenance of such person, the division may request a court determination of the question in the manner provided in subsection (4) of this section. If any person against whom the division has made an order under subsection (1) of this section desires to obtain a court review of the determination of the division, he shall proceed in the manner provided in subsection (4) of this section.

(4) (a) Subject to paragraphs (b) and (c) of this subsection, upon request of the division or the person against whom the division order was made, the probate court of the county from which the person was committed or the probate court of the county of which such person was a resident when admitted to the state institution or the probate court of the county in which the responsible person resides shall cause a citation to be issued by the clerk of the court and served by the sheriff of the county, citing the person at the state institution and any guardian, husband, wife, parents and children of such person to appear in court before such judge at a time and place designated in the citation and show cause why a court order should not be entered adjudging that the person or his estate or responsible relatives, or any combination of them, are financially able to pay for the care and maintenance of such person at the state institution.

(b) Notwithstanding any other provision of this section, if the person at the state institution was committed to the state institution, the probate court for the county where the commitment was made has exclusive jurisdiction under this section.

(c) Subject to paragraph (b) of this subsection, if two or more courts are entitled to exercise jurisdiction under this section, the court first taking jurisdiction shall retain jurisdiction to the exclusion of every other court.

(5) The court may direct subpenas to be issued to any witness to appear and adduce evidence upon the trial of the matter for the purpose of determining the financial ability of the person at the state institution, his estate or his responsible relatives to pay. If a person is in a state institution for the mentally ill or mentally defective and does not have a guardian and it is necessary that he have a guardian for the purposes of the proceeding, the court shall appoint some competent, disinterested person, at the expense of the county, as guardian ad litem to appear for and who shall have full authority to represent such person. All such persons shall be examined as witnesses under oath for the purpose of determining the financial ability of the person at the state institution, his estate or responsible relatives, to pay for his care and maintenance in the state institution.

(6) Findings of fact shall be made by the court as to the ability to pay for such care and maintenance as provided in this section and an order entered against the proper persons or estate found responsible, fixing the extent of the liability for the periods to which liability applies. The court order may include a judgment for past accumulated amounts owing and shall be enforceable by appropriate procedures including contempt and execution under ORS chapter 23.

[1959 c.652 §4; 1961 c.501 §2; 1967 c.549 §4]

**179.643 Guidelines in determining ability to pay.** The division shall establish guidelines for determinations under ORS 179.640 and, in addition to other relevant factors, may consider the probable duration of residency at a state institution as a factor in determining the ability of the person in a state institution, his estate or responsible relative to pay, in whole or in part, for the care and maintenance of the person.

[1969 c.257 §8]

**179.645 Jurisdiction over proceedings pursuant to ORS 179.640.** Notwithstanding the provisions of ORS 179.610 to 179.670, if the probate court in any county that has jurisdiction under ORS 179.640 is not the circuit court, the circuit court shall have jurisdiction over matters under ORS 179.640 if its jurisdiction has been extended to include paragraph (d) of subsection (2) of ORS 3.260 pursuant to ORS 3.275.

[1967 c.534 §32]

**Note:** ORS 179.645 was not added to and made a part of ORS 179.610 to 179.770 by legislative action.

**179.650 Appeal from order declaring financial ability; order effective until modified.** (1) An appeal may be taken from the determination of a county court under ORS 179.640 to the circuit court, within 30 days after the date of the entry thereof, and from the circuit court to the Supreme Court, in the manner provided by ORS 5.120. An appeal may be taken from the determination of a circuit court under ORS 179.640 to the Supreme Court, within 30 days after the date of the entry thereof, in the manner provided by law for appeals from the circuit court.

(2) An order declaring the financial ability of the person at the state institution, his estate or his responsible relatives to pay for care and maintenance of such person under ORS 179.640 shall remain in full force and effect, unless modified by subsequent court or division orders.
[1959 c.652 §5, 1967 c.549 §5, 1969 c.591 §295]

**179.660 Guardians for estates of persons in certain institutions.** If no guardian has been appointed for the estate of the person mentioned in ORS 179.640 who has been committed or who has been admitted to an institution for the mentally ill or mentally deficient, the division shall request, and the district attorney of the county of which such person is a resident, or was a resident at the time of commitment or admittance, shall institute proper proceedings in the court having probate jurisdiction, for the appointment of a guardian for the estate of such person if necessary.
[1959 c.652 §6]

**179.670 District attorney's duties in proceedings under ORS 179.640.** (1) The district attorney, on request of the division or on request of the probate court, shall appear in the probate court proceedings under ORS 179.640 and present evidence with respect to the ability of the person at the state institution or his estate or responsible relatives to pay the cost of his care and maintenance in the state institution.

(2) If the division feels aggrieved by the order of the probate court under ORS 179.640, the district attorney, on request of and as directed by the division, shall appeal as provided in ORS 179.650.
[1959 c.652 §7; 1969 c.591 §296]

**179.680 Rehearing to redetermine liability.** The decision of the court under ORS 179.640 to 179.670 and the amount payable under the court order are not permanent. In addition to the division's authority under subsection (1) of ORS 179.640 to modify a court order fixing ability to pay, the court having jurisdiction under ORS 179.640 shall, upon petition by the division or by any person against whom such order has been entered under the provisions of ORS 179.640 to 179.670 or his guardian, or upon the court's own initiative, at any time by citation summon the person at the state institution, or his guardian or any relatives or interested persons, or all of them, in order to redetermine the facts and the amount, if any, to be paid and by whom. Notice of each proposed rehearing shall be given to the administrator of the division who shall also receive notice from the court of the decision based on each hearing.
[1959 c.652 §8; 1967 c.549 §6]

**179.690 Rights of subrogation and contribution of relatives making payments.** If any husband or wife, parent or parents, child or children are required to pay for care and maintenance as specified in ORS 179.610 to 179.770, they have the right to subrogation to the extent of the amounts so paid with interest at six percent a year and contribution against the estate of such person at a state institution and other persons mentioned in subsection (3) of ORS 179.610, ORS 179.620 and 179.630 who are liable therefor for their pro rata share.
[1959 c.652 §9]

**179.700** [1959 c.652 §10, 1961 c.639 §1, 1965 c.182 §1; repealed by 1967 c.549 §1 (179.701 enacted in lieu of 179.700)]

**179.701 Determination of reimbursement rates.** The reimbursement rates for care of persons in state institutions shall be determined by the division and shall be established so that the rates are reasonably related to current costs of the institutions. Current costs shall exclude costs not directly related to the cost of care of persons at state institutions and costs of operating educational programs and outpatient services at state institutions.
[1967 c.549 §2 (enacted in lieu of 179.700)]

**179.710** [1955 c.5 §1, renumbered 179.510]

**179.711 Remittance of amounts due; refunds.** (1) Remittance of amounts due for care and maintenance of persons at state institutions as provided in ORS 179.610 to 179.700 shall be made to the administrator of the division in accordance with rules and regulations established by the division.

(2) The division shall authorize the refund of any unearned advance payments for the care and maintenance of persons at any of the state institutions in those cases where payments have been made in advance and the person has died or is discharged or paroled before the end of the month for which such payment is made. The Secretary of State shall audit all claims for refunds approved by the division and shall draw his warrant on the State Treasurer in payment thereof in favor of the person entitled thereto, payable from the General Fund of the State Treasury. Such amounts as are determined to be necessary for the payment of such refunds hereby are appropriated from the money collected under the provisions of ORS 179.610 to 179.770.

[1959 c.652 §11, 1963 c.193 §1]

**179.720** [1955 c.5 §2; renumbered 179.520]

**179.721 Collection of delinquent amounts due.** In all cases where an order is entered by the division or the court against the estate, guardian or relatives of a person at a state institution under the provisions of ORS 179.610 to 179.770, and delinquency in the payment of any amounts due the State of Oregon under such order continues for a period of more than 30 days, upon notification of any such delinquency, by the division, the district attorney of the county wherein the judgment is entered or, in the case of a board order, the district attorney of the county where the responsible person resides shall proceed to collect the amounts due by appropriate proceedings. The funds so collected by the district attorney shall be forwarded by him at once to the administrator of the division, together with a statement showing by whom paid and for what person at a state institution.

[1959 c.652 §13]

**179.730** [1955 c.5 §3; renumbered 179.530]

**179.731 Waiver of collection of amounts payable.** In any case where the division determines that collection of the amounts payable under ORS 179.610 to 179.770 for the care and maintenance of a person at a state institution would be detrimental to the best interests of the person, the division, in its discretion, may waive the collection in whole or in part of the amount otherwise payable under ORS 179.610 to 179.770. The division shall waive all liability of responsible relatives for any amount accruing after July 1, 1959, which is in excess of the amount determined by their ability to pay under ORS 179.640.

[1959 c.652 §§16, 17, 18; 1961 c.501 §3]

**179.740 Collection of amounts due from estates.** (1) The division may present and file a claim for any support money under subsection (3) of ORS 179.620 in a proceeding upon the administration of the estate of any deceased person who was at a state institution in like manner as other claims of creditors are filed and with such priorities as as provided in ORS 115.125.

(2) The division may petition any court of competent jurisdiction for the issuance of letters of administration or testamentary in the estate of any such person who was at a state institution who did not pay or for whom was not paid the full amount of cost of his care and maintenance as determined by ORS 179.701 and under the laws applicable to prior years. However, the division shall not file a petition under this subsection until at least 90 days after the death of the person who was at the state institution and then only in the event that the person's estate is not otherwise being probated.

(3) The division may compromise any claim against the estate of a deceased person who was at a state institution during the pendency of the probate proceeding by accepting other security therefor or in any other manner deemed equitable. The division may waive payment of any such claim in a case in which it finds that the enforcement thereof in whole or in part would be inequitable.

(4) The recovery under subsections (1) to (3) of this section of any claim against the estate of any deceased person who was at a state institution does not relieve any responsible relative from making payments delinquent at the time of the person's release from or death in the institution in accordance with a determination of ability to pay under ORS 179.610 to 179.770 nor does it prevent the division from recovering such payments by appropriate action. However, the division is not entitled under ORS 179.610 to 179.770 to recover amounts which exceed, in the aggregate, the total cost of care and maintenance of the deceased person as computed under ORS 179.701 and under the laws applicable to prior years.

[1959 c.652 §§16, 17, 18; 1961 c.501 §4; 1969 c.591 §297]

**179.750 Equal care and treatment for persons in state institutions.** No discrimination shall be made in the admission, accommodation, care, education or treatment of any person in a state institution because of the fact that the person or his relatives do or do not contribute to the cost of his care and maintenance in whole or in part.
[1959 c.652 §19]

**179.760 Clothing, when furnished by institution for mentally deficient.** When relatives are paying for care and maintenance as required by ORS 179.610 to 179.770 for a resident at the institution for mentally deficient, they are not required to furnish clothing, but the institution shall provide such clothing.
[1959 c.652 §15]

**179.770 Adoption of rules; employment of personnel; deposit of moneys.** (1) In accordance with any applicable provisions of ORS chapter 183, the division may make such rules and regulations as are necessary to carry out the provisions of ORS 179.610 to 179.770.

(2) Subject to any applicable provision of the State Merit System Law, the division may employ such persons as are necessary to carry out the provisions of ORS 179.610 to 179.770.

(3) All money received by the administrator of the division under the provisions of ORS 179.610 to 179.770 shall be deposited daily with the State Treasurer for credit to the General Fund.
[Subsections (1) and (2) enacted as 1959 c.652 §20 and subsection (3) as 1959 c.652 §12]

**CERTIFICATE OF LEGISLATIVE COUNSEL**

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1969

Robert W. Lundy
Legislative Counsel