

# Chapter 179

## 1975 REPLACEMENT PART

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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 and of the Corrections Division.

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

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

[Amended by 1969 c.597 s.17; 1969 c.706 s.62; 1971 c.301 s.14]

**179.020**[Repealed by 1969 c.199 s.59]

**179.030**[Amended by 1961 c.271 s.1; repealed by 1969 c.199 s.59]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 s.57; 1969 c.597 s.18; 1969 c.706 s.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 s.1; 1969 c.597 s.14]

**179.050 Divisions may hold property.**

Each division may receive, take and hold property, both real and personal, for any institution within the jurisdiction of the division. Title shall be taken in the name of the state.

[Amended by 1969 c.597 s.21; 1971 c.615 s.11]

**179.055 Disposition of income from property; maintenance of property.** (1)

The revenue from the rental or lease of property administered by an institution governed or managed by any division or the Department of General Services, 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 279.742.

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

[1961 c.652 s.2(1), (2); 1969 c.597 s.22; 1969 c.706 s.64; 1971 c.615 s.12]

**179.060**[Repealed by 1969 c.597 s.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 s.20]

**179.070**[Repealed by 1969 c.199 s.59]

**179.080**[Repealed by 1969 c.199 s.59]

**179.090**[Amended by 1965 c.476 s.9; 1967 c.2 s.1; repealed by 1969 c.199 s.59]

**179.100**[Repealed by 1969 c.199 s.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 s.4; 1967 c.55 s.1; 1969 c.597 s.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 s.1; 1969 c.597 s.24]

**179.115**[1957 c.602 s.2; repealed by 1969 c.199 s.59]

**179.120**[Amended by 1961 c.651 s.2; repealed by 1967 c.55 s.2]

**179.122**[1959 c.290 s.13; 1965 c.616 s.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 s.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, all claims for supplies or materials furnished or services rendered to institutions shall be audited and approved as provided by law, upon the presentation of duly verified vouchers therefor, approved in writing by the administrator of the division, or his designees.

[Amended by 1971 c.63 s.1; 1973 c.248 s.1]

**179.150 Interest in contracts by persons connected with institution prohibited.** No officer of the division 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.

[Amended by 1971 c.63 s.2]

**179.160 Revolving fund.** (1) There hereby is appropriated to the General Serv-

ices Revolving Fund established by ORS 279.742 out of the General Fund in the State Treasury the sum of \$10,000. Such funds hereby are continuously appropriated for the payment of general expenses incurred in administering ORS 179.055.

(2) At the end of each fiscal year the Department of General Services shall transfer from the General Services 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 s.1; subsection (2) enacted as 1961 c.652 s.2 (3); 1969 c.597 s.25; 1971 c.615 s.13]

### CLAIM FOR INJURY OR DAMAGE

**179.210 Claim for injury or damage; rules; standards.** (1) The Mental Health and Corrections Divisions and the Superintendent of Public Instruction for facilities operated under ORS 346.010 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 or facilities in the performance of official duties or other activity or function of the institutions or facilities. 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 Depart-

ment under ORS 293.300.

[1965 c.476 ss.2, 3; 1967 c.454 s.89; 1969 c.597 s.29; 1971 c.301 s.15]

**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 s.4; 1969 c.597 s.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 s.5; 1967 c.454 s.90; 1969 c.597 s.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 s.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 s.7; 1969 c.597 s.32]

### SUPERVISION OF STATE INSTITUTIONS

**179.310 "Superintendent" defined.** When used in ORS 179.010 to 179.495, 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 s.2; 1955 c.660 s.25; 1959 c.588 s.17; 1963 c.632 s.5; repealed by 1965 c.616 s.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 and Oregon State Penitentiary.

[1965 c.616 s.79 (enacted in lieu of 179.320); 1969 c.597 s.38; 1971 c.212 s.5; 1971 c.301 s.16; 1971 c.401 s.82]

**179.323**[1967 c.346 ss.1, 2; repealed by 1969 c.199 s.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 s.1; 1969 c.597 s.39]

**179.330**[Amended by 1963 c.471 s.1; repealed by 1965 c.616 s.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.

(2) For purposes of the State Merit System Law, the superintendents are assigned to the unclassified service.

[1965 c.616 s.81 (enacted in lieu of 179.330); 1969 c.597 s.26; 1971 c.301 s.17]

**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 s.2; 1965 c.616 s.82; 1969 c.597 s.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 admin-

istrator of the division having jurisdiction over the institution of which he is superintendent.

[Amended by 1969 c.597 s.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 s.14; 1969 c.597 s.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 s.1; 1969 c.597 s.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 s.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 s.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 s.2]

**179.390 Appointment, suspension, removal and salaries of assistants, officers and employes.** (1) The superintendent of institutions other than those within the jurisdiction of the Mental Health Division 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 assist-

ants, 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.

(2) The Administrator of the Mental Health Division or his designees at each facility under jurisdiction of the division shall, as provided by law, appoint, suspend or discharge an employe of the division. The administrator may designate up to three employes at each facility to act in his name in accordance with ORS 240.400.

[Amended by 1969 c.597 s.37; 1973 c.807 s.1]

**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 s.281]

179.420[Repealed by 1969 c.597 s.281]

179.430[Repealed by 1969 c.597 s.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 s.26; 1965 c.616 s.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 divi-

sion 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.

(3) The provisions of this section apply to facilities operated under ORS 346.010.

[Amended by 1971 c.301 s.18]

179.470[Repealed by 1969 c.597 s.281]

**179.473 Transfers from institution to institution.** (1) Whenever the welfare of the person transferred and the efficient administration of the institutions require the transfer, subject to ORS 179.476, 420.500, 420.505 and 420.515:

(a) Any division, with the consent of the Mental Health Division, may make a 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 Health Sciences Center.

(b) Except as provided in subsection (2) of this section, a division may make a 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, Oregon State Correctional Institution or Oregon Women's Correctional Center 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, Oregon State Correctional Institution or Oregon Women's Correctional Center.

[1965 c.616 s.84 (enacted in lieu of 179.474); 1969 c.597 s.40; 1975 c.662 s.1]

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

**179.476 Duration of transfers; limitations on transfers to or between certain institutions; rules.** (1) Subject to subsection (2) of this section 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 transferred to an institution for the mentally ill or mentally deficient for a period to exceed 14 days

except in the manner provided in ORS 426.070 to 426.170, 426.175 to 426.215, or 427.015 to 427.150, whichever is applicable.

(2) Pursuant to rules promulgated by the Mental Health Division and the Corrections Division the superintendent of any state institution for the treatment and care of the mentally ill or mentally deficient may admit and hospitalize therein as a patient, an inmate found to be suffering from an alcohol or drug abuse disease or nervous disorder or mental illness and who voluntarily has made written application for such admission.

(3) An inmate who has been transferred from one of the institutions listed in ORS 179.321 must be retransferred to the original institution or, pursuant to ORS 179.473, to any Corrections Division institution listed in ORS 179.321 if he is found to be no longer mentally ill or mentally deficient pursuant to ORS 426.130 or upon his release pursuant to ORS 426.301.

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

(5) Persons transferred to the Mental Health Division under this section shall be entitled to the same legal rights as any other person found to be mentally ill or mentally deficient.

[1957 c.160 s.2; 1965 c.616 s.85; 1969 c.597 s.41; 1975 c.662 s.2]

**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 Health Sciences Center, 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 s.3; 1969 c.597 s.42; 1975 c.693 s.1]

**179.480**[Amended by 1955 c.86 s.1; repealed by 1957 c.160 s.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 pur-

suant to a transfer or conveyance shall be counted as part of the sentence being served by him.

[1957 c.160 s.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 Health Sciences Center.

(c) Examination, treatment and hospital expenses incurred in favor of a physician, clinic or hospital, other than the University of Oregon Health Sciences Center.

(2) An inmate transferred or conveyed to the University of Oregon Health Sciences Center 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 s.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 inmate records; consent; penalty.** (1) Medical case histories, clinical records, treatment charts, progress reports and other similar written accounts of the inmates of any state corrections institution listed in ORS 179.321, made and maintained in such institution by the officers or employes thereof who are authorized to make and maintain such histories, records, charts, reports and other accounts within the official scope of their duties, shall not be

subject to inspection except upon permission given by the Corrections Division for good cause, or upon order of a court of competent jurisdiction. The restriction contained in this section shall not apply to inspection of written accounts made with the consent of the individual concerned, or in case of his incompetence, by his legal guardian.

(2) Except as authorized under subsection (1) of this section, any person who releases or any person who knowingly obtains information from any record referred to in subsection (1) of this section commits a violation.

[1955 c.452 s.1; 1969 c.597 s.44; 1973 c.736 s.3]

179.500[Repealed by 1969 c.597 s.281]

**179.505 Inspection of patient records; consent; exceptions; scope of use; penalty.** (1) Except as provided in subsections (2), (3) and (4) of this section, case histories, clinical records, treatment charts, progress reports and other similar written accounts of the patients of any Mental Health Division facility or community mental health program made and maintained in such facility or program by the officers or employes thereof who are authorized to make and maintain such histories, records, reports, charts and other accounts within the official scope of their duties shall not be subject to inspection.

(2) If the patient, or in the case of his incompetence, his legal guardian, gives written consent, or if the patient, as a party to an action, suit or other judicial proceeding, testifies regarding an issue to which the written account would be relevant, the content of any written account referred to in subsection (1) of this section may be released.

(3) The content of any written account referred to in subsection (1) of this section may be released without consent to:

(a) Medical personnel to the extent necessary to meet a medical emergency.

(b) At the discretion of the Administrator of the Mental Health Division, to persons engaged in scientific research, program evaluation, and fiscal audits. Such personnel shall not disclose patient identities for any purpose or in any manner.

(4) The content of any written account referred to in subsection (1) of this section may be released without consent only to officers or employes of the Mental Health Division or community mental health programs who are members of professions having well established standards of professional ethics relating to confidential commu-

nications and who are authorized within the official scope of their duties to diagnose and treat or to assist in the diagnosis and treatment of a patient when such written account is used in the course of treating the patient.

(5) No written account referred to in subsection (1) of this section may be used to initiate or substantiate any criminal, civil, administrative, legislative or other proceedings conducted by federal, state or local authorities against a patient or to conduct any investigations of a patient.

(6) Information obtained in the course of diagnosis, evaluation or treatment of a patient which, in the professional judgment of the director of a Mental Health Division facility or community mental health program indicates a clear and immediate danger to others or to society shall be reported to the appropriate authority.

(7) The prohibitions of this section shall apply to written accounts concerning any individual who has been treated by any facility or program listed in subsection (4) of this section irrespective of whether or when he ceases to receive treatment.

(8) Except as authorized under subsections (2), (3), (4) and (6) of this section, any person who releases or any person who knowingly obtains information from any written account referred to in subsection (1) of this section commits a violation.

[1973 c.736 s.2]

**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 s.46]

**179.520 Superintendents authorized to receive funds of wards; separate ac-**

**counts.** 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 receipts 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) "Department" means the Department of Revenue.

(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 patient at the Columbia Park Hospital and Training Center.

[Subsections (1) and (2) enacted as 1959 c.652 s.1; subsection (3) enacted as 1959 c.652 s.3 (2); 1969 c.597 s.43; 1971 c.411 s.2; 1973 c.546 s.1; 1973 c.806 s.1]

**179.620 Liability of person or his estate for cost of care.** (1) If a person at a state institution is possessed of an income sufficient to enable him to pay the expenses of his care and maintenance, the person at the state institution is required to reimburse the State of Oregon for the cost of the care and maintenance during his stay at the state institution.

(2) A person at a state institution is liable for the payment of the monthly charge fixed as provided in ORS 179.701 for care and maintenance according to his 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 shall not be liable for the cost of care and maintenance of the person as computed under ORS 179.701.

[1959 c.652 s.2; 1961 c.501 s.1; 1973 c.823 ss.122, 158]

**179.630**[1959 c.652 s.3 (1); 1963 c.598 s.1; 1967 c.549 s.3; repealed by 1973 c.546 s.13]

**179.635**[1969 c.257 ss.2, 3, 4, 5; 1971 c.750 s.3; repealed by 1973 c.546 s.13 and 1973 c.806 s.2a; amended by 1973 c.827 s.22 (see 179.637)]

**179.637 Extent of liability for payment for resident of institution.** (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 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 18 years of age, whichever occurs last. However, if the person was an emancipated minor or 18 years or more of age at the time of his original commitment to the state institution, no liability shall be imposed against his parents for any period of residency after his commitment.

(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 department, 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 department finds that the child who is resident of a state institution for the mentally deficient 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 department 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 or his estate for the cost of his care and maintenance while at the institution.

[See 179.635]

**179.640 Determination of ability to pay.** (1) The department shall determine by order whether the person at the state institution or his estate is financially able to pay for the care and maintenance at the state institution as required by ORS 179.610 to 179.770. If the department determines the person or his estate is able to pay, in whole or in part, for the care and maintenance at the state institution, the department shall make its order fixing the extent of the liability. The department in determining the ability of the patient to pay for cost of care shall consider the needs of the patient for funds for his support after release. Thereafter, from time to time or within three years from the date of discharge the department may modify its order made under this subsection to recognize a change in the ability of the person to pay. Where the person refuses to disclose fully the information needed by the department to make a determination of ability to pay, the department may use the best information available, including personal income tax returns.

(2) If the person is discharged from the institution before the determination of the extent of liability can be made by the department, the department may make its determination after the person's discharge. Orders entered under subsection (1) of this section shall be limited to 36 months after the date of discharge. The department may collect beyond the 36-month period amounts which became due within the 36-month period. Any remaining balance for full cost of care shall be collected as provided in ORS 179.620.

(3) If any person against whom the department has an order or a modified order under subsection (1) or (2) of this section desires a hearing before the department, he shall make a request to the department in writing within 60 days from the date of the mailing of the order. The request shall state the grounds upon which the petitioner believes the department's determination of liability or ability to pay is in error. A hearing shall be held in the county in which the petitioner resides or in a county agreed upon by both the petitioner and department. If no hearing is requested, the order made under subsection (1) or (2) of this section is final, unless subsequently modified by the department as provided in subsection (1) of this section.

(4) The department may direct subpoenas to be issued to any witness to appear and adduce evidence and produce records for the purpose of determining the financial ability of the person at the state institution or his estate to pay.

[1959 c.652 s.4; 1961 c.501 s.2; 1967 c.549 s.4; 1973 c.806 s.3a; 1973 c.823 ss.123, 159]

**179.643 Guidelines in determining ability to pay.** The department 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 or his estate to pay, in whole or in part, for his care and maintenance.

[1969 c.257 s.8; 1973 c.546 s.4]

**179.645**[1967 c.534 s.32; repealed by 1973 c.806 s.14]

**179.650 Appeal from order declaring financial ability; order effective until modified.** (1) An appeal may be taken to the circuit court from an order of the department made after a hearing under subsection (3) of ORS 179.640, within 60 days after the date of the making of the order, and from the circuit court to the Court of Appeals 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 or his estate to pay for his care and maintenance under ORS 179.640 shall remain in full force and effect, unless modified by subsequent court or department orders.

[1959 c.652 s.5; 1967 c.549 s.5; 1969 c.591 s.295; 1973 c.546 s.5; 1973 c.806 s.5a]

**179.653 Unpaid costs as lien on property.** If any person at a state institution or his estate refuses to pay for the cost of that person as ordered by the department under ORS 179.640, the amount unpaid and interest thereon shall be a lien in favor of the State of Oregon upon the property and rights to the property, whether real or personal, belonging to the person. The lien shall arise as each payment is due under the order and shall continue until the liability with interest is satisfied.

[1973 c.806 s.9a]

Note: 179.653 and 179.655 were not added to and made a part of 179.610 to 179.770 by legislative action.

**179.655 Enforcement of lien.** (1) If any amount due the department for the cost of care of a person at a state institution is not paid within 30 days after it becomes due, and no provision is made to secure the payment by bond, deposit or otherwise pursuant to rules promulgated by the department, the department shall issue a warrant under its hand and official seal directed to the sheriff of any county of the state commanding him to levy upon and sell the real and personal property of the taxpayer found within his county, for the payment of the amount due, with interest, collection charge and the sheriff's cost of executing the warrant, and to return the warrant to the department and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant.

(2) The sheriff shall, within five days after the receipt of the warrant, file with the clerk of his county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the person mentioned in the warrant, and in appropriate columns the amount for which the warrant is issued and the date when such copy is filed. Thereupon the amount of the warrant so docketed shall become a lien upon the title to and interest in property of the taxpayer against whom it is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff thereupon shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(3) In the discretion of the department a warrant of like terms, force and effect may

be issued and directed to any agent of the department, and in the execution thereof the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) If a warrant is returned not satisfied in full, the department shall have the same remedies to enforce the claim as if the people of the state had recovered judgment against the person for the amount due.

[1973 c.806 ss.10, 11, 12]

Note: See note under 179.653.

**179.660 Guardian or conservator for estate of person in certain institutions.** If a guardian or conservator of the estate has not been appointed for 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 department shall request, and the district attorney of the county of which the 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 or a conservator for the estate of the person if necessary.

[1959 c.652 s.6; 1973 c.823 s.124]

**179.670**[1959 c.652 s.7; 1969 c.591 s.296; 1973 c.546 s.6; repealed by 1973 c.806 s.14]

**179.680**[1959 c.652 s.8; 1967 c.549 s.6; 1973 c.546 s.7; repealed by 1973 c.806 s.14]

**179.690**[1959 c.652 s.9; repealed by 1973 c.546 s.13]

**179.700**[1959 c.652 s.10; 1961 c.639 s.1; 1965 c.182 s.1; repealed by 1967 c.549 s.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 Mental Health Division of the Department of Human Resources 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 s.2 (enacted in lieu of 179.700); 1973 c.806 s.6]

**179.710**[1955 c.5 s.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 director of the

department in accordance with rules and regulations established by the department.

(2) The department 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. Any authorized refund shall be paid to the person who had been institutionalized or to his estate if he has died. The Secretary of State shall audit all claims for refunds approved by the department 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 s.11; 1963 c.193 s.1; 1973 c.546 s.8]

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

**179.721 Collection of delinquent amounts due.** In all cases where an order is entered by the department or the court against the person at a state institution or his estate 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 department, the district attorney of the county wherein the judgment is entered or, in the case of a department 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 director of the department, together with a statement showing by whom paid and for what person at a state institution.

[1959 c.652 s.13; 1973 c.546 s.9]

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

**179.731 Waiver of collection of amounts payable.** In any case where the department 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 or the department, the department, in its discretion, may waive the collection in whole or

in part of the amount otherwise payable under ORS 179.610 to 179.770.

[1959 c.652 ss.16, 17, 18; 1961 c.501 s.3; 1973 c.546 s.10; 1973 c.806 s.7a]

**179.740 Collection of amounts due from estates.** (1) The department 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 are provided in ORS 115.125.

(2) The department 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 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 department 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 department 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 department 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 department 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 ss.16, 17, 18; 1961 c.501 s.4; 1969 c.591 s.297; 1973 c.546 s.11]

**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 does or does not contribute to the cost of his care and maintenance in whole or in part.

[1959 c.652 s.19; 1973 c.546 s.12]

**179.760**[1959 c.652 s.15; repealed by 1973 c.546 s.13]

**179.770 Adoption of rules; employment of personnel; deposit of moneys.** (1) In accordance with any applicable provisions of ORS chapter 183, the department 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 department 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 department 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 s.20; subsection (3) as 1959 c.652 s.12]

**Note:** Sections 7 to 9, chapter 146, Oregon Laws 1975, provide:

**Sec. 7.** The department shall waive or release the total amount or value of any contribution or liability of responsible relatives which accrued prior to October 5, 1973, and on which no payment or partial satisfaction has been made on the effective date of this 1975 Act [May 7, 1975]. Contribution or liability under ORS 179.610 to 179.770 includes:

(1) Outstanding and unpaid claims.

(2) Outstanding and unsatisfied warrants.

(3) Unsatisfied liens under ORS 179.655 whether or not pursuant to judgment.

(4) Unsatisfied judgments.

**Sec. 8.** (1) Where partial payment or partial satisfaction has been made on any contribution or liability under section 7 of this 1975 Act, the department shall waive all further payments.

(2) Nothing in subsection (1) of this section shall entitle any responsible relatives to a refund for any payment made under ORS 179.610 to 179.770.

**Sec. 9.** The department shall waive all interest which may have accrued prior to the effective date of this 1975 Act on the amount of any contribution or liability under section 7 of this 1975 Act.

#### CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,  
October 1, 1975.

Thomas G. Clifford  
Legislative Counsel

