

D R A F T

SUMMARY

Extends date by which commitment hearing must be held.

Extends length of time individual admitted to facility under emergency civil commitment proceedings may be detained.

Permits individual to request hearing to determine whether there is probable cause for detention pending commitment hearing.

A BILL FOR AN ACT

1
2 Relating to civil commitments; amending ORS 426.070, 426.095, 426.100,
3 426.210, 426.232, 426.234 and 426.237.

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

5 **SECTION 1.** ORS 426.070 is amended to read:

6 426.070. (1) Any of the following may initiate commitment procedures
7 under this section by giving the notice described under subsection (2) of this
8 section:

9 (a) Two persons;

10 (b) The local health officer; or

11 (c) Any magistrate.

12 (2) For purposes of subsection (1) of this section, the notice must comply
13 with the following:

14 (a) It must be in writing under oath;

15 (b) It must be given to the community mental health program director or
16 a designee of the director in the county where the person alleged to have a
17 mental illness resides;

18 (c) It must state that a person within the county other than the person
19 giving the notice is a person with mental illness and is in need of treatment,

1 care or custody;

2 (d) If the commitment proceeding is initiated by two persons under sub-
3 section (1)(a) of this section, it may include a request that the court notify
4 the two persons:

5 (A) Of the issuance or nonissuance of a warrant under this section; or

6 (B) Of the court's determination under ORS 426.130 (1); and

7 (e) If the notice contains a request under paragraph (d) of this subsection,
8 it must also include the addresses of the two persons making the request.

9 (3) Upon receipt of a notice under subsections (1) and (2) of this section
10 or when notified by a circuit court that the court received notice under ORS
11 426.234, the community mental health program director, or designee of the
12 director, shall:

13 (a) Immediately notify the judge of the court having jurisdiction for that
14 county under ORS 426.060 of the notification described in subsections (1) and
15 (2) of this section.

16 (b) Immediately notify the Oregon Health Authority if commitment is
17 proposed because the person appears to be a person with mental illness, as
18 defined in ORS 426.005 (1)(f)(C). When such notice is received, the authority
19 may verify, to the extent known by the authority, whether or not the person
20 meets the criteria described in ORS 426.005 (1)(f)(C)(i) and (ii) and so inform
21 the community mental health program director or designee of the director.

22 (c) Initiate an investigation under ORS 426.074 to determine whether
23 there is probable cause to believe that the person is in fact a person with
24 mental illness.

25 (4) Upon completion, a recommendation based upon the investigation re-
26 port under ORS 426.074 shall be promptly submitted to the court. If the
27 community mental health program director determines that probable cause
28 does not exist to believe that a person released from detention under ORS
29 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental
30 health program director may recommend assisted outpatient treatment in
31 accordance with ORS 426.133.

1 (5) When the court receives notice under subsection (3) of this section:

2 (a) If the court, following the investigation, concludes that there is
3 probable cause to believe that the person investigated is a person with
4 mental illness, it shall, through the issuance of a citation as provided in ORS
5 426.090, cause the person to be brought before it at a time and place as it
6 may direct, for a hearing under ORS 426.095 to determine whether the person
7 is a person with mental illness. The person shall be given the opportunity
8 to appear voluntarily at the hearing unless the person fails to appear or
9 unless the person is detained pursuant to paragraph (b) of this subsection.

10 (b)(A) If the court finds that there is probable cause to believe that fail-
11 ure to take the person into custody pending the investigation or hearing
12 would pose serious harm or danger to the person or to others, the court may
13 issue a warrant of detention to the community mental health program di-
14 rector or designee or the sheriff of the county or designee directing the di-
15 rector, sheriff or a designee to take the person alleged to have a mental
16 illness into custody and produce the person at the time and place stated in
17 the warrant.

18 (B) At the time the person is taken into custody, the person shall be in-
19 formed by the community mental health program director, the sheriff or a
20 designee of the following:

21 (i) The person's rights with regard to representation by or appointment
22 of counsel **and the right to request, in writing, a hearing on whether**
23 **there is probable cause to detain the person**, as described in ORS 426.100;

24 (ii) The warning under ORS 426.123; and

25 (iii) The person's right, if the community mental health program director,
26 sheriff or designee reasonably suspects that the person is a foreign national,
27 to communicate with an official from the consulate of the person's country.
28 A community mental health program director, sheriff or designee is not
29 civilly or criminally liable for failure to provide the information required by
30 this sub-subparagraph. Failure to provide the information required by this
31 sub-subparagraph does not in itself constitute grounds for the exclusion of

1 evidence that would otherwise be admissible in a proceeding.

2 (C) The court may make any orders for the care and custody of the person
3 prior to the hearing as it considers necessary.

4 (c) If the notice includes a request under subsection (2)(d)(A) of this sec-
5 tion, the court shall notify the two persons of the issuance or nonissuance
6 of a warrant under this subsection.

7 **SECTION 2.** ORS 426.095 is amended to read:

8 426.095. The following is applicable to a commitment hearing held by a
9 court under ORS 426.070:

10 (1) The hearing may be held in a hospital, the person's home or in some
11 other place convenient to the court and the person alleged to have a mental
12 illness.

13 (2) The court shall hold the hearing at the time established according to
14 the following:

15 (a) Except as provided by paragraph (b) or (c) of this subsection, a hearing
16 shall be held [*five*] **within 15** judicial days from the day a court under ORS
17 426.070 issues a citation provided under ORS 426.090.

18 (b) Except as provided by paragraph (c) of this subsection, if a person is
19 detained by a warrant of detention under ORS 426.070, a hearing shall be
20 held within [*five*] **15** judicial days of the commencement of detention.

21 (c) If requested under this paragraph, the court, for good cause, may
22 postpone the hearing for not more than five judicial days in order to allow
23 preparation for the hearing. The court may make orders for the care and
24 custody of the person during a postponement as [*it*] **the court** deems neces-
25 sary. If a person is detained before a hearing under ORS 426.070, 426.180,
26 426.228, 426.232, 426.233 or 426.702 and the hearing is postponed under this
27 paragraph, the court, for good cause, may allow the person to be detained
28 during the postponement if the postponement is requested by the person or
29 the legal counsel of the person. Any of the following may request a
30 postponement under this paragraph:

31 (A) The person alleged to have a mental illness or the person alleged to

1 be an extremely dangerous person with mental illness.

2 (B) The legal counsel or guardian of the person.

3 (C) The individual representing the state's interest.

4 (3) The person alleged to have a mental illness and the individual repre-
5 senting the state's interest shall have the right to cross-examine all the fol-
6 lowing:

7 (a) Witnesses.

8 (b) The individual conducting the investigation.

9 (c) The examining physicians or other licensed independent practitioners
10 who have examined the person.

11 (4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 shall not apply
12 to and the court may consider as evidence any of the following:

13 (a) Medical records for the current involuntary prehearing period of de-
14 tention.

15 (b) Statements attributed by the maker of the medical records or the in-
16 vestigation report to witnesses concerning their own observations in the
17 absence of objection or if such individuals are produced as witnesses at the
18 hearing available for cross-examination.

19 (c) The testimony of any treating licensed independent practitioners,
20 nurses or social workers for the prehearing period of detention. Any treating
21 licensed independent practitioner, nurse or social worker who is subpoenaed
22 as a witness for the proceeding shall testify as an expert witness under the
23 provisions of ORS 40.410, 40.415, 40.420 and 40.425 and is subject to treatment
24 as an expert witness in the payment of witness fees and costs.

25 (d) The investigation report prepared under ORS 426.074. Subject to the
26 following, the investigation report shall be introduced in evidence:

27 (A) Introduction of the report under this paragraph does not require the
28 consent of the person alleged to have a mental illness.

29 (B) Upon objection by any party to the action, the court shall exclude any
30 part of the investigation report that may be excluded under the Oregon Ev-
31 idence Code on grounds other than those set forth in ORS 40.230, 40.235,

1 40.240 or 40.250.

2 (C) Neither the investigation report nor any part thereof shall be intro-
3 duced into evidence under this paragraph unless the investigator is present
4 during the proceeding to be cross-examined or unless the presence of the
5 investigator is waived by the person alleged to have a mental illness or
6 counsel for the person.

7 **SECTION 3.** ORS 426.100 is amended to read:

8 426.100. (1) At the time the person alleged to have a mental illness is
9 brought before the court, the court shall advise the person of the following:

- 10 (a) The reason for being brought before the court;
11 (b) The nature of the proceedings;
12 (c) The possible results of the proceedings;
13 (d) The right to subpoena witnesses; and
14 (e) The person's rights regarding representation by or appointment of
15 counsel.

16 (2) Subsection (3) of this section establishes the rights of persons alleged
17 to have a mental illness in each of the following circumstances:

18 (a) When the person is held by warrant of detention issued under ORS
19 426.070.

20 (b) In commitment hearings under ORS 426.095.

21 (c) When the person is detained as provided under ORS 426.228, 426.232
22 or 426.233.

23 (d) In recommitment hearings under ORS 426.307.

24 (3) When provided under subsection (2) of this section, a person alleged
25 to have a mental illness has the following rights relating to representation
26 by or appointment of counsel:

27 (a) The right to obtain suitable legal counsel possessing skills and expe-
28 rience commensurate with the nature of the allegations and complexity of
29 the case during the proceedings.

30 (b) If the person is determined to be financially eligible for appointed
31 counsel at state expense, the court will appoint legal counsel to represent

1 the person. If counsel is appointed at state expense, payment of expenses and
2 compensation relating to legal counsel shall be made as provided under ORS
3 426.250.

4 (c) If the person alleged to have a mental illness does not request legal
5 counsel, the legal guardian, relative or friend may request the assistance of
6 suitable legal counsel on behalf of the person.

7 (d) If no request for legal counsel is made, the court shall appoint suitable
8 legal counsel unless counsel is expressly, knowingly and intelligently refused
9 by the person.

10 *[(e) If the person is being involuntarily detained before a hearing on the*
11 *issue of commitment, the right under paragraph (a) of this subsection to con-*
12 *tact an attorney or under paragraph (b) of this subsection to have an attorney*
13 *appointed may be exercised as soon as reasonably possible.]*

14 *[(f)]* (e) In all cases suitable legal counsel shall be present at the hearing
15 and may be present at examination and may examine all witnesses offering
16 testimony, and otherwise represent the person.

17 **(4)(a) In addition to the rights described in subsection (3) of this**
18 **section, a person alleged to have a mental illness who is being invol-**
19 **untarily detained before a hearing on the issue of commitment, pur-**
20 **suant to a warrant of detention issued under ORS 426.070 or as**
21 **provided under ORS 426.228, 426.232 or 426.233, has the following rights:**

22 **(A) The right to obtain counsel, as provided in subsection (3)(a) of**
23 **this section, or to have counsel appointed as provided in subsection**
24 **(3)(b) of this section, as soon as reasonably possible.**

25 **(B) The right, no later than five days after the person is detained,**
26 **to request a hearing in writing, personally or through a relative, a**
27 **friend or an attorney, on the need for detention, and the hearing shall**
28 **be held no later than five days after the written request. The hearing**
29 **may be postponed at the request of the person.**

30 **(b) In the hearing described in paragraph (a)(B) of this subsection,**
31 **the court shall take testimony and examine the person. The exam-**

1 ination may be held outside of the courtroom if the court deems it
2 advisable.

3 (c) The court shall issue a written decision on whether there is
4 probable cause to detain the person as a person with a mental illness
5 who is in need of treatment. If the court finds probable cause to detain
6 the person, the court shall order the detention of the person until the
7 earlier of:

8 (A) The conclusion of a hearing under ORS 426.095; or

9 (B) A period not to exceed 15 days from the date the detention be-
10 gan, except as provided in ORS 426.095 (2)(c).

11 (d) A determination of probable cause to detain the person, under
12 paragraph (c) of this subsection, may not be deemed to be an adjudi-
13 cation that the person is a person with a mental illness.

14 [(4)] (5) The responsibility for representing the state's interest in com-
15 mitment proceedings, including, but not limited to, preparation of the state's
16 case and appearances at commitment hearings is as follows:

17 (a) The Attorney General's office shall have the responsibility relating to
18 proceedings initiated by state hospital staff that are any of the following:

19 (A) Recommitment proceedings under ORS 426.307; or

20 (B) Proceedings under ORS 426.228, 426.232 or 426.233.

21 (b) The district attorney if requested to do so by the governing body of
22 the county.

23 (c) In lieu of the district attorney under paragraph (b) of this subsection,
24 a counsel designated by the governing body of a county shall take the re-
25 sponsibility. A county governing body may designate counsel to take re-
26 sponsibility under this paragraph either for single proceedings or for all such
27 proceedings the county will be obligated to pay for under ORS 426.250. If a
28 county governing body elects to proceed under this paragraph, the county
29 governing body shall so notify the district attorney. The expenses of an at-
30 torney appointed under this paragraph shall be paid as provided under ORS
31 426.250.

1 **SECTION 4.** ORS 426.210 is amended to read:

2 426.210. An individual admitted to a hospital or nonhospital facility pur-
3 suant to the emergency **commitment** proceedings under ORS 426.180 and
4 426.200 may not be detained there for more than [*five*] **15** judicial days fol-
5 lowing admission. The court, for good cause, may allow a postponement and
6 detention during a postponement as provided under ORS 426.095.

7 **SECTION 5.** ORS 426.232 is amended to read:

8 426.232. (1) If a licensed independent practitioner believes a person who
9 is brought to a hospital or nonhospital facility by a peace officer under ORS
10 426.228 or by an individual authorized under ORS 426.233, or believes a per-
11 son who is at a hospital or nonhospital facility, is dangerous to self or to
12 any other person and is in need of emergency care or treatment for mental
13 illness, and the licensed independent practitioner is not related to the person
14 by blood or marriage, the licensed independent practitioner may do one of
15 the following:

16 (a) Detain the person and cause the person to be admitted or, if the per-
17 son is already admitted, cause the person to be retained in a hospital where
18 the licensed independent practitioner has admitting privileges or is on staff.

19 (b) Approve the person for emergency care or treatment at a nonhospital
20 facility approved by the authority.

21 (2) When approving a person for emergency care or treatment at a non-
22 hospital facility under this section, the licensed independent practitioner
23 shall notify immediately the community mental health program director in
24 the county where the person was taken into custody and maintain the per-
25 son, if the person is being held at a hospital, for as long as is feasible given
26 the needs of the person for mental or physical health or safety. However,
27 under no circumstances may the person be held for longer than [*five*] **15** ju-
28 dicial days.

29 **SECTION 6.** ORS 426.234 is amended to read:

30 426.234. (1) At the time a person alleged to have a mental illness is ad-
31 mitted to or retained in a hospital or nonhospital facility under ORS 426.232

1 or 426.233, a licensed independent practitioner, nurse or qualified mental
2 health professional at the hospital or nonhospital facility shall:

3 (a) Inform the person of the person's right to representation by or ap-
4 pointment of counsel **and the right to request, in writing, a hearing on**
5 **whether there is probable cause to retain the person,** as described in
6 ORS 426.100;

7 (b) Give the person the warning under ORS 426.123;

8 (c) Immediately examine the person;

9 (d) Set forth, in writing, the condition of the person and the need for
10 emergency care or treatment; and

11 (e) If the licensed independent practitioner, nurse or qualified mental
12 health professional reasonably suspects that the person is a foreign national,
13 inform the person of the person's right to communicate with an official from
14 the consulate of the person's country. A licensed independent practitioner,
15 nurse or qualified mental health professional is not civilly or criminally li-
16 able for failure to provide the information required by this paragraph. Fail-
17 ure to provide the information required by this paragraph does not in itself
18 constitute grounds for the exclusion of evidence that would otherwise be
19 admissible in a proceeding.

20 (2)(a) At the time the person is admitted to or retained in a hospital under
21 ORS 426.232, the licensed independent practitioner shall contact the commu-
22 nity mental health program director of the county in which the person re-
23 sides, if the county of residence is different from the county in which the
24 hospital is located. The community mental health program director may re-
25 quest that the licensed independent practitioner notify the circuit court in
26 the county in which the person resides. If the community mental health
27 program director does not make the request, the licensed independent prac-
28 titioner shall notify, immediately and in writing, the circuit court in the
29 county in which the person is hospitalized.

30 (b) At the time the person is admitted to a hospital under ORS 426.232
31 after being brought to the hospital by a peace officer under ORS 426.228, the

1 licensed independent practitioner shall contact the community mental health
2 program director of the county in which the person is hospitalized. The
3 community mental health program director of the county in which the person
4 is hospitalized may request that the licensed independent practitioner notify
5 the circuit court in the county in which the person is hospitalized. If the
6 community mental health program director does not make the request, the
7 licensed independent practitioner shall notify, immediately and in writing,
8 the circuit court in the county in which the person was taken into custody.

9 (c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the
10 licensed independent practitioner responsible for a person admitted or re-
11 tained under ORS 426.232 determines that the person is not dangerous to self
12 or to any other person and is not in need of emergency care or treatment for
13 mental illness, the licensed independent practitioner may release the person
14 from the detention authorized by ORS 426.232. The licensed independent
15 practitioner shall immediately notify the circuit court notified under this
16 subsection and the community mental health program director of the person's
17 release from detention.

18 (3)(a) At the time the person is admitted to or retained in a nonhospital
19 facility under ORS 426.233, the community mental health program director
20 in the county where the person was taken into custody shall contact the
21 community mental health program director of the county in which the person
22 resides, if the county of residence is different from the county in which the
23 person was taken into custody. The community mental health program di-
24 rector of the county in which the person resides may request that the com-
25 munity mental health program director of the county in which the person
26 was taken into custody notify the circuit court in the county where the
27 person resides. Otherwise, the community mental health program director of
28 the county in which the person was taken into custody shall notify, imme-
29 diately and in writing, the circuit court in the county in which the person
30 was taken into custody.

31 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a

1 community mental health program director, after consultation with a li-
2 censed independent practitioner, determines that a person admitted or re-
3 tained under ORS 426.233 is not dangerous to self or to any other person and
4 is not in need of immediate care, custody or treatment for mental illness, the
5 community mental health program director may release the person from de-
6 tention. The community mental health program director shall immediately
7 notify the circuit court originally notified under paragraph (a) of this sub-
8 section of the person's release from detention.

9 (4) When the judge of the circuit court receives notice under subsection
10 (2) or (3) of this section, the judge immediately shall commence proceedings
11 under ORS 426.070 to 426.130. In a county having a population of 100,000 or
12 more, and when feasible in a county with a lesser population, the community
13 mental health program director or designee who directs the peace officer or
14 other authorized individual to take a person into custody under ORS 426.233
15 shall not also conduct the investigation as provided for under ORS 426.074.
16 Except when a person is being held under ORS 426.237 (1)(b), a person shall
17 not be held under ORS 426.232 or 426.233 for more than [*five*] **15** judicial days
18 without a hearing being held under ORS 426.070 to 426.130.

19 (5) When the judge of the circuit court receives notice under subsection
20 (2)(c) or (3)(b) of this section that a person has been released, and unless the
21 court receives the recommendation required by ORS 426.070 (4), the judge
22 shall dismiss the case no later than 14 days after the date the person was
23 initially detained.

24 **SECTION 7.** ORS 426.237 is amended to read:

25 426.237. (1) During a prehearing period of detention as provided in ORS
26 426.070, 426.140, 426.232 or 426.233, the community mental health program
27 director shall do one of the following:

28 (a) Recommend, in an investigation report as provided in ORS 426.074,
29 that the circuit court not proceed further in the matter if the community
30 mental health program director does not believe the person is a person with
31 mental illness or that the person is in need of assisted outpatient treatment.

1 (b) No later than three judicial days after initiation of a prehearing pe-
2 riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233,
3 certify the detained person for a 14-day period of intensive treatment if:

4 (A) The community mental health program director and a licensed inde-
5 pendent practitioner have probable cause to believe the person is a person
6 with mental illness;

7 (B) The community mental health program director in the county where
8 the person resides verbally approves the arrangements for payment for the
9 services at the hospital or nonhospital facility; and

10 (C) The community mental health program director locates a hospital or
11 nonhospital facility that:

12 (i) Is approved by the authority and the community mental health pro-
13 gram director in the county where the person resides; and

14 (ii) Can, in the opinion of the community mental health program director
15 and the licensed independent practitioner, provide intensive care or treat-
16 ment for mental illness necessary and sufficient to meet the emergency psy-
17 chiatric needs of the person.

18 (c) Recommend, in an investigation report as provided in ORS 426.074,
19 that the circuit court hold a hearing under ORS 426.070 to 426.130 if the
20 community mental health program director has probable cause to believe the
21 person is a person with mental illness or that the person is in need of as-
22 sisted outpatient treatment.

23 (2)(a) If the circuit court adopts the recommendation of the community
24 mental health program director under subsection (1)(a) of this section, the
25 circuit court shall enter an order releasing the person and dismissing the
26 case. Unless the person agrees to voluntary treatment, if the person is being
27 detained in a:

28 (A) Nonhospital facility, the community mental health program director
29 shall make discharge plans and ensure the discharge of the person.

30 (B) Hospital, the licensed independent practitioner who is treating the
31 person shall make discharge plans and discharge the person.

1 (b) Upon release of the person, the community mental health program
2 director shall attempt to notify the person's next of kin if the person con-
3 sents to the notification.

4 (3)(a) If the detained person is certified for treatment under subsection
5 (1)(b) of this section, the community mental health program director shall:

6 (A) Deliver immediately a certificate to the court having jurisdiction un-
7 der ORS 426.060; and

8 (B) Orally inform the person of the certification and deliver a copy of the
9 certificate to the person.

10 (b) The certificate required by paragraph (a) of this subsection shall in-
11 clude:

12 (A) A written statement under oath by the community mental health
13 program director and the licensed independent practitioner that they have
14 probable cause to believe the person is a person with mental illness in need
15 of care or treatment for mental illness;

16 (B) A treatment plan that describes, in general terms, the types of treat-
17 ment and medication to be provided to the person during the 14-day period
18 of intensive treatment;

19 (C) A notice of the person's right to an attorney and that an attorney
20 will be appointed by the court or as otherwise obtained under ORS 426.100
21 (3);

22 **(D) A notice of the person's right to request a hearing, in writing,**
23 **on whether there is probable cause to detain the person under ORS**
24 **426.100 (4);**

25 ~~[(D)]~~ **(E)** A notice that the person has a right to request and be provided
26 a hearing under ORS 426.070 to 426.130 at any time during the 14-day period;
27 and

28 ~~[(E)]~~ **(F)** The date and time the copy of the certificate was delivered to
29 the person.

30 (c) Immediately upon receipt of a certificate under paragraph (a) of this
31 subsection, the court shall notify the person's attorney or appoint an attor-

1 ney for the person if the person cannot afford one. Within 24 hours of the
2 time the certificate is delivered to the court, the person's attorney shall re-
3 view the certificate with the person. If the person and the person's attorney
4 consent to the certification within one judicial day of the time the certificate
5 is delivered to the circuit court and, except as provided in subsection (4) of
6 this section, the court shall postpone the hearing required by ORS 426.070
7 to 426.130 for 14 days.

8 (d) When a person is certified for treatment under subsection (1)(b) of this
9 section and accepts the certification:

10 (A) Except as otherwise provided in this paragraph, all methods of treat-
11 ment, including the prescription and administration of drugs, shall be the
12 sole responsibility of the licensed independent practitioner who is treating
13 the person. However, the person shall not be subject to electroshock therapy
14 or unduly hazardous treatment and shall receive usual and customary treat-
15 ment in accordance with medical standards in the community.

16 (B) Except when the person expressly refuses treatment, the treating li-
17 censed independent practitioner shall treat the person within the scope of
18 the treatment plan provided the person under paragraph (b) of this sub-
19 section. The person's refusal of treatment constitutes sufficient grounds for
20 the community mental health program director to request a hearing as pro-
21 vided in subsection (4)(a) of this section.

22 (C) If the person is in a hospital and the community mental health pro-
23 gram director locates a nonhospital facility, approved by the authority, that,
24 in the opinion of the community mental health program director and the li-
25 censed independent practitioner who is treating the person, can provide care
26 or treatment for mental illness necessary and sufficient to meet the emer-
27 gency psychiatric needs of the person, the treating licensed independent
28 practitioner shall discharge the person from the hospital and the community
29 mental health program director shall remove the person to the nonhospital
30 facility for the remainder of the 14-day intensive treatment period. If, how-
31 ever, in the opinion of the treating licensed independent practitioner, the

1 person's condition requires the person to receive medical care or treatment,
2 the licensed independent practitioner shall retain the person in the hospital.

3 (D) If the person is in a nonhospital facility, the community mental health
4 program director shall transfer the person to a hospital approved by the au-
5 thority under the following conditions:

6 (i) If, in the opinion of a licensed independent practitioner, the person's
7 condition requires the person to receive medical care or treatment in a hos-
8 pital; and

9 (ii) The licensed independent practitioner agrees to admit the person to
10 a hospital, approved by the authority, where the licensed independent prac-
11 titioner has admitting privileges.

12 (E) If the person is transferred as provided in subparagraph (C) or (D) of
13 this paragraph, the community mental health program director shall notify
14 the circuit court, in the county where the certificate was filed, of the lo-
15 cation of the person. The person may appeal the transfer as provided by rules
16 of the authority.

17 (e) If the person is in a hospital, the licensed independent practitioner
18 who is treating the person may discharge the person at any time during the
19 14-day period. The treating licensed independent practitioner shall confer
20 with the community mental health program director and the person's next
21 of kin, if the person consents to the consultation, prior to discharging the
22 person. Immediately upon discharge of the person, the treating licensed in-
23 dependent practitioner shall notify the court in the county in which the
24 certificate was filed initially.

25 (f) If the person is in a nonhospital facility, the community mental health
26 program director may discharge the person at any time during the 14-day
27 period. The community mental health program director shall consult with the
28 licensed independent practitioner who is treating the person and the person's
29 next of kin, if the person consents to the consultation, prior to discharging
30 the person. Immediately upon discharge of the person, the community mental
31 health program director shall notify the court in the county in which the

1 certificate was filed initially.

2 (g) The person may agree to voluntary treatment at any time during the
3 14-day period. When a person agrees to voluntary treatment under this par-
4 agraph, the community mental health program director immediately shall
5 notify the court in the county in which the certificate was filed initially.

6 (h) A person consenting to 14 days of treatment under subsection (3)(c)
7 of this section shall not be held longer than 14 days from the time of con-
8 senting without a hearing as provided in ORS 426.070 to 426.130.

9 (i) When the court receives notification under paragraph (e), (f) or (g) of
10 this subsection, the court shall dismiss the case.

11 (4) The judge of the circuit court shall immediately commence proceedings
12 under ORS 426.070 to 426.130 when:

13 (a) The person consenting to 14 days of treatment or the community
14 mental health program director requests a hearing. The hearing shall be held
15 without unreasonable delay. In no case shall the person be held in a hospital
16 or nonhospital facility longer than [*five*] **15** judicial days after the request
17 for a hearing is made without a hearing being held under ORS 426.070 to
18 426.130.

19 (b) The community mental health program director acts under subsection
20 (1)(c) of this section. In no case shall the person be held longer than [*five*]
21 **15** judicial days without a hearing under this subsection.

22
