

House Bill 4084

Sponsored by Representatives WRIGHT, MORGAN; Representatives GEORGE, LEVY, NOBLE, Senator ANDERSON
(Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Specifies evaluation that must be conducted when person is taken into hospital or nonhospital facility because person has mental illness and is in need of treatment. Requires court order for conditional release or assisted outpatient treatment to contain provisions to ensure person receives necessary support services upon release.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to persons with mental illness; amending ORS 426.072 and 426.130; and prescribing an ef-
3 fective date.

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

5 **SECTION 1.** ORS 426.072 is amended to read:

6 426.072. (1) A hospital or nonhospital facility must comply with provisions of subsection (2) of
7 this section when a person alleged to have a mental illness is placed in custody at the hospital or
8 nonhospital facility:

9 (a) By a warrant of detention under ORS 426.070;

10 (b) By a peace officer under ORS 426.228 or other individual authorized under ORS 426.233; or

11 (c) By a licensed independent practitioner under ORS 426.232.

12 (2) In circumstances described under subsection (1) of this section, the hospital or nonhospital
13 facility and a treating licensed independent practitioner must comply with all the following:

14 (a) The person shall receive the care, custody and treatment required for mental and physical
15 health and safety, **including but not limited to an assessment and a multidisciplinary profes-**
16 **sional evaluation of the person's mental, behavioral, medical, psychological, educational, so-**
17 **cial, financial and legal conditions that contribute to the person's need for treatment, care**
18 **or custody.**

19 (b) The treating licensed independent practitioner shall report any care, custody and treatment
20 to the court as required in ORS 426.075.

21 (c) All methods of treatment, including the prescription and administration of drugs, shall be the
22 sole responsibility of the treating licensed independent practitioner. However, the person shall not
23 be subject to electroshock therapy or unduly hazardous treatment and shall receive usual and cus-
24 tomary treatment in accordance with medical standards in the community.

25 (d) The treating licensed independent practitioner shall be notified immediately of any seclusion
26 of the person or use of mechanical restraints on the person. Every use of seclusion or mechanical
27 restraint and the reasons for the use shall be made a part of the clinical record of the person over
28 the signature of the treating licensed independent practitioner.

29 (e) The treating licensed independent practitioner shall give the person the warning under ORS

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 426.123 at times the treating licensed independent practitioner determines the person will reasonably
 2 understand the notice. This paragraph only requires the notice to be given as often as the licensed
 3 independent practitioner determines is necessary to assure that the person is given an opportunity
 4 to be aware of the notice.

5 (3) The Oregon Health Authority shall adopt rules necessary to carry out this section, including
 6 rules regarding the content of the medical record compiled during the current period of custody.

7 **SECTION 2.** ORS 426.130 is amended to read:

8 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examiners, the
 9 court shall determine whether the person has a mental illness and is in need of treatment. If, in the
 10 opinion of the court, the person:

11 (a) Is a person with mental illness based upon clear and convincing evidence, the court:

12 (A) Shall order the release of the person and dismiss the case if:

13 (i) The person is willing and able to participate in treatment on a voluntary basis; and

14 (ii) The court finds that the person will probably do so.

15 (B) May order conditional release under this subparagraph subject to the qualifications and re-
 16 quirements under ORS 426.125. If the court orders conditional release under this subparagraph, the
 17 court shall establish a period of commitment for the conditional release.

18 (C) May order commitment of the person with mental illness to the Oregon Health Authority for
 19 treatment if, in the opinion of the court, subparagraph (A) or (B) of this paragraph is not in the best
 20 interest of the person. If the court orders commitment under this subparagraph:

21 (i) The court shall establish a period of commitment.

22 (ii) The authority may place the committed person in outpatient commitment under ORS 426.127.

23 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the
 24 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self
 25 or others or to the community at large as a result of the person's mental or psychological state as
 26 demonstrated by past behavior or participation in incidents involving unlawful violence or threats
 27 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When
 28 a court makes an order under this subparagraph, the court shall cause a copy of the order to be
 29 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data
 30 System.

31 (b) Is not a person with mental illness, the court shall release the person from custody if the
 32 person has been detained under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and:

33 (A) Dismiss the case; or

34 (B) Order the person to participate in assisted outpatient treatment in accordance with ORS
 35 426.133. The court may continue the proceeding for no more than seven days to allow time for the
 36 community mental health program director to develop the person's assisted outpatient treatment
 37 plan.

38 (2) A court that orders a conditional release, a commitment or assisted outpatient treatment
 39 under this section shall establish a period of commitment or treatment for the person subject to the
 40 order. Any period of commitment ordered for commitment or conditional release under this section
 41 shall be for a period of time not to exceed 180 days. A period of assisted outpatient treatment shall
 42 be for a period of time not to exceed 12 months. **An order for a conditional release or assisted**
 43 **outpatient treatment must include provisions to ensure that, upon the person's release into**
 44 **the community, the person receives supportive services necessary to address issues identi-**
 45 **fied in the course of the evaluation described in ORS 426.072 (2).**

1 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a) and if the notice in-
2 cluded a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court's
3 determination under subsection (1) of this section.

4 (4) If the court finds that the person is a person with mental illness and either orders commit-
5 ment under subsection (1)(a)(B) or (C) of this section or enters an order under subsection (1)(a)(D)
6 of this section, the court shall notify the person that the person is prohibited from purchasing or
7 possessing a firearm under state and federal law unless the person obtains relief from the prohibi-
8 tion from the Psychiatric Security Review Board under ORS 166.273 or under federal law.

9 **SECTION 3. This 2022 Act takes effect on the 91st day after the date on which the 2022**
10 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

11