

HB 2488-1  
(LC 2844)  
4/3/25 (LAS/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Jason Kropf)

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2488**

In line 2 of the printed bill, after “commitment” insert “creating new provisions; and amending ORS 426.060, 426.070, 426.072, 426.090, 426.100, 426.155, 426.160, 426.223, 426.232, 426.234, 426.235, 426.237, 426.238, 426.241, 426.301 and 426.385”.

Delete lines 4 through 8 and insert:

**“DIVERSION FROM COMMITMENT**

**“SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS 426.005 to 426.390.**

**“SECTION 2. (1) At any time before the conclusion of a hearing under ORS 426.095, the community mental health program director may offer a detained person a diversion from commitment as an opportunity for intensive treatment if:**

**“(a) The community mental health program director and a licensed independent practitioner have probable cause to believe the person is a person with mental illness; and**

**“(b) The community mental health program director locates a hospital or nonhospital facility that:**

**“(A) Is approved by the authority and the community mental health program director in the county where the person resides; and**

1       **“(B) Can, in the opinion of the community mental health program**  
2 **director and the licensed independent practitioner, provide intensive**  
3 **care or treatment for mental illness necessary and sufficient to meet**  
4 **the emergency psychiatric needs of the person.**

5       **“(2)(a) The community mental health program director shall pro-**  
6 **vide notice of the offer of diversion from commitment to:**

7       **“(A) The court having jurisdiction under ORS 426.060;**

8       **“(B) The detained person’s attorney, if any; and**

9       **“(C) The detained person.**

10       **“(b) The community mental health program director shall provide**  
11 **the notice to the detained person orally and in writing.**

12       **“(c) The notice under this subsection must include all of the fol-**  
13 **lowing:**

14       **“(A) A written statement by the community mental health program**  
15 **director and the licensed independent practitioner, attesting that the**  
16 **director and the practitioner have probable cause to believe the person**  
17 **is a person with mental illness who is in need of care or treatment for**  
18 **mental illness.**

19       **“(B) A diversion treatment plan described in subsection (3) of this**  
20 **section.**

21       **“(C) Notice of the person’s right to request and be provided with a**  
22 **hearing under ORS 426.070 to 426.130 at any time during the diversion**  
23 **from commitment.**

24       **“(D) Information about how to request an attorney, as described in**  
25 **ORS 426.100.**

26       **“(E) The date and time the notice was given to the person.**

27       **“(3)(a) A licensed independent practitioner who files a statement**  
28 **described in subsection (2)(c)(A) of this section must, in consultation**  
29 **with the community mental health program director and any applica-**  
30 **ble coordinated care organization, prepare a diversion treatment plan**

1 for the detained person.

2 “(b) The treatment plan must describe, in general terms, the types  
3 of treatment and medication to be provided to the person during the  
4 diversion.

5 “(c) The treatment plan must include, at a minimum:

6 “(A) A description of the medications to administered;

7 “(B) The mental health interventions, therapies or diagnostic pro-  
8 cedures to be employed;

9 “(C) The person’s preferences for medications and therapies;

10 “(D) Limitations on specific medications or therapies;

11 “(E) The location of services;

12 “(F) Other conditions or limitations for treatment the practitioner  
13 determines are relevant; and

14 “(G) Any other information required by the Oregon Health Au-  
15 thority by rule.

16 “(4) Immediately upon receipt of a notice under subsection (2) of  
17 this section, the court shall notify the person’s attorney or, if the  
18 person does not have an attorney, appoint an attorney for the person,  
19 subject to ORS 426.100 (3).

20 “(5)(a) Within 24 hours following the time the notice under sub-  
21 section (2) of this section is delivered to the court, the detained  
22 person’s attorney shall review with the person the notice and the  
23 contents of the treatment plan.

24 “(b) If the person and the person’s attorney do not consent to the  
25 offer of diversion from commitment, the hearing required by ORS  
26 426.070 must be held no later than five judicial days following the  
27 person’s date of detention.

28 “(c) If the person and the person’s attorney consent to the offer of  
29 diversion from commitment as set forth in the notice, the court shall  
30 postpone the hearing required by ORS 426.070 to 426.130 for 14 days

1 from the date of consent.

2 “(d) When a person consents to an offer of diversion from commit-  
3 ment:

4 “(A) The person may not be subjected to unusual or hazardous  
5 treatment procedures, including convulsive therapy, and shall receive  
6 usual and customary treatment in accordance with medical standards  
7 in the community.

8 “(B) Except when the person expressly refuses treatment, the  
9 treating licensed independent practitioner shall treat the person within  
10 the scope of the treatment plan provided to the person with the notice  
11 of diversion from commitment. The person’s refusal of treatment  
12 constitutes sufficient grounds for the community mental health pro-  
13 gram director to request a hearing as provided in subsection (10) of  
14 this section.

15 “(C) If the person is in a hospital and the community mental health  
16 program director locates a nonhospital facility approved by the au-  
17 thority that, in the opinion of the community mental health program  
18 director and the licensed independent practitioner who is treating the  
19 person, can provide care or treatment for mental illness necessary and  
20 sufficient to meet the emergency psychiatric needs of the person, the  
21 treating licensed independent practitioner shall discharge the person  
22 from the hospital and the community mental health program director  
23 shall transfer the person to the nonhospital facility for the remainder  
24 of the diversion from commitment. If, however, in the opinion of the  
25 treating licensed independent practitioner, the person’s condition re-  
26 quires the person to receive medical care or treatment, the licensed  
27 independent practitioner shall retain the person in the hospital.

28 “(D) If the person is in a nonhospital facility, the community  
29 mental health program director shall transfer the person to a hospital  
30 approved by the authority under the following conditions:

1       “(i) If, in the opinion of a licensed independent practitioner, the  
2       person’s condition requires the person to receive medical care or  
3       treatment in a hospital; and

4       “(ii) The licensed independent practitioner agrees to admit the per-  
5       son to a hospital, approved by the authority, where the licensed inde-  
6       pendent practitioner has admitting privileges.

7       “(E) If the person is transferred as provided in subparagraph (C)  
8       or (D) of this paragraph, the community mental health program di-  
9       rector shall notify the circuit court, in the county where the notice  
10      under subsection (2) of this section was filed, of the location of the  
11      person. The person may appeal the transfer as provided by rules of the  
12      authority.

13      “(6) A person may be discharged from the diversion from commit-  
14      ment at any time if:

15      “(a) The person is in a hospital and the licensed independent prac-  
16      titioner who is treating the person has:

17      “(A) Determined that the person no longer requires care in the  
18      hospital setting;

19      “(B) Conferred with the community mental health program direc-  
20      tor; and

21      “(C) Conferred with the person’s next of kin to the extent allowed  
22      under ORS 192.567.

23      “(b) The person is in a nonhospital facility and the community  
24      mental health program director has:

25      “(A) Determined that the person no longer requires care in the  
26      nonhospital facility;

27      “(B) Conferred with the licensed independent practitioner who is  
28      treating the person; and

29      “(C) Conferred with the person’s next of kin, if the person con-  
30      sented to the consultation;

1       **“(7) Immediately upon a person’s discharge from the diversion from**  
2 **commitment:**

3       **“(a) If the person was discharged from a hospital pursuant to sub-**  
4 **section (6)(a) of this section, the treating licensed independent practi-**  
5 **tioner shall notify the court in the county in which the notice under**  
6 **subsection (2) of this section was initially filed.**

7       **“(b) If the person was discharged from a nonhospital facility pur-**  
8 **suant to subsection (6)(b) of this section, the community mental**  
9 **health program director shall notify the court in the county in which**  
10 **the notice under subsection (2) of this section was initially filed.**

11       **“(8) The person may agree to voluntary treatment at any time**  
12 **during the diversion from commitment. When a person agrees to vol-**  
13 **untary treatment under this subsection, the community mental health**  
14 **program director shall immediately notify the court in the county in**  
15 **which the notice under subsection (2) of this section was initially filed.**

16       **“(9)(a) A person consenting to a diversion from commitment under**  
17 **this section may not be held longer than 14 days from the time of**  
18 **consenting without a hearing as provided in ORS 426.070 to 426.130.**

19       **“(b) When the court receives notification under subsection (7) or (8)**  
20 **of this section, the court shall dismiss the case.**

21       **“(10) The judge of the circuit court shall immediately commence**  
22 **proceedings under ORS 426.070 to 426.130 when the person consenting**  
23 **to diversion from commitment or the community mental health pro-**  
24 **gram director requests a hearing. The hearing shall be held without**  
25 **unreasonable delay. In no case may the person be held in a hospital**  
26 **or nonhospital facility longer than five judicial days after the request**  
27 **for a hearing is made without a hearing being held under ORS 426.070**  
28 **to 426.130.**

29       **“SECTION 3. ORS 426.237 is amended to read:**

30       **“426.237. (1) During a prehearing period of detention as provided in ORS**

1 426.070, 426.140, 426.232 or 426.233, the community mental health program  
2 director shall do one of the following:

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

7 “[*(b) No later than three judicial days after initiation of a prehearing pe-*  
8 *riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233, cer-*  
9 *tify the detained person for a 14-day period of intensive treatment if:*]

10 “[*(A) The community mental health program director and a licensed inde-*  
11 *pendent practitioner have probable cause to believe the person is a person with*  
12 *mental illness;*]

13 “[*(B) The community mental health program director in the county where*  
14 *the person resides verbally approves the arrangements for payment for the*  
15 *services at the hospital or nonhospital facility; and]*

16 “[*(C) The community mental health program director locates a hospital or*  
17 *nonhospital facility that:*]

18 “[*(i) Is approved by the authority and the community mental health pro-*  
19 *gram director in the county where the person resides; and]*

20 “[*(ii) Can, in the opinion of the community mental health program director*  
21 *and the licensed independent practitioner, provide intensive care or treatment*  
22 *for mental illness necessary and sufficient to meet the emergency psychiatric*  
23 *needs of the person.*]

24 **“(b) File a notice of diversion from commitment described in sec-**  
25 **tion 2 of this section.**

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

1       *“(2)(a) If the circuit court adopts the recommendation of the community*  
2 *mental health program director under subsection (1)(a) of this section, the*  
3 *circuit court shall enter an order releasing the person and dismissing the case.*  
4 *Unless the person agrees to voluntary treatment, if the person is being detained*  
5 *in a:]*

6       *“(A) Nonhospital facility, the community mental health program director*  
7 *shall make discharge plans and ensure the discharge of the person.]*

8       *“(B) Hospital, the licensed independent practitioner who is treating the*  
9 *person shall make discharge plans and discharge the person.]*

10       *“(b) Upon release of the person, the community mental health program di-*  
11 *rector shall attempt to notify the person’s next of kin if the person consents to*  
12 *the notification.]*

13       *“(3)(a) If the detained person is certified for treatment under subsection*  
14 *(1)(b) of this section, the community mental health program director shall:]*

15       *“(A) Deliver immediately a certificate to the court having jurisdiction un-*  
16 *der ORS 426.060; and]*

17       *“(B) Orally inform the person of the certification and deliver a copy of the*  
18 *certificate to the person.]*

19       *“(b) The certificate required by paragraph (a) of this subsection shall in-*  
20 *clude:]*

21       *“(A) A written statement under oath by the community mental health*  
22 *program director and the licensed independent practitioner that they have*  
23 *probable cause to believe the person is a person with mental illness in need*  
24 *of care or treatment for mental illness;]*

25       *“(B) A treatment plan that describes, in general terms, the types of treat-*  
26 *ment and medication to be provided to the person during the 14-day period of*  
27 *intensive treatment;]*

28       *“(C) A notice of the person’s right to an attorney and that an attorney will*  
29 *be appointed by the court or as otherwise obtained under ORS 426.100 (3);]*

30       *“(D) A notice that the person has a right to request and be provided a*



1 *hearing under ORS 426.070 to 426.130 at any time during the 14-day period;*  
2 *and]*

3 *“[(E) The date and time the copy of the certificate was delivered to the*  
4 *person.]*

5 *“[(c) Immediately upon receipt of a certificate under paragraph (a) of this*  
6 *subsection, the court shall notify the person’s attorney or appoint an attorney*  
7 *for the person if the person cannot afford one. Within 24 hours of the time the*  
8 *certificate is delivered to the court, the person’s attorney shall review the cer-*  
9 *tificate with the person. If the person and the person’s attorney consent to the*  
10 *certification within one judicial day of the time the certificate is delivered to*  
11 *the circuit court and, except as provided in subsection (4) of this section, the*  
12 *court shall postpone the hearing required by ORS 426.070 to 426.130 for 14*  
13 *days.]*

14 *“[(d) When a person is certified for treatment under subsection (1)(b) of this*  
15 *section and accepts the certification:]*

16 *“[(A) Except as otherwise provided in this paragraph, all methods of*  
17 *treatment, including the prescription and administration of drugs, shall be the*  
18 *sole responsibility of the licensed independent practitioner who is treating the*  
19 *person. However, the person shall not be subject to electroshock therapy or*  
20 *unduly hazardous treatment and shall receive usual and customary treatment*  
21 *in accordance with medical standards in the community.]*

22 *“[(B) Except when the person expressly refuses treatment, the treating li-*  
23 *censed independent practitioner shall treat the person within the scope of the*  
24 *treatment plan provided the person under paragraph (b) of this subsection. The*  
25 *person’s refusal of treatment constitutes sufficient grounds for the community*  
26 *mental health program director to request a hearing as provided in subsection*  
27 *(4)(a) of this section.]*

28 *“[(C) If the person is in a hospital and the community mental health pro-*  
29 *gram director locates a nonhospital facility, approved by the authority, that,*  
30 *in the opinion of the community mental health program director and the li-*

1 censed independent practitioner who is treating the person, can provide care  
2 or treatment for mental illness necessary and sufficient to meet the emergency  
3 psychiatric needs of the person, the treating licensed independent practitioner  
4 shall discharge the person from the hospital and the community mental health  
5 program director shall remove the person to the nonhospital facility for the  
6 remainder of the 14-day intensive treatment period. If, however, in the opinion  
7 of the treating licensed independent practitioner, the person's condition re-  
8 quires the person to receive medical care or treatment, the licensed independent  
9 practitioner shall retain the person in the hospital.]

10 “[(D) If the person is in a nonhospital facility, the community mental health  
11 program director shall transfer the person to a hospital approved by the au-  
12 thority under the following conditions:]

13 “[(i) If, in the opinion of a licensed independent practitioner, the person's  
14 condition requires the person to receive medical care or treatment in a hospital;  
15 and]

16 “[(ii) The licensed independent practitioner agrees to admit the person to  
17 a hospital, approved by the authority, where the licensed independent practi-  
18 tioner has admitting privileges.]

19 “[(E) If the person is transferred as provided in subparagraph (C) or (D)  
20 of this paragraph, the community mental health program director shall notify  
21 the circuit court, in the county where the certificate was filed, of the location  
22 of the person. The person may appeal the transfer as provided by rules of the  
23 authority.]

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

1 *filed initially.]*

2       *“[(f) If the person is in a nonhospital facility, the community mental health*  
3 *program director may discharge the person at any time during the 14-day pe-*  
4 *riod. The community mental health program director shall consult with the*  
5 *licensed independent practitioner who is treating the person and the person’s*  
6 *next of kin, if the person consents to the consultation, prior to discharging the*  
7 *person. Immediately upon discharge of the person, the community mental*  
8 *health program director shall notify the court in the county in which the cer-*  
9 *tificate was filed initially.]*

10       *“[(g) The person may agree to voluntary treatment at any time during the*  
11 *14-day period. When a person agrees to voluntary treatment under this para-*  
12 *graph, the community mental health program director immediately shall notify*  
13 *the court in the county in which the certificate was filed initially.]*

14       *“[(h) A person consenting to 14 days of treatment under subsection (3)(c)*  
15 *of this section shall not be held longer than 14 days from the time of consent-*  
16 *ing without a hearing as provided in ORS 426.070 to 426.130.]*

17       *“[(i) When the court receives notification under paragraph (e), (f) or (g) of*  
18 *this subsection, the court shall dismiss the case.]*

19       **“[(4)] (2)** The judge of the circuit court shall immediately commence pro-  
20 ceedings under ORS 426.070 to 426.130 when[:]

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

26       **“[(b)]** the community mental health program director acts under sub-  
27 section (1)(c) of this section. In no case *[shall]* **may** the person be held longer  
28 than five judicial days without a hearing under this subsection.

29  
30                   **“APPOINTMENT OF COUNSEL**

1       **SECTION 4.** ORS 426.070 is amended to read:

2       “426.070. (1) Any of the following may initiate commitment procedures  
3 under this section by giving the notice described under subsection (2) of this  
4 section:

5       “(a) Two persons;

6       “(b) The local health officer; or

7       “(c) Any magistrate **mentioned in ORS 133.030** or **any** judge of a court  
8 of a federally recognized Indian tribe located in this state.

9       “(2) For purposes of subsection (1) of this section, the notice must comply  
10 with the following:

11       “(a) It must be in writing under oath;

12       “(b) It must be given to the community mental health program director  
13 or a designee of the director in the county where the person alleged to have  
14 a mental illness resides;

15       “(c) It must state that a person within the county other than the person  
16 giving the notice is a person with mental illness and is in need of treatment,  
17 care or custody;

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

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

22       “(B) Of the court’s determination under ORS 426.130 (1); and

23       “(e) If the notice contains a request under paragraph (d) of this sub-  
24 section, it must also include the addresses of the two persons making the  
25 request.

26       “(3) Upon receipt of a notice under subsections (1) and (2) of this section  
27 or when notified by a circuit court that the court received notice under ORS  
28 426.234, the community mental health program director, or designee of the  
29 director, shall:

30       **“(a) Immediately notify the person alleged to have a mental illness**

1 **that the court will appoint legal counsel as provided in ORS 426.100 (3)**  
2 **for the person.**

3 “[*a*)] **(b)** Immediately notify the judge of the court having jurisdiction for  
4 that county under ORS 426.060 of the notification described in subsections  
5 (1) [*and*], (2) **and (3)(a)** of this section.

6 “[*b*)] **(c)** Immediately notify the Oregon Health Authority if commitment  
7 is proposed because the person appears to be a person with mental illness,  
8 as defined in ORS 426.005 (1)(f)(C). When such notice is received, the au-  
9 thority may verify, to the extent known by the authority, whether or not the  
10 person meets the criteria described in ORS 426.005 (1)(f)(C)(i) and (ii) and so  
11 inform the community mental health program director or designee of the di-  
12 rector.

13 “[*c*)] **(d)** Initiate an investigation under ORS 426.074 to determine  
14 whether there is probable cause to believe that the person is in fact a person  
15 with mental illness.

16 “(4) Upon completion, a recommendation based upon the investigation  
17 report under ORS 426.074 shall be promptly submitted to the court. If the  
18 community mental health program director determines that probable cause  
19 does not exist to believe that a person released from detention under ORS  
20 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental  
21 health program director may recommend assisted outpatient treatment in  
22 accordance with ORS 426.133.

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

24 “**(a) The court shall appoint counsel for the person, subject to ORS**  
25 **426.100 (3).**

26 “[*a*)] **(b)** If the court, following the investigation, concludes that there  
27 is probable cause to believe that the person investigated is a person with  
28 mental illness, it shall, through the issuance of a citation as provided in ORS  
29 426.090, cause the person to be brought before it at a time and place as it  
30 may direct, for a hearing under ORS 426.095 to determine whether the person

1 is a person with mental illness. The person shall be given the opportunity  
2 to appear voluntarily at the hearing unless the person fails to appear or  
3 unless the person is detained pursuant to paragraph [(b)] (c) of this sub-  
4 section.

5 “[(b)(A)] (c)(A) If the court finds that there is probable cause to believe  
6 that failure to take the person into custody pending the investigation or  
7 hearing would pose serious harm or danger to the person or to others, the  
8 court may issue a warrant of detention to the community mental health  
9 program director or designee or the sheriff of the county or designee direct-  
10 ing the director, sheriff or a designee to take the person alleged to have a  
11 mental illness into custody and produce the person at the time and place  
12 stated in the warrant.

13 “(B) At the time the person is taken into custody, the person shall be  
14 informed by the community mental health program director, the sheriff or a  
15 designee of the following:

16 “(i) The person’s rights with regard to representation by or appointment  
17 of counsel as described in ORS 426.100;

18 “(ii) The warning under ORS 426.123; and

19 “(iii) The person’s right, if the community mental health program direc-  
20 tor, sheriff or designee reasonably suspects that the person is a foreign na-  
21 tional, to communicate with an official from the consulate of the person’s  
22 country. A community mental health program director, sheriff or designee is  
23 not civilly or criminally liable for failure to provide the information required  
24 by this sub-subparagraph. Failure to provide the information required by this  
25 sub-subparagraph does not in itself constitute grounds for the exclusion of  
26 evidence that would otherwise be admissible in a proceeding.

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

29 “[(c)] (d) If the notice includes a request under subsection (2)(d)(A) of this  
30 section, the court shall notify the two persons of the issuance or nonissuance

1 of a warrant under this subsection.

2 **“SECTION 5.** ORS 426.090 is amended to read:

3 **“426.090. If a court, following an investigation, concludes under ORS**  
4 **426.070 (5) that there is probable cause to believe a person is a person**  
5 **with mental illness,** the judge shall issue a citation to the person alleged  
6 to have a mental illness stating the nature of the information filed con-  
7 cerning the person and the specific reasons the person is believed to be a  
8 person with mental illness. The citation shall further contain a notice of the  
9 time and place of the commitment hearing, the right to legal counsel, the  
10 right to have legal counsel appointed if the person is unable to afford legal  
11 counsel, and, if requested, to have legal counsel immediately appointed, the  
12 right to subpoena witnesses in behalf of the person to the hearing and other  
13 information as the court may direct. *[The citation shall be served upon the*  
14 *person by delivering a duly certified copy of the original thereof to the person*  
15 *in]* **A certified copy of the citation shall be personally served on the**  
16 **person prior to the hearing. The person shall have an opportunity to consult**  
17 **with legal counsel prior to being brought before the court.**

18 **“SECTION 6.** ORS 426.100 is amended to read:

19 **“426.100. (1)** At the time the person alleged to have a mental illness is  
20 brought before the court, the court shall advise the person of the following:

21 **“(a)** The reason for being brought before the court;

22 **“(b)** The nature of the proceedings;

23 **“(c)** The possible results of the proceedings;

24 **“(d)** The right to subpoena witnesses; and

25 **“(e)** The person’s rights regarding representation by or appointment of  
26 counsel.

27 **“(2)** Subsection (3) of this section establishes the rights of persons alleged  
28 to have a mental illness in each of the following circumstances:

29 **“(a) When notice of probable cause to believe the person is a person**  
30 **with mental illness has been filed with the court as provided in ORS**

1 **426.070 (5).**

2 “[a)] (b) When the person is held by warrant of detention issued under  
3 ORS 426.070.

4 “[b)] (c) In commitment hearings under ORS 426.095.

5 “[c)] (d) When the person is detained as provided under ORS 426.228,  
6 426.232 or 426.233.

7 “[d)] (e) In recommitment hearings under ORS 426.307.

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

11 “(a) The right to obtain suitable legal counsel possessing skills and ex-  
12 perience commensurate with the nature of the allegations and complexity of  
13 the case during the proceedings.

14 “(b) If the person is determined to be financially eligible for appointed  
15 counsel at state expense, the court will appoint legal counsel to represent  
16 the person. If counsel is appointed at state expense, payment of expenses and  
17 compensation relating to legal counsel shall be made as provided under ORS  
18 426.250.

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

22 “(d) If no request for legal counsel is made, the court shall appoint suit-  
23 able legal counsel unless counsel is expressly, knowingly and intelligently  
24 refused by the person.

25 “(e) If the person is being involuntarily detained before a hearing on the  
26 issue of commitment, the right under paragraph (a) of this subsection to  
27 contact an attorney or under paragraph (b) of this subsection to have an  
28 attorney appointed may be exercised as soon as reasonably possible.

29 “(f) In all cases suitable legal counsel shall be present at the hearing and  
30 may be present at examination and may examine all witnesses offering tes-



1 timony, and otherwise represent the person.

2 “(4) The responsibility for representing the state’s interest in commitment  
3 proceedings, including, but not limited to, preparation of the state’s case and  
4 appearances at commitment hearings is as follows:

5 “(a) The Attorney General’s office shall have the responsibility relating  
6 to proceedings initiated by state hospital staff that are any of the following:

7 “(A) Recommitment proceedings under ORS 426.307; or

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

9 “(b) The district attorney if requested to do so by the governing body of  
10 the county.

11 “(c) In lieu of the district attorney under paragraph (b) of this subsection,  
12 a counsel designated by the governing body of a county shall take the re-  
13 sponsibility. A county governing body may designate counsel to take re-  
14 sponsibility under this paragraph either for single proceedings or for all such  
15 proceedings the county will be obligated to pay for under ORS 426.250. If a  
16 county governing body elects to proceed under this paragraph, the county  
17 governing body shall so notify the district attorney. The expenses of an at-  
18 torney appointed under this paragraph shall be paid as provided under ORS  
19 426.250.

20 **“SECTION 7.** ORS 426.232 is amended to read:

21 “426.232. (1) If a licensed independent practitioner believes a person who  
22 is brought to a hospital or nonhospital facility by a peace officer under ORS  
23 426.228 or by an individual authorized under ORS 426.233, or believes a per-  
24 son who is at a hospital or nonhospital facility, is dangerous to self or to  
25 any other person and is in need of emergency care or treatment for mental  
26 illness, and the licensed independent practitioner is not related to the person  
27 by blood or marriage, the licensed independent practitioner may do one of  
28 the following:

29 “(a) Detain the person and cause the person to be admitted or, if the  
30 person is already admitted, cause the person to be retained in a hospital

1 where the licensed independent practitioner has admitting privileges or is  
2 on staff.

3 “(b) Approve the person for emergency care or treatment at a nonhospital  
4 facility approved by the authority.

5 “(2) When approving a person for emergency care or treatment at a non-  
6 hospital facility under this section, the licensed independent practitioner  
7 shall notify immediately the community mental health program director in  
8 the county where the person was taken into custody and maintain the per-  
9 son, if the person is being held at a hospital, for as long as is feasible given  
10 the needs of the person for mental or physical health or safety. However,  
11 under no circumstances may the person be held for longer than five judicial  
12 days.

13 **“(3)(a) If a person is detained under subsection (1) of this section,**  
14 **the licensed independent practitioner must inform the person of the**  
15 **person’s rights under ORS 426.100 to court-appointed counsel.**

16 **“(b) The licensed independent practitioner must provide the notice**  
17 **under this subsection orally and in writing.**

18 **“SECTION 8.** ORS 426.301 is amended to read:

19 “426.301. (1) At the end of the 180-day period of commitment, any person  
20 whose status has not been changed to voluntary shall be released unless the  
21 Oregon Health Authority certifies to the court in the county where the  
22 treating facility is located that the person is still a person with mental ill-  
23 ness and is in need of further treatment. The authority, pursuant to its rules,  
24 may delegate to the director of the treating facility the responsibility for  
25 making the certification. The director of the treating facility shall consult  
26 with the community mental health program director of the county of resi-  
27 dence prior to making the certification. If the certification is made, the  
28 person will not be released, but the director of the treating facility shall  
29 immediately issue a copy of the certification to the person and to the com-  
30 munity mental health program director of the county of residence.

1       *“(2) The certification shall be served upon the person by the director of the*  
2 *facility where the person is confined or by the designee of the director. The*  
3 *director of the facility shall inform the court in writing that service has been*  
4 *made and the date thereof.]*

5       “[(3)] (2) The certification [shall] **must** advise the person of all the fol-  
6 lowing:

7       “(a) That the authority or facility has requested that commitment be  
8 continued for an additional period of time.

9       “(b) That the person may consult with legal counsel and that legal coun-  
10 sel will be provided for the person without cost if the person is unable to  
11 afford legal counsel.

12       “(c) That the person may protest this further period of commitment within  
13 14 days, and if the person does not protest the further commitment, commit-  
14 ment will be continued for an indefinite period of time up to 180 days.

15       “(d) That if the person does protest a further period of commitment, the  
16 person is entitled to a hearing before the court on whether commitment  
17 should be continued.

18       “(e) That the person may protest either orally or in writing by signing  
19 the form accompanying the certification.

20       “(f) That the person is entitled to have a physician or other qualified  
21 professional as recommended by the authority, other than a member of the  
22 staff at the facility where the person is confined, examine the person and  
23 report to the court the results of the examination.

24       “(g) That the person may subpoena witnesses and offer evidence on behalf  
25 of the person at the hearing.

26       “(h) That if the person is without funds to retain legal counsel or an ex-  
27 amining physician or qualified professional as recommended by the authority,  
28 the court will appoint legal counsel, a physician or other qualified profes-  
29 sional.

30       “[(4)] (3) Nothing in subsection [(3)] (2) of this section requires the giving

1 of the warning under ORS 426.123.

2 **“(4)(a) The director of the facility where the person is confined or**  
3 **the director’s designee shall personally serve the certification on the**  
4 **person.**

5 **“(b) The director of the facility shall file the certification with the**  
6 **court and inform the court in writing that service has been made and**  
7 **the date thereof.**

8 **“(5)(a) When serving the certification upon the person, the authority**  
9 **shall read and deliver the certification to the person and ask whether the**  
10 **person protests a further period of commitment.**

11 **“(b) The person may protest further commitment either orally or by**  
12 **signing a simple protest form to be given to the person with the certification.**

13 **“(c) If the person does not protest a further period of commitment within**  
14 **14 days [of] after receiving service of the certification, the authority or fa-**  
15 **cility shall so notify the court [and].**

16 **“(6)(a) At the time of receiving the certification as provided in**  
17 **subsection (4)(b) of this section, the court shall appoint counsel for the**  
18 **person, subject to ORS 426.100 (3).**

19 **“(b) Upon receiving the notification under subsection (5)(c) of this**  
20 **section that the person does not protest the further period of com-**  
21 **mitment, the court shall, without further hearing, order the commitment**  
22 **of the person for an additional indefinite period of time up to 180 days.**

23  
24 **“CONFORMING AMENDMENTS**

25  
26 **“SECTION 9. ORS 426.060 is amended to read:**

27 **“426.060. (1) Commitments to the Oregon Health Authority shall be made**  
28 **only by the judge of a circuit court in a county of this state.**

29 **“(2) The following is a nonexclusive list of powers the authority may ex-**  
30 **ercise concerning the placement of persons committed or persons receiving**

1 emergency care and treatment under ORS 426.070, 426.228 to 426.235 or  
2 [426.237] **section 2 of this 2025 Act**:

3 “(a) In its discretion and for reasons which are satisfactory to the au-  
4 thority, the authority may direct any court-committed person to the facility  
5 best able to treat the person. The decision of the authority on such matters  
6 shall be final.

7 “(b) At any time, for good cause and in the best interest of the person  
8 with mental illness, the authority may transfer a committed person from one  
9 facility to another. When transferring a person under this paragraph, the  
10 authority shall make the transfer:

11 “(A) If the transfer is from a facility in one class to a facility of the same  
12 class, as provided by rule of the authority;

13 “(B) If the transfer is from a facility in one class to a facility in a less  
14 restrictive class, by following the procedures for trial visits under ORS  
15 426.273; and

16 “(C) If the transfer is from a facility in one class to a facility in a more  
17 restrictive class, by following the procedures under ORS 426.275.

18 “(c) At any time, for good cause and in the best interest of the person  
19 with mental illness, the authority may transfer a person receiving emergency  
20 care and treatment under ORS 426.070 or 426.228 to 426.235, or [*intensive*  
21 *treatment under ORS 426.237*] **diversion from commitment under section**  
22 **2 of this 2025 Act**, between hospitals and nonhospital facilities approved by  
23 the authority to provide emergency care or treatment as defined by rule of  
24 the authority.

25 “(d) Pursuant to its rules, the authority may delegate to a community  
26 mental health program director the responsibility for assignment of persons  
27 with mental illness to suitable facilities or transfer between such facilities  
28 under conditions which the authority may define.

29 **“SECTION 10.** ORS 426.072 is amended to read:

30 “426.072. (1) A hospital or nonhospital facility must comply with pro-

visions of subsection (2) of this section when a person alleged to have a mental illness is placed in custody at the hospital or nonhospital facility:

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

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

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

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

“(a) The person shall receive the care, custody and treatment required for mental and physical health and safety.

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

“(c) All methods of treatment, including the prescription and administration of drugs, shall be the sole responsibility of the treating licensed independent practitioner. However, the person [*shall not be subject to electroshock therapy or unduly hazardous treatment*] **may not be subjected to unusual or hazardous treatment procedures, including convulsive therapy**, and shall receive usual and customary treatment in accordance with medical standards in the community.

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

“(e) The treating licensed independent practitioner shall give the person the warning under ORS 426.123 at times the treating licensed independent practitioner determines the person will reasonably understand the notice. This paragraph only requires the notice to be given as often as the licensed independent practitioner determines is necessary to assure that the person

1 is given an opportunity to be aware of the notice.

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

5 **“SECTION 11.** ORS 426.155 is amended to read:

6 “426.155. (1) The provisions of this section apply to the release of infor-  
7 mation about a person who is held in custody either pending a commitment  
8 proceeding under ORS 426.070, 426.140, 426.228, 426.232[,] **or** 426.233 [*or*  
9 *426.237 (1)(b)*] **or section 2 of this 2025 Act** or while committed or recom-  
10 mitted under ORS 426.005 to 426.390.

11 “(2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.355 (2)  
12 and notwithstanding any other provision of ORS 426.005 to 426.390, a facility  
13 or nonhospital facility where a person is held shall establish procedures for  
14 releasing information as required under subsections (3) and (4) of this sec-  
15 tion.

16 “(3)(a) If a person described in subsection (1) of this section authorizes  
17 disclosure as provided in subsection (5) of this section, upon request of a  
18 member of the family of the person, or any other designee of the person, a  
19 facility or nonhospital facility where the person is held shall provide the  
20 family member or the designee with the following information:

21 “(A) The person’s diagnosis;

22 “(B) The person’s prognosis;

23 “(C) The medications prescribed for the person and the side effects of  
24 medications prescribed, if any;

25 “(D) The person’s progress;

26 “(E) Information about any civil commitment process, including the date,  
27 time and location of the person’s commitment hearing; and

28 “(F) Where and when the person may be visited.

29 “(b) If a request for information is made under this subsection and the  
30 person is unable to authorize disclosure as provided in subsection (5) of this

1 section, the requester shall be provided notice of the presence of the person  
2 in any facility or nonhospital facility. Information shall not be provided un-  
3 der this paragraph if the licensed independent practitioner who is treating  
4 the person determines that it would not be in the person's best interest to  
5 provide the information or if providing the information is prohibited by fed-  
6 eral law.

7 “(4) Upon the admission of any person to a facility or nonhospital facility  
8 under ORS 426.005 to 426.390, the facility or nonhospital facility shall make  
9 reasonable attempts to notify the person's next of kin, or any other designee  
10 of the person, of the person's admission, unless the person requests that this  
11 information not be provided. The facility or nonhospital facility shall make  
12 reasonable attempts to notify the person's next of kin, or any other designee  
13 of the person, of the person's release, transfer, serious illness, injury or death  
14 upon request of the family member or designee, unless the person requests  
15 that this information not be provided. The person shall be advised by the  
16 facility or nonhospital facility that the person has the right to request that  
17 this information not be provided.

18 “(5) The person who is held in custody shall be notified by the facility  
19 or nonhospital facility that information about the person has been requested.  
20 Except as provided in subsection (3) of this section, the consent of the person  
21 who is held is required for release of information under subsections (3) and  
22 (4) of this section. If, when initially informed of the request for information,  
23 the person is unable to give voluntary and informed consent to authorize the  
24 release of information, notation of the attempt shall be made in the person's  
25 treatment record and daily efforts shall be made to secure the person's con-  
26 sent or refusal of authorization.

27 “(6) Notwithstanding any other provision of this section, an individual  
28 eligible to receive information under subsection (3) of this section may not  
29 receive information unless the individual first agrees to make no further  
30 disclosure of the information. The agreement may be made orally.



1 “(7) A facility or nonhospital facility that releases information under  
2 subsection (3) or (4) of this section shall:

3 “(a) Notify the person who is held to whom, when and what information  
4 was released; and

5 “(b) Note in the medical record of the person who is held:

6 “(A) The basis for finding that the person gave voluntary and informed  
7 consent;

8 “(B) The oral or written consent of the person who is held;

9 “(C) To whom, when and what information was released;

10 “(D) The agreement to the requirements of subsection (6) of this section  
11 by the requester; and

12 “(E) Any determination made by the licensed independent practitioner  
13 under subsection (3)(b) of this section regarding the provision of notice of  
14 the presence of the person in any facility or nonhospital facility.

15 “(8) A facility or nonhospital facility, including the staff of such facilities  
16 and nonhospital facilities, that releases information under this section or  
17 rules adopted under ORS 426.236 may not be held civilly or criminally liable  
18 for damages caused or alleged to be caused by the release of information or  
19 the failure to release information as long as the release was done in good  
20 faith and in compliance with subsections (3) and (4) of this section or rules  
21 adopted under ORS 426.236.

22 “(9) The provisions of subsections (3) and (4) of this section do not limit  
23 the ability or obligation of facilities, nonhospital facilities, licensed inde-  
24 pendent practitioners, mental health care providers or licensed mental health  
25 professionals to provide information as otherwise allowed or required by law.

26 **“SECTION 12.** ORS 426.160 is amended to read:

27 “426.160. (1) The court having jurisdiction over any proceeding conducted  
28 pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to  
29 426.292, 426.300 to 426.309, 426.385, 426.395, 426.701 and 426.702 may not dis-  
30 close any part of the record of the proceeding or commitment to any person

1 except:

2 “(a) The court shall, pursuant to rules adopted by the Department of State  
3 Police, transmit the minimum information necessary, as defined in ORS  
4 181A.290, to the Department of State Police for persons described in ORS  
5 181A.290 (1)(a) or (b) to enable the department to access and maintain the  
6 information and transmit the information to the federal government as re-  
7 quired under federal law;

8 “(b) As provided in ORS 426.070 [(5)(c)] **(5)(d)**, 426.130 (3) or 426.170;

9 “(c) On request of the person subject to the proceeding;

10 “(d) On request of the person’s legal representative or the attorney for the  
11 person or the state; or

12 “(e) Pursuant to court order.

13 “(2) In any proceeding described in subsection (1) of this section that is  
14 before the Supreme Court or the Court of Appeals, the limitations on dis-  
15 closure imposed by this section apply to the appellate court record and to  
16 the trial court record while it is in the appellate court’s custody. The ap-  
17 pellate court may disclose information from the trial or appellate court re-  
18 cord in a decision, as defined in ORS 19.450, provided that the court uses  
19 initials, an alias or some other convention for protecting against public dis-  
20 closure the identity of the person subject to the proceeding.

21 **“SECTION 13.** ORS 426.223 is amended to read:

22 “426.223. In retaking custody of a person with mental illness who has been  
23 committed to the Oregon Health Authority under ORS 426.130 and who has,  
24 without lawful authority, left the custody of the facility to which the person  
25 has been assigned under ORS 426.060, or in the case of a person alleged to  
26 have a mental illness who is in custody under ORS 426.070, 426.095[,] **or**  
27 426.228 to 426.235 or [426.237] **section 2 of this 2025 Act** at a hospital or  
28 nonhospital facility and who has, without lawful authority, left the hospital  
29 or nonhospital facility, the facility director or designee has all the powers  
30 provided by ORS 133.225 and 161.255 and may require the assistance of any

1 peace officer or other authorized individual.

2 **“SECTION 14.** ORS 426.234 is amended to read:

3 “426.234. (1) At the time a person alleged to have a mental illness is ad-  
4 mitted to or retained in a hospital or nonhospital facility under ORS 426.232  
5 or 426.233, a licensed independent practitioner, nurse or qualified mental  
6 health professional at the hospital or nonhospital facility shall:

7 “(a) Inform the person of the person’s right to representation by or ap-  
8 pointment of counsel as described in ORS 426.100;

9 “(b) Give the person the warning under ORS 426.123;

10 “(c) Immediately examine the person;

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

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

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

1 county in which the person is hospitalized.

2 “(b) At the time the person is admitted to a hospital under ORS 426.232  
3 after being brought to the hospital by a peace officer under ORS 426.228, the  
4 licensed independent practitioner shall contact the community mental health  
5 program director of the county in which the person is hospitalized. The  
6 community mental health program director of the county in which the person  
7 is hospitalized may request that the licensed independent practitioner notify  
8 the circuit court in the county in which the person is hospitalized. If the  
9 community mental health program director does not make the request, the  
10 licensed independent practitioner shall notify, immediately and in writing,  
11 the circuit court in the county in which the person was taken into custody.

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

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

1 the county in which the person was taken into custody shall notify, imme-  
2 diately and in writing, the circuit court in the county in which the person  
3 was taken into custody.

4 “(b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a  
5 community mental health program director, after consultation with a li-  
6 censed independent practitioner, determines that a person admitted or re-  
7 tained under ORS 426.233 is not dangerous to self or to any other person and  
8 is not in need of immediate care, custody or treatment for mental illness, the  
9 community mental health program director may release the person from de-  
10 tention. The community mental health program director shall immediately  
11 notify the circuit court originally notified under paragraph (a) of this sub-  
12 section of the person’s release from detention.

13 “(4) When the judge of the circuit court receives notice under subsection  
14 (2) or (3) of this section, the judge immediately shall commence proceedings  
15 under ORS 426.070 to 426.130. In a county having a population of 100,000 or  
16 more, and when feasible in a county with a lesser population, the community  
17 mental health program director or designee who directs the peace officer or  
18 other authorized individual to take a person into custody under ORS 426.233  
19 [shall] **may** not also conduct the investigation as provided for under ORS  
20 426.074. Except when a person is [being held under ORS 426.237 (1)(b)] **par-**  
21 **ticipating in diversion from commitment under section 2 of this 2025**  
22 **Act**, a person [shall] **may** not be held under ORS 426.232 or 426.233 for more  
23 than five judicial days without a hearing being held under ORS 426.070 to  
24 426.130.

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

30 **“SECTION 15.** ORS 426.235 is amended to read:

1 “426.235. (1) The community mental health program director may transfer  
2 a person in custody under ORS 426.232[,] **or** 426.233 or [426.237 (1)(b)] **section**  
3 **2 of this 2025 Act** to a hospital or nonhospital facility approved by the  
4 Oregon Health Authority at any time during the period of detention.

5 “(2) A person in custody at a hospital may be transferred from the hos-  
6 pital only with the consent of the licensed independent practitioner who is  
7 treating the person and when the director of a nonhospital facility approved  
8 by the authority agrees to admit the person.

9 “(3) A person in custody at a nonhospital facility approved by the au-  
10 thority may be transferred to a hospital approved by the authority only when  
11 a licensed independent practitioner with admitting privileges agrees to admit  
12 the person.

13 “(4) In transporting a person between a hospital and nonhospital facility  
14 under this section, the community mental health program director has all the  
15 powers provided in ORS 133.225 and 161.255 and may compel the assistance  
16 of any peace officer or other authorized individual.

17 “(5) When a person is transferred under this section, the community  
18 mental health program director shall notify immediately the court notified  
19 under ORS 426.234 (2) or (3) of the fact of the transfer and of the location  
20 of the person.

21 **“SECTION 16.** ORS 426.238 is amended to read:

22 “426.238. The Oregon Health Authority may assign classifications, as de-  
23 fined by rule of the authority, to facilities that provide care and treatment  
24 for persons committed to the authority under ORS 426.130 or provide emer-  
25 gency care or treatment for persons pursuant to ORS 426.070[,] **or** 426.228 to  
26 426.235 or [426.237] **section 2 of this 2025 Act.** The authority may authorize  
27 a facility to retake custody of a person who unlawfully leaves a facility as  
28 provided in ORS 426.223.

29 **“SECTION 17.** ORS 426.241 is amended to read:

30 “426.241. (1) The cost of emergency psychiatric care, custody and treat-

1 ment related to or resulting from such psychiatric condition, provided by a  
2 hospital or other facility approved by the Oregon Health Authority and the  
3 community mental health program director of the county in which the fa-  
4 cility is located, except a state hospital, for a person alleged to have a  
5 mental illness who is admitted or detained under ORS 426.070, 426.140,  
6 426.228, 426.232 or 426.233, or for a person with mental illness who is admit-  
7 ted or detained under ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall  
8 be paid by the community mental health program in the county of which the  
9 person is a resident from state funds provided to the community mental  
10 health program for this purpose. The community mental health program is  
11 responsible for the cost when state funds provided to the community mental  
12 health program are exhausted. The hospital or other facility shall charge to  
13 and collect from the person, third party payers or other legally or financially  
14 responsible individuals or entities the costs of the emergency care, custody  
15 and treatment, as it would for any other patient, and any funds received  
16 shall be applied as an offset to the cost of the services provided under this  
17 section.

18 “(2) If any person is admitted to or detained in a state hospital under ORS  
19 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency  
20 care, custody or treatment, the authority shall charge to and collect from the  
21 person, third party payers or other legally or financially responsible indi-  
22 viduals or entities the costs as it would for other patients of the state hos-  
23 pitals under the provisions of ORS 179.610 to 179.770.

24 “(3) If any person is adjudged to have a mental illness under the pro-  
25 visions of ORS 426.130, or determined to be an extremely dangerous person  
26 with mental illness under ORS 426.701 or 426.702, and the person receives  
27 care and treatment in a state hospital, the person, third party payers or  
28 other legally or financially responsible individuals or entities shall be re-  
29 quired to pay for the costs of the hospitalization at the state hospital, as  
30 provided by ORS 179.610 to 179.770, if financially able to do so.

1 “(4) For purposes of this section and ORS 426.310, ‘resident’ means resi-  
2 dent of the county in which the person maintains a current mailing address  
3 or, if the person does not maintain a current mailing address within the  
4 state, the county in which the person is found, or the county in which a  
5 court-committed person has been conditionally released.

6 “(5)(a) The authority may deny payment for part or all of the emergency  
7 psychiatric services provided by a hospital or nonhospital facility under ORS  
8 426.232[,] **or** 426.233 or [426.237] **section 2 of this 2025 Act** when the au-  
9 thority finds, upon review, that the condition of the person alleged to have  
10 a mental illness did not meet the admission criteria in ORS 426.232 (1)[,] **or**  
11 426.233 (1) or [426.237 (1)(b)(A)] **section 2 (1)(a) of this 2025 Act**. The payer  
12 responsible under this section shall make a request for denial of payment for  
13 emergency psychiatric services provided under ORS 426.232[,] **or** 426.233 or  
14 [426.237] **section 2 of this 2025 Act** in writing to the authority.

15 “(b) The authority may require the following to provide the authority  
16 with any information that the authority determines is necessary to review  
17 a request for denial of payment made under this subsection or to conduct a  
18 review of emergency psychiatric services for the purpose of planning or de-  
19 fining authority rules:

20 “(A) A hospital or nonhospital facility approved under ORS 426.228 to  
21 426.235 or [426.237] **section 2 of this 2025 Act**.

22 “(B) A physician or a person providing emergency psychiatric services  
23 under ORS 426.228 to 426.235 or [426.237] **section 2 of this 2025 Act**.

24 “(c) The authority shall adopt rules necessary to carry out the purposes  
25 of this subsection.

26 **“SECTION 18.** ORS 426.385 is amended to read:

27 “426.385. (1) Every person with mental illness committed to the Oregon  
28 Health Authority shall have the right to:

29 “(a) Communicate freely in person and by reasonable access to telephones;

30 “(b) Send and receive sealed mail, except that this right may be limited



1 for security reasons in state institutions as described in ORS 426.010;

2 “(c) Wear the clothing of the person;

3 “(d) Keep personal possessions, including toilet articles;

4 “(e) Religious freedom;

5 “(f) A private storage area with free access thereto;

6 “(g) Be furnished with a reasonable supply of writing materials and  
7 stamps;

8 “(h) A written treatment plan, kept current with the progress of the per-  
9 son;

10 “(i) Be represented by counsel whenever the substantial rights of the  
11 person may be affected;

12 “(j) Petition for a writ of habeas corpus;

13 “(k) Not be required to perform routine labor tasks of the facility except  
14 those essential for treatment;

15 “(L) Be given reasonable compensation for all work performed other than  
16 personal housekeeping duties;

17 “(m) Daily access to fresh air and the outdoors, except that this right may  
18 be limited when it would create significant risk of harm to the person or  
19 others;

20 “(n) Reasonable privacy and security in resting, sleeping, dressing, bath-  
21 ing, personal hygiene and toileting, except that this right may be limited  
22 when it would create significant risk of harm to the person or others;

23 “(o) Such other rights as may be specified by rule; and

24 “(p) Exercise all civil rights in the same manner and with the same effect  
25 as one not admitted to the facility, including, but not limited to, the right  
26 to dispose of real property, execute instruments, make purchases, enter con-  
27 tractual relationships, and vote, unless the person has been adjudicated in-  
28 competent and has not been restored to legal capacity. Disposal of personal  
29 property in possession of the person in a state institution described in ORS  
30 426.010 is subject to limitation for security reasons.

1 “(2)(a) A person must be immediately informed, orally and in writing, of  
2 any limitation:

3 “(A) Of the right to send or receive sealed mail under subsection (1)(b)  
4 of this section;

5 “(B) Regarding the disposal of personal property under subsection (1)(p)  
6 of this section;

7 “(C) Of the right to reasonable privacy and security in resting, sleeping,  
8 dressing, bathing, personal hygiene and toileting under subsection (1)(n) of  
9 this section; and

10 “(D) Of the right to daily access to fresh air and the outdoors under  
11 subsection (1)(m) of this section.

12 “(b) Any limitation under this subsection and the reasons for the limita-  
13 tion must be stated in the person’s written treatment plan.

14 “(c) The person has the right to challenge any limitation under this sub-  
15 section pursuant to rules adopted by the authority. The person must be in-  
16 formed, orally and in writing, of this right.

17 “(3) A person with mental illness committed to the authority shall have  
18 the right to be free from potentially unusual or hazardous treatment proce-  
19 dures, including convulsive therapy, unless the person has given express and  
20 informed consent or authorized the treatment pursuant to **a declaration for**  
21 **mental health treatment described in** ORS 127.700 to 127.737. This right  
22 may be denied to a person for good cause as defined in administrative rule  
23 only by the director of the facility in which the person is confined, but only  
24 after consultation with and approval of an independent examining physician.  
25 Any denial shall be entered into the person’s treatment record and shall in-  
26 clude the reasons for the denial. A person with mental illness may not be  
27 subjected to psychosurgery, as defined in ORS 677.190 (21)(b).

28 “(4) Mechanical restraints [*shall*] **may** not be applied to a person admit-  
29 ted to a facility unless it is determined by the chief medical officer of the  
30 facility or designee to be required by the medical needs of the person. Every

1 use of a mechanical restraint and the reasons for using a mechanical re-  
2 straint shall be made a part of the clinical record of the person over the  
3 signature of the chief medical officer of the facility or designee.

4 “(5) Nothing in this section prevents the authority from acting to exclude  
5 contraband from its facilities and to prevent possession or use of contraband  
6 in its facilities.

7 “(6) As used in this section:

8 “(a) ‘Contraband’ has the meaning given that term in ORS 162.135.

9 “(b) ‘Security reasons’ means the protection of the person with mental  
10 illness from serious and immediate harm and the protection of others from  
11 threats or harassment as defined by rule of the authority.

12  
13 **“MISCELLANEOUS**

14  
15 **“SECTION 19. The unit captions used in this 2025 Act are provided**  
16 **only for the convenience of the reader and do not become part of the**  
17 **statutory law of this state or express any legislative intent in the**  
18 **enactment of this 2025 Act.”.**