

HB 2470-1
(LC 2362)
4/4/25 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Oregon District Attorneys Association)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2470**

On page 1 of the printed bill, line 2, after the first semicolon delete the rest of the line and delete line 3 and insert “amending ORS 426.701; and declaring an emergency.”.

Delete lines 5 through 24 and delete pages 2 through 20 and insert:

“SECTION 1. ORS 426.701 is amended to read:

“426.701. (1) For the purposes of this section and ORS 426.702:

“(a) A person is ‘extremely dangerous’ if the person:

“(A) Is at least 18 years of age;

“(B) Is exhibiting symptoms or behaviors of a qualifying mental disorder substantially similar to those that preceded the act described in subsection (3)(a)(C) of this section; and

“(C) Because of a qualifying mental disorder:

“(i) Presents a serious danger to the safety of other persons by reason of an extreme risk that the person will inflict grave or potentially lethal physical injury on other persons; and

“(ii) Unless committed, will continue to represent an extreme risk to the safety of other persons in the foreseeable future.

“(b) ‘Qualifying mental disorder’ does not include:

“(A) A disorder manifested solely by repeated criminal or otherwise anti-social conduct; or

“(B) A disorder constituting solely a personality disorder.

1 “(c) A qualifying mental disorder is ‘resistant to treatment’ if, after re-
2 ceiving care from a licensed psychiatrist and exhausting all reasonable psy-
3 chiatric treatment, or after refusing psychiatric treatment, the person
4 continues to be significantly impaired in the person’s ability to make com-
5 petent decisions and to be aware of and control extremely dangerous behav-
6 ior.

7 “(2)(a) A district attorney may petition the court to initiate commitment
8 proceedings described in this section if there is reason to believe a person
9 is an extremely dangerous person with mental illness. Venue is proper in the
10 county in which the person is alleged to have committed the qualifying act
11 or the county in which the person lives. The petition shall immediately be
12 served upon the person.

13 “(b) If a person is committed to a state hospital under ORS 161.365 or
14 161.370 and the state hospital intends to discharge the person, the district
15 attorney may provide notice to the superintendent of the state hospital in-
16 dicating an intent to file a petition under this section. Upon receipt of the
17 notice, the superintendent may delay discharge of the person for up to seven
18 judicial days to allow for the petition to be filed and for the court to make
19 findings under paragraph (f) of this subsection.

20 “(c) The person shall be advised in writing of:

21 “(A) The allegation that the person is an extremely dangerous person with
22 mental illness and may be committed to the jurisdiction of the Psychiatric
23 Security Review Board for a maximum period of 24 months; and

24 “(B) The right to a hearing to determine whether the person is an ex-
25 tremely dangerous person with mental illness, unless the person consents to
26 the commitment by waiving the right to a hearing in writing after consul-
27 tation with legal counsel.

28 “(d) A person against whom a petition described in this subsection is filed
29 shall have the following:

30 “(A) The right to obtain suitable legal counsel possessing skills and ex-

1 perience commensurate with the nature of the allegations and complexity of
2 the case and, if the person is without funds to retain legal counsel, the right
3 to have the court appoint legal counsel;

4 “(B) The right to subpoena witnesses and to offer evidence on behalf of
5 the person at the hearing;

6 “(C) The right to cross-examine any witnesses who appear at the hearing;
7 and

8 “(D) The right to examine all reports, documents and information that the
9 court considers, including the right to examine the reports, documents and
10 information prior to the hearing, if available.

11 “(e) Upon receipt of the petition, the court shall schedule a hearing and
12 shall appoint an examiner as described in ORS 426.110 to evaluate the per-
13 son. If the person is in custody or committed while the hearing is pending,
14 the hearing must commence within 30 days of filing the petition unless good
15 cause is found by the court. If the court finds good cause, the hearing must
16 commence no later than 60 days after the filing of the petition or, if the
17 district attorney provided notice under paragraph (b) of this subsection, the
18 date of the notice, whichever occurs first. As used in this paragraph, ‘good
19 cause’ means:

20 “(A) The person who would be considered the victim of the act described
21 in subsection (3)(a)(C) of this section if the act were criminally prosecuted,
22 or an essential witness for either the state or the person, is unable to testify
23 within the 30-day period.

24 “(B) The attorney for the person cannot reasonably be expected to par-
25 ticipate in the hearing within the 30-day period, cannot be adequately pre-
26 pared to represent the person at the hearing within the 30-day period, or has
27 a schedule conflict that cannot be resolved in a manner that allows the at-
28 torney to represent the person at a hearing within the 30-day period.

29 “(C) An examiner cannot be appointed to conduct the examination, or
30 conduct the examination and prepare a report, within the 30-day period.

1 “(D) If a guardian ad litem is appointed on the case, the guardian ad litem
2 cannot be prepared for a hearing within the 30-day period.

3 “(f)(A) The court may order that the person be committed to the custody
4 of the superintendent of a state hospital or the director of a secure mental
5 health facility while the petition is pending if the court finds probable cause
6 that:

7 “(i) The person is at least 18 years of age;

8 “(ii) The person has a qualifying mental disorder that is resistant to
9 treatment;

10 “(iii) The person committed an act described in subsection (3)(a)(C) of this
11 section; and

12 “(iv) Failure to commit the person while the hearing is pending would
13 pose serious harm or danger to the person or others.

14 “(B) If a person committed under this paragraph is held in a secure fa-
15 cility other than a state hospital or secure mental health facility, including
16 but not limited to a jail or prison, at the time the petition is filed, the court
17 may further order that the person remain at that placement for sufficient
18 time to allow the superintendent or director to safely admit the person. Any
19 order of the court concerning the placement of a person under this subpara-
20 graph must be in accordance with the person’s constitutional right to due
21 process. If the person remains in a secure facility under this subparagraph,
22 the superintendent, director or designee may consult with the facility to en-
23 sure continuity of care for the person.

24 “(C) Commitment to the custody of the superintendent of a state hospital
25 or the director of a secure mental health facility under this paragraph may
26 not exceed 60 days. If the hearing does not occur within 60 days, if the dis-
27 trict attorney dismisses the petition, or if the court holds the hearing but
28 does not commit the person, the person shall be returned to the county in
29 which the petition was filed and the court shall hold a disposition hearing
30 within five judicial days to determine how to proceed on the petition and

1 any outstanding criminal charges. A person who is returned to a secure fa-
2 cility other than a state hospital or secure mental health facility, including
3 but not limited to a jail or prison, under this paragraph may remain at the
4 placement until the disposition hearing.

5 “(g) If the hearing is not commenced within the time period required by
6 paragraph (e) of this subsection, the court shall either dismiss the petition
7 or release the person on personal recognizance, to the custody of a third
8 party or upon any additional reasonable terms and conditions the court
9 deems appropriate.

10 “(3)(a) At the hearing on the petition, the court shall order the person
11 committed as an extremely dangerous person with mental illness under the
12 jurisdiction of the Psychiatric Security Review Board for a maximum of 24
13 months if the court finds, by clear and convincing evidence, that:

14 “(A) The person is extremely dangerous;

15 “(B) The person suffers from a qualifying mental disorder that is resistant
16 to treatment; and

17 “(C) Because of the qualifying mental disorder that is resistant to treat-
18 ment, the person committed one of the following acts:

19 “(i) Caused **or attempted to cause** the death of another person;

20 “(ii) Caused **or attempted to cause** serious physical injury to another
21 person by means of a dangerous weapon;

22 “(iii) Caused **or attempted to cause** physical injury to another person
23 by means of a firearm as defined in ORS 166.210 or an explosive as defined
24 in ORS 164.055;

25 “(iv) Engaged **or attempted to engage** in oral-genital contact with a
26 child under 14 years of age;

27 “(v) Forcibly compelled **or attempted to forcibly compel** sexual inter-
28 course, oral-genital contact or the penetration of another person’s anus or
29 vagina; or

30 “(vi) Caused **or attempted to cause** a fire or explosion that damaged the

1 protected property of another, as those terms are defined in ORS 164.305, or
2 placed another person in danger of physical injury, and the fire or explosion
3 was not the incidental result of normal and usual daily activities.

4 “(b) The court shall further commit the person to a state hospital for
5 custody, care and treatment if the court finds, by clear and convincing evi-
6 dence, that the person cannot be controlled in the community with proper
7 care, medication, supervision and treatment on conditional release.

8 “(c) The court shall specify in the order whether any person who would
9 be considered a victim as defined in ORS 131.007 of the act described in
10 paragraph (a)(C) of this subsection, if the act had been criminally prosecuted,
11 requests notification of any order or hearing, conditional release, discharge
12 or escape of the person committed under this section.

13 “(d) The court shall be fully advised of all drugs and other treatment
14 known to have been administered to the alleged extremely dangerous person
15 with mental illness that may substantially affect the ability of the person to
16 prepare for, or to function effectively at, the hearing.

17 “(e) The provisions of ORS 40.230, 40.235, 40.240, 40.250 and 179.505 do not
18 apply to the use of the examiner’s report and the court may consider the
19 report as evidence.

20 “(4) The findings of the court that a person committed an act described
21 in subsection (3)(a)(C) of this section may not be admitted in a criminal
22 prosecution.

23 “(5)(a) If the court commits a person under this section and the person
24 has pending criminal charges at the time of the hearing, the court shall
25 dismiss the criminal charges without prejudice, and if the person is further
26 committed to a state hospital under this section, the dismissal shall not take
27 effect until the person’s transportation to the state hospital.

28 “(b) If the court commits a person to the state hospital under this section
29 and:

30 “(A) The person is in a setting other than a state hospital, the court may

1 additionally order that the person remain in that placement until the person
2 can be safely transported to a state hospital pursuant to the order. Any order
3 of the court concerning the placement of the person under this subparagraph
4 must be in accordance with the person's constitutional right to due process.

5 “(B) The person is at a state hospital at the time of the hearing, the
6 person may remain at the state hospital under the commitment.

7 “(c) A person committed under this section shall remain under the juris-
8 diction of the board for a maximum of 24 months unless the board conducts
9 a hearing and makes the findings described in subsection (6)(d) of this sec-
10 tion.

11 “(6)(a) The board shall hold a hearing six months after the initial com-
12 mitment described in subsection (3) of this section, and thereafter six months
13 after a further commitment described in ORS 426.702, to determine the
14 placement of the person and whether the person is eligible for conditional
15 release or early discharge. The board shall provide written notice of the
16 hearing to the person, the person's legal counsel and the office of the district
17 attorney who filed the initial petition under subsection (2) of this section
18 within a reasonable time prior to the hearing. The board shall further notify
19 the person of the following:

20 “(A) The nature of the hearing and possible outcomes;

21 “(B) The right to appear at the hearing and present evidence;

22 “(C) The right to be represented by legal counsel and, if the person is
23 without funds to retain legal counsel, the right to have the court appoint
24 legal counsel;

25 “(D) The right to subpoena witnesses;

26 “(E) The right to cross-examine witnesses who appear at the hearing; and

27 “(F) The right to examine all reports, documents and information that the
28 board considers, including the right to examine the reports, documents and
29 information prior to the hearing if available.

30 “(b) If the board determines at the hearing that the person still suffers

1 from a qualifying mental disorder that is resistant to treatment and contin-
2 ues to be extremely dangerous, and that the person cannot be controlled in
3 the community with proper care, medication, supervision and treatment if
4 conditionally released, the person shall remain committed to a state hospital.

5 “(c) If the board determines at the hearing that the person still suffers
6 from a qualifying mental disorder that is resistant to treatment and contin-
7 ues to be extremely dangerous, but finds that the person can be controlled
8 in the community with proper care, medication, supervision and treatment
9 if conditionally released, the board shall conditionally release the person.

10 “(d) If the board determines at the hearing that the person no longer
11 suffers from a qualifying mental disorder that is resistant to treatment or is
12 no longer extremely dangerous, the board shall discharge the person. The
13 discharge of a person committed under this section does not preclude com-
14 mitment of the person pursuant to ORS 426.005 to 426.390.

15 “(7)(a) At any time during the commitment to a state hospital, the su-
16 perintendent of the state hospital may request a hearing to determine the
17 status of the person’s commitment under the jurisdiction of the board. The
18 request shall be accompanied by a report setting forth the facts supporting
19 the request. If the request is for conditional release, the request shall be
20 accompanied by a verified conditional release plan. The hearing shall be
21 conducted as described in subsection (6) of this section.

22 “(b) The board may make the findings described in subsection (6)(c) of this
23 section and conditionally release the person without a hearing if the office
24 of the district attorney who filed the initial petition under subsection (2) of
25 this section does not object to the conditional release.

26 “(c) At any time during conditional release, a state or local mental health
27 facility providing treatment to the person may request a hearing to deter-
28 mine the status of the person’s commitment under the jurisdiction of the
29 board. The hearing shall be conducted as described in subsection (6) of this
30 section.

1 “(8)(a) If the board orders the conditional release of a person under sub-
2 section (6)(c) of this section, the board shall order conditions of release that
3 may include a requirement to report to any state or local mental health fa-
4 cility for evaluation. The board may further require cooperation with, and
5 acceptance of, psychiatric or psychological treatment from the facility. Con-
6 ditions of release may be modified by the board from time to time.

7 “(b) When a person is referred to a state or local mental health facility
8 for an evaluation under this subsection, the facility shall perform the eval-
9 uation and submit a written report of its findings to the board. If the facility
10 finds that treatment of the person is appropriate, the facility shall include
11 its recommendations for treatment in the report to the board.

12 “(c) Whenever treatment is provided to the person by a state or local
13 mental health facility under this subsection, the facility shall furnish reports
14 to the board on a regular basis concerning the progress of the person.

15 “(d) Copies of all reports submitted to the board pursuant to this sub-
16 section shall be furnished to the person and to the person’s legal counsel, if
17 applicable. The confidentiality of these reports is determined pursuant to
18 ORS 192.338, 192.345 and 192.355.

19 “(e) The state or local mental health facility providing treatment to the
20 person under this subsection shall comply with the conditional release order
21 and any modifications of the conditions ordered by the board.

22 “(9)(a) If at any time while the person is conditionally released it appears
23 that the person has violated the terms of the conditional release, the board
24 may order the person returned to a state hospital for evaluation or treat-
25 ment. A written order of the board is sufficient warrant for any law
26 enforcement officer to take the person into custody. A sheriff, municipal
27 police officer, parole or probation officer or other peace officer shall execute
28 the order, and the person shall be returned to the state hospital as soon as
29 practicable.

30 “(b) The director of a state or local mental health facility providing

1 treatment to a person under subsection (8) of this section may request that
2 the board issue a written order for a person on conditional release to be
3 taken into custody if there is reason to believe that the person can no longer
4 be controlled in the community with proper care, medication, supervision and
5 treatment.

6 “(c) Within 30 days following the return of the person to a state hospital,
7 the board shall conduct a hearing to determine if, by a preponderance of the
8 evidence, the person is no longer fit for conditional release. The board shall
9 provide written notice of the hearing to the person, the person’s legal coun-
10 sel and the office of the district attorney who filed the initial petition under
11 subsection (2) of this section within a reasonable time prior to the hearing.
12 The notice shall advise the person of the nature of the hearing, the right to
13 have the court appoint legal counsel and the right to subpoena witnesses,
14 examine documents considered by the board and cross-examine all witnesses
15 who appear at the hearing.

16 “(10)(a) If the person had unadjudicated criminal charges at the time of
17 the filing of the petition for the person’s initial commitment under this sec-
18 tion and the state hospital or the state or local mental health facility pro-
19 viding treatment to the person intends to recommend discharge of the person
20 at an upcoming hearing, the superintendent of the state hospital or the di-
21 rector of the facility shall provide written notice to the board and the dis-
22 trict attorney of the county where the criminal charges were initiated of the
23 discharge recommendation at least 45 days before the hearing. The notice
24 shall be accompanied by a report describing the person’s diagnosis and the
25 treatment the person has received.

26 “(b) Upon receiving the notice described in this subsection, the district
27 attorney may request an order from the court in the county where the
28 criminal charges were initiated for an evaluation to determine if the person
29 is fit to proceed in the criminal proceeding. The court may order the state
30 hospital or the state or local mental health facility providing treatment to

1 the person to perform the evaluation. The hospital or facility shall provide
2 copies of the evaluation to the district attorney, the person and the person's
3 legal counsel, if applicable.

4 “(c) The person committed under this section may not waive an evalu-
5 ation ordered by the court to determine if the person is fit to proceed with
6 the criminal proceeding as described in this subsection.

7 “(11) The board shall make reasonable efforts to notify any person de-
8 scribed in subsection (3)(c) of this section of any order or hearing, condi-
9 tional release, discharge or escape of the person committed under this
10 section.

11 “(12) Unless the court orders otherwise or either party objects, any party
12 or witness may attend a hearing held under this section via simultaneous
13 electronic transmission.

14 “(13) The board shall adopt rules to carry out the provisions of this sec-
15 tion and ORS 426.702.

16 “(14) Any time limitation described in ORS 131.125 to 131.155 does not run
17 during a commitment described in this section or a further commitment de-
18 scribed in ORS 426.702.

19 **“SECTION 2. This 2025 Act being necessary for the immediate**
20 **preservation of the public peace, health and safety, an emergency is**
21 **declared to exist, and this 2025 Act takes effect on its passage.”.**