

HB 2488-3  
(LC 2844)  
4/7/25 (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 127.700, 127.702, 127.710, 127.722, 127.736, 426.060, 426.070, 426.072, 426.074, 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:

**“PREHEARING TREATMENT**

**“SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS 426.070 to 426.170.**

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

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

**“(b) The hospital or nonhospital facility:**

**“(A) Is approved by the Oregon Health Authority; and**

**“(B) Can, in the opinion of the community mental health program**

1 director and the licensed independent practitioner, provide intensive  
2 care or treatment for mental illness necessary and sufficient to meet  
3 the emergency psychiatric needs of the person; and

4 “(c) The person meets any other criteria for a diversion from com-  
5 mitment established by the Oregon Health Authority by rule.

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

8 “(A) In writing to the court having jurisdiction under ORS 426.060;  
9 and

10 “(B) Orally and in writing to the person alleged to have a mental  
11 illness.

12 “(b) 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 426.170 at any time during the diversion  
23 from commitment.

24 “(D) Information about how to request legal counsel, as described  
25 in 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)(b)(A) of this section must, in consultation  
29 with the community mental health program director, prepare a diver-  
30 sion treatment plan for the person alleged to have a mental illness.

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

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

5       **“(A) A description of the medications to administered;**

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

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

9       **“(D) Limitations on specific medications or therapies;**

10       **“(E) The location of services;**

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

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

15       **“(4) Immediately upon receipt of a notice under subsection (2) of**  
16 **this section, the court shall:**

17       **“(a) Appoint legal counsel for the person, subject to ORS 426.100 (4);**  
18 **and**

19       **“(b) Provide notice of the offer of diversion from treatment to the**  
20 **person’s legal counsel.**

21       **“(5)(a) Within 24 hours following receipt of the notice under sub-**  
22 **section (4) of this section, the detained person’s legal counsel shall**  
23 **review with the person the notice and the contents of the treatment**  
24 **plan.**

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

29       **“(c) If the person and the person’s legal counsel consent to the offer**  
30 **of diversion from commitment as set forth in the notice, the court**

1 shall postpone the hearing required by ORS 426.070 to 426.170 for 14  
2 days from the date of consent.

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

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

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

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

29 “(D) If the person is in a nonhospital facility, the community  
30 mental health program director shall transfer the person to a hospital

1 approved by the authority under the following conditions:

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

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

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

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

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

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

20 “(B) Informed the community mental health program director; 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 community mental health program**  
5 **director 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) When the court receives notification under subsection (7) or (8)**  
17 **of this section, the court shall dismiss the case.**

18       **“(10)(a) At the conclusion of a person’s first diversion from com-**  
19 **mitment, the community mental health program director may offer**  
20 **the person one additional diversion from commitment if the criteria**  
21 **under subsection (1) of this section continue to be met.**

22       **“(b) A person consenting to a diversion from commitment under**  
23 **this section may not be held without a hearing as provided in ORS**  
24 **426.070 to 426.170 for longer than:**

25       **“(A) 14 days from the time of first consenting to the diversion from**  
26 **commitment; or**

27       **“(B) 28 days from the time of first consenting to the diversion from**  
28 **commitment if the person accepts a second diversion from commit-**  
29 **ment.**

30       **“(11) The judge of the circuit court shall immediately commence**

1 proceedings under ORS 426.070 to 426.170 when the person consenting  
2 to a diversion from commitment or the community mental health  
3 program director requests a hearing. The hearing shall be held without  
4 unreasonable delay. In no case may the person be held in a hospital  
5 or nonhospital facility longer than five judicial days after the request  
6 for a hearing is made without a hearing being held under ORS 426.070  
7 to 426.170.

8 “(12) The authority shall adopt rules for the implementation of this  
9 section, including the standards under which a person alleged to have  
10 a mental illness is offered a diversion from commitment and any re-  
11 strictions on diversion being offered to a person consistent with the  
12 criteria of this section.

13 “SECTION 3. Section 4 of this 2025 Act is added to and made a part  
14 of ORS 426.070 to 426.170.

15 “SECTION 4. Preauthorized treatment. (1)(a) If a person alleged to  
16 have a mental illness is certified for treatment under ORS 426.237 (1)(c)  
17 consistent with the person’s declaration for mental health treatment,  
18 the community mental health program director shall:

19 “(A) Deliver immediately a certificate to the court having jurisdic-  
20 tion under ORS 426.060; and

21 “(B) Orally inform the person, and the person’s attorney-in-fact, if  
22 any, of the certification and deliver a copy of the certificate to the  
23 person and the person’s attorney-in-fact, if any.

24 “(b) The certificate required by paragraph (a) of this subsection  
25 must include:

26 “(A) Documentation that the person has been determined to be in-  
27 capable, as provided in section 13 of this 2025 Act;

28 “(B) A treatment plan that is consistent with the person’s declara-  
29 tion for mental health treatment and describes, in general terms, the  
30 types of treatment and medication to be provided to the person, the

1 location where the treatment will be provided and the expected period  
2 of the treatment;

3 “(C) A notice of the person’s right to legal counsel and that legal  
4 counsel will be appointed by the court as provided in ORS 426.100 (4);

5 “(D) A notice that the person has a right to request and be provided  
6 a hearing under ORS 426.070 to 426.170 at any time during the duration  
7 of treatment authorized under the person’s declaration for mental  
8 health treatment; and

9 “(E) The date and time the copy of the certificate was delivered to  
10 the person, the person’s attorney and the person’s attorney-in-fact, if  
11 any.

12 “(c) Immediately upon receipt of a certificate under paragraph (a)  
13 of this subsection, the court shall:

14 “(A) Appoint legal counsel for the person, as provided in ORS  
15 426.100 (4); and

16 “(B) Notify the person’s attorney-in-fact, if any, and the person’s  
17 legal counsel of the certification for treatment.

18 “(d)(A) Within 24 hours following receipt of the notice provided  
19 under paragraph (c) of this subsection, the person’s legal counsel and  
20 attorney-in-fact, if any, shall review the certificate with the person.

21 “(B) If the person’s attorney-in-fact consents or, if the person does  
22 not have an attorney-in-fact, the person and the person’s legal counsel  
23 consent to the certification, the court shall postpone the hearing re-  
24 quired by ORS 426.070 to 426.170 until the court receives a request for  
25 a hearing under subsection (7) of this section.

26 “(C) If the court does not receive a request for a hearing under  
27 subsection (7) of this section before the end of the duration of treat-  
28 ment preauthorized by the person in the person’s declaration for  
29 mental health treatment, the court shall dismiss the case as provided  
30 in subsection (6) of this section.



1       “(e) When the person’s attorney-in-fact accepts or, if the person  
2 does not have an attorney-in-fact, the person and the person’s legal  
3 counsel consent to the certification for treatment:

4       “(A) The person may not be subjected to unusual or hazardous  
5 treatment procedures, including convulsive therapy, unless the person  
6 has authorized the treatment under the person’s declaration for men-  
7 tal health treatment.

8       “(B) Except as otherwise provided in this paragraph, all methods  
9 of treatment, including the prescription and administration of drugs,  
10 shall be the sole responsibility of the licensed independent practitioner  
11 who is treating the person.

12       “(C) The licensed independent practitioner who is treating the per-  
13 son shall act in accordance with the provisions of the person’s decla-  
14 ration for mental health treatment to the fullest extent possible,  
15 unless in the determination of the licensed independent practitioner:

16       “(i) Compliance with a provision would violate the accepted stan-  
17 dards of care or the person’s treatment plan;

18       “(ii) The requested treatment is not available;

19       “(iii) Compliance with a provision would violate applicable law; or

20       “(iv) It is an emergency situation and compliance with the pro-  
21 visions would endanger any person’s life or health.

22       “(D) If the person is in a hospital and the community mental health  
23 program director locates a nonhospital facility, approved by the  
24 Oregon Health Authority, that, in the opinion of the community  
25 mental health program director and the licensed independent practi-  
26 tioner who is treating the person, can provide care or treatment for  
27 mental illness necessary and sufficient to meet the emergency psy-  
28 chiatric needs of the person, and the person’s attorney-in-fact, if any,  
29 consents, the treating licensed independent practitioner shall dis-  
30 charge the person from the hospital and the community mental health

1 program director shall remove the person to the nonhospital facility  
2 for the remainder of the duration of inpatient treatment authorized  
3 by the person's declaration for mental health treatment. If, however,  
4 in the opinion of the treating licensed independent practitioner, the  
5 person's condition requires the person to receive medical care or  
6 treatment, the treating licensed independent practitioner shall retain  
7 the person in the hospital.

8 “(E) If the person is in a nonhospital facility, the community men-  
9 tal health program director shall transfer the person to a hospital ap-  
10 proved by the authority under the following conditions:

11 “(i) The person's attorney-in-fact, if any, consents to the transfer;

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

15 “(iii) The licensed independent practitioner agrees to admit the  
16 person to a hospital, approved by the authority, where the licensed  
17 independent practitioner has admitting privileges.

18 “(F) If the person is transferred as provided in subparagraph (D)  
19 or (E) of this paragraph, the community mental health program di-  
20 rector shall notify the circuit court, in the county where the certif-  
21 icate was filed, of the location of the person. The person may appeal  
22 the transfer as provided by rules of the authority.

23 “(2) The person may be discharged from treatment under this sec-  
24 tion at any time if:

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

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

29 “(B) Informed the community mental health program director; and

30 “(C) Conferred with the person's attorney-in-fact or, if the person

1 does not have an attorney-in-fact, conferred with the person's next of  
2 kin to the extent allowed under ORS 192.567.

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

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

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

9 “(C) Conferred with the person's attorney-in-fact or, if the person  
10 does not have an attorney-in-fact, conferred with the person's next of  
11 kin to the extent allowed under ORS 192.567 prior to discharging the  
12 person.

13 “(3) Immediately upon a person's discharge under subsection (2) of  
14 this section, the community mental health program director shall no-  
15 tify the court in the county in which the certificate was filed initially.

16 “(4) The person may agree to voluntary treatment at any time  
17 during the period of inpatient treatment authorized by the declaration  
18 for mental health treatment. When a person agrees to voluntary  
19 treatment under this subsection, the community mental health pro-  
20 gram director immediately shall notify the court in the county in  
21 which the certificate was filed initially.

22 “(5) A person receiving treatment under this section in accordance  
23 with the person's declaration for mental health treatment may not be  
24 held longer than the duration of inpatient treatment authorized in the  
25 person's declaration for mental health treatment without a hearing  
26 as provided in ORS 426.070 to 426.170.

27 “(6) The court shall dismiss the case upon the earlier of:

28 “(a) Receiving notification under subsection (3) or (4) of this sec-  
29 tion; or

30 “(b) Unless the court receives a request under subsection (7) of this

1 section, the expiration of the duration of inpatient treatment con-  
2 sented to in advance by the person in the person's declaration for  
3 mental health treatment.

4 “(7) The judge of the circuit court shall commence proceedings un-  
5 der ORS 426.070 to 426.170 immediately upon receiving a request from  
6 the person receiving treatment, the person's attorney-in-fact, if any,  
7 or the community mental health program director. The hearing shall  
8 be held without unreasonable delay. In no case may the person be held  
9 in a hospital or nonhospital facility longer than five judicial days after  
10 the request for a hearing is made without a hearing being held under  
11 ORS 426.070 to 426.170.

12 “**SECTION 5.** ORS 426.070 is amended to read:

13 “426.070. (1) Any of the following may initiate commitment procedures  
14 under this section by giving the notice described under subsection (2) of this  
15 section:

16 “(a) Two persons;

17 “(b) The local health officer; [or]

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

20 “(d) **A person's attorney-in-fact under a declaration for mental**  
21 **health treatment described in ORS 127.700 to 127.737.**

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

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

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

28 “(c) It must state that a person within the county other than the person  
29 giving the notice:

30 “(A) Is a person with mental illness and is in need of treatment, care or

1 custody; or

2 **“(B) If the notice is given by the person’s attorney-in-fact, that the**  
3 **person is incapable as described in section 13 of this 2025 Act and in**  
4 **need of treatment consistent with the person’s declaration for mental**  
5 **health treatment.**

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

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

10 **“(B) Of the court’s determination under ORS 426.130 [(1)]; and**

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

14 **“(3) Upon receipt of a notice under subsections (1) and (2) of this section**  
15 **or when notified by a circuit court that the court received notice under ORS**  
16 **426.234, the community mental health program director, or designee of the**  
17 **director, shall:**

18 **“(a) Immediately notify the person alleged to have a mental illness**  
19 **that the court will appoint legal counsel as provided in ORS 426.100 (4)**  
20 **for the person and ascertain the person’s preferences regarding ap-**  
21 **pointment of counsel.**

22 **“(b) Immediately notify the judge of the court having jurisdiction for that**  
23 **county under ORS 426.060 of the notification described in subsections (1)**  
24 **[and], (2) and (3)(a) of this section and the person’s preferences regard-**  
25 **ing appointment of counsel.**

26 **“(c) Immediately ascertain whether the person has an effective**  
27 **declaration for mental health treatment described in ORS 127.700 to**  
28 **127.737.**

29 **“(d) If notice was given by the person’s attorney-in-fact under a**  
30 **declaration for mental health treatment or if the director determines**

1 **that the person has an effective declaration for mental health treat-**  
2 **ment, immediately take steps to determine whether the person is in-**  
3 **capable under section 13 of this 2025 Act, and provide notice to the**  
4 **court regarding all of the following:**

5 **“(A) That the person executed a declaration for mental health**  
6 **treatment;**

7 **“(B) That the person’s attorney-in-fact has initiated the person’s**  
8 **commitment;**

9 **“(C) Whether the person has been determined incapable under sec-**  
10 **tion 13 of this 2025 Act;**

11 **“(D) Whether the person’s declaration is revocable during incapac-**  
12 **ity and, if so, whether the person has revoked the declaration; and**

13 **“(E) Whether the person consented to admission for inpatient**  
14 **treatment and, if so, the duration of inpatient treatment consented to**  
15 **in advance.**

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

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

26 **“(4)** Upon completion, a recommendation based upon the investigation  
27 report under ORS 426.074 shall be promptly submitted to the court. If the  
28 community mental health program director determines that probable cause  
29 does not exist to believe that a person released from detention under ORS  
30 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental

1 health program director may recommend assisted outpatient treatment in  
2 accordance with ORS 426.133.

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

4 “(a) **The court shall appoint legal counsel for the person as provided**  
5 **in ORS 426.100 (4).**

6 “(b)(A) **If the person executed an effective declaration for mental**  
7 **health treatment, the court may issue a warrant of detention to the**  
8 **community mental health program director, sheriff or a designee to**  
9 **take the person into custody and produce the person at the time and**  
10 **place stated in the warrant, if the court:**

11 “(i) **Finds that the person has been determined to be incapable un-**  
12 **der section 13 of this 2025 Act;**

13 “(ii) **Finds that the person has not revoked the declaration;**

14 “(iii) **Finds that the person consented to be admitted for inpatient**  
15 **treatment; and**

16 “(iv) **Confirms that the person’s attorney-in-fact, if any, consents**  
17 **to the person’s admission for inpatient treatment.**

18 “(B) **At the time the person is taken into custody, the person shall**  
19 **be provided with the information described in paragraph (d)(B) of this**  
20 **subsection.**

21 “(C) **The court may make any orders for the care and custody of**  
22 **the person prior to the hearing as the court determines reflects the**  
23 **person’s preferences under the person’s declaration for mental health**  
24 **treatment and are consented to by the person’s attorney-in-fact, if**  
25 **any.**

26 “[a)] (c) **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)] (d) of this sub-  
4 section.

5 “[(b)(A)] (d)(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)] (e) 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 **“(f) If the person has an attorney-in-fact under a declaration for**  
3 **mental health treatment, the attorney-in-fact shall be provided with**  
4 **copies of any notices or other information that is provided to the**  
5 **person.**

6 **“SECTION 6.** ORS 426.074 is amended to read:

7 “426.074. The following is applicable to an investigation initiated by a  
8 community mental health program director, or a designee of the director, as  
9 part of commitment procedures under ORS 426.070 and 426.228 to 426.235:

10 “(1) If the person alleged to have a mental illness is held in custody be-  
11 fore the hearing the investigation shall be completed at least 24 hours before  
12 the hearing under ORS 426.095, otherwise the investigation shall comply with  
13 the following time schedule:

14 “(a) If the person can be located, the investigator shall contact the person  
15 within three judicial days from the date the community mental health pro-  
16 gram director or a designee receives a notice under ORS 426.070 alleging that  
17 the person has a mental illness and is in need of treatment.

18 “(b) Within 15 days from the date the community mental health program  
19 director or a designee receives a notice under ORS 426.070, one of the fol-  
20 lowing shall occur:

21 “(A) The investigation shall be completed and submitted to the court.

22 “(B) An application for extension shall be made to the court under para-  
23 graph (c) of this subsection.

24 “(c) The community mental health program director, a designee or the  
25 investigator may file for an extension of the time under paragraph (b) of this  
26 subsection only if one of the following occurs:

27 “(A) A treatment option less restrictive than involuntary inpatient com-  
28 mitment is actively being pursued.

29 “(B) The person alleged to have a mental illness cannot be located.

30 “(d) A court may grant an extension under paragraph (c) of this sub-

1 section for a time and upon the terms and conditions the court considers  
2 appropriate.

3 **“(2) If a person subject to investigation under this section has an**  
4 **effective declaration for mental health treatment as described in ORS**  
5 **127.700 to 127.737, and the investigator receives documentation that the**  
6 **person is incapable as described in section 13 of this 2025 Act, the in-**  
7 **vestigator shall:**

8 **“(a) Determine whether the person’s declaration for mental health**  
9 **treatment includes instructions regarding inpatient admission for**  
10 **treatment and, if so, if the declaration for mental health treatment**  
11 **specifies facilities that the person consented to be admitted to and the**  
12 **duration of treatment consented to in advance;**

13 **“(b) Determine whether the person’s declaration for mental health**  
14 **treatment is revocable or irrevocable when the person is incapable;**

15 **“(c) If the person’s declaration for mental health treatment is**  
16 **revocable when the person is incapable, determine whether the person**  
17 **has revoked the declaration; and**

18 **“(d) Immediately notify the court if:**

19 **“(A) The declaration is effective and has not been revoked; and**

20 **“(B) The declaration includes the person’s consent for inpatient**  
21 **treatment.**

22 **“[(2)] (3) This subsection establishes a nonexclusive list of provisions ap-**  
23 **plicable to the content of the investigation, as follows:**

24 **“(a) The investigation conducted should, where appropriate, include an**  
25 **interview or examination of the person alleged to have a mental illness in**  
26 **the home of the person or other place familiar to the person.**

27 **“(b) Whether or not the person consents, the investigation should include**  
28 **interviews with any individuals that the investigator has probable cause to**  
29 **believe have pertinent information regarding the investigation. If the person**  
30 **objects to the contact with any individual, the objection shall be noted in**

1 the investigator's report.

2 “(c) The investigator shall be allowed access to licensed independent  
3 practitioners, nurses or social workers and to medical records compiled dur-  
4 ing the current involuntary prehearing period of detention to determine  
5 probable cause and to develop alternatives to commitment. If commitment is  
6 proposed because the person appears to be a person with mental illness as  
7 defined in ORS 426.005 (1)(f)(C), the investigator shall be allowed access to  
8 medical records necessary to verify the existence of criteria described in ORS  
9 426.005 (1)(f)(C). The investigator shall include pertinent parts of the medical  
10 record in the investigation report. Records and communications described  
11 in this paragraph and related communications are not privileged under ORS  
12 40.230, 40.235, 40.240 or 40.250.

13 “[3)] (4) A copy of the investigation report shall be provided as soon as  
14 possible, but in no event later than 24 hours prior to the hearing, to the  
15 person and to the person's counsel. Copies shall likewise be provided to  
16 counsel assisting the court, to the examiners and to the court for use in  
17 questioning witnesses.

18 **“SECTION 7.** ORS 426.237 is amended to read:

19 “426.237. (1) During a prehearing period of detention as provided in ORS  
20 426.070, 426.140, 426.232 or 426.233, the community mental health program  
21 director shall do one of the following:

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

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

29 “[A) *The community mental health program director and a licensed inde-*  
30 *pendent practitioner have probable cause to believe the person is a person with*

1 *mental illness;]*

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

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

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

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

13 **“(b) File a notice of diversion from commitment described in section**  
14 **2 of this 2025 Act.**

15 **“(c) No later than 24 hours after initiation of a prehearing period**  
16 **of detention as provided in ORS 426.070 (5)(b), certify the person al-**  
17 **leged to have a mental illness for treatment consistent with the**  
18 **person’s declaration for mental health treatment, subject to section 4**  
19 **of this 2025 Act.**

20 *“[(c)] (d) Recommend, in an investigation report as provided in ORS*  
21 *426.074, that the circuit court hold a hearing under ORS 426.070 to [426.130]*  
22 **426.170** *if the community mental health program director has probable cause*  
23 *to believe the person is a person with mental illness or that the person is*  
24 *in need of assisted outpatient treatment.*

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

30 *“[(A) Nonhospital facility, the community mental health program director*

1 *shall make discharge plans and ensure the discharge of the person.]*

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

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

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

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

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

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

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

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

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

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

27 *“(E) The date and time the copy of the certificate was delivered to the*  
28 *person.]*

29 *“(c) Immediately upon receipt of a certificate under paragraph (a) of this*  
30 *subsection, the court shall notify the person’s attorney or appoint an attorney*

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

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

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

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

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

1 of the treating licensed independent practitioner, the person's condition re-  
2 quires the person to receive medical care or treatment, the licensed independent  
3 practitioner shall retain the person in the hospital.]

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

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

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

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

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

26 “[f] If the person is in a nonhospital facility, the community mental health  
27 program director may discharge the person at any time during the 14-day pe-  
28 riod. The community mental health program director shall consult with the  
29 licensed independent practitioner who is treating the person and the person's  
30 next of kin, if the person consents to the consultation, prior to discharging the

1 *person. Immediately upon discharge of the person, the community mental*  
2 *health program director shall notify the court in the county in which the cer-*  
3 *tificate was filed initially.]*

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

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

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

13 *“(4) (2) The judge of the circuit court shall immediately commence pro-*  
14 *ceedings under ORS 426.070 to [426.130] **426.170** when[:]*

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

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

## 24 **“APPOINTMENT OF COUNSEL**

25  
26 **“SECTION 8.** ORS 426.090 is amended to read:

27 **“426.090. If a court, following an investigation, concludes under ORS**  
28 **426.070 (5) that there is probable cause to believe a person is a person**  
29 **with mental illness,** the judge shall issue a citation to the person alleged  
30 to have a mental illness stating the nature of the information filed con-



cerning the person and the specific reasons the person is believed to be a person with mental illness. The citation shall further contain a notice of the time and place of the commitment hearing, the right to legal counsel, the right to have legal counsel appointed if the person is unable to afford legal counsel, and, if requested, to have legal counsel immediately appointed, the right to subpoena witnesses in behalf of the person to the hearing and other information as the court may direct. *[The citation shall be served upon the person by delivering a duly certified copy of the original thereof to the person in]* **A certified copy of the citation shall be personally served on the person prior to the hearing. The person shall have an opportunity to consult with legal counsel prior to being brought before the court.**

**“SECTION 9.** ORS 426.100 is amended to read:

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

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

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

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

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

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

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

**“(a) When notice of probable cause to believe the person is a person with mental illness has been filed with the court as provided in ORS 426.070 (5).**

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

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

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

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

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

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

8       “(b) If the person is determined to be financially eligible for appointed  
9 counsel at state expense, the court will appoint legal counsel to represent  
10 the person. If counsel is appointed at state expense, payment of expenses and  
11 compensation relating to legal counsel shall be made as provided under ORS  
12 426.250.

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

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

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

23       “(f) In all cases suitable legal counsel shall be present at the hearing and  
24 may be present at examination and may examine all witnesses offering tes-  
25 timony, and otherwise represent the person.

26       **“(4)(a) When the court is required to appoint counsel for a person**  
27 **under ORS 426.005 to 426.390, the court shall appoint suitable legal**  
28 **counsel for the person unless:**

29       **“(A) The person is already represented by an attorney; or**

30       **“(B) The person expressly, knowingly and intelligently refuses ap-**

1 **pointment of counsel.**

2 **“(b) If the person is determined to be financially eligible, the pay-**  
3 **ment of expenses and compensation related to legal counsel appointed**  
4 **under this subsection shall be made as provided under ORS 426.250.**

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

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

10 **“(A)** Recommitment proceedings under ORS 426.307; or

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

12 **“(b)** The district attorney if requested to do so by the governing body of  
13 the county.

14 **“(c)** In lieu of the district attorney under paragraph (b) of this subsection,  
15 a counsel designated by the governing body of a county shall take the re-  
16 sponsibility. A county governing body may designate counsel to take re-  
17 sponsibility under this paragraph either for single proceedings or for all such  
18 proceedings the county will be obligated to pay for under ORS 426.250. If a  
19 county governing body elects to proceed under this paragraph, the county  
20 governing body shall so notify the district attorney. The expenses of an at-  
21 torney appointed under this paragraph shall be paid as provided under ORS  
22 426.250.

23 **“SECTION 10.** ORS 426.232 is amended to read:

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

1 the following:

2 “(a) Detain the person and cause the person to be admitted or, if the  
3 person is already admitted, cause the person to be retained in a hospital  
4 where the licensed independent practitioner has admitting privileges or is  
5 on staff.

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

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

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

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

21 **“SECTION 11.** ORS 426.301 is amended to read:

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

1 person will not be released, but the director of the treating facility shall  
2 immediately issue a copy of the certification to the person and to the com-  
3 munity mental health program director of the county of residence.

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

8 “[~~(3)~~ **(2)** The certification [*shall*] **must** advise the person of all the fol-  
9 lowing:

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

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

15 “(c) That the person may protest this further period of commitment within  
16 14 days, and if the person does not protest the further commitment, commit-  
17 ment will be continued for an indefinite period of time up to 180 days.

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

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

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

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

29 “(h) That if the person is without funds to retain legal counsel or an ex-  
30 amining physician or qualified professional as recommended by the authority,

1 the court will appoint legal counsel, a physician or other qualified profes-  
2 sional.

3 “[4] (3) Nothing in subsection [(3)] (2) of this section requires the giving  
4 of the warning under ORS 426.123.

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

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

11 “(5)(a) When serving the certification upon the person, the authority  
12 shall read and deliver the certification to the person and ask whether the  
13 person protests a further period of commitment.

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

16 “(c) If the person does not protest a further period of commitment within  
17 14 days [of] **after receiving** service of the certification, the authority or fa-  
18 cility shall so notify the court [and].

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

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

26  
27 **“DECLARATION FOR MENTAL HEALTH TREATMENT**

28  
29 **“SECTION 12. Section 13 of this 2025 Act is added to and made a**  
30 **part of ORS 127.700 to 127.737.**

1       **“SECTION 13. Determination of incapacity.** (1) A person is incapa-  
2       **ble for purposes of ORS 127.700 to 127.737 if:**

3       **“(a) The person’s ability to receive and evaluate information effec-**  
4       **tively or communicate decisions is impaired to such an extent that the**  
5       **person currently lacks capacity to make mental health treatment de-**  
6       **cisions; and**

7       **“(b)(A) The court in a protective proceeding under ORS chapter 125**  
8       **has determined the person’s incapacity as described under paragraph**  
9       **(a) of this subsection;**

10       **“(B) In the opinions of two mental health providers, the person**  
11       **lacks capacity, as described in paragraph (a) of this subsection; or**

12       **“(C) The person is determined by a court to be a person with mental**  
13       **illness, as defined in ORS 426.005.**

14       **“(2) As used in this section, ‘mental health provider’ means:**

15       **“(a) A licensed independent practitioner, as defined in ORS 426.005;**

16       **“(b) A certified evaluator, as defined in ORS 161.309; or**

17       **“(c) Other mental health care provider qualified to make determi-**  
18       **nations regarding capacity, as described by the Oregon Health Au-**  
19       **thority by rule.**

20       **“SECTION 14.** ORS 127.700, as amended by section 34, chapter 73, Oregon  
21       **Laws 2024, is amended to read:**

22       **“127.700. As used in ORS 127.700 to 127.737:**

23       **“(1) ‘Attending physician’ shall have the same meaning as provided in**  
24       **ORS 127.505.**

25       **“(2) ‘Attorney-in-fact’ means an adult validly appointed under ORS**  
26       **127.540, 127.700 to 127.737 and 426.385 to make mental health treatment de-**  
27       **cisions for a principal under a declaration for mental health treatment and**  
28       **also means an alternative attorney-in-fact.**

29       **“(3) ‘Declaration’ means a document making a declaration of preferences**  
30       **or instructions regarding mental health treatment.**

1 “(4) ‘Health care facility’ shall have the same meaning as provided in ORS  
2 127.505.

3 “(5) ‘Health care provider’ shall have the same meaning as provided in  
4 ORS 127.505.

5 “(6) ‘Incapable’ [*means that, in the opinion of the court in a protective*  
6 *proceeding under ORS chapter 125, or the opinion of two physicians, a person’s*  
7 *ability to receive and evaluate information effectively or communicate decisions*  
8 *is impaired to such an extent that the person currently lacks the capacity to*  
9 *make mental health treatment decisions*] **has the meaning described in**  
10 **section 13 of this 2025 Act.**

11 “(7) ‘Mental health treatment’ means convulsive treatment, treatment of  
12 mental illness with psychoactive medication, admission to and retention in  
13 a health care facility [*for a period not to exceed 17 days*] for care or treatment  
14 of mental illness, and outpatient services.

15 “(8) ‘Outpatient services’ means treatment for a mental or emotional dis-  
16 order that is obtained by appointment and is provided by an outpatient ser-  
17 vice as defined in ORS 430.010.

18 “(9) ‘Provider’ means a mental health treatment provider, a physician as-  
19 sociate licensed under ORS 677.505 to 677.525 or a nurse practitioner licensed  
20 under ORS 678.375 to 678.390.

21 “(10) ‘Representative’ means ‘attorney-in-fact’ as defined in this section.

22 **“SECTION 15.** ORS 127.702 is amended to read:

23 “127.702. (1) An adult of sound mind may make a declaration of prefer-  
24 ences or instructions regarding mental health treatment. The preferences  
25 or instructions may include consent to or refusal of mental health treatment.

26 “(2) A declaration for mental health treatment continues in effect [*for a*  
27 *period of three years or until revoked*] **until expired or revoked as de-**  
28 **scribed in ORS 127.722.** The authority of a named attorney-in-fact and any  
29 alternative attorney-in-fact named in the declaration continues in effect as  
30 long as the declaration appointing the attorney-in-fact is in effect or until



1 the attorney-in-fact has withdrawn. *[If a declaration for mental health treat-*  
2 *ment has been invoked and is in effect at the expiration of three years after*  
3 *its execution, the declaration remains effective until the principal is no longer*  
4 *incapable.]*

5 **“SECTION 16.** ORS 127.710 is amended to read:

6 “127.710. A declaration becomes operative when it is delivered to the  
7 principal’s physician or other provider and remains valid until revoked or  
8 expired, **as provided in ORS 127.722.** The physician or provider shall act in  
9 accordance with an operative declaration when the principal has been found  
10 to be incapable. The physician or provider shall continue to obtain the  
11 principal’s informed consent to all mental health treatment decisions if the  
12 principal is capable of providing informed consent or refusal.

13 **“SECTION 17.** ORS 127.722 is amended to read:

14 “127.722. (1)(a) **A declaration expires three years after its execution.**

15 **“(b) Notwithstanding paragraph (a) of this subsection, if a declara-**  
16 **tion has been invoked and is in effect at the expiration of three years**  
17 **after its execution, the declaration remains effective until the earlier**  
18 **of the principal no longer being incapable or the principal revoking the**  
19 **declaration if authorized as provided in subsection (2) of this section.**

20 **“(2)(a)** A declaration may be revoked in whole or in part at any time by  
21 the principal if the principal is not incapable.

22 **“(b) An incapable principal may revoke a declaration only if the**  
23 **principal elected at the time of executing the declaration to be able to**  
24 **revoke the declaration when incapable.**

25 **“(3) A declaration may be superseded or revoked by a court order,**  
26 **including any order entered in a criminal matter. A declaration may**  
27 **be superseded by a court order regardless of whether the order con-**  
28 **tains an explicit reference to the declaration. To the extent a decla-**  
29 **ration is not in conflict with a court order, the declaration remains**  
30 **effective, subject to the provisions of ORS 127.720.**

1       “(4) A revocation is effective when a [*capable*] principal **has the au-**  
2 **thority as described in subsection (2) of this section to revoke the**  
3 **declaration and the principal** communicates the revocation to the attend-  
4 ing physician or other provider. The attending physician or other provider  
5 shall note the revocation as part of the principal’s medical record.

6       “[(2)] (5) The authority of the principal’s spouse as attorney-in-fact is re-  
7 voked if a petition for dissolution or annulment of marriage is filed, the  
8 principal is not incapable and the principal or the court does not reaffirm  
9 the appointment after the filing of the petition.

10       “**SECTION 18.** ORS 127.736 is amended to read:

11       “127.736. A declaration for mental health treatment shall be in substan-  
12 tially the following form:

13       “

---

14                   **DECLARATION FOR MENTAL HEALTH TREATMENT**

15       I, \_\_\_\_\_, being an adult of sound mind, willfully and  
16 voluntarily make this declaration for mental health treatment. I want this  
17 declaration to be followed if a court or two physicians determine that I am  
18 unable to make decisions for myself because my ability to receive and eval-  
19 uate information effectively or communicate decisions is impaired to such  
20 an extent that I lack the capacity to refuse or consent to mental health  
21 treatment. “Mental health treatment” means treatment of mental illness  
22 with psychoactive medication, admission to and retention in a health care  
23 facility for a **given** period [*up to 17 days*], convulsive treatment and outpa-  
24 tient services that are specified in this declaration.

---

26                   **WHEN I MAY REVOKE THIS DECLARATION**

27       **I intend that I be able to revoke this declaration: (INITIAL ONLY**  
28 **ONE)**

29       **— Only when I have capacity.**

30       **I understand that choosing this option means I may only revoke**

1 **this declaration if I have capacity. I further understand that if I**  
2 **choose this option and become incapacitated while this declaration is**  
3 **in effect, I may receive treatment that I specify in this declaration**  
4 **even if I object at the time the treatment is provided.**

5 **— Even if I am incapacitated.**

6 **I understand that choosing this option means that I may revoke**  
7 **this declaration even if I am incapacitated. I further understand that**  
8 **if I choose this option and revoke this declaration while I am inca-**  
9 **pacitated I may not receive treatment that I specify in this declara-**  
10 **tion, even if I want the treatment.**

---

11  
12 **CHOICE OF DECISION MAKER**

13 If I become incapable of giving or withholding informed consent for  
14 mental health treatment, I want these decisions to be made by: (INITIAL  
15 ONLY ONE)

16 — My appointed representative consistent with my desires, or, if my de-  
17 sires are unknown by my representative, in what my representative  
18 believes to be my best interests.

19 — By the mental health treatment provider who requires my consent in  
20 order to treat me, but only as specifically authorized in this declara-  
21 tion.

22 **APPOINTED REPRESENTATIVE**

23 If I have chosen to appoint a representative to make mental health  
24 treatment decisions for me when I am incapable, I am naming that person  
25 here. I may also name an alternate representative to serve. Each person I  
26 appoint must accept my appointment in order to serve. I understand that I  
27 am not required to appoint a representative in order to complete this decla-  
28 ration.

29 I hereby appoint:

30 NAME \_\_\_\_\_

1 ADDRESS \_\_\_\_\_

2 TELEPHONE # \_\_\_\_\_ to act as my representative to make deci-  
3 sions regarding my mental health treatment if I become incapable of giving  
4 or withholding informed consent for that treatment.

5 (OPTIONAL)

6 If the person named above refuses or is unable to act on my behalf, or if  
7 I revoke that person's authority to act as my representative, I authorize the  
8 following person to act as my representative:

9 NAME \_\_\_\_\_

10 ADDRESS \_\_\_\_\_

11 TELEPHONE # \_\_\_\_\_

12 My representative is authorized to make decisions that are consistent  
13 with the wishes I have expressed in this declaration or, if not expressed, as  
14 are otherwise known to my representative. If my desires are not expressed  
15 and are not otherwise known by my representative, my representative is to  
16 act in what he or she believes to be my best interests. My representative is  
17 also authorized to receive information regarding proposed mental health  
18 treatment and to receive, review and consent to disclosure of medical records  
19 relating to that treatment.

---

20  
21 DIRECTIONS FOR  
22 MENTAL HEALTH TREATMENT

23 This declaration permits me to state my wishes regarding mental health  
24 treatments including psychoactive medications, admission to and retention  
25 in a health care facility for mental health treatment for a period not to ex-  
26 ceed [17 days] **the number of days specified below**, convulsive treatment  
27 and outpatient services.

28  
29 **If I become incapable of giving or withholding informed consent to**  
30 **be admitted for inpatient mental health treatment, I CONSENT TO**

**BE ADMITTED FOR INPATIENT TREATMENT TO THE FOLLOWING FACILITIES:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**If I become incapable of giving or withholding informed consent to be admitted for inpatient mental health treatment, and am admitted to a facility listed above, I consent to be admitted for inpatient treatment when medically necessary for up to (INITIAL ONLY ONE):**

- \_\_\_\_\_ 14 days.
- \_\_\_\_\_ 30 days.
- \_\_\_\_\_ 60 days.
- \_\_\_\_\_ \_\_\_\_ days.

**If I become incapable of giving or withholding informed consent for mental health treatment, my wishes are: I CONSENT TO THE FOLLOWING MENTAL HEALTH TREATMENTS: (May include types and dosage of medications, short-term inpatient treatment, a preferred provider or facility, transport to a provider or facility, convulsive treatment or alternative out-patient treatments.)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

1 \_\_\_\_\_  
2  
3 I DO NOT CONSENT TO THE FOLLOWING MENTAL HEALTH TREAT-  
4 MENT: (Consider including your reasons, such as past adverse reaction,  
5 allergies or misdiagnosis. Be aware that a person may be treated without  
6 consent if the person is held pursuant to civil commitment law.)

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_

14  
15 ADDITIONAL INFORMATION ABOUT MY MENTAL HEALTH TREAT-  
16 MENT NEEDS: (Consider including mental or physical health history,  
17 dietary requirements, religious concerns, people to notify and other matters  
18 of importance.)

19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_

26  
27 YOU MUST SIGN HERE FOR THIS DECLARATION TO BE EFFECTIVE:  
28 \_\_\_\_\_  
29 (Signature/Date)  
30

NOTARY OR WITNESSES

(Have this document notarized by a notary public OR have 2 competent adult witnesses complete the Affirmation of Witnesses.)

NOTARIAL CERTIFICATE:

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed or attested before me on \_\_\_\_\_,

2\_\_\_\_, by \_\_\_\_\_.

Notary Public - State of Oregon

OR

## AFFIRMATION OF WITNESSES

I affirm that the person signing this declaration:

(a) Is personally known to me;

(b) Signed or acknowledged his or her signature on this declaration in my presence;

(c) Appears to be of sound mind and not under duress, fraud or undue influence;

(d) Is not related to me by blood, marriage or adoption;

(e) Is not a patient or resident in a facility that I or my relative owns or operates;

(f) Is not my patient and does not receive mental health services from me or my relative; and

(g) Has not appointed me as a representative in this document.

1    Witnessed by:  
2    \_\_\_\_\_

3    (Signature of Witness/            (Printed Name of Witness)  
4    Date)

5    \_\_\_\_\_  
6    (Signature of Witness/            (Printed Name of Witness)

7    Date)

8

9                                    ACCEPTANCE OF APPOINTMENT

10                                   AS REPRESENTATIVE

11        I accept this appointment and agree to serve as representative to make  
12    mental health treatment decisions. I understand that I must act consistently  
13    with the desires of the person I represent, as expressed in this declaration  
14    or, if not expressed, as otherwise known by me. If I do not know the desires  
15    of the person I represent, I have a duty to act in what I believe in good faith  
16    to be that person's best interest. I understand that this document gives me  
17    authority to make decisions about mental health treatment only while that  
18    person has been determined to be incapable of making those decisions by a  
19    court or two physicians. I understand that the person who appointed me  
20    may revoke this declaration in whole or in part by communicating the re-  
21    vocation to the attending physician or other provider when the person is not  
22    incapable.

23    \_\_\_\_\_  
24    (Signature of                                    (Printed name)

25    Representative/Date)

26    \_\_\_\_\_  
27    (Signature of Alternate                                    (Printed name)

28    Representative/Date)

29

30                                   NOTICE TO PERSON



1 MAKING A DECLARATION FOR  
2 MENTAL HEALTH TREATMENT

3 This is an important legal document. It creates a declaration for mental  
4 health treatment. Before signing this document, you should know these im-  
5 portant facts:

6 This document allows you to make decisions in advance about certain  
7 types of mental health treatment: psychoactive medication, short-term (not  
8 to exceed [17 days] **the number of days you indicate above**) admission to  
9 a treatment facility, convulsive treatment and outpatient services. Outpa-  
10 tient services are mental health services provided by appointment by licensed  
11 professionals and programs. The instructions that you include in this decla-  
12 ration will be followed only if a court or two physicians believe that you are  
13 incapable of making treatment decisions. Otherwise, you will be considered  
14 capable to give or withhold consent for the treatments. Your instructions  
15 may be overridden if you are being held pursuant to civil commitment law.

16 You may also appoint a person as your representative to make treatment  
17 decisions for you if you become incapable. The person you appoint has a duty  
18 to act consistently with your desires as stated in this document or, if not  
19 stated, as otherwise known by the representative. If your representative does  
20 not know your desires, he or she must make decisions in your best interests.  
21 For the appointment to be effective, the person you appoint must accept the  
22 appointment in writing. The person also has the right to withdraw from  
23 acting as your representative at any time. A “representative” is also referred  
24 to as an “attorney-in-fact” in state law but this person does not need to be  
25 an attorney at law.

26 This document will continue in effect for a period of three years unless  
27 you become incapable of participating in mental health treatment decisions.  
28 If this occurs, the directive will continue in effect until you are no longer  
29 incapable.

30 You have the right to revoke this document in whole or in part at any

1 time you have not been determined to be incapable. **ONCE YOU ARE IN-**  
2 **CAPABLE, YOU MAY ONLY [NOT] REVOKE THIS DECLARATION**  
3 **[WHEN YOU ARE CONSIDERED INCAPABLE BY A COURT OR TWO**  
4 **PHYSICIANS.] IF YOU STATE IN THIS DECLARATION THAT YOU**  
5 **WANT TO BE ABLE TO REVOKE IT AT ANY TIME.** A revocation is  
6 effective when it is communicated to your attending physician or other pro-  
7 vider.

8 If there is anything in this document that you do not understand, you  
9 should ask a lawyer to explain it to you. This declaration will not be valid  
10 unless it is signed by two qualified witnesses who are personally known to  
11 you and who are present when you sign or acknowledge your signature.

#### 12 NOTICE TO PHYSICIAN OR PROVIDER

13 Under Oregon law, a person may use this declaration to provide consent  
14 for mental health treatment or to appoint a representative to make mental  
15 health treatment decisions when the person is incapable of making those  
16 decisions. A person is “incapable” when, in the opinion of a court or two  
17 physicians, the person’s ability to receive and evaluate information effec-  
18 tively or communicate decisions is impaired to such an extent that the per-  
19 son currently lacks the capacity to make mental health treatment decisions.  
20 This document becomes operative when it is delivered to the person’s physi-  
21 cian or other provider and remains valid until revoked or expired. Upon be-  
22 ing presented with this declaration, a physician or provider must make it a  
23 part of the person’s medical record. When acting under authority of the  
24 declaration, a physician or provider must comply with it to the fullest extent  
25 possible. If the physician or provider is unwilling to comply with the decla-  
26 ration, the physician or provider may withdraw from providing treatment  
27 consistent with professional judgment and must promptly notify the person  
28 and the person’s representative and document the notification in the person’s  
29 medical record. A physician or provider who administers or does not admin-  
30 ister mental health treatment according to and in good faith reliance upon

1 the validity of this declaration is not subject to criminal prosecution, civil  
2 liability or professional disciplinary action resulting from a subsequent  
3 finding of the declaration's invalidity.

4 “

---

5  
6 **“CONFORMING AMENDMENTS**

7  
8 **“SECTION 19.** ORS 426.060 is amended to read:

9 “426.060. (1) Commitments to the Oregon Health Authority shall be made  
10 only by the judge of a circuit court in a county of this state.

11 “(2) The following is a nonexclusive list of powers the authority may ex-  
12 ercise concerning the placement of persons committed or persons receiving  
13 emergency care and treatment under ORS 426.070, 426.228 to 426.235 or  
14 [426.237] **section 2 of this 2025 Act:**

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

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

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

25 “(B) If the transfer is from a facility in one class to a facility in a less  
26 restrictive class, by following the procedures for trial visits under ORS  
27 426.273; and

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

30 “(c) At any time, for good cause and in the best interest of the person

1 with mental illness, the authority may transfer a person receiving emergency  
2 care and treatment under ORS 426.070 or 426.228 to 426.235, or [*intensive*  
3 *treatment under ORS 426.237*] **diversion from commitment under section**  
4 **2 of this 2025 Act**, between hospitals and nonhospital facilities approved by  
5 the authority to provide emergency care or treatment as defined by rule of  
6 the authority.

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

11 **“SECTION 20.** ORS 426.072 is amended to read:

12 “426.072. (1) A hospital or nonhospital facility must comply with pro-  
13 visions of subsection (2) of this section when a person alleged to have a  
14 mental illness is placed in custody at the hospital or nonhospital facility:

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

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

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

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

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

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

26 “(c) All methods of treatment, including the prescription and adminis-  
27 tration of drugs, shall be the sole responsibility of the treating licensed in-  
28 dependent practitioner. However, the person [*shall not be subject to*  
29 *electroshock therapy or unduly hazardous treatment*] **may not be subjected**  
30 **to unusual or hazardous treatment procedures, including convulsive**

1 **therapy**, and shall receive usual and customary treatment in accordance  
2 with medical standards in the community.

3 “(d) The treating licensed independent practitioner shall be notified im-  
4 mediately of any seclusion of the person or use of mechanical restraints on  
5 the person. Every use of seclusion or mechanical restraint and the reasons  
6 for the use shall be made a part of the clinical record of the person over the  
7 signature of the treating licensed independent practitioner.

8 “(e) The treating licensed independent practitioner shall give the person  
9 the warning under ORS 426.123 at times the treating licensed independent  
10 practitioner determines the person will reasonably understand the notice.  
11 This paragraph only requires the notice to be given as often as the licensed  
12 independent practitioner determines is necessary to assure that the person  
13 is given an opportunity to be aware of the notice.

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

17 **“SECTION 21.** ORS 426.155 is amended to read:

18 “426.155. (1) The provisions of this section apply to the release of infor-  
19 mation about a person who is held in custody either pending a commitment  
20 proceeding under ORS 426.070, 426.140, 426.228, 426.232[,] **or** 426.233 [*or*  
21 *426.237 (1)(b)*] **or section 2 of this 2025 Act** or while committed or recom-  
22 mitted under ORS 426.005 to 426.390.

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

28 “(3)(a) If a person described in subsection (1) of this section authorizes  
29 disclosure as provided in subsection (5) of this section, upon request of a  
30 member of the family of the person, or any other designee of the person, a

1 facility or nonhospital facility where the person is held shall provide the  
2 family member or the designee with the following information:

3 “(A) The person’s diagnosis;

4 “(B) The person’s prognosis;

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

7 “(D) The person’s progress;

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

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

11 “(b) If a request for information is made under this subsection and the  
12 person is unable to authorize disclosure as provided in subsection (5) of this  
13 section, the requester shall be provided notice of the presence of the person  
14 in any facility or nonhospital facility. Information shall not be provided un-  
15 der this paragraph if the licensed independent practitioner who is treating  
16 the person determines that it would not be in the person’s best interest to  
17 provide the information or if providing the information is prohibited by fed-  
18 eral law.

19 “(4) Upon the admission of any person to a facility or nonhospital facility  
20 under ORS 426.005 to 426.390, the facility or nonhospital facility shall make  
21 reasonable attempts to notify the person’s next of kin, or any other designee  
22 of the person, of the person’s admission, unless the person requests that this  
23 information not be provided. The facility or nonhospital facility shall make  
24 reasonable attempts to notify the person’s next of kin, or any other designee  
25 of the person, of the person’s release, transfer, serious illness, injury or death  
26 upon request of the family member or designee, unless the person requests  
27 that this information not be provided. The person shall be advised by the  
28 facility or nonhospital facility that the person has the right to request that  
29 this information not be provided.

30 “(5) The person who is held in custody shall be notified by the facility

1 or nonhospital facility that information about the person has been requested.  
2 Except as provided in subsection (3) of this section, the consent of the person  
3 who is held is required for release of information under subsections (3) and  
4 (4) of this section. If, when initially informed of the request for information,  
5 the person is unable to give voluntary and informed consent to authorize the  
6 release of information, notation of the attempt shall be made in the person's  
7 treatment record and daily efforts shall be made to secure the person's con-  
8 sent or refusal of authorization.

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

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

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

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

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

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

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

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

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

27 “(8) A facility or nonhospital facility, including the staff of such facilities  
28 and nonhospital facilities, that releases information under this section or  
29 rules adopted under ORS 426.236 may not be held civilly or criminally liable  
30 for damages caused or alleged to be caused by the release of information or

1 the failure to release information as long as the release was done in good  
2 faith and in compliance with subsections (3) and (4) of this section or rules  
3 adopted under ORS 426.236.

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

8 **“SECTION 22.** ORS 426.160 is amended to read:

9 “426.160. (1) The court having jurisdiction over any proceeding conducted  
10 pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to  
11 426.292, 426.300 to 426.309, 426.385, 426.395, 426.701 and 426.702 may not dis-  
12 close any part of the record of the proceeding or commitment to any person  
13 except:

14 “(a) The court shall, pursuant to rules adopted by the Department of State  
15 Police, transmit the minimum information necessary, as defined in ORS  
16 181A.290, to the Department of State Police for persons described in ORS  
17 181A.290 (1)(a) or (b) to enable the department to access and maintain the  
18 information and transmit the information to the federal government as re-  
19 quired under federal law;

20 “(b) As provided in ORS 426.070 [(5)(c)] **(5)(e) and (f)**, 426.130 (3) or  
21 426.170;

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

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

25 “(e) Pursuant to court order.

26 “(2) In any proceeding described in subsection (1) of this section that is  
27 before the Supreme Court or the Court of Appeals, the limitations on dis-  
28 closure imposed by this section apply to the appellate court record and to  
29 the trial court record while it is in the appellate court’s custody. The ap-  
30 pellate court may disclose information from the trial or appellate court re-



cord in a decision, as defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for protecting against public disclosure the identity of the person subject to the proceeding.

**“SECTION 23.** ORS 426.223 is amended to read:

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

**“SECTION 24.** ORS 426.234 is amended to read:

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

“(a) Inform the person of the person’s right to representation by or appointment of counsel as described in ORS 426.100;

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

“(c) Immediately examine the person;

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

“(e) If the licensed independent practitioner, nurse or qualified mental health professional reasonably suspects that the person is a foreign national, inform the person of the person’s right to communicate with an official from the consulate of the person’s country. A licensed independent practitioner, nurse or qualified mental health professional is not civilly or criminally li-

1 able for failure to provide the information required by this paragraph. Fail-  
2 ure to provide the information required by this paragraph does not in itself  
3 constitute grounds for the exclusion of evidence that would otherwise be  
4 admissible in a proceeding.

5 “(2)(a) At the time the person is admitted to or retained in a hospital  
6 under ORS 426.232, the licensed independent practitioner shall contact the  
7 community mental health program director of the county in which the person  
8 resides, if the county of residence is different from the county in which the  
9 hospital is located. The community mental health program director may re-  
10 quest that the licensed independent practitioner notify the circuit court in  
11 the county in which the person resides. If the community mental health  
12 program director does not make the request, the licensed independent prac-  
13 titioner shall notify, immediately and in writing, the circuit court in the  
14 county in which the person is hospitalized.

15 “(b) At the time the person is admitted to a hospital under ORS 426.232  
16 after being brought to the hospital by a peace officer under ORS 426.228, the  
17 licensed independent practitioner shall contact the community mental health  
18 program director of the county in which the person is hospitalized. The  
19 community mental health program director of the county in which the person  
20 is hospitalized may request that the licensed independent practitioner notify  
21 the circuit court in the county in which the person is hospitalized. If the  
22 community mental health program director does not make the request, the  
23 licensed independent practitioner shall notify, immediately and in writing,  
24 the circuit court in the county in which the person was taken into custody.

25 “(c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the  
26 licensed independent practitioner responsible for a person admitted or re-  
27 tained under ORS 426.232 determines that the person is not dangerous to self  
28 or to any other person and is not in need of emergency care or treatment for  
29 mental illness, the licensed independent practitioner may release the person  
30 from the detention authorized by ORS 426.232. The licensed independent

1 practitioner shall immediately notify the circuit court notified under this  
2 subsection and the community mental health program director of the person's  
3 release from detention.

4 “(3)(a) At the time the person is admitted to or retained in a nonhospital  
5 facility under ORS 426.233, the community mental health program director  
6 in the county where the person was taken into custody shall contact the  
7 community mental health program director of the county in which the person  
8 resides, if the county of residence is different from the county in which the  
9 person was taken into custody. The community mental health program di-  
10 rector of the county in which the person resides may request that the com-  
11 munity mental health program director of the county in which the person  
12 was taken into custody notify the circuit court in the county where the  
13 person resides. Otherwise, the community mental health program director of  
14 the county in which the person was taken into custody shall notify, imme-  
15 diately and in writing, the circuit court in the county in which the person  
16 was taken into custody.

17 “(b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a  
18 community mental health program director, after consultation with a li-  
19 censed independent practitioner, determines that a person admitted or re-  
20 tained under ORS 426.233 is not dangerous to self or to any other person and  
21 is not in need of immediate care, custody or treatment for mental illness, the  
22 community mental health program director may release the person from de-  
23 tention. The community mental health program director shall immediately  
24 notify the circuit court originally notified under paragraph (a) of this sub-  
25 section of the person's release from detention.

26 “(4) When the judge of the circuit court receives notice under subsection  
27 (2) or (3) of this section, the judge immediately shall commence proceedings  
28 under ORS 426.070 to 426.130. In a county having a population of 100,000 or  
29 more, and when feasible in a county with a lesser population, the community  
30 mental health program director or designee who directs the peace officer or

1 other authorized individual to take a person into custody under ORS 426.233  
2 [shall] **may** not also conduct the investigation as provided for under ORS  
3 426.074. Except when a person is [being held under ORS 426.237 (1)(b)] **par-**  
4 **ticipating in diversion from commitment under section 2 of this 2025**  
5 **Act**, a person [shall] **may** not be held under ORS 426.232 or 426.233 for more  
6 than five judicial days without a hearing being held under ORS 426.070 to  
7 426.130.

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

13 **“SECTION 25.** ORS 426.235 is amended to read:

14 “426.235. (1) The community mental health program director may transfer  
15 a person in custody under ORS 426.232[,] **or** 426.233 or [426.237 (1)(b)] **section**  
16 **2 of this 2025 Act** to a hospital or nonhospital facility approved by the  
17 Oregon Health Authority at any time during the period of detention.

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

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

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

30 “(5) When a person is transferred under this section, the community

1 mental health program director shall notify immediately the court notified  
2 under ORS 426.234 (2) or (3) of the fact of the transfer and of the location  
3 of the person.

4 **“SECTION 26.** ORS 426.238 is amended to read:

5 “426.238. The Oregon Health Authority may assign classifications, as de-  
6 fined by rule of the authority, to facilities that provide care and treatment  
7 for persons committed to the authority under ORS 426.130 or provide emer-  
8 gency care or treatment for persons pursuant to ORS 426.070[,] **or** 426.228 to  
9 426.235 or [426.237] **section 2 of this 2025 Act.** The authority may authorize  
10 a facility to retake custody of a person who unlawfully leaves a facility as  
11 provided in ORS 426.223.

12 **“SECTION 27.** ORS 426.241 is amended to read:

13 “426.241. (1) The cost of emergency psychiatric care, custody and treat-  
14 ment related to or resulting from such psychiatric condition, provided by a  
15 hospital or other facility approved by the Oregon Health Authority and the  
16 community mental health program director of the county in which the fa-  
17 cility is located, except a state hospital, for a person alleged to have a  
18 mental illness who is admitted or detained under ORS 426.070, 426.140,  
19 426.228, 426.232 or 426.233, or for a person with mental illness who is admit-  
20 ted or detained under ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall  
21 be paid by the community mental health program in the county of which the  
22 person is a resident from state funds provided to the community mental  
23 health program for this purpose. The community mental health program is  
24 responsible for the cost when state funds provided to the community mental  
25 health program are exhausted. The hospital or other facility shall charge to  
26 and collect from the person, third party payers or other legally or financially  
27 responsible individuals or entities the costs of the emergency care, custody  
28 and treatment, as it would for any other patient, and any funds received  
29 shall be applied as an offset to the cost of the services provided under this  
30 section.

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

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

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

19 “(5)(a) The authority may deny payment for part or all of the emergency  
20 psychiatric services provided by a hospital or nonhospital facility under ORS  
21 426.232[,] or 426.233 or [426.237] **section 2 of this 2025 Act** when the au-  
22 thority finds, upon review, that the condition of the person alleged to have  
23 a mental illness did not meet the admission criteria in ORS 426.232 (1)[,] **or**  
24 426.233 (1) or [426.237 (1)(b)(A)] **section 2 (1)(a) of this 2025 Act**. The payer  
25 responsible under this section shall make a request for denial of payment for  
26 emergency psychiatric services provided under ORS 426.232[,] **or** 426.233 or  
27 [426.237] **section 2 of this 2025 Act** in writing to the authority.

28 “(b) The authority may require the following to provide the authority  
29 with any information that the authority determines is necessary to review  
30 a request for denial of payment made under this subsection or to conduct a

1 review of emergency psychiatric services for the purpose of planning or de-  
2 fining authority rules:

3 “(A) A hospital or nonhospital facility approved under ORS 426.228 to  
4 426.235 or [426.237] **section 2 of this 2025 Act.**

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

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

9 **“SECTION 28.** ORS 426.385 is amended to read:

10 “426.385. (1) Every person with mental illness committed to the Oregon  
11 Health Authority shall have the right to:

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

13 “(b) Send and receive sealed mail, except that this right may be limited  
14 for security reasons in state institutions as described in ORS 426.010;

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

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

17 “(e) Religious freedom;

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

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

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

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

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

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

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

30 “(m) Daily access to fresh air and the outdoors, except that this right may

1 be limited when it would create significant risk of harm to the person or  
2 others;

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

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

7 “(p) Exercise all civil rights in the same manner and with the same effect  
8 as one not admitted to the facility, including, but not limited to, the right  
9 to dispose of real property, execute instruments, make purchases, enter con-  
10 tractual relationships, and vote, unless the person has been adjudicated in-  
11 competent and has not been restored to legal capacity. Disposal of personal  
12 property in possession of the person in a state institution described in ORS  
13 426.010 is subject to limitation for security reasons.

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

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

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

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

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

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

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

30 “(3) A person with mental illness committed to the authority shall have



1 the right to be free from potentially unusual or hazardous treatment proce-  
2 dures, including convulsive therapy, unless the person has given express and  
3 informed consent or authorized the treatment pursuant to **a declaration for**  
4 **mental health treatment described in** ORS 127.700 to 127.737. This right  
5 may be denied to a person for good cause as defined in administrative rule  
6 only by the director of the facility in which the person is confined, but only  
7 after consultation with and approval of an independent examining physician.  
8 Any denial shall be entered into the person's treatment record and shall in-  
9 clude the reasons for the denial. A person with mental illness may not be  
10 subjected to psychosurgery, as defined in ORS 677.190 (21)(b).

11 “(4) Mechanical restraints [*shall*] **may** not be applied to a person admit-  
12 ted to a facility unless it is determined by the chief medical officer of the  
13 facility or designee to be required by the medical needs of the person. Every  
14 use of a mechanical restraint and the reasons for using a mechanical re-  
15 straint shall be made a part of the clinical record of the person over the  
16 signature of the chief medical officer of the facility or designee.

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

20 “(6) As used in this section:

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

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

25  
26 **“MISCELLANEOUS**

27  
28 **“SECTION 29. Captions. The unit and section captions used in this**  
29 **2025 Act are provided only for the convenience of the reader and do**  
30 **not become part of the statutory law of this state or express any leg-**

islative intent of this 2025 Act.

**“SECTION 30. Applicability.** Sections 2, 4 and 13 of this 2025 Act and the amendments to ORS 127.700, 127.702, 127.710, 127.722, 127.736, 426.060, 426.070, 426.072, 426.074, 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 by sections 5 to 11 and 14 to 28 of this 2025 Act apply to:

**“(1) Individuals receiving mental health treatment on or after the effective date of this 2025 Act.**

**“(2) Declarations for mental health treatment executed on or after the effective date of this 2025 Act.”.**

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