

HB 2488-4
(LC 2844)
5/7/25 (LAS/JLM/ps)

Requested by JOINT COMMITTEE ON ADDICTION AND COMMUNITY SAFETY RESPONSE

**PROPOSED AMENDMENTS TO
HOUSE BILL 2488**

In line 2 of the printed bill, after “commitment” insert “; creating new provisions; and amending ORS 127.700, 127.736, 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, 426.385 and 426.701”.

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 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 be 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 authority by rule.**

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

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

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

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

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

27 **“(c) If the person and the person’s legal counsel consent to the offer**
28 **of diversion from commitment as set forth in the notice, the court**
29 **shall postpone the hearing required by ORS 426.070 to 426.170 for 14**
30 **days from the date of consent.**

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

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

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

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

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

30 “(i) If, in the opinion of a licensed independent practitioner, the

1 person's condition requires the person to receive medical care or
2 treatment in a hospital; and

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

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

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

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

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

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

19 “(C) Conferred with the person's next of kin to the extent allowed
20 under ORS 192.567.

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

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

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

27 “(C) Conferred with the person's next of kin, if the person con-
28 sented to the consultation.

29 “(7) Immediately upon a person's discharge from the diversion from
30 commitment:

1 “(a) If the person was discharged from a hospital pursuant to sub-
2 section (6)(a) of this section, the community mental health program
3 director shall notify the circuit court in the county in which the notice
4 under subsection (2) of this section was initially filed.

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

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

15 “(9) When the circuit court receives notification under subsection
16 (7) or (8) of this section, the court shall dismiss the case.

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

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

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

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

29 “(11) The judge of the circuit court shall immediately commence
30 proceedings under ORS 426.070 to 426.170 when the person consenting

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

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

12 “**SECTION 3.** 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.

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

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

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

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

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

1 the two persons:

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

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

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

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

11 “(a) **Immediately notify the person alleged to have a mental illness**
12 **that the court will appoint legal counsel as provided in ORS 426.100 for**
13 **the person and ascertain the person’s preferences regarding appoint-**
14 **ment of counsel.**

15 “[a)] (b) Immediately notify the judge of the court having jurisdiction for
16 that county under ORS 426.060 of the notification described in subsections
17 (1) and (2) of this section **and paragraph (a) of this subsection and the**
18 **person’s preferences regarding appointment of counsel.**

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

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

29 “(4) Upon completion, a recommendation based upon the investigation
30 report under ORS 426.074 shall be promptly submitted to the court. If the

1 community mental health program director determines that probable cause
2 does not exist to believe that a person released from detention under ORS
3 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental
4 health program director may recommend assisted outpatient treatment in
5 accordance with ORS 426.133.

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

7 “(a) If the court, following the investigation, concludes that there is
8 probable cause to believe that the person investigated is a person with
9 mental illness, it shall, through the issuance of a citation as provided in ORS
10 426.090, cause the person to be brought before it at a time and place as it
11 may direct, for a hearing under ORS 426.095 to determine whether the person
12 is a person with mental illness. The person shall be given the opportunity
13 to appear voluntarily at the hearing unless the person fails to appear or
14 unless the person is detained pursuant to paragraph (b) of this subsection.

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

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

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

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

29 “(iii) The person’s right, if the community mental health program direc-
30 tor, sheriff or designee reasonably suspects that the person is a foreign na-

1 tional, to communicate with an official from the consulate of the person's
2 country. A community mental health program director, sheriff or designee is
3 not civilly or criminally liable for failure to provide the information required
4 by this sub-subparagraph. Failure to provide the information required by this
5 sub-subparagraph does not in itself constitute grounds for the exclusion of
6 evidence that would otherwise be admissible in a proceeding.

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

9 “(c) If the notice includes a request under subsection (2)(d)(A) of this
10 section, the court shall notify the two persons of the issuance or nonissuance
11 of a warrant under this subsection.

12 **“SECTION 4.** ORS 426.070, as amended by section 3 of this 2025 Act, is
13 amended to read:

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

17 “(a) Two persons;

18 “(b) The local health officer; or

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

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

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

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

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

30 “(d) If the commitment proceeding is initiated by two persons under sub-

1 section (1)(a) of this section, it may include a request that the court notify
2 the two persons:

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

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

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

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

12 “(a) Immediately notify the person alleged to have a mental illness that
13 the court will appoint legal counsel as provided in ORS 426.100 for the per-
14 son and ascertain the person’s preferences regarding appointment of counsel.

15 “(b) Immediately notify the judge of the court having jurisdiction for that
16 county under ORS 426.060 of the notification described in subsections (1) and
17 (2) of this section and paragraph (a) of this subsection and the person’s
18 preferences regarding appointment of counsel.

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

25 “(d) Initiate an investigation under ORS 426.074 to determine whether
26 there is probable cause to believe that the person is in fact a person with
27 mental illness.

28 “(4) Upon completion, a recommendation based upon the investigation
29 report under ORS 426.074 shall be promptly submitted to the court. If the
30 community mental health program director determines that probable cause

1 does not exist to believe that a person released from detention under ORS
2 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental
3 health program director may recommend assisted outpatient treatment in
4 accordance with ORS 426.133.

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

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

8 “[a)] (b) If the court, following the investigation, concludes that there
9 is probable cause to believe that the person investigated is a person with
10 mental illness, it shall, through the issuance of a citation as provided in ORS
11 426.090, cause the person to be brought before it at a time and place as it
12 may direct, for a hearing under ORS 426.095 to determine whether the person
13 is a person with mental illness. The person shall be given the opportunity
14 to appear voluntarily at the hearing unless the person fails to appear or
15 unless the person is detained pursuant to paragraph [(b)] (c) of this sub-
16 section.

17 “[(b)(A)] (c)(A) If the court finds that there is probable cause to believe
18 that failure to take the person into custody pending the investigation or
19 hearing would pose serious harm or danger to the person or to others, the
20 court may issue a warrant of detention to the community mental health
21 program director or designee or the sheriff of the county or designee direct-
22 ing the director, sheriff or a designee to take the person alleged to have a
23 mental illness into custody and produce the person at the time and place
24 stated in the warrant.

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

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

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

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

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

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

14 “**SECTION 5.** ORS 426.074 is amended to read:

15 “426.074. The following is applicable to an investigation initiated by a
16 community mental health program director, or a designee of the director, as
17 part of commitment procedures under ORS 426.070 and 426.228 to 426.235:

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

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

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

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

30 “(B) An application for extension shall be made to the court under para-

1 graph (c) of this subsection.

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

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

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

8 “(d) A court may grant an extension under paragraph (c) of this sub-
9 section for a time and upon the terms and conditions the court considers
10 appropriate.

11 “(2) This subsection establishes a nonexclusive list of provisions applica-
12 ble to the content of the investigation, as follows:

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

16 “(b) Whether or not the person consents, the investigation should include
17 interviews with any individuals that the investigator has probable cause to
18 believe have pertinent information regarding the investigation. If the person
19 objects to the contact with any individual, the objection shall be noted in
20 the investigator’s report.

21 “(c) The investigator shall be allowed access to licensed independent
22 practitioners, nurses or social workers and to medical records compiled dur-
23 ing the current involuntary prehearing period of detention to determine
24 probable cause and to develop alternatives to commitment. If commitment is
25 proposed because the person appears to be a person with mental illness as
26 defined in ORS 426.005 (1)(f)(C), the investigator shall be allowed access to
27 medical records necessary to verify the existence of criteria described in ORS
28 426.005 (1)(f)(C). The investigator shall include pertinent parts of the medical
29 record in the investigation report. Records and communications described
30 in this paragraph and related communications are not privileged under ORS

1 40.230, 40.235, 40.240 or 40.250.

2 “(3) A copy of the investigation report shall be provided as soon as pos-
3 sible, but in no event later than 24 hours prior to the hearing, to the person
4 and to the person’s counsel. Copies shall likewise be provided to counsel
5 assisting the court, to the examiners and to the court for use in questioning
6 witnesses.

7 **“(4) If an investigator has reasonable cause to believe that a person**
8 **subject to investigation under this section has a declaration for mental**
9 **health treatment as described in ORS 127.700 to 127.737, the investi-**
10 **gator shall:**

11 **“(a) Immediately provide the person subject to investigation and**
12 **the person’s attorney, if any, with information about the process un-**
13 **der section 15 of this 2025 Act for determinations of capacity and re-**
14 **lated timelines.**

15 **“(b) If the declaration appoints an attorney-in-fact, as defined in**
16 **ORS 127.700, and the investigator is able to locate the attorney-in-fact:**

17 **“(A) Immediately notify the attorney-in-fact that the person subject**
18 **to investigation under this section has an active investigation;**

19 **“(B) Immediately notify the attorney-in-fact that the investigator**
20 **has reasonable cause to believe the person subject to investigation has**
21 **a declaration for mental health treatment;**

22 **“(C) Immediately provide the attorney-in-fact with a notice of the**
23 **person’s legal right to counsel and that legal counsel will be appointed**
24 **by the court as provided in ORS 426.100; and**

25 **“(D) Immediately provide the attorney-in-fact with a copy of the**
26 **information provided under paragraph (a) of this subsection.**

27 **“(c)(A) Immediately notify the court that the investigator has rea-**
28 **sonable cause to believe that the person who is the subject of the in-**
29 **vestigation has executed a declaration for mental health treatment**
30 **and provide the court with all information then available to the in-**

1 vestigator regarding the declaration, including information regarding
2 the factors relevant to a determination of incapacity as described in
3 section 15 of this 2025 Act; and

4 “(B) Serve a copy of the notification and information provided to
5 the court on:

6 “(i) Attorneys representing the state, as described in ORS 426.100;

7 “(ii) The person subject to investigation and the person’s attorney,
8 if any; and

9 “(iii) The person’s attorney-in-fact, if any, described in paragraph
10 (b) of this subsection.

11 “(5) When, after providing the court with notice under subsection
12 (4) of this section, the investigator receives a judgment described in
13 section 15 of this 2025 Act:

14 “(a) If the court does not determine that the person subject to in-
15 vestigation is incapable for purposes of ORS 127.700 to 127.737, the in-
16 vestigation shall continue as provided in subsections (1) to (3) of this
17 section.

18 “(b) If the court determines that the person is incapable for pur-
19 poses of ORS 127.700 to 127.737:

20 “(A) The investigator shall, after consultation with the licensed in-
21 dependent practitioner who is treating the person, notify the court
22 regarding whether the investigator and the licensed independent
23 practitioner agree that the treatment that is authorized under the
24 declaration for mental health treatment is sufficient and available.

25 “(B) If the investigator and the treating licensed independent prac-
26 titioner agree that the treatment that is authorized under the decla-
27 ration for mental health treatment is sufficient and available, and the
28 court agrees, the court shall release the person from the warrant of
29 detention, if applicable, dismiss the case and provide written findings
30 in the judgment of dismissal supporting the reasons for dismissal.

1 “(C) If the investigator and the treating licensed independent prac-
2 titioner agree that the treatment that is authorized by the declaration
3 for mental health treatment is insufficient or unavailable, or if the
4 investigator and the treating licensed independent practitioner do not
5 agree, the investigation shall continue as provided in subsections (1)
6 to (3) of this section.

7 “(6) A finding of incapacity under section 15 of this 2025 Act may
8 not be used as evidence that a person subject to investigation is a
9 person with mental illness. However, evidence supporting a determi-
10 nation of incapacity under section 15 of this 2025 Act or evidence of a
11 declaration of mental health treatment may be considered by the court
12 as the court deems relevant for any determinations made under ORS
13 426.005 to 426.390.

14 “**SECTION 6.** ORS 426.237 is amended to read:

15 “426.237. (1) During a prehearing period of detention as provided in ORS
16 426.070, 426.140, 426.232 or 426.233, the community mental health program
17 director shall do one of the following:

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

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

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

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

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

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

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

9 **“(b) File a notice of the offer of diversion from commitment de-**
10 **scribed in section 2 of this 2025 Act.**

11 “(c) Recommend, in an investigation report as provided in ORS 426.074,
12 that the circuit court hold a hearing under ORS 426.070 to [426.130] **426.170**
13 if the community mental health program director has probable cause to be-
14 lieve the person is a person with mental illness or that the person is in need
15 of assisted outpatient treatment.

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

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

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

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

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

30 “(A) *Deliver immediately a certificate to the court having jurisdiction un-*

1 *der ORS 426.060; and]*

2 *“[(B) Orally inform the person of the certification and deliver a copy of the*
3 *certificate to the person.]*

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

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

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

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

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

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

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

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

1 “(A) *Except as otherwise provided in this paragraph, all methods of*
2 *treatment, including the prescription and administration of drugs, shall be the*
3 *sole responsibility of the licensed independent practitioner who is treating the*
4 *person. However, the person shall not be subject to electroshock therapy or*
5 *unduly hazardous treatment and shall receive usual and customary treatment*
6 *in accordance with medical standards in the community.*”]

7 “(B) *Except when the person expressly refuses treatment, the treating li-*
8 *censed independent practitioner shall treat the person within the scope of the*
9 *treatment plan provided the person under paragraph (b) of this subsection. The*
10 *person’s refusal of treatment constitutes sufficient grounds for the community*
11 *mental health program director to request a hearing as provided in subsection*
12 *(4)(a) of this section.*”]

13 “(C) *If the person is in a hospital and the community mental health pro-*
14 *gram director locates a nonhospital facility, approved by the authority, that,*
15 *in the opinion of the community mental health program director and the li-*
16 *censed independent practitioner who is treating the person, can provide care*
17 *or treatment for mental illness necessary and sufficient to meet the emergency*
18 *psychiatric needs of the person, the treating licensed independent practitioner*
19 *shall discharge the person from the hospital and the community mental health*
20 *program director shall remove the person to the nonhospital facility for the*
21 *remainder of the 14-day intensive treatment period. If, however, in the opinion*
22 *of the treating licensed independent practitioner, the person’s condition re-*
23 *quires the person to receive medical care or treatment, the licensed independent*
24 *practitioner shall retain the person in the hospital.*”]

25 “(D) *If the person is in a nonhospital facility, the community mental health*
26 *program director shall transfer the person to a hospital approved by the au-*
27 *thority under the following conditions:*”]

28 “(i) *If, in the opinion of a licensed independent practitioner, the person’s*
29 *condition requires the person to receive medical care or treatment in a hospital;*
30 *and]*

1 “(ii) *The licensed independent practitioner agrees to admit the person to*
2 *a hospital, approved by the authority, where the licensed independent practi-*
3 *tioner has admitting privileges.]*

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

9 “[(e) *If the person is in a hospital, the licensed independent practitioner*
10 *who is treating the person may discharge the person at any time during the*
11 *14-day period. The treating licensed independent practitioner shall confer with*
12 *the community mental health program director and the person’s next of kin,*
13 *if the person consents to the consultation, prior to discharging the person.*
14 *Immediately upon discharge of the person, the treating licensed independent*
15 *practitioner shall notify the court in the county in which the certificate was*
16 *filed initially.]*

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

25 “[(g) *The person may agree to voluntary treatment at any time during the*
26 *14-day period. When a person agrees to voluntary treatment under this para-*
27 *graph, the community mental health program director immediately shall notify*
28 *the court in the county in which the certificate was filed initially.]*

29 “[(h) *A person consenting to 14 days of treatment under subsection (3)(c)*
30 *of this section shall not be held longer than 14 days from the time of consent-*

1 *ing without a hearing as provided in ORS 426.070 to 426.130.]*

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

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

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

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

14 **“SECTION 7.** ORS 426.090 is amended to read:

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

1 **“APPOINTMENT OF COUNSEL**

2
3 **“SECTION 8. Attorney recruitment and training. The Oregon Public**
4 **Defense Commission shall study and implement methods for increas-**
5 **ing recruitment and training for attorneys specializing in civil com-**
6 **mitment. The commission shall submit a report in the manner**
7 **provided by ORS 192.245, and may include recommendations for legis-**
8 **lation, to the interim committees of the Legislative Assembly related**
9 **to the judiciary and behavioral health no later than September 15,**
10 **2026.**

11 **“SECTION 9. Section 8 of this 2025 Act is repealed on January 2,**
12 **2027.**

13 **“SECTION 10. ORS 426.100 is amended to read:**

14 “426.100. (1) At the time the person alleged to have a mental illness is
15 brought before the court, the court shall advise the person of the following:

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

17 “(b) The nature of the proceedings;

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

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

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

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

24 **“(a) When notice of probable cause to believe the person is a person**
25 **with mental illness has been filed with the court as provided in ORS**
26 **426.070.**

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

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

30 “[(c)] **(d)** When the person is detained as provided under ORS 426.228,

1 426.232 or 426.233.

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

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

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

9 “(b) If the person is determined to be financially eligible for appointed
10 counsel at state expense, the court will appoint legal counsel to represent
11 the person. If counsel is appointed at state expense, payment of expenses and
12 compensation relating to legal counsel shall be made as provided under ORS
13 426.250.

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

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

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

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

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

30 **“(a) The person is already represented by an attorney; or**

1 **“(b) The person expressly, knowingly and intelligently refuses ap-**
2 **pointment of counsel.**

3 **“(5) If the court appoints counsel for the person under subsection**
4 **(4) of this section:**

5 **“(a) The court shall order the person or the person’s estate to pay**
6 **attorney fees and costs for court-appointed counsel, if the person or**
7 **the person’s estate has sufficient funds to pay all or a portion of the**
8 **attorney fees and costs due; or**

9 **“(b) If the court determines that the person is financially eligible**
10 **for appointed counsel at state expense, the payment of expenses and**
11 **compensation related to legal counsel appointed under subsection (4)**
12 **of this section shall be made as provided under ORS 426.250.**

13 **“[(4)] (6) The responsibility for representing the state’s interest in com-**
14 **mitment proceedings, including, but not limited to, preparation of the state’s**
15 **case and appearances at commitment hearings is as follows:**

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

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

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

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

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

1 **“SECTION 11.** ORS 426.232 is amended to read:

2 “426.232. (1) If a licensed independent practitioner believes a person who
3 is brought to a hospital or nonhospital facility by a peace officer under ORS
4 426.228 or by an individual authorized under ORS 426.233, or believes a per-
5 son who is at a hospital or nonhospital facility, is dangerous to self or to
6 any other person and is in need of emergency care or treatment for mental
7 illness, and the licensed independent practitioner is not related to the person
8 by blood or marriage, the licensed independent practitioner may do one of
9 the following:

10 “(a) Detain the person and cause the person to be admitted or, if the
11 person is already admitted, cause the person to be retained in a hospital
12 where the licensed independent practitioner has admitting privileges or is
13 on staff.

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

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

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

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

29 **“SECTION 12.** ORS 426.301 is amended to read:

30 “426.301. (1) At the end of the 180-day period of commitment, any person

1 whose status has not been changed to voluntary shall be released unless the
2 Oregon Health Authority certifies to the court in the county where the
3 treating facility is located that the person is still a person with mental ill-
4 ness and is in need of further treatment. The authority, pursuant to its rules,
5 may delegate to the director of the treating facility the responsibility for
6 making the certification. The director of the treating facility shall consult
7 with the community mental health program director of the county of resi-
8 dence prior to making the certification. If the certification is made, the
9 person will not be released, but the director of the treating facility shall
10 immediately issue a copy of the certification to the person and to the com-
11 munity mental health program director of the county of residence.

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

16 *“[(3)] (2) The certification [shall] **must** advise the person of all the fol-*
17 *lowing:*

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

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

23 *“(c) That the person may protest this further period of commitment within*
24 *14 days, and if the person does not protest the further commitment, commit-*
25 *ment will be continued for an indefinite period of time up to 180 days.*

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

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

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

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

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

11 “[~~(4)~~] **(3)** Nothing in subsection [~~(3)~~] **(2)** of this section requires the giving
12 of the warning under ORS 426.123.

13 “**(4)(a) The director of the facility where the person is confined or**
14 **the director’s designee shall personally serve the copy of the certi-**
15 **fication on the person.**

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

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

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

24 “**(c)** If the person does not protest a further period of commitment within
25 14 days [*of*] **after receiving** service of the certification, the authority or fa-
26 cility shall so notify the court [*and*].

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

1 **“SECTION 13.** ORS 426.301, as amended by section 12 of this 2025 Act,
2 is amended to read:

3 “426.301. (1) At the end of the 180-day period of commitment, any person
4 whose status has not been changed to voluntary shall be released unless the
5 Oregon Health Authority certifies to the court in the county where the
6 treating facility is located that the person is still a person with mental ill-
7 ness and is in need of further treatment. The authority, pursuant to its rules,
8 may delegate to the director of the treating facility the responsibility for
9 making the certification. The director of the treating facility shall consult
10 with the community mental health program director of the county of resi-
11 dence prior to making the certification. If the certification is made, the
12 person will not be released, but the director of the treating facility shall
13 immediately issue a copy of the certification to the person and to the com-
14 munity mental health program director of the county of residence.

15 “(2) The certification must advise the person of all the following:

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

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

21 “(c) That the person may protest this further period of commitment within
22 14 days, and if the person does not protest the further commitment, commit-
23 ment will be continued for an indefinite period of time up to 180 days.

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

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

29 “(f) That the person is entitled to have a physician or other qualified
30 professional as recommended by the authority, other than a member of the

1 staff at the facility where the person is confined, examine the person and
2 report to the court the results of the examination.

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

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

9 “(3) Nothing in subsection (2) of this section requires the giving of the
10 warning under ORS 426.123.

11 “(4)(a) The director of the facility where the person is confined or the
12 director’s designee shall personally serve the copy of the certification on the
13 person.

14 “(b) The director of the facility shall file the certification with the court
15 and inform the court in writing that service has been made and the date
16 thereof.

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

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

22 “(c) If the person does not protest a further period of commitment within
23 14 days after receiving service of the certification, the authority or facility
24 shall so notify the court.

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

28 **“(b) Upon receiving the notification under subsection (5)(c) of this section**
29 **that the person does not protest the further period of commitment, the court**
30 **shall, without further hearing, order the commitment of the person for an**

1 additional indefinite period of time up to 180 days.

2
3 **“DECLARATION FOR MENTAL HEALTH TREATMENT**

4
5 **“SECTION 14. Section 15 of this 2025 Act is added to and made a**
6 **part of ORS 127.700 to 127.737.**

7 **“SECTION 15. Determination of incapacity. (1) A person is incapa-**
8 **ble for purposes of ORS 127.700 to 127.737 if:**

9 **“(a) The person’s ability to receive and evaluate information effec-**
10 **tively or communicate decisions is impaired to such an extent that the**
11 **person currently lacks capacity to make mental health treatment de-**
12 **cisions, taking into consideration such factors as those described in**
13 **subsection (2) of this section; and**

14 **“(b)(A) The court in a proceeding under this section has determined**
15 **that the person is incapable, as described under paragraph (a) of this**
16 **subsection; or**

17 **“(B) In the professional opinions of two individuals, each of whom**
18 **must be either a licensed independent practitioner, as defined in ORS**
19 **426.005, or a licensed psychologist, the person is incapable as described**
20 **in paragraph (a) of this subsection.**

21 **“(2) Information relevant to a determination of incapacity under**
22 **this section may include factors such as whether the person:**

23 **“(a) Understands the courses of available mental health treatment,**
24 **including the applicable risks and benefits of participating or not par-**
25 **ticipating in the treatment;**

26 **“(b) Understands the risks and benefits of alternative courses of**
27 **treatment, if any, that are preferred by the person;**

28 **“(c) Is able to identify nontreatment factors that may improve or**
29 **worsen the person’s mental health;**

30 **“(d) Is able to weigh and compare available treatment options based**

1 on information available to the person and the person's personal
2 preferences or values;

3 “(e) Is able to effectively communicate the person's preferred
4 treatment outcome;

5 “(f) Is able to identify rational reasons for the person's preferred
6 treatment outcome;

7 “(g) Is able to learn and incorporate into the person's decision-
8 making new information relevant to available treatment options;

9 “(h) Understands the impact of the person's preferred outcome on
10 important areas of the person's life, including relationships, housing,
11 ability to work or ability to exercise future civil rights; or

12 “(i) Is able to identify behaviors the person needs to adopt to
13 achieve the person's preferred treatment outcome.

14 “(3)(a) Any person, including the person whose capacity is being
15 determined, who is interested in the affairs or welfare of a respondent
16 may file a petition for a determination of capacity for purposes of a
17 respondent's declaration for mental health treatment in the circuit
18 court of the county in which the respondent resides or is present.

19 “(b) The petition must include a copy of the respondent's declara-
20 tion for mental health treatment and set forth:

21 “(A) The name of the respondent;

22 “(B) The names of the respondent's parents, spouse, legal guardian,
23 conservator or attorney-in-fact, if any;

24 “(C) A statement of the facts describing the respondent's alleged
25 capacity or incapacity;

26 “(D) A statement of facts indicating the likelihood that the re-
27 spondent, without mental health treatment, will have the ability to
28 make mental health treatment decisions in the foreseeable future;

29 “(E) A statement of the reasons for which a determination of ca-
30 pacity is sought; and

1 **“(F) The name and statement of interest of the person initiating the**
2 **petition or any person assisting the respondent with a self-initiated**
3 **petition.**

4 **“(c) The petitioner shall provide a copy of the petition to the re-**
5 **spondent and the respondent’s attorney, if any.**

6 **“(d) After providing the respondent with an opportunity to be heard**
7 **in person or through counsel, the court, upon receiving a petition**
8 **under paragraph (a) of this subsection or upon receiving notice from**
9 **an investigator under ORS 426.074, shall enter a judgment determining**
10 **by a preponderance of the evidence whether the respondent is incapa-**
11 **ble, as described in subsection (1)(a) of this section.**

12 **“(e) At the request of the petitioner or the respondent or on the**
13 **court’s own initiative, the court shall include written findings, by a**
14 **preponderance of the evidence, regarding:**

15 **“(A) Whether the respondent has executed a declaration for mental**
16 **health treatment;**

17 **“(B) Whether the respondent’s declaration was validly executed;**

18 **“(C) Whether the declaration has been revoked or has expired; and**

19 **“(D) What treatment is authorized or prohibited under the decla-**
20 **ration.**

21 **“(f) If the determination of capacity is made following notice from**
22 **an investigator under ORS 426.074:**

23 **“(A) The court shall enter the judgment under this section not later**
24 **than one judicial day after receiving the notice;**

25 **“(B) The court shall include the written findings described in para-**
26 **graph (e) of this subsection in the judgment; and**

27 **“(C) The court shall immediately provide the investigator with a**
28 **copy of the judgment.**

29 **“(4) A determination of incapacity under this section is applicable**
30 **solely to the validity of the respondent’s declaration and the authority**

1 **of the respondent's attorney-in-fact, if any, under the declaration, to**
2 **make mental health treatment decisions on the respondent's behalf.**

3 **"SECTION 16.** ORS 127.700, as amended by section 34, chapter 73, Oregon
4 Laws 2024, is amended to read:

5 "127.700. As used in ORS 127.700 to 127.737:

6 "(1) 'Attending physician' shall have the same meaning as provided in
7 ORS 127.505.

8 "(2) 'Attorney-in-fact' means an adult validly appointed under ORS
9 127.540, 127.700 to 127.737 and 426.385 to make mental health treatment de-
10 cisions for a principal under a declaration for mental health treatment and
11 also means an alternative attorney-in-fact.

12 "(3) 'Declaration' means a document making a declaration of preferences
13 or instructions regarding mental health treatment.

14 "(4) 'Health care facility' shall have the same meaning as provided in ORS
15 127.505.

16 "(5) 'Health care provider' shall have the same meaning as provided in
17 ORS 127.505.

18 "(6) 'Incapable' [*means that, in the opinion of the court in a protective*
19 *proceeding under ORS chapter 125, or the opinion of two physicians, a person's*
20 *ability to receive and evaluate information effectively or communicate decisions*
21 *is impaired to such an extent that the person currently lacks the capacity to*
22 *make mental health treatment decisions*] **has the meaning described in**
23 **section 15 of this 2025 Act.**

24 "(7) 'Mental health treatment' means convulsive treatment, treatment of
25 mental illness with psychoactive medication, admission to and retention in
26 a health care facility [*for a period not to exceed 17 days*] for care or treatment
27 of mental illness, and outpatient services.

28 "(8) 'Outpatient services' means treatment for a mental or emotional dis-
29 order that is obtained by appointment and is provided by an outpatient ser-
30 vice as defined in ORS 430.010.

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

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

5 “(11) **‘Respondent’ means a person who is the subject of a petition**
6 **for determination of capacity under section 15 of this 2025 Act.**

7 **“SECTION 17.** ORS 127.736 is amended to read:

8 “127.736. A declaration for mental health treatment shall be in substan-
9 tially the following form:

10 “

11 DECLARATION FOR MENTAL HEALTH TREATMENT

12 I, _____, being an adult of sound mind, willfully and
13 voluntarily make this declaration for mental health treatment. I want this
14 declaration to be followed if a court or two [*physicians*] **capacity evaluators**
15 determine that I am unable to make decisions for myself because my ability
16 to receive and evaluate information effectively or communicate decisions is
17 impaired to such an extent that I lack the capacity to refuse or consent to
18 mental health treatment. “Mental health treatment” means treatment of
19 mental illness with psychoactive medication, admission to and retention in
20 a health care facility for a **given** period [*up to 17 days*], convulsive treatment
21 and outpatient services that are specified in this declaration. **“Health care**
22 **facility” could include an inpatient setting, a residential facility, an**
23 **adult foster home or a hospice program. “Capacity evaluator” means**
24 **a licensed independent practitioner or a licensed psychologist.**

26 CHOICE OF DECISION MAKER

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

30 — My appointed representative consistent with my desires, or, if my de-

1 sires are unknown by my representative, in what my representative
2 believes to be my best interests.

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

6 APPOINTED REPRESENTATIVE

7 If I have chosen to appoint a representative to make mental health
8 treatment decisions for me when I am incapable, I am naming that person
9 here. I may also name an alternate representative to serve. Each person I
10 appoint must accept my appointment in order to serve. I understand that I
11 am not required to appoint a representative in order to complete this decla-
12 ration.

13 I hereby appoint:

14 NAME _____

15 ADDRESS _____

16 TELEPHONE # _____ to act as my representative to make deci-
17 sions regarding my mental health treatment if I become incapable of giving
18 or withholding informed consent for that treatment.

19 (OPTIONAL)

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

23 NAME _____

24 ADDRESS _____

25 TELEPHONE # _____

26 My representative is authorized to make decisions that are consistent
27 with the wishes I have expressed in this declaration or, if not expressed, as
28 are otherwise known to my representative. If my desires are not expressed
29 and are not otherwise known by my representative, my representative is to
30 act in what he or she believes to be my best interests. My representative is

1 also authorized to receive information regarding proposed mental health
2 treatment and to receive, review and consent to disclosure of medical records
3 relating to that treatment.

4 _____
5 DIRECTIONS FOR
6 MENTAL HEALTH TREATMENT

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

12
13 **If I become incapable of giving or withholding informed consent to**
14 **be admitted for inpatient mental health treatment, I CONSENT TO**
15 **BE ADMITTED TO THE FOLLOWING HEALTH CARE FACILITIES:**

16 _____
17 _____
18 _____
19 _____
20 _____
21 _____
22 _____

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

27 _____ **14 days.**
28 _____ **30 days.**
29 _____ **60 days.**
30 _____ **_____ days.**

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

7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____

14

15 I DO NOT CONSENT TO THE FOLLOWING MENTAL HEALTH TREAT-
16 MENT: (Consider including your reasons, such as past adverse reaction,
17 allergies or misdiagnosis. Be aware that a person may be treated without
18 consent if the person is held pursuant to [*civil commitment law*] **a court**
19 **order.**)

20 _____
21 _____
22 _____
23 _____
24 _____
25 _____
26 _____

27

28 ADDITIONAL INFORMATION ABOUT MY MENTAL HEALTH TREAT-
29 MENT NEEDS: (Consider including mental or physical health history,
30 dietary requirements, religious concerns, people to notify and other matters

of importance.)

YOU MUST SIGN HERE FOR THIS DECLARATION TO BE EFFECTIVE:

(Signature/Date)

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

1 I affirm that the person signing this declaration:

2 (a) Is personally known to me;

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

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

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

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

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

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

13
14 Witnessed by:

15 _____

16 (Signature of Witness/ (Printed Name of Witness)
17 Date)

18 _____

19 (Signature of Witness/ (Printed Name of Witness)
20 Date)

21
22 ACCEPTANCE OF APPOINTMENT
23 AS REPRESENTATIVE

24 I accept this appointment and agree to serve as representative to make
25 mental health treatment decisions. I understand that I must act consistently
26 with the desires of the person I represent, as expressed in this declaration
27 or, if not expressed, as otherwise known by me. If I do not know the desires
28 of the person I represent, I have a duty to act in what I believe in good faith
29 to be that person's best interest. I understand that this document gives me
30 authority to make decisions about mental health treatment only while that

1 person has been determined to be incapable of making those decisions by a
2 court or two [*physicians*] **capacity evaluators**. I understand that the person
3 who appointed me may revoke this declaration in whole or in part by com-
4 municating the revocation to the attending physician or other provider when
5 the person is not incapable.

6 _____

7 (Signature of (Printed name)

8 Representative/Date)

9 _____

10 (Signature of Alternate (Printed name)

11 Representative/Date)

12
13 NOTICE TO PERSON
14 MAKING A DECLARATION FOR
15 MENTAL HEALTH TREATMENT

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

19 This document allows you to make decisions in advance about certain
20 types of mental health treatment: psychoactive medication, short-term (not
21 to exceed [*17 days*] **the number of days you indicate above**) admission to
22 a treatment facility, convulsive treatment and outpatient services. Outpa-
23 tient services are mental health services provided by appointment by licensed
24 professionals and programs. The instructions that you include in this decla-
25 ration will be followed only if a court or two [*physicians*] **capacity evalu-**
26 **ators** believe that you are incapable of making treatment decisions.
27 Otherwise, you will be considered capable to give or withhold consent for the
28 treatments. Your instructions may be overridden if you are being held pur-
29 suant to [*civil commitment law*] **a court order**.

30 You may also appoint a person as your representative to make treatment

1 decisions for you if you become incapable. The person you appoint has a duty
2 to act consistently with your desires as stated in this document or, if not
3 stated, as otherwise known by the representative. If your representative does
4 not know your desires, he or she must make decisions in your best interests.
5 For the appointment to be effective, the person you appoint must accept the
6 appointment in writing. The person also has the right to withdraw from
7 acting as your representative at any time. A “representative” is also referred
8 to as an “attorney-in-fact” in state law but this person does not need to be
9 an attorney at law.

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

14 You have the right to revoke this document in whole or in part at any
15 time you have not been determined to be incapable. YOU MAY NOT RE-
16 VOKE THIS DECLARATION WHEN YOU ARE CONSIDERED INCAPA-
17 BLE BY A COURT OR TWO [*PHYSICIANS*] **CAPACITY EVALUATORS**.
18 A revocation is effective when it is communicated to your attending physi-
19 cian or other provider.

20 If there is anything in this document that you do not understand, you
21 should ask a lawyer to explain it to you. This declaration will not be valid
22 unless it is signed by **a notary or** two qualified witnesses who are personally
23 known to you and who are present when you sign or acknowledge your sig-
24 nature.

25 NOTICE TO PHYSICIAN OR PROVIDER

26 Under Oregon law, a person may use this declaration to provide consent
27 for mental health treatment or to appoint a representative to make mental
28 health treatment decisions when the person is incapable of making those
29 decisions. A person is “incapable” when, in the opinion of a court or two
30 [*physicians*] **capacity evaluators**, the person’s ability to receive and evalu-

1 ate information effectively or communicate decisions is impaired to such an
2 extent that the person currently lacks the capacity to make mental health
3 treatment decisions. This document becomes operative when it is delivered
4 to the person's physician or other provider and remains valid until revoked
5 or expired. Upon being presented with this declaration, a physician or pro-
6 vider must make it a part of the person's medical record. When acting under
7 authority of the declaration, a physician or provider must comply with it to
8 the fullest extent possible. If the physician or provider is unwilling to comply
9 with the declaration, the physician or provider may withdraw from providing
10 treatment consistent with professional judgment and must promptly notify
11 the person and the person's representative and document the notification in
12 the person's medical record. A physician or provider who administers or does
13 not administer mental health treatment according to and in good faith reli-
14 ance upon the validity of this declaration is not subject to criminal prose-
15 cution, civil liability or professional disciplinary action resulting from a
16 subsequent finding of the declaration's invalidity.

17 “

18
19 **“EXTREMELY DANGEROUS PERSONS**

20
21 **“SECTION 18.** ORS 426.701 is amended to read:

22 “426.701. (1) For the purposes of this section and ORS 426.702:

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

24 “(A) Is at least 18 years of age;

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

28 “(C) Because of a qualifying mental disorder:

29 “(i) Presents a serious danger to the safety of other persons by reason of
30 an extreme risk that the person will inflict grave or potentially lethal

1 physical injury on other persons; and

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

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

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

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

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

14 **“(d) A person ‘attempted to’ cause a result or engage in specified**
15 **conduct if the person intentionally engaged in conduct that consti-**
16 **tuted a substantial step toward causing the result or completing the**
17 **specified conduct.**

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

24 “(b) If a person is committed to a state hospital under ORS 161.365 or
25 161.370 and the state hospital intends to discharge the person, the district
26 attorney may provide notice to the superintendent of the state hospital in-
27 dicating an intent to file a petition under this section. Upon receipt of the
28 notice, the superintendent may delay discharge of the person for up to seven
29 judicial days to allow for the petition to be filed and for the court to make
30 findings under paragraph (f) of this subsection.

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

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

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

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

11 “(A) The right to obtain suitable legal counsel possessing skills and ex-
12 perience commensurate with the nature of the allegations and complexity of
13 the case and, if the person is without funds to retain legal counsel, the right
14 to have the court appoint legal counsel;

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(B) If a person committed under this paragraph is held in a secure fa-
26 cility other than a state hospital or secure mental health facility, including
27 but not limited to a jail or prison, at the time the petition is filed, the court
28 may further order that the person remain at that placement for sufficient
29 time to allow the superintendent or director to safely admit the person. Any
30 order of the court concerning the placement of a person under this subpara-

graph must be in accordance with the person's constitutional right to due process. If the person remains in a secure facility under this subparagraph, the superintendent, director or designee may consult with the facility to ensure continuity of care for the person.

“(C) Commitment to the custody of the superintendent of a state hospital or the director of a secure mental health facility under this paragraph may not exceed 60 days. If the hearing does not occur within 60 days, if the district attorney dismisses the petition, or if the court holds the hearing but does not commit the person, the person shall be returned to the county in which the petition was filed and the court shall hold a disposition hearing within five judicial days to determine how to proceed on the petition and any outstanding criminal charges. A person who is returned to a secure facility other than a state hospital or secure mental health facility, including but not limited to a jail or prison, under this paragraph may remain at the placement until the disposition hearing.

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

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

“(A) The person is extremely dangerous;

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

“(C) Because of the qualifying mental disorder that is resistant to treatment, the person committed one of the following acts:

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

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

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

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

8 “(v) Forcibly compelled **or attempted to forcibly compel** sexual inter-
9 course, oral-genital contact or the penetration of another person’s anus or
10 vagina; [or]

11 “(vi) Caused a fire or explosion that damaged the protected property of
12 another, as those terms are defined in ORS 164.305, or placed another person
13 in danger of physical injury, and the fire or explosion was not the incidental
14 result of normal and usual daily activities[.]; **or**

15 “(vii) **Attempted to cause a fire or explosion that damaged the**
16 **protected property of another, as those terms are defined in ORS**
17 **164.305, or placed another person in danger of physical injury, if the**
18 **fire or explosion was not the incidental result of normal and usual**
19 **daily activities, and the substantial step toward causing the fire or**
20 **explosion created an actual and extreme risk of grave or lethal phys-**
21 **ical injury to another person.**

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

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

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

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

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

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

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

18 “(A) The person is in a setting other than a state hospital, the court may
19 additionally order that the person remain in that placement until the person
20 can be safely transported to a state hospital pursuant to the order. Any order
21 of the court concerning the placement of the person under this subparagraph
22 must be in accordance with the person’s constitutional right to due process.

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

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

29 “(6)(a) The board shall hold a hearing six months after the initial com-
30 mitment described in subsection (3) of this section, and thereafter six months

1 after a further commitment described in ORS 426.702, to determine the
2 placement of the person and whether the person is eligible for conditional
3 release or early discharge. The board shall provide written notice of the
4 hearing to the person, the person's legal counsel and the office of the district
5 attorney who filed the initial petition under subsection (2) of this section
6 within a reasonable time prior to the hearing. The board shall further notify
7 the person of the following:

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

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

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

13 “(D) The right to subpoena witnesses;

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

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

18 “(b) If the board determines at the hearing that the person still suffers
19 from a qualifying mental disorder that is resistant to treatment and contin-
20 ues to be extremely dangerous, and that the person cannot be controlled in
21 the community with proper care, medication, supervision and treatment if
22 conditionally released, the person shall remain committed to a state hospital.

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

28 “(d) If the board determines at the hearing that the person no longer
29 suffers from a qualifying mental disorder that is resistant to treatment or is
30 no longer extremely dangerous, the board shall discharge the person. The

1 discharge of a person committed under this section does not preclude com-
2 mitment of the person pursuant to ORS 426.005 to 426.390.

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

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

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

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

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

30 “(c) Whenever treatment is provided to the person by a state or local

1 mental health facility under this subsection, the facility shall furnish reports
2 to the board on a regular basis concerning the progress of the person.

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

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

10 “(9)(a) If at any time while the person is conditionally released it appears
11 that the person has violated the terms of the conditional release, the board
12 may order the person returned to a state hospital for evaluation or treat-
13 ment. A written order of the board is sufficient warrant for any law
14 enforcement officer to take the person into custody. A sheriff, municipal
15 police officer, parole or probation officer or other peace officer shall execute
16 the order, and the person shall be returned to the state hospital as soon as
17 practicable.

18 “(b) The director of a state or local mental health facility providing
19 treatment to a person under subsection (8) of this section may request that
20 the board issue a written order for a person on conditional release to be
21 taken into custody if there is reason to believe that the person can no longer
22 be controlled in the community with proper care, medication, supervision and
23 treatment.

24 “(c) Within 30 days following the return of the person to a state hospital,
25 the board shall conduct a hearing to determine if, by a preponderance of the
26 evidence, the person is no longer fit for conditional release. The board shall
27 provide written notice of the hearing to the person, the person’s legal coun-
28 sel and the office of the district attorney who filed the initial petition under
29 subsection (2) of this section within a reasonable time prior to the hearing.
30 The notice shall advise the person of the nature of the hearing, the right to

1 have the court appoint legal counsel and the right to subpoena witnesses,
2 examine documents considered by the board and cross-examine all witnesses
3 who appear at the hearing.

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

14 “(b) Upon receiving the notice described in this subsection, the district
15 attorney may request an order from the court in the county where the
16 criminal charges were initiated for an evaluation to determine if the person
17 is fit to proceed in the criminal proceeding. The court may order the state
18 hospital or the state or local mental health facility providing treatment to
19 the person to perform the evaluation. The hospital or facility shall provide
20 copies of the evaluation to the district attorney, the person and the person’s
21 legal counsel, if applicable.

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

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

29 “(12) Unless the court orders otherwise or either party objects, any party
30 or witness may attend a hearing held under this section via simultaneous

1 electronic transmission.

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

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

7
8 **“CONFORMING AMENDMENTS**

9
10 **“SECTION 19.** ORS 426.060 is amended to read:

11 “426.060. (1) Commitments to the Oregon Health Authority shall be made
12 only by the judge of a circuit court in a county of this state.

13 “(2) The following is a nonexclusive list of powers the authority may ex-
14 ercise concerning the placement of persons committed or persons receiving
15 emergency care and treatment under ORS 426.070[,] **or** 426.228 to 426.235 or
16 [426.237] **section 2 of this 2025 Act:**

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

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

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

27 “(B) If the transfer is from a facility in one class to a facility in a less
28 restrictive class, by following the procedures for trial visits under ORS
29 426.273; and

30 “(C) If the transfer is from a facility in one class to a facility in a more

1 restrictive class, by following the procedures under ORS 426.275.

2 “(c) At any time, for good cause and in the best interest of the person
3 with mental illness, the authority may transfer a person receiving emergency
4 care and treatment under ORS 426.070 or 426.228 to 426.235, or [*intensive*
5 *treatment under ORS 426.237*] **diversion from commitment under section**
6 **2 of this 2025 Act**, between hospitals and nonhospital facilities approved by
7 the authority to provide emergency care or treatment as defined by rule of
8 the authority.

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

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

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

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

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

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

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

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

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

28 “(c) All methods of treatment, including the prescription and adminis-
29 tration of drugs, shall be the sole responsibility of the treating licensed in-
30 dependent practitioner. However, the person [*shall not be subject to*

1 *electroshock therapy or unduly hazardous treatment*] **may not be subjected**
2 **to unusual or hazardous treatment procedures, including convulsive**
3 **therapy,** and shall receive usual and customary treatment in accordance
4 with medical standards in the community.

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

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

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

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

20 “426.155. (1) The provisions of this section apply to the release of infor-
21 mation about a person who is held in custody either pending a commitment
22 proceeding under ORS 426.070, 426.140, 426.228, 426.232[,] **or** 426.233 [*or*
23 *426.237 (1)(b)*] **or section 2 of this 2025 Act** or while committed or recom-
24 mitted under ORS 426.005 to 426.390.

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

30 “(3)(a) If a person described in subsection (1) of this section authorizes

1 disclosure as provided in subsection (5) of this section, upon request of a
2 member of the family of the person, or any other designee of the person, a
3 facility or nonhospital facility where the person is held shall provide the
4 family member or the designee with the following information:

5 “(A) The person’s diagnosis;

6 “(B) The person’s prognosis;

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

9 “(D) The person’s progress;

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

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

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

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

1 this information not be provided.

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

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

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

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

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

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

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

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

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

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

29 “(8) A facility or nonhospital facility, including the staff of such facilities
30 and nonhospital facilities, that releases information under this section or

1 rules adopted under ORS 426.236 may not be held civilly or criminally liable
2 for damages caused or alleged to be caused by the release of information or
3 the failure to release information as long as the release was done in good
4 faith and in compliance with subsections (3) and (4) of this section or rules
5 adopted under ORS 426.236.

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

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

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

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

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

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

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

26 “(e) Pursuant to court order.

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

1 pellate court may disclose information from the trial or appellate court re-
2 cord in a decision, as defined in ORS 19.450, provided that the court uses
3 initials, an alias or some other convention for protecting against public dis-
4 closure the identity of the person subject to the proceeding.

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

6 “426.223. In retaking custody of a person with mental illness who has been
7 committed to the Oregon Health Authority under ORS 426.130 and who has,
8 without lawful authority, left the custody of the facility to which the person
9 has been assigned under ORS 426.060, or in the case of a person alleged to
10 have a mental illness who is in custody under ORS 426.070, 426.095[,] **or**
11 426.228 to 426.235 or [426.237] **section 2 of this 2025 Act** at a hospital or
12 nonhospital facility and who has, without lawful authority, left the hospital
13 or nonhospital facility, the facility director or designee has all the powers
14 provided by ORS 133.225 and 161.255 and may require the assistance of any
15 peace officer or other authorized individual.

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

17 “426.234. (1) At the time a person alleged to have a mental illness is ad-
18 mitted to or retained in a hospital or nonhospital facility under ORS 426.232
19 or 426.233, a licensed independent practitioner, nurse or qualified mental
20 health professional at the hospital or nonhospital facility shall:

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

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

24 “(c) Immediately examine the person;

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

27 “(e) If the licensed independent practitioner, nurse or qualified mental
28 health professional reasonably suspects that the person is a foreign national,
29 inform the person of the person’s right to communicate with an official from
30 the consulate of the person’s country. A licensed independent practitioner,

1 nurse or qualified mental health professional is not civilly or criminally li-
2 able for failure to provide the information required by this paragraph. Fail-
3 ure to provide the information required by this paragraph does not in itself
4 constitute grounds for the exclusion of evidence that would otherwise be
5 admissible in a proceeding.

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

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

26 “(c) If, at any time prior to the hearing under ORS 426.070 to [426.130]
27 **426.170**, the licensed independent practitioner responsible for a person ad-
28 mitted or retained under ORS 426.232 determines that the person is not
29 dangerous to self or to any other person and is not in need of emergency care
30 or treatment for mental illness, the licensed independent practitioner may

1 release the person from the detention authorized by ORS 426.232. The li-
2 censed independent practitioner shall immediately notify the circuit court
3 notified under this subsection and the community mental health program
4 director of the person's release from detention.

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

18 “(b) If, at any time prior to the hearing under ORS 426.070 to [426.130]
19 **426.170**, a community mental health program director, after consultation with
20 a licensed independent practitioner, determines that a person admitted or
21 retained under ORS 426.233 is not dangerous to self or to any other person
22 and is not in need of immediate care, custody or treatment for mental illness,
23 the community mental health program director may release the person from
24 detention. The community mental health program director shall immediately
25 notify the circuit court originally notified under paragraph (a) of this sub-
26 section of the person's release from detention.

27 “(4) When the judge of the circuit court receives notice under subsection
28 (2) or (3) of this section, the judge immediately shall commence proceedings
29 under ORS 426.070 to [426.130] **426.170**. In a county having a population of
30 100,000 or more, and when feasible in a county with a lesser population, the

community mental health program director or designee who directs the peace officer or other authorized individual to take a person into custody under ORS 426.233 *[shall]* **may** not also conduct the investigation as provided for under ORS 426.074. Except when a person is *[being held under ORS 426.237 (1)(b)]* **participating in diversion from commitment under section 2 of this 2025 Act**, a person *[shall]* **may** not be held under ORS 426.232 or 426.233 for more than five judicial days without a hearing being held under ORS 426.070 to ~~426.130~~ **426.170**.

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

“SECTION 25. ORS 426.235 is amended to read:

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

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

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

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

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

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

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

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

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

1 section.

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

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

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

20 “(5)(a) The authority may deny payment for part or all of the emergency
21 psychiatric services provided by a hospital or nonhospital facility under ORS
22 426.232[,] **or** 426.233 or [426.237] **section 2 of this 2025 Act** when the au-
23 thority finds, upon review, that the condition of the person alleged to have
24 a mental illness did not meet the admission criteria in ORS 426.232 (1)[,] **or**
25 426.233 (1) or [426.237 (1)(b)(A)] **section 2 (1)(a) of this 2025 Act**. The payer
26 responsible under this section shall make a request for denial of payment for
27 emergency psychiatric services provided under ORS 426.232[,] **or** 426.233 or
28 [426.237] **section 2 of this 2025 Act** in writing to the authority.

29 “(b) The authority may require the following to provide the authority
30 with any information that the authority determines is necessary to review

1 a request for denial of payment made under this subsection or to conduct a
2 review of emergency psychiatric services for the purpose of planning or de-
3 fining authority rules:

4 “(A) A hospital or nonhospital facility approved under ORS 426.228 to
5 426.235 or [426.237] **section 2 of this 2025 Act.**

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

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

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

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

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

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

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

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

18 “(e) Religious freedom;

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

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

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

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

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

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

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

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

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

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

8 “(p) Exercise all civil rights in the same manner and with the same effect
9 as one not admitted to the facility, including, but not limited to, the right
10 to dispose of real property, execute instruments, make purchases, enter con-
11 tractual relationships, and vote, unless the person has been adjudicated in-
12 competent and has not been restored to legal capacity. Disposal of personal
13 property in possession of the person in a state institution described in ORS
14 426.010 is subject to limitation for security reasons.

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

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

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

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

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

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

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

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

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

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

21 “(6) As used in this section:

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

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

26
27 **“MISCELLANEOUS**

28
29 **“SECTION 29. Captions. The unit and section captions used in this**
30 **2025 Act are provided only for the convenience of the reader and do**

1 not become part of the statutory law of this state or express any leg-
2 islative intent of this 2025 Act.

3 **“SECTION 30. Operative date.** The amendments to ORS 426.070,
4 426.100, 426.301 and 426.160 by sections 4, 10, 13 and 22 of this 2025 Act
5 become operative on July 1, 2026.”.

6
