

Senate Bill 1062

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SUMMARY

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

Increases allowable prehearing period of detention in hospital or nonhospital facility for intensive treatment of dementia.

A BILL FOR AN ACT

1
2 Relating to health; amending ORS 426.237.

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

4 **SECTION 1.** ORS 426.237 is amended to read:

5 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
6 or 426.233, the community mental health and developmental disabilities program director shall do
7 one of the following:

8 (a) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court not
9 proceed further in the matter if the community mental health and developmental disabilities program
10 director does not believe the person is a mentally ill person.

11 (b) No later than three judicial days after initiation of a prehearing period of detention as pro-
12 vided in ORS 426.070, 426.140, 426.232 or 426.233, certify the detained person for a 14-day period of
13 intensive treatment **or, for a person diagnosed with dementia, a 30-day period of intensive**
14 **treatment**, if:

15 (A) The community mental health and developmental disabilities program director and a psy-
16 chiatrist, as defined by rule by the Department of Human Services, have probable cause to believe
17 the person is a mentally ill person;

18 (B) The community mental health and developmental disabilities program director in the county
19 where the person resides verbally approves the arrangements for payment for the services at the
20 hospital or nonhospital facility; and

21 (C) The community mental health and developmental disabilities program director locates a
22 hospital or nonhospital facility that:

23 (i) Is approved by the department and the community mental health and developmental disabili-
24 ties program director in the county where the person resides; and

25 (ii) Can, in the opinion of the community mental health and developmental disabilities program
26 director and the psychiatrist, provide intensive care or treatment for mental illness necessary and
27 sufficient to meet the emergency psychiatric needs of the person.

28 (c) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court
29 hold a hearing under ORS 426.070 to 426.130 if the community mental health and developmental
30 disabilities program director has probable cause to believe the person is a mentally ill person.

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

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

5 (A) Nonhospital facility, the community mental health and developmental disabilities program
 6 director shall make discharge plans and insure the discharge of the person.

7 (B) Hospital, the treating physician shall make discharge plans and discharge the person.

8 (b) Upon release of the person, the community mental health and developmental disabilities
 9 program director shall attempt to notify the person's next of kin if the person consents to the no-
 10 tification.

11 (3)(a) If the detained person is certified for **intensive** treatment under subsection (1)(b) of this
 12 section, the community mental health and developmental disabilities program director shall:

13 (A) Deliver immediately a certificate to the court having jurisdiction under ORS 426.060; and

14 (B) Orally inform the person of the certification and deliver a copy of the certificate to the
 15 person.

16 (b) The certificate required by paragraph (a) of this subsection shall include:

17 (A) A written statement under oath by the community mental health and developmental disa-
 18 bilities program director and the psychiatrist that they have probable cause to believe the person
 19 is a mentally ill person in need of care or treatment for mental illness;

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

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

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

26 (E) The date and time the copy of the certificate was delivered to the person.

27 (c) Immediately upon receipt of a certificate under paragraph (a) of this subsection, the court
 28 shall notify the person's attorney or appoint an attorney for the person if the person cannot afford
 29 one. Within 24 hours of the time the certificate is delivered to the court, the person's attorney shall
 30 review the certificate with the person. If the person and the person's attorney consent to the cer-
 31 tification within one judicial day of the time the certificate is delivered to the circuit court and,
 32 except as provided in subsection (4) of this section, the court shall postpone the hearing required
 33 by ORS 426.070 to 426.130 for 14 days.

34 (d) When a person is certified for **intensive** treatment under subsection (1)(b) of this section and
 35 accepts the certification:

36 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the
 37 prescription and administration of drugs, shall be the sole responsibility of the treating physician.
 38 However, the person shall not be subject to electroshock therapy or unduly hazardous treatment and
 39 shall receive usual and customary treatment in accordance with medical standards in the commu-
 40 nity.

41 (B) Except when the person expressly refuses treatment, the treating physician shall treat the
 42 person within the scope of the treatment plan provided the person under paragraph (b) of this sub-
 43 section. The person's refusal of treatment constitutes sufficient grounds for the community mental
 44 health and developmental disabilities program director to request a hearing as provided in sub-
 45 section (4)(a) of this section.

1 (C) If the person is in a hospital and the community mental health and developmental disabilities
2 program director locates a nonhospital facility, approved by the department, that, in the opinion of
3 the community mental health and developmental disabilities program director and the treating phy-
4 sician, can provide care or treatment for mental illness necessary and sufficient to meet the emer-
5 gency psychiatric needs of the person, the treating physician shall discharge the person from the
6 hospital and the community mental health and developmental disabilities program director shall re-
7 move the person to the nonhospital facility for the remainder of the [14-day] intensive treatment
8 period. If, however, in the opinion of the treating physician, the person's condition requires the
9 person to receive medical care or treatment, the physician shall retain the person in the hospital.

10 (D) If the person is in a nonhospital facility, the community mental health and developmental
11 disabilities program director shall transfer the person to a hospital approved by the department
12 under the following conditions:

13 (i) If, in the opinion of a physician, the person's condition requires the person to receive medical
14 care or treatment in a hospital; and

15 (ii) The physician agrees to admit the person to a hospital, approved by the department, where
16 the physician has admitting privileges.

17 (E) If the person is transferred as provided in subparagraph (C) or (D) of this paragraph, the
18 community mental health and developmental disabilities program director shall notify the circuit
19 court, in the county where the certificate was filed, of the location of the person. The person may
20 appeal the transfer as provided by rules of the department.

21 (e) If the person is in a hospital, the treating physician may discharge the person at any time
22 during the [14-day] period **of intensive treatment**. The treating physician shall confer with the
23 community mental health and developmental disabilities program director and the person's next of
24 kin, if the person consents to the consultation, prior to discharging the person. Immediately upon
25 discharge of the person, the treating physician shall notify the court in the county in which the
26 certificate was filed initially.

27 (f) If the person is in a nonhospital facility, the community mental health and developmental
28 disabilities program director may discharge the person at any time during the [14-day] period **of**
29 **intensive treatment**. The community mental health and developmental disabilities program director
30 shall consult with the treating physician and the person's next of kin, if the person consents to the
31 consultation, prior to discharging the person. Immediately upon discharge of the person, the com-
32 munity mental health and developmental disabilities program director shall notify the court in the
33 county in which the certificate was filed initially.

34 (g) The person may agree to voluntary treatment at any time during the [14-day] period **of in-**
35 **tensive treatment**. When a person agrees to voluntary treatment under this paragraph, the com-
36 munity mental health and developmental disabilities program director immediately shall notify the
37 court in the county in which the certificate was filed initially.

38 (h) A person consenting to [14 days of treatment] **a certification** under subsection (3)(c) of this
39 section shall not be held [longer than 14 days from the time of consenting] without a hearing as
40 provided in ORS 426.070 to 426.130 **longer than:**

41 **(A) 14 days from the date of consent to the certification for treatment in the case of**
42 **persons diagnosed with a mental disorder that does not include dementia; or**

43 **(B) 30 days from the date of consent to the certification for treatment in the case of**
44 **persons diagnosed with dementia.**

45 (i) When the court receives notification under paragraph (e), (f) or (g) of this subsection, the

1 court shall dismiss the case.

2 (4) The judge of the circuit court shall immediately commence proceedings under ORS 426.070
3 to 426.130 when:

4 (a) The person consenting to *[14 days of treatment]* **a certification under subsection (3)(c) of**
5 **this section** or the community mental health and developmental disabilities program director re-
6 quests a hearing. The hearing shall be held without unreasonable delay. In no case shall the person
7 be held in a hospital or nonhospital facility longer than five judicial days after the request for a
8 hearing is made without a hearing being held under ORS 426.070 to 426.130.

9 (b) The community mental health and developmental disabilities program director acts under
10 subsection (1)(c) of this section. In no case shall the person be held longer than five judicial days
11 without a hearing under this subsection.

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