

**PROPOSED AMENDMENTS TO  
B-ENGROSSED SENATE BILL 421  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 1 of the printed corrected B-engrossed bill, line 3, after  
2 “426.250” insert “and section 69, chapter 360, Oregon Laws 2013 (Enrolled  
3 Senate Bill 426); repealing sections 23, 25, 31, 35 and 45, chapter 360, Oregon  
4 Laws 2013 (Enrolled Senate Bill 426)”.

5 On page 9, line 9, after “Certified” insert “by the authority or the Psy-  
6 chiatric Security Review Board”.

7 In line 10, delete “by the authority”.

8 In lines 27 through 29, delete the boldfaced material.

9 In line 27, after “426.395” insert “and sections 2 and 3 of this 2013 Act”.

10 On page 11, line 37, after “3” insert “of this 2013 Act”.

11 In line 42, after “3” insert “of this 2013 Act”.

12 After line 43, insert:

13 **“SECTION 12. If Senate Bill 426 becomes law, sections 23 (amending**  
14 **ORS 426.095), 25 (amending ORS 426.110), 31 (amending ORS 426.135),**  
15 **35 (amending ORS 426.160) and 45 (amending ORS 426.241), chapter 360,**  
16 **Oregon Laws 2013 (Enrolled Senate Bill 426), are repealed.**

17 **“SECTION 13.** If Senate Bill 426 becomes law, section 2 of this 2013 Act  
18 is amended to read:

19 **“Sec. 2.** (1) For the purposes of this section and section 3 of this 2013  
20 Act:

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

1 “(A) Is at least 18 years of age;

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

5 “(C) Because of a mental disorder:

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

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

11 “(b) ‘Mental disorder’ does not include:

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

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

15 “(c) A mental disorder is ‘resistant to treatment’ if, after receiving care  
16 from a licensed psychiatrist and exhausting all reasonable psychiatric treat-  
17 ment, or after refusing psychiatric treatment, the person continues to be  
18 significantly impaired in the person’s ability to make competent decisions  
19 and to be aware of and control extremely dangerous behavior.

20 “(2)(a) A district attorney may petition the court to initiate commitment  
21 proceedings described in this section if there is reason to believe a person  
22 is an extremely dangerous [*mentally ill*] person **with mental illness**. The  
23 petition shall immediately be served upon the person.

24 “(b) The person shall be advised in writing of:

25 “(A) The allegation that the person is an extremely dangerous [*mentally*  
26 *ill*] person **with mental illness** and may be committed to the jurisdiction  
27 of the Psychiatric Security Review Board for a maximum period of 24  
28 months; and

29 “(B) The right to a hearing to determine whether the person is an ex-  
30 tremely dangerous [*mentally ill*] person **with mental illness**, unless the

1 person consents to the commitment by waiving the right to a hearing in  
2 writing after consultation with legal counsel.

3 “(c) A person against whom a petition described in this subsection is filed  
4 shall have the following:

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

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

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

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

16 “(d) The court shall appoint an examiner as described in ORS 426.110 to  
17 evaluate the person.

18 “(3)(a) Upon receipt of a petition filed under subsection (2) of this section,  
19 the court shall schedule a hearing. At the hearing, the court shall order the  
20 person committed as an extremely dangerous [*mentally ill*] person **with**  
21 **mental illness** under the jurisdiction of the Psychiatric Security Review  
22 Board for a maximum of 24 months if the court finds, by clear and convinc-  
23 ing evidence, that:

24 “(A) The person is extremely dangerous;

25 “(B) The person suffers from a mental disorder that is resistant to treat-  
26 ment; and

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

29 “(i) Caused the death of another person;

30 “(ii) Caused serious physical injury to another person by means of a

1 dangerous weapon;

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

4 “(iv) Engaged in oral-genital contact with a child under 14 years of age;

5 “(v) Forcibly compelled sexual intercourse, oral-genital contact or the  
6 penetration of another person’s anus or vagina; or

7 “(vi) Caused a fire or explosion that damaged the protected property of  
8 another, as those terms are defined in ORS 164.305, or placed another person  
9 in danger of physical injury, and the fire or explosion was not the incidental  
10 result of normal and usual daily activities.

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

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

20 “(d) The court shall be fully advised of all drugs and other treatment  
21 known to have been administered to the alleged extremely dangerous [*men-*  
22 *tally ill*] person **with mental illness** that may substantially affect the ability  
23 of the person to prepare for, or to function effectively at, the hearing.

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

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

30 “(5) A person committed under this section shall remain under the juris-

1 diction of the board for a maximum of 24 months unless the board conducts  
2 a hearing and makes the findings described in subsection (6)(d) of this sec-  
3 tion.

4 “(6)(a) The board shall hold a hearing six months after the initial com-  
5 mitment described in subsection (3) of this section, and thereafter six months  
6 after a further commitment described in section 3 of this 2013 Act, to deter-  
7 mine the placement of the person and whether the person is eligible for  
8 conditional release or early discharge. The board shall provide written notice  
9 of the hearing to the person, the person’s legal counsel and the office of the  
10 district attorney who filed the initial petition under subsection (2) of this  
11 section within a reasonable time prior to the hearing. The board shall fur-  
12 ther notify the person of the following:

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

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

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

18 “(D) The right to subpoena witnesses;

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

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

23 “(b) If the board determines at the hearing that the person still suffers  
24 from a mental disorder that is resistant to treatment and continues to be  
25 extremely dangerous, and that the person cannot be controlled in the com-  
26 munity with proper care, medication, supervision and treatment if condi-  
27 tionally released, the person shall remain committed to a state hospital.

28 “(c) If the board determines at the hearing that the person still suffers  
29 from a mental disorder that is resistant to treatment and continues to be  
30 extremely dangerous, but finds that the person can be controlled in the

1 community with proper care, medication, supervision and treatment if con-  
2 ditionally released, the board shall conditionally release the person.

3 “(d) If the board determines at the hearing that the person no longer  
4 suffers from a mental disorder that is resistant to treatment or is no longer  
5 extremely dangerous, the board shall discharge the person. The discharge of  
6 a person committed under this section does not preclude commitment of the  
7 person pursuant to ORS 426.005 to 426.390.

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

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

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

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

30 “(b) When a person is referred to a state or local mental health facility

1 for an evaluation under this subsection, the facility shall perform the eval-  
2 uation and submit a written report of its findings to the board. If the facility  
3 finds that treatment of the person is appropriate, the facility shall include  
4 its recommendations for treatment in the report to the board.

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

8 “(d) Copies of all reports submitted to the board pursuant to this sub-  
9 section shall be furnished to the person and to the person’s legal counsel, if  
10 applicable. The confidentiality of these reports is determined pursuant to  
11 ORS 192.501 to 192.505.

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

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

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

29 “(c) Within 30 days following the return of the person to a state hospital,  
30 the board shall conduct a hearing to determine if, by a preponderance of the

1 evidence, the person is no longer fit for conditional release. The board shall  
2 provide written notice of the hearing to the person, the person's legal coun-  
3 sel and the office of the district attorney who filed the initial petition under  
4 subsection (2) of this section within a reasonable time prior to the hearing.  
5 The notice shall advise the person of the nature of the hearing, the right to  
6 have the court appoint legal counsel and the right to subpoena witnesses,  
7 examine documents considered by the board and cross-examine all witnesses  
8 who appear at the hearing.

9 “(10)(a) If the person had unadjudicated criminal charges at the time of  
10 the person's initial commitment under this section and the state hospital or  
11 the state or local mental health facility providing treatment to the person  
12 intends to recommend discharge of the person at an upcoming hearing, the  
13 superintendent of the state hospital or the director of the facility shall pro-  
14 vide written notice to the board and the district attorney of the county  
15 where the criminal charges were initiated of the discharge recommendation  
16 at least 45 days before the hearing. The notice shall be accompanied by a  
17 report describing the person's diagnosis and the treatment the person has  
18 received.

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

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

30 “(11) The board shall make reasonable efforts to notify any person de-



1 scribed in subsection (3)(c) of this section of any order or hearing, condi-  
2 tional release, discharge or escape of the person committed under this  
3 section.

4 “(12) The board shall adopt rules to carry out the provisions of this sec-  
5 tion and section 3 of this 2013 Act.

6 “(13) Any time limitation described in ORS 131.125 to 131.155 does not run  
7 during a commitment described in this section or a further commitment de-  
8 scribed in section 3 of this 2013 Act.

9 **“SECTION 14.** If Senate Bill 426 becomes law, section 3 of this 2013 Act  
10 is amended to read:

11 **“Sec. 3.** (1)(a) At the end of the 24-month period of commitment described  
12 in section 2 of this 2013 Act, any person who remains committed under the  
13 jurisdiction of the Psychiatric Security Review Board shall be discharged,  
14 unless the board certifies to the court in the county where the state hospital  
15 or state or local mental health facility providing treatment to the person is  
16 located that the person is still extremely dangerous and suffers from a men-  
17 tal disorder that is resistant to treatment. The board, pursuant to its rules,  
18 may delegate to the superintendent of the state hospital or the director of  
19 the state or local mental health facility providing treatment to the person  
20 the responsibility for making the certification. If the certification is made,  
21 the person will not be released.

22 “(b) The board may additionally certify that the person cannot be con-  
23 trolled in the community with proper care, medication, supervision and  
24 treatment on conditional release and must be committed to a state hospital.  
25 The board, pursuant to its rules, may delegate to the superintendent of the  
26 state hospital or the director of the state or local mental health facility  
27 providing treatment to the person the responsibility for making the addi-  
28 tional certification.

29 “(2) The certification shall immediately be served upon the person by the  
30 superintendent of the state hospital or the director of the state or local

1 mental health facility providing treatment to the person. The superintendent  
2 or director shall inform the court in writing that service has been made and  
3 the date thereof.

4 “(3) The certification shall advise the person of all the following:

5 “(a) That the board, hospital or facility has requested that commitment  
6 be continued for an additional 24 months.

7 “(b) That the person may protest this further commitment within 14 days,  
8 and that, if the person does not protest, the commitment will be continued  
9 for a maximum of 24 months.

10 “(c) That the person may consult with legal counsel when deciding  
11 whether to protest the further commitment and that legal counsel will be  
12 provided for the person without cost if the person is without funds to retain  
13 legal counsel.

14 “(d) That the person may protest a further period of commitment either  
15 orally or in writing by signing the form accompanying the certification.

16 “(e) That if the person does protest a further period of commitment, the  
17 person is entitled to a hearing before the court to determine whether com-  
18 mitment should be continued.

19 “(f) That the person is entitled to have a psychologist or psychiatrist,  
20 other than a member of the staff at the facility where the person is being  
21 treated, examine the person and report to the court the results of the exam-  
22 ination at the hearing.

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

25 “(h) That if the person is without funds to retain legal counsel or an ex-  
26 amining psychologist or psychiatrist for the hearing, the court will appoint  
27 legal counsel or an examining psychologist or psychiatrist.

28 “(4) The person serving the certification shall read and deliver the cer-  
29 tification to the person and ask whether the person protests a further period  
30 of commitment. The person may protest a further period of commitment and

1 request a hearing either orally or by signing a simple protest form to be  
2 given to the person with the certification. If the person does not protest a  
3 further period of commitment within 14 days of service of the certification,  
4 the board, hospital or facility shall so notify the court, and the court shall,  
5 without further hearing, order the commitment of the person to the juris-  
6 diction of the board for a maximum of 24 months. The court shall further  
7 order that the person be committed to a state hospital if a certification under  
8 subsection (1)(b) of this section has been made.

9 “(5) When the person protests a further period of commitment and re-  
10 quests a hearing, the board, hospital or facility shall immediately notify the  
11 court, and the court shall have the person brought before it and shall again  
12 advise the person that the board, hospital or facility has requested that  
13 commitment be continued for an additional period of time and that if the  
14 person does not protest this commitment the commitment will be continued  
15 for a maximum of 24 months. The person shall also be informed of the rights  
16 set forth in subsection (3) of this section.

17 “(6) If the person requests a hearing under subsections (4) and (5) of this  
18 section, the following provisions apply as described:

19 “(a) The hearing shall be conducted as promptly as possible and at a time  
20 and place as the court may direct.

21 “(b) If the person requests a continuance in order to prepare for the  
22 hearing or to obtain legal counsel to represent the person, the court may  
23 grant postponement and detention during postponement as described in ORS  
24 426.095 (2)(c).

25 “(c) The person has the right to representation by or appointment of legal  
26 counsel subject to ORS 135.055, 151.216 and 151.219.

27 “(d) If the person requests an examination by a psychologist or psychia-  
28 trist and is without funds to retain a psychologist or psychiatrist for pur-  
29 poses of the examination, the court shall appoint a psychologist or  
30 psychiatrist, other than a member of the staff from the facility where the

1 person is being treated, to examine the person at no expense to the person  
2 and to report to the court the results of the examination.

3 “(e) The provisions of ORS 40.230, 40.235, 40.240, 40.250 and 179.505 do not  
4 apply to the use of medical records from the current period of commitment  
5 or to testimony related to such records or period of commitment in con-  
6 nection with hearings under this section. The court may consider as evidence  
7 such reports and testimony.

8 “(f) The court shall then conduct a hearing. The court may take judicial  
9 notice of the findings regarding the act described in section 2 (3)(a)(C) of this  
10 2013 Act made by the court at the initial commitment. If, after hearing the  
11 evidence and reviewing the recommendations of the board and the state  
12 hospital or the state or local mental health facility providing treatment to  
13 the person, in the opinion of the court the person is still extremely danger-  
14 ous and suffering from a mental disorder that is resistant to treatment by  
15 clear and convincing evidence, the court may order commitment to the ju-  
16 risdiction of the board for an additional maximum of 24 months. The court  
17 shall further commit the person to a state hospital for custody, care and  
18 treatment if the court finds, by clear and convincing evidence, that the per-  
19 son cannot be controlled in the community with proper care, medication,  
20 supervision and treatment on conditional release.

21 “(g) At the end of the 24-month period, the person shall be discharged  
22 unless the board, hospital or facility again certifies to the committing court  
23 that the person is still an extremely dangerous [*mentally ill*] person **with**  
24 **mental illness** and in need of further treatment, in which event the proce-  
25 dures set forth in this section shall be followed.

26 “**SECTION 15.** If Senate Bill 426 becomes law, ORS 426.095, as amended  
27 by section 4 of this 2013 Act, is amended to read:

28 “426.095. The following is applicable to a commitment hearing held by a  
29 court under ORS 426.070:

30 “(1) The hearing may be held in a hospital, the person’s home or in some

1 other place convenient to the court and the [*allegedly mentally ill*] person  
2 **alleged to have a mental illness.**

3 “(2) The court shall hold the hearing at the time established according  
4 to the following:

5 “(a) Except as provided by paragraph (b) or (c) of this subsection, a  
6 hearing shall be held five judicial days from the day a court under ORS  
7 426.070 issues a citation provided under ORS 426.090.

8 “(b) Except as provided by paragraph (c) of this subsection, if a person  
9 is detained by a warrant of detention under ORS 426.070, a hearing shall be  
10 held within five judicial days of the commencement of detention.

11 “(c) If requested under this paragraph, the court, for good cause, may  
12 postpone the hearing for not more than five judicial days in order to allow  
13 preparation for the hearing. The court may make orders for the care and  
14 custody of the person during a postponement as it deems necessary. If a  
15 person is detained before a hearing under ORS 426.070, 426.180, 426.228,  
16 426.232 or 426.233 or section 3 of this 2013 Act and the hearing is postponed  
17 under this paragraph, the court, for good cause, may allow the person to be  
18 detained during the postponement if the postponement is requested by the  
19 person or the legal counsel of the person. Any of the following may request  
20 a postponement under this paragraph:

21 “(A) The [*allegedly mentally ill person or extremely dangerous mentally*  
22 *ill*] person **alleged to have a mental illness or the person alleged to be**  
23 **an extremely dangerous person with mental illness.**

24 “(B) The legal counsel or guardian of the [*allegedly mentally ill person*  
25 *or extremely dangerous mentally ill*] person.

26 “(C) The [*person*] **individual** representing the state’s interest.

27 “(3) The [*allegedly mentally ill*] person **alleged to have a mental illness**  
28 and the [*person*] **individual** representing the state’s interest shall have the  
29 right to cross-examine all the following:

30 “(a) Witnesses.

1 “(b) The [*person*] **individual** conducting the investigation.

2 “(c) The examining physicians or other qualified [*persons*] **professionals**  
3 recommended by the Oregon Health Authority who have examined the per-  
4 son.

5 “(4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 shall not apply  
6 to and the court may consider as evidence any of the following:

7 “(a) Medical records for the current involuntary prehearing period of de-  
8 tention.

9 “(b) Statements attributed by the maker of the medical records or the  
10 investigation report to witnesses concerning their own observations in the  
11 absence of objection or if such [*persons*] **individuals** are produced as wit-  
12 nesses at the hearing available for cross-examination.

13 “(c) The testimony of any treating physicians, nurses or social workers  
14 for the prehearing period of detention. Any treating physician, nurse or so-  
15 cial worker who is subpoenaed as a witness for the proceeding shall testify  
16 as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and  
17 40.425 and is subject to treatment as an expert witness in the payment of  
18 witness fees and costs.

19 “(d) The investigation report prepared under ORS 426.074. Subject to the  
20 following, the investigation report shall be introduced in evidence:

21 “(A) Introduction of the report under this paragraph does not require the  
22 consent of the [*allegedly mentally ill*] person **alleged to have a mental ill-**  
23 **ness.**

24 “(B) Upon objection by any party to the action, the court shall exclude  
25 any part of the investigation report that may be excluded under the Oregon  
26 Evidence Code on grounds other than those set forth in ORS 40.230, 40.235,  
27 40.240 or 40.250.

28 “(C) Neither the investigation report nor any part thereof shall be intro-  
29 duced into evidence under this paragraph unless the investigator is present  
30 during the proceeding to be cross-examined or unless the presence of the

1 investigator is waived by the [*allegedly mentally ill*] person **alleged to have**  
2 **a mental illness** or counsel for the [*allegedly mentally ill*] person.

3 **“SECTION 16.** If Senate Bill 426 becomes law, ORS 426.110, as amended  
4 by section 5 of this 2013 Act, is amended to read:

5 “426.110. The following requirements relating to the appointment of ex-  
6 aminers for purposes of a hearing under ORS 426.095 or sections 2 and 3 of  
7 this 2013 Act apply as described:

8 “(1) The judge shall appoint one qualified examiner. If requested, the  
9 judge shall appoint one additional qualified examiner. A request for an ad-  
10 ditional examiner under this subsection must be made in writing and must  
11 be made by the [*allegedly mentally ill*] person **alleged to have a mental**  
12 **illness** or the attorney for the [*allegedly mentally ill*] person.

13 “(2) To be qualified for purposes of this section, an examiner must [*meet*  
14 *all of the following qualifications*]:

15 “(a) [*The person must*] Agree to be an examiner.

16 “(b) [*The person must*] Be one of the following:

17 “(A) A physician licensed by the Oregon Medical Board who is competent  
18 to practice psychiatry as provided by the Oregon Health Authority or the  
19 Psychiatric Security Review Board by rule.

20 “(B) Certified by the authority or the Psychiatric Security Review Board  
21 as a mental health examiner qualified to make examinations for involuntary  
22 commitment proceedings.

23 “(3) The authority or the Psychiatric Security Review Board may estab-  
24 lish, by rule, requirements for certification as a mental health examiner for  
25 purposes of [*this subparagraph*] **subsection (2)(b)(B) of this section.**

26 “[*3*] (4) The cost of examiners under this section shall be paid as pro-  
27 vided under ORS 426.250.

28 **“SECTION 17.** If Senate Bill 426 becomes law, ORS 426.135, as amended  
29 by section 6 of this 2013 Act, is amended to read:

30 “426.135. If a person determined to be [*mentally ill*] **a person with men-**

1 **tal illness** as provided in ORS 426.130, or determined to be an extremely  
2 dangerous [*mentally ill*] person **with mental illness** under section 2 or 3 of  
3 this 2013 Act, appeals the determination or **the** disposition [*based thereon*],  
4 and is determined to be financially eligible for appointed counsel at state  
5 expense, upon request of the person or upon its own motion, the court shall  
6 appoint suitable legal counsel to represent the person. The compensation for  
7 legal counsel and costs and expenses necessary to the appeal shall be deter-  
8 mined and paid by the public defense services executive director as provided  
9 in ORS 135.055 if the circuit court is the appellate court or as provided in  
10 ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court.  
11 The compensation, costs and expenses shall be paid as provided in ORS  
12 138.500.

13 **“SECTION 18.** If Senate Bill 426 becomes law, ORS 426.160, as amended  
14 by section 7 of this 2013 Act, is amended to read:

15 “426.160. (1) The court having jurisdiction over any proceeding conducted  
16 pursuant to ORS 426.005, 426.060 to 426.170, 426.217, 426.228, 426.255 to  
17 426.292, 426.300 to 426.309, 426.385 and 426.395 and sections 2 and 3 of this  
18 2013 Act may not disclose any part of the record of the proceeding or com-  
19 mitment to any person except:

20 “(a) The court shall, pursuant to rules adopted by the Department of State  
21 Police, transmit the minimum information necessary, as defined in ORS  
22 181.740, to the Department of State Police for persons described in ORS  
23 181.740 (1)(a) or (b) to enable the department to access and maintain the in-  
24 formation and transmit the information to the federal government as re-  
25 quired under federal law;

26 “(b) As provided in ORS 426.070 (5)(c), 426.130 (3) or 426.170;

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

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

30 “(e) Pursuant to court order.



1       “(2) In any proceeding described in subsection (1) of this section that is  
2 before the Supreme Court or the Court of Appeals, the limitations on dis-  
3 closure imposed by this section apply to the appellate court record and to  
4 the trial court record while it is in the appellate court’s custody. The ap-  
5 pellate court may disclose information from the trial or appellate court re-  
6 cord in a decision, as defined in ORS 19.450, provided that the court uses  
7 initials, an alias or some other convention for protecting against public dis-  
8 closure the identity of the [*allegedly mentally ill*] person **subject to the**  
9 **proceeding**.

10       “**SECTION 19.** If Senate Bill 426 becomes law, ORS 426.241, as amended  
11 by section 8 of this 2013 Act, is amended to read:

12       “426.241. (1) The cost of emergency psychiatric care, custody and treat-  
13 ment related to or resulting from such psychiatric condition, provided by a  
14 hospital or other facility approved by the Oregon Health Authority and the  
15 community mental health program director of the county in which the fa-  
16 cility is located, except a state [*mental*] hospital, for [*an allegedly mentally*  
17 *ill person*] **a person alleged to have a mental illness who is** admitted or  
18 detained under ORS 426.070, 426.140, 426.228, 426.232 or 426.233, or for a  
19 [*mentally ill*] person **with mental illness who is** admitted or detained under  
20 ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall be paid by the county  
21 of which the person is a resident from state funds provided [*it*] **to the**  
22 **county** for this purpose. The county is responsible for the cost when state  
23 funds [*available therefor*] **provided to the county** are exhausted. The hospi-  
24 tal or other facility shall charge to and collect from the person, third party  
25 payers or other [*persons or agencies otherwise legally responsible therefor,*]  
26 **legally or financially responsible individuals or entities** the costs of the  
27 emergency care, custody and treatment, as it would for any other patient,  
28 and any funds received shall be applied as an offset to the cost of the ser-  
29 vices provided under this section.

30       “(2) If any person is admitted to or detained in a state [*mental*] hospital

1 under ORS 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for  
2 emergency care, custody or treatment, the authority shall charge to and  
3 collect from the person, third party payers or other [*persons or agencies*  
4 *otherwise legally responsible therefor,*] **legally or financially responsible**  
5 **individuals or entities** the costs as it would for other patients of the state  
6 [*mental*] hospitals under the provisions of ORS 179.610 to 179.770.

7 “(3) If any person is adjudged [*mentally ill*] **to have a mental illness**  
8 under the provisions of ORS 426.130, or determined to be an extremely dan-  
9 gerous [*mentally ill*] person **with mental illness** under section 2 or 3 of this  
10 2013 Act, and the person receives care and treatment in a state [*mental*]  
11 hospital, the person, third party payers or other [*persons or agencies other-*  
12 *wise legally responsible therefor,*] **legally or financially responsible indi-**  
13 **viduals or entities** shall be required to pay for the costs of the  
14 hospitalization at the state hospital, as provided by ORS 179.610 to 179.770,  
15 if financially able to do so.

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

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

6 “(B) A physician or a person providing emergency psychiatric services  
7 under ORS 426.228 to 426.235 or 426.237.

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

10 **“SECTION 20. If Senate Bill 426 becomes law, the amendments to**  
11 **sections 2 and 3 of this 2013 Act and ORS 426.095, 426.110, 426.135, 426.160**  
12 **and 426.241 by sections 13 to 19 of this 2013 Act become operative on**  
13 **the effective date of chapter 360, Oregon Laws 2013 (Enrolled Senate**  
14 **Bill 426).**

15 **“SECTION 21.** If Senate Bill 426 becomes law, section 69, chapter 360,  
16 Oregon Laws 2013 (Enrolled Senate Bill 426), is amended to read:

17 **“Sec. 69.** The amendments to ORS 21.010, 109.322, 135.775, 166.250, 166.291,  
18 166.470, 179.473, 408.570, 419C.529, 421.245, 421.284, 421.296, 426.005, 426.010,  
19 426.060, 426.070, 426.072, 426.074, 426.075, 426.090, 426.095, 426.100, 426.110,  
20 426.120, 426.123, 426.125, 426.127, 426.130, 426.135, 426.140, 426.150, 426.155,  
21 426.160, 426.170, 426.223, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235,  
22 426.237, 426.241, 426.250, 426.255, 426.273, 426.275, 426.278, 426.292, 426.297,  
23 426.300, 426.301, 426.307, 426.310, 426.320, 426.335, 426.370, 426.385, 426.500,  
24 428.310, 480.225, 677.225 and 680.205 and section 5, chapter 826, Oregon Laws  
25 2009, by sections 1, 3 to 6, 8, 10 and 12 to 68, **chapter 360, Oregon Laws**  
26 **2013 (Enrolled Senate Bill 426), [of this 2013 Act] and sections 15 to 19**  
27 **of this 2013 Act** apply to proceedings initiated under ORS 426.070, 426.228  
28 to 426.235, 426.237, 426.300, 426.301 to 426.307 or 426.380 on or after the ef-  
29 fective date of **chapter 360, Oregon Laws 2013 (Enrolled Senate Bill 426)**  
30 *[this 2013 Act]*.”.

1 In line 44, delete "12" and insert "22".

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