

# House Bill 2628

Sponsored by Representative HICKS (Presession filed.)

## 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**.

Removes requirement for peace officer, upon discharge of person taken into emergency custody for possible mental illness, to transport person to place where person was taken into custody. Authorizes friend or relative of person to transport person who is discharged from emergency custody. Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to transportation of person discharged from emergency custody; amending ORS 426.228; and  
3 declaring an emergency.

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

5 **SECTION 1.** ORS 426.228 is amended to read:

6 426.228. (1) A peace officer may take into custody a person who the officer has probable cause  
7 to believe is dangerous to self or to any other person and is in need of immediate care, custody or  
8 treatment for mental illness. As directed by the community mental health program director, a peace  
9 officer shall remove a person taken into custody under this section to the nearest hospital or non-  
10 hospital facility approved by the Oregon Health Authority. The officer shall prepare a written report  
11 and deliver it to the treating physician. The report shall state:

12 (a) The reason for custody;

13 (b) The date, time and place the person was taken into custody; and

14 (c) The name of the community mental health program director and a telephone number where  
15 the director may be reached at all times.

16 (2) A peace officer shall take a person into custody when the community mental health program  
17 director, pursuant to ORS 426.233, notifies the peace officer that the director has probable cause to  
18 believe that the person is imminently dangerous to self or to any other person. As directed by the  
19 community mental health program director, the peace officer shall remove the person to a hospital  
20 or nonhospital facility approved by the authority. The community mental health program director  
21 shall prepare a written report that the peace officer shall deliver to the treating physician. The re-  
22 port shall state:

23 (a) The reason for custody;

24 (b) The date, time and place the person was taken into custody; and

25 (c) The name of the community mental health program director and a telephone number where  
26 the director may be reached at all times.

27 (3) If more than one hour will be required to transport the person to the hospital or nonhospital  
28 facility from the location where the person was taken into custody, the peace officer shall obtain,  
29 if possible, a certificate from a physician licensed by the Oregon Medical Board stating that the  
30 travel will not be detrimental to the person's physical health and that the person is dangerous to

**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 self or to any other person and is in need of immediate care or treatment for mental illness. The  
 2 physician shall have personally examined the allegedly mentally ill person within 24 hours prior to  
 3 signing the certificate.

4 (4) When a peace officer or other authorized person, acting under this section, delivers a person  
 5 to a hospital or nonhospital facility, a physician licensed by the Oregon Medical Board shall exam-  
 6 ine the person immediately. If the physician finds the person to be in need of emergency care or  
 7 treatment for mental illness, the physician shall proceed under ORS 426.232, otherwise the person  
 8 shall not be retained in custody. If the person is to be released from custody, [*the peace officer or*]  
 9 **the community mental health program director, a person authorized under ORS 426.233 (3) or a**  
 10 **friend or relative of the person** shall return the person to the place where the person was taken  
 11 into custody unless the person declines that service.

12 (5) A peace officer may transfer a person in custody under this section to the custody of a per-  
 13 son authorized by the county governing body under ORS 426.233 (3). The peace officer may meet the  
 14 authorized person at any location that is in accordance with ORS 426.140 to effect the transfer.  
 15 When transferring a person in custody to an authorized person, the peace officer shall deliver the  
 16 report required under subsections (1) and (2) of this section to the authorized person.

17 (6) A person authorized under ORS 426.233 (3) shall take a person into custody when directed  
 18 to do so by a peace officer or by a community mental health program director under ORS 426.233.

19 (7) A person authorized under ORS 426.233 (3) shall perform the duties of the peace officer or  
 20 the community mental health program director required by this section and ORS 426.233 if the peace  
 21 officer or the director has not already done so.

22 (8) A person authorized under ORS 426.233 (3) may transfer a person in custody under this  
 23 section to the custody of another person authorized under ORS 426.233 (3) or a peace officer. The  
 24 authorized person transferring custody may meet another authorized person or a peace officer at  
 25 any location that is in accordance with ORS 426.140 to effect the transfer.

26 (9)(a) When a peace officer takes a person into custody under this section, and the peace officer  
 27 reasonably suspects that the person is a foreign national, the peace officer shall inform the person  
 28 of the person's right to communicate with an official from the consulate of the person's country.

29 (b) A peace officer is not civilly or criminally liable for failure to provide the information re-  
 30 quired by this subsection. Failure to provide the information required by this subsection does not  
 31 in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a  
 32 proceeding.

33 **SECTION 2. This 2013 Act being necessary for the immediate preservation of the public**  
 34 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
 35 **on its passage.**