

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

By JOINT COMMITTEE ON WAYS AND MEANS

July 1

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

4 On page 9, line 9, after “Certified” insert “by the authority or the Psychiatric Security Review
5 Board”.

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

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

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

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

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

11 After line 43, insert:

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

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

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

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

19 “(A) Is at least 18 years of age;

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

22 “(C) Because of a mental disorder:

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

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

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

28 “(A) A disorder manifested solely by repeated criminal or otherwise antisocial conduct; or

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

30 “(c) A mental disorder is ‘resistant to treatment’ if, after receiving care from a licensed psychi-
31 atrist and exhausting all reasonable psychiatric treatment, or after refusing psychiatric treatment,
32 the person continues to be significantly impaired in the person’s ability to make competent decisions
33 and to be aware of and control extremely dangerous behavior.

34 “(2)(a) A district attorney may petition the court to initiate commitment proceedings described

1 in this section if there is reason to believe a person is an extremely dangerous [*mentally ill*] person
2 **with mental illness**. The petition shall immediately be served upon the person.

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

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

7 “(B) The right to a hearing to determine whether the person is an extremely dangerous [*mentally*
8 *ill*] person **with mental illness**, unless the person consents to the commitment by waiving the right
9 to a hearing in writing after consultation with legal counsel.

10 “(c) A person against whom a petition described in this subsection is filed shall have the fol-
11 lowing:

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

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

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

18 “(D) The right to examine all reports, documents and information that the court considers, in-
19 cluding the right to examine the reports, documents and information prior to the hearing, if avail-
20 able.

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

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

27 “(A) The person is extremely dangerous;

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

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

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

32 “(ii) Caused serious physical injury to another person by means of a dangerous weapon;

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

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

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

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

41 “(b) The court shall further commit the person to a state hospital for custody, care and treat-
42 ment if the court finds, by clear and convincing evidence, that the person cannot be controlled in
43 the community with proper care, medication, supervision and treatment on conditional release.

44 “(c) The court shall specify in the order whether any person who would be considered a victim
45 as defined in ORS 131.007 of the act described in paragraph (a)(C) of this subsection, if the act had

1 been criminally prosecuted, requests notification of any order or hearing, conditional release, dis-
2 charge or escape of the person committed under this section.

3 “(d) The court shall be fully advised of all drugs and other treatment known to have been ad-
4 ministered to the alleged extremely dangerous [*mentally ill*] person **with mental illness** that may
5 substantially affect the ability of the person to prepare for, or to function effectively at, the hearing.

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

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

10 “(5) A person committed under this section shall remain under the jurisdiction of the board for
11 a maximum of 24 months unless the board conducts a hearing and makes the findings described in
12 subsection (6)(d) of this section.

13 “(6)(a) The board shall hold a hearing six months after the initial commitment described in
14 subsection (3) of this section, and thereafter six months after a further commitment described in
15 section 3 of this 2013 Act, to determine the placement of the person and whether the person is eli-
16 gible for conditional release or early discharge. The board shall provide written notice of the hear-
17 ing to the person, the person’s legal counsel and the office of the district attorney who filed the
18 initial petition under subsection (2) of this section within a reasonable time prior to the hearing.
19 The board shall further notify the person of the following:

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

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

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

24 “(D) The right to subpoena witnesses;

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

26 “(F) The right to examine all reports, documents and information that the board considers, in-
27 cluding the right to examine the reports, documents and information prior to the hearing if avail-
28 able.

29 “(b) If the board determines at the hearing that the person still suffers from a mental disorder
30 that is resistant to treatment and continues to be extremely dangerous, and that the person cannot
31 be controlled in the community with proper care, medication, supervision and treatment if condi-
32 tionally released, the person shall remain committed to a state hospital.

33 “(c) If the board determines at the hearing that the person still suffers from a mental disorder
34 that is resistant to treatment and continues to be extremely dangerous, but finds that the person
35 can be controlled in the community with proper care, medication, supervision and treatment if con-
36 ditionally released, the board shall conditionally release the person.

37 “(d) If the board determines at the hearing that the person no longer suffers from a mental
38 disorder that is resistant to treatment or is no longer extremely dangerous, the board shall dis-
39 charge the person. The discharge of a person committed under this section does not preclude com-
40 mitment of the person pursuant to ORS 426.005 to 426.390.

41 “(7)(a) At any time during the commitment to a state hospital, the superintendent of the state
42 hospital may request a hearing to determine the status of the person’s commitment under the juris-
43 diction of the board. The request shall be accompanied by a report setting forth the facts supporting
44 the request. If the request is for conditional release, the request shall be accompanied by a verified
45 conditional release plan. The hearing shall be conducted as described in subsection (6) of this sec-

1 tion.

2 “(b) The board may make the findings described in subsection (6)(c) of this section and condi-
3 tionally release the person without a hearing if the office of the district attorney who filed the ini-
4 tial petition under subsection (2) of this section does not object to the conditional release.

5 “(c) At any time during conditional release, a state or local mental health facility providing
6 treatment to the person may request a hearing to determine the status of the person’s commitment
7 under the jurisdiction of the board. The hearing shall be conducted as described in subsection (6)
8 of this section.

9 “(8)(a) If the board orders the conditional release of a person under subsection (6)(c) of this
10 section, the board shall order conditions of release that may include a requirement to report to any
11 state or local mental health facility for evaluation. The board may further require cooperation with,
12 and acceptance of, psychiatric or psychological treatment from the facility. Conditions of release
13 may be modified by the board from time to time.

14 “(b) When a person is referred to a state or local mental health facility for an evaluation under
15 this subsection, the facility shall perform the evaluation and submit a written report of its findings
16 to the board. If the facility finds that treatment of the person is appropriate, the facility shall in-
17 clude its recommendations for treatment in the report to the board.

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

21 “(d) Copies of all reports submitted to the board pursuant to this subsection shall be furnished
22 to the person and to the person’s legal counsel, if applicable. The confidentiality of these reports is
23 determined pursuant to ORS 192.501 to 192.505.

24 “(e) The state or local mental health facility providing treatment to the person under this sub-
25 section shall comply with the conditional release order and any modifications of the conditions or-
26 dered by the board.

27 “(9)(a) If at any time while the person is conditionally released it appears that the person has
28 violated the terms of the conditional release, the board may order the person returned to a state
29 hospital for evaluation or treatment. A written order of the board is sufficient warrant for any law
30 enforcement officer to take the person into custody. A sheriff, municipal police officer, parole or
31 probation officer or other peace officer shall execute the order, and the person shall be returned to
32 the state hospital as soon as practicable.

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

37 “(c) Within 30 days following the return of the person to a state hospital, the board shall con-
38 duct a hearing to determine if, by a preponderance of the evidence, the person is no longer fit for
39 conditional release. The board shall provide written notice of the hearing to the person, the person’s
40 legal counsel and the office of the district attorney who filed the initial petition under subsection
41 (2) of this section within a reasonable time prior to the hearing. The notice shall advise the person
42 of the nature of the hearing, the right to have the court appoint legal counsel and the right to
43 subpoena witnesses, examine documents considered by the board and cross-examine all witnesses
44 who appear at the hearing.

45 “(10)(a) If the person had unadjudicated criminal charges at the time of the person’s initial

1 commitment under this section and the state hospital or the state or local mental health facility
2 providing treatment to the person intends to recommend discharge of the person at an upcoming
3 hearing, the superintendent of the state hospital or the director of the facility shall provide written
4 notice to the board and the district attorney of the county where the criminal charges were initiated
5 of the discharge recommendation at least 45 days before the hearing. The notice shall be accompa-
6 nied by a report describing the person's diagnosis and the treatment the person has received.

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

13 “(c) The person committed under this section may not waive an evaluation ordered by the court
14 to determine if the person is fit to proceed with the criminal proceeding as described in this sub-
15 section.

16 “(11) The board shall make reasonable efforts to notify any person described in subsection (3)(c)
17 of this section of any order or hearing, conditional release, discharge or escape of the person com-
18 mitted under this section.

19 “(12) The board shall adopt rules to carry out the provisions of this section and section 3 of this
20 2013 Act.

21 “(13) Any time limitation described in ORS 131.125 to 131.155 does not run during a commitment
22 described in this section or a further commitment described in section 3 of this 2013 Act.

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

24 “**Sec. 3.** (1)(a) At the end of the 24-month period of commitment described in section 2 of this
25 2013 Act, any person who remains committed under the jurisdiction of the Psychiatric Security Re-
26 view Board shall be discharged, unless the board certifies to the court in the county where the state
27 hospital or state or local mental health facility providing treatment to the person is located that the
28 person is still extremely dangerous and suffers from a mental disorder that is resistant to treatment.
29 The board, pursuant to its rules, may delegate to the superintendent of the state hospital or the
30 director of the state or local mental health facility providing treatment to the person the responsi-
31 bility for making the certification. If the certification is made, the person will not be released.

32 “(b) The board may additionally certify that the person cannot be controlled in the community
33 with proper care, medication, supervision and treatment on conditional release and must be com-
34 mitted to a state hospital. The board, pursuant to its rules, may delegate to the superintendent of
35 the state hospital or the director of the state or local mental health facility providing treatment to
36 the person the responsibility for making the additional certification.

37 “(2) The certification shall immediately be served upon the person by the superintendent of the
38 state hospital or the director of the state or local mental health facility providing treatment to the
39 person. The superintendent or director shall inform the court in writing that service has been made
40 and the date thereof.

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

42 “(a) That the board, hospital or facility has requested that commitment be continued for an ad-
43 ditional 24 months.

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

1 “(c) That the person may consult with legal counsel when deciding whether to protest the fur-
2 ther commitment and that legal counsel will be provided for the person without cost if the person
3 is without funds to retain legal counsel.

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

6 “(e) That if the person does protest a further period of commitment, the person is entitled to a
7 hearing before the court to determine whether commitment should be continued.

8 “(f) That the person is entitled to have a psychologist or psychiatrist, other than a member of
9 the staff at the facility where the person is being treated, examine the person and report to the
10 court the results of the examination at the hearing.

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

13 “(h) That if the person is without funds to retain legal counsel or an examining psychologist or
14 psychiatrist for the hearing, the court will appoint legal counsel or an examining psychologist or
15 psychiatrist.

16 “(4) The person serving the certification shall read and deliver the certification to the person
17 and ask whether the person protests a further period of commitment. The person may protest a
18 further period of commitment and request a hearing either orally or by signing a simple protest form
19 to be given to the person with the certification. If the person does not protest a further period of
20 commitment within 14 days of service of the certification, the board, hospital or facility shall so
21 notify the court, and the court shall, without further hearing, order the commitment of the person
22 to the jurisdiction of the board for a maximum of 24 months. The court shall further order that the
23 person be committed to a state hospital if a certification under subsection (1)(b) of this section has
24 been made.

25 “(5) When the person protests a further period of commitment and requests a hearing, the board,
26 hospital or facility shall immediately notify the court, and the court shall have the person brought
27 before it and shall again advise the person that the board, hospital or facility has requested that
28 commitment be continued for an additional period of time and that if the person does not protest this
29 commitment the commitment will be continued for a maximum of 24 months. The person shall also
30 be informed of the rights set forth in subsection (3) of this section.

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

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

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

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

40 “(d) If the person requests an examination by a psychologist or psychiatrist and is without funds
41 to retain a psychologist or psychiatrist for purposes of the examination, the court shall appoint a
42 psychologist or psychiatrist, other than a member of the staff from the facility where the person is
43 being treated, to examine the person at no expense to the person and to report to the court the
44 results of the examination.

45 “(e) The provisions of ORS 40.230, 40.235, 40.240, 40.250 and 179.505 do not apply to the use of

1 medical records from the current period of commitment or to testimony related to such records or
2 period of commitment in connection with hearings under this section. The court may consider as
3 evidence such reports and testimony.

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

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

18 “**SECTION 15.** If Senate Bill 426 becomes law, ORS 426.095, as amended by section 4 of this
19 2013 Act, is amended to read:

20 “426.095. The following is applicable to a commitment hearing held by a court under ORS
21 426.070:

22 “(1) The hearing may be held in a hospital, the person’s home or in some other place convenient
23 to the court and the [*allegedly mentally ill*] person **alleged to have a mental illness**.

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

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

27 “(b) Except as provided by paragraph (c) of this subsection, if a person is detained by a warrant
28 of detention under ORS 426.070, a hearing shall be held within five judicial days of the commence-
29 ment of detention.

30 “(c) If requested under this paragraph, the court, for good cause, may postpone the hearing for
31 not more than five judicial days in order to allow preparation for the hearing. The court may make
32 orders for the care and custody of the person during a postponement as it deems necessary. If a
33 person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 or sec-
34 tion 3 of this 2013 Act and the hearing is postponed under this paragraph, the court, for good cause,
35 may allow the person to be detained during the postponement if the postponement is requested by
36 the person or the legal counsel of the person. Any of the following may request a postponement
37 under this paragraph:

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

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

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

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

1 “(a) Witnesses.

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

3 “(c) The examining physicians or other qualified [*persons*] **professionals** recommended by the

4 Oregon Health Authority who have examined the person.

5 “(4) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 shall not apply to and the court may

6 consider as evidence any of the following:

7 “(a) Medical records for the current involuntary prehearing period of detention.

8 “(b) Statements attributed by the maker of the medical records or the investigation report to

9 witnesses concerning their own observations in the absence of objection or if such [*persons*] **indi-**

10 **viduals** are produced as witnesses at the hearing available for cross-examination.

11 “(c) The testimony of any treating physicians, nurses or social workers for the prehearing period

12 of detention. Any treating physician, nurse or social worker who is subpoenaed as a witness for the

13 proceeding shall testify as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and

14 40.425 and is subject to treatment as an expert witness in the payment of witness fees and costs.

15 “(d) The investigation report prepared under ORS 426.074. Subject to the following, the inves-

16 tigation report shall be introduced in evidence:

17 “(A) Introduction of the report under this paragraph does not require the consent of the

18 [*allegedly mentally ill*] person **alleged to have a mental illness**.

19 “(B) Upon objection by any party to the action, the court shall exclude any part of the investi-

20 gation report that may be excluded under the Oregon Evidence Code on grounds other than those

21 set forth in ORS 40.230, 40.235, 40.240 or 40.250.

22 “(C) Neither the investigation report nor any part thereof shall be introduced into evidence

23 under this paragraph unless the investigator is present during the proceeding to be cross-examined

24 or unless the presence of the investigator is waived by the [*allegedly mentally ill*] person **alleged to**

25 **have a mental illness** or counsel for the [*allegedly mentally ill*] person.

26 “**SECTION 16.** If Senate Bill 426 becomes law, ORS 426.110, as amended by section 5 of this

27 2013 Act, is amended to read:

28 “426.110. The following requirements relating to the appointment of examiners for purposes of

29 a hearing under ORS 426.095 or sections 2 and 3 of this 2013 Act apply as described:

30 “(1) The judge shall appoint one qualified examiner. If requested, the judge shall appoint one

31 additional qualified examiner. A request for an additional examiner under this subsection must be

32 made in writing and must be made by the [*allegedly mentally ill*] person **alleged to have a mental**

33 **illness** or the attorney for the [*allegedly mentally ill*] person.

34 “(2) To be qualified for purposes of this section, an examiner must [*meet all of the following*

35 *qualifications*]:

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

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

38 “(A) A physician licensed by the Oregon Medical Board who is competent to practice psychiatry

39 as provided by the Oregon Health Authority or the Psychiatric Security Review Board by rule.

40 “(B) Certified by the authority or the Psychiatric Security Review Board as a mental health

41 examiner qualified to make examinations for involuntary commitment proceedings.

42 “**(3)** The authority or the Psychiatric Security Review Board may establish, by rule, require-

43 ments for certification as a mental health examiner for purposes of [*this subparagraph*] **subsection**

44 **(2)(b)(B) of this section.**

45 “[(3)] (4) The cost of examiners under this section shall be paid as provided under ORS 426.250.

1 “**SECTION 17.** If Senate Bill 426 becomes law, ORS 426.135, as amended by section 6 of this
2 2013 Act, is amended to read:

3 “426.135. If a person determined to be [*mentally ill*] **a person with mental illness** as provided
4 in ORS 426.130, or determined to be an extremely dangerous [*mentally ill*] person **with mental ill-**
5 **ness** under section 2 or 3 of this 2013 Act, appeals the determination or **the** disposition [*based*
6 *thereon*], and is determined to be financially eligible for appointed counsel at state expense, upon
7 request of the person or upon its own motion, the court shall appoint suitable legal counsel to rep-
8 resent the person. The compensation for legal counsel and costs and expenses necessary to the ap-
9 peal shall be determined and paid by the public defense services executive director as provided in
10 ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court
11 of Appeals or Supreme Court is the appellate court. The compensation, costs and expenses shall be
12 paid as provided in ORS 138.500.

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

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

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

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

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

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

26 or

27 “(e) Pursuant to court order.

28 “(2) In any proceeding described in subsection (1) of this section that is before the Supreme
29 Court or the Court of Appeals, the limitations on disclosure imposed by this section apply to the
30 appellate court record and to the trial court record while it is in the appellate court’s custody. The
31 appellate court may disclose information from the trial or appellate court record in a decision, as
32 defined in ORS 19.450, provided that the court uses initials, an alias or some other convention for
33 protecting against public disclosure the identity of the [*allegedly mentally ill*] person **subject to the**
34 **proceeding.**

35 “**SECTION 19.** If Senate Bill 426 becomes law, ORS 426.241, as amended by section 8 of this
36 2013 Act, is amended to read:

37 “426.241. (1) The cost of emergency psychiatric care, custody and treatment related to or re-
38 sulting from such psychiatric condition, provided by a hospital or other facility approved by the
39 Oregon Health Authority and the community mental health program director of the county in which
40 the facility is located, except a state [*mental*] hospital, for [*an allegedly mentally ill person*] **a person**
41 **alleged to have a mental illness who is** admitted or detained under ORS 426.070, 426.140, 426.228,
42 426.232 or 426.233, or for a [*mentally ill*] person **with mental illness who is** admitted or detained
43 under ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall be paid by the county of which the
44 person is a resident from state funds provided [*it*] **to the county** for this purpose. The county is
45 responsible for the cost when state funds [*available therefor*] **provided to the county** are exhausted.

1 The hospital or other facility shall charge to and collect from the person, third party payers or other
2 *[persons or agencies otherwise legally responsible therefor,]* **legally or financially responsible indi-**
3 **viduals or entities** the costs of the emergency care, custody and treatment, as it would for any
4 other patient, and any funds received shall be applied as an offset to the cost of the services pro-
5 vided under this section.

6 “(2) If any person is admitted to or detained in a state *[mental]* hospital under ORS 426.070,
7 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency care, custody or treatment, the
8 authority shall charge to and collect from the person, third party payers or other *[persons or agen-*
9 *cies otherwise legally responsible therefor,]* **legally or financially responsible individuals or enti-**
10 **ties** the costs as it would for other patients of the state *[mental]* hospitals under the provisions of
11 ORS 179.610 to 179.770.

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

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

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

30 “(b) The authority may require the following to provide the authority with any information that
31 the authority determines is necessary to review a request for denial of payment made under this
32 subsection or to conduct a review of emergency psychiatric services for the purpose of planning or
33 defining authority rules:

34 “(A) A hospital or nonhospital facility approved under ORS 426.228 to 426.235 or 426.237.

35 “(B) A physician or a person providing emergency psychiatric services under ORS 426.228 to
36 426.235 or 426.237.

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

38 “**SECTION 20. If Senate Bill 426 becomes law, the amendments to sections 2 and 3 of this**
39 **2013 Act and ORS 426.095, 426.110, 426.135, 426.160 and 426.241 by sections 13 to 19 of this 2013**
40 **Act become operative on the effective date of chapter 360, Oregon Laws 2013 (Enrolled Sen-**
41 **ate Bill 426).**

42 “**SECTION 21.** If Senate Bill 426 becomes law, section 69, chapter 360, Oregon Laws 2013 (En-
43 rolled Senate Bill 426), is amended to read:

44 “**Sec. 69.** The amendments to ORS 21.010, 109.322, 135.775, 166.250, 166.291, 166.470, 179.473,
45 408.570, 419C.529, 421.245, 421.284, 421.296, 426.005, 426.010, 426.060, 426.070, 426.072, 426.074,

1 426.075, 426.090, 426.095, 426.100, 426.110, 426.120, 426.123, 426.125, 426.127, 426.130, 426.135, 426.140,
2 426.150, 426.155, 426.160, 426.170, 426.223, 426.228, 426.231, 426.232, 426.233, 426.234, 426.235, 426.237,
3 426.241, 426.250, 426.255, 426.273, 426.275, 426.278, 426.292, 426.297, 426.300, 426.301, 426.307, 426.310,
4 426.320, 426.335, 426.370, 426.385, 426.500, 428.310, 480.225, 677.225 and 680.205 and section 5, chapter
5 826, Oregon Laws 2009, by sections 1, 3 to 6, 8, 10 and 12 to 68, **chapter 360, Oregon Laws 2013**
6 **(Enrolled Senate Bill 426)**, [*of this 2013 Act*] **and sections 15 to 19 of this 2013 Act** apply to
7 proceedings initiated under ORS 426.070, 426.228 to 426.235, 426.237, 426.300, 426.301 to 426.307 or
8 426.380 on or after the effective date of **chapter 360, Oregon Laws 2013 (Enrolled Senate Bill 426)**
9 [*this 2013 Act*].”.

10 In line 44, delete “12” and insert “22”.

11
