

# House Bill 3502

Sponsored by Representative FREDERICK, Senators BATES, WINTERS; Representatives BUEHLER, KENNEMER, LIVELY, Senators KNOPP, MONNES ANDERSON, STEINER HAYWARD (at the request of Oregon Association of Hospitals and Health Systems)

## 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**.

Makes various changes to statutes related to treatment of individuals who are found by court to have mental illness and to be in need of treatment. Requires Oregon Health Authority to reimburse hospitals for care provided to individuals who have been committed but not yet placed in state hospital or community facility. Requires Oregon Health Authority to adopt procedures to ensure that individuals who are committed by court are promptly placed in least restrictive treatment facilities. Updates references.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to persons with mental illness; creating new provisions; amending ORS 426.005, 426.070,  
3 426.072, 426.074, 426.075, 426.090, 426.095, 426.100, 426.110, 426.120, 426.127, 426.130, 426.155,  
4 426.170, 426.223, 426.228, 426.231, 426.233, 426.234, 426.235, 426.237, 426.241, 426.273, 426.275,  
5 426.278, 426.295, 426.301, 426.307, 426.330, 426.335, 426.385, 426.490, 430.010, 430.021, 430.050,  
6 430.197, 430.306, 430.610, 430.630, 430.634, 430.640, 430.644, 430.646, 430.695 and 430.708; and de-  
7 claring an emergency.

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

9 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 426.005 to**  
10 **426.390.**

11 **SECTION 2. (1) The Oregon Health Authority shall adopt by rule procedures to ensure**  
12 **that an individual, once determined by a court under ORS 426.130 to be a person with mental**  
13 **illness and in need of treatment, is promptly placed in the least restrictive and most clin-**  
14 **ically appropriate setting. The procedures shall ensure that an individual who is detained in**  
15 **a hospital during a prehearing period of treatment under ORS 426.070, 426.228, 426.232 or**  
16 **426.233 is transferred to an appropriate placement no later than seven days after entry of the**  
17 **court order.**

18 **(2) Beginning January 1, 2017, the authority may not maintain a waiting list or similar**  
19 **process that delays the placement of an individual described in this section.**

20 **SECTION 3. (1) The Oregon Health Authority shall provide the following information to**  
21 **each hospital on a quarterly basis:**

22 **(a) The number of patients in the hospital who were determined by a court under ORS**  
23 **426.130 to be persons with mental illness and in need of treatment and who are waiting for**  
24 **the authority to place them in outpatient commitment or transfer them to a state hospital.**

25 **(b) The number of vacant beds available at a state hospital and why the vacancies have**  
26 **not been filled.**

27 **(2) The authority shall post to its website and update at least quarterly the data reported**

**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 **by the authority to the United States Department of Justice as program performance**  
 2 **measures, in accordance with the agreement between the state and the department regard-**  
 3 **ing the department's investigation of Oregon's mental health system.**

4 **(3) The authority shall collect data on and annually report to the Legislative Assembly,**  
 5 **in the manner provided in ORS 192.245, regarding:**

6 **(a) The costs incurred by the authority under ORS 426.241 (1)(b);**

7 **(b) The length of the wait until placement for individuals described in subsection (1) of**  
 8 **this section; and**

9 **(c) The placement setting for individuals described in subsection (1) of this section.**

10 **SECTION 4. In accordance with ORS 84.019, a court may not refuse to accept the elec-**  
 11 **tronic submission of a petition, notice, certification or other information required to be filed**  
 12 **with the court in writing under ORS 426.005 to 426.390.**

13 **SECTION 5.** ORS 426.005 is amended to read:

14 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

15 (a) "Community mental health program director" means the director of an entity that provides  
 16 the services described in ORS 430.630 (3) to (5).

17 (b) "Director of the facility" means a superintendent of a state [*mental*] hospital, the [*chief of*]  
 18 **person in charge of the** psychiatric services in a community hospital or the person in charge of  
 19 treatment and rehabilitation programs at other treatment facilities.

20 (c) "Facility" means a state [*mental*] hospital, community hospital, residential facility,  
 21 detoxification center, day treatment facility or such other facility as the authority determines suit-  
 22 able that provides diagnosis and evaluation, medical care, detoxification, social services or rehabil-  
 23 itation to persons committed to the Oregon Health Authority under ORS 426.130.

24 (d) "Nonhospital facility" means any facility, other than a hospital, that is approved by the au-  
 25 thority to provide adequate security, psychiatric, nursing and other services to persons under ORS  
 26 426.232 or 426.233.

27 (e) "Person with mental illness" means a person who, because of a mental disorder, is one or  
 28 more of the following:

29 (A) Dangerous to self or others.

30 (B) Unable to provide for basic personal needs and is not receiving such care as is necessary  
 31 for health or safety.

32 (C) A person:

33 (i) With a chronic mental illness, as defined in ORS 426.495;

34 (ii) Who, within the previous three years, has twice been placed in a hospital or approved in-  
 35 patient facility by the authority or the Department of Human Services under ORS 426.060;

36 (iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led  
 37 to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii)  
 38 of this subparagraph; and

39 (iv) Who, unless treated, will continue, to a reasonable medical probability, to physically or  
 40 mentally deteriorate so that the person will become a person described under either subparagraph  
 41 (A) or (B) of this paragraph or both.

42 (f) "Prehearing period of [*detention*] **treatment**" means a period of time calculated from the in-  
 43 itiation of custody during which a person may be detained **for care and treatment** under ORS  
 44 426.228, 426.231, 426.232 or 426.233.

45 (2) Whenever a community mental health program director[,] **or** director of the facility[, *super-*

1 *intendent of a state hospital or administrator of a facility]* is referred to, the reference includes any  
 2 designee [*such person*] **the director** has designated to act on the [*person's*] **director's** behalf in the  
 3 exercise of duties.

4 **SECTION 6.** ORS 426.070 is amended to read:

5 426.070. (1) Any of the following may initiate commitment procedures under this section by giv-  
 6 ing the notice described under subsection (2) of this section:

- 7 (a) Two persons;
- 8 (b) The county health officer; or
- 9 (c) Any magistrate.

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

- 11 (a) It must be in writing under oath;
- 12 (b) It must be given to the community mental health program director [*or a designee of the di-*  
 13 *rector*] in the county where the person alleged to have a mental illness resides;

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

16 (d) If the commitment proceeding is initiated by two persons under subsection (1)(a) of this sec-  
 17 tion, it may include a request that the court notify the two persons:

- 18 (A) Of the issuance or nonissuance of a warrant under this section; or
- 19 (B) Of the court's determination under ORS 426.130 (1); and

20 (e) If the notice contains a request under paragraph (d) of this subsection, it must also include  
 21 the addresses of the two persons making the request.

22 (3) Upon receipt of a notice under subsections (1) and (2) of this section or when notified by a  
 23 circuit court that the court received notice under ORS 426.234, the community mental health pro-  
 24 gram director[, *or designee of the director,*] shall:

25 (a) Immediately notify the judge of the court having jurisdiction for that county under ORS  
 26 426.060 of the notification described in subsections (1) and (2) of this section.

27 (b) Immediately notify the Oregon Health Authority if commitment is proposed because the  
 28 person appears to be a person with mental illness, as defined in ORS 426.005 (1)(e)(C). When such  
 29 notice is received, the authority may verify, to the extent known by the authority, whether or not  
 30 the person meets the criteria described in ORS 426.005 (1)(e)(C)(i) and (ii) and so inform the com-  
 31 munity mental health program director [*or designee of the director*].

32 (c) [*Initiate*] **Immediately begin** an investigation under ORS 426.074 to determine whether there  
 33 is probable cause to believe that the person is in fact a person with mental illness.

34 (4) Upon completion, a recommendation based upon the investigation report under ORS 426.074  
 35 shall be promptly submitted to the court. If the community mental health program director deter-  
 36 mines that probable cause does not exist to believe that a person released from detention under ORS  
 37 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental health program director  
 38 may recommend assisted outpatient treatment in accordance with ORS 426.133.

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

40 (a) If the court, following the investigation, concludes that there is probable cause to believe  
 41 that the person investigated is a person with mental illness, it shall, through the issuance of a ci-  
 42 tation as provided in ORS 426.090, cause the person to be brought before it at a time and place as  
 43 it may direct, for a hearing under ORS 426.095 to determine whether the person is a person with  
 44 mental illness. The person shall be given the opportunity to appear voluntarily at the hearing unless  
 45 the person fails to appear or unless the person is detained pursuant to paragraph (b) of this sub-

1 section.

2 (b)(A) If the court finds that there is probable cause to believe that failure to take the person  
 3 into custody pending the investigation or hearing would pose serious harm or danger to the person  
 4 or to others, the court may issue a warrant of detention to the community mental health program  
 5 director [*or designee*] or the sheriff of the county or **the sheriff's** designee, directing the director,  
 6 sheriff or [*a*] **sheriff's** designee to take the person alleged to have a mental illness into custody and  
 7 produce the person at the time and place stated in the warrant.

8 (B) At the time the person is taken into custody, the person shall be informed by the community  
 9 mental health program director, the sheriff or [*a*] **the sheriff's** designee of the following:

10 (i) The person's rights with regard to representation by or appointment of counsel as described  
 11 in ORS 426.100;

12 (ii) The warning under ORS 426.123; and

13 (iii) The person's right, if the community mental health program director, sheriff or **sheriff's**  
 14 designee reasonably suspects that the person is a foreign national, to communicate with an official  
 15 from the consulate of the person's country. A community mental health program director, sheriff or  
 16 **sheriff's** designee is not civilly or criminally liable for failure to provide the information required  
 17 by this sub-subparagraph. Failure to provide the information required by this sub-subparagraph does  
 18 not in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in  
 19 a proceeding.

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

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

24 **SECTION 7.** ORS 426.072 is amended to read:

25 426.072. (1) A hospital or nonhospital facility and a treating physician must comply with the  
 26 following when a person alleged to have a mental illness is placed in custody at the hospital or  
 27 nonhospital facility:

28 (a) By a warrant of detention under ORS 426.070;

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

30 (c) By a physician under ORS 426.232.

31 (2) In circumstances described under subsection (1) of this section, the hospital or nonhospital  
 32 facility and treating physician must comply with the following:

33 (a) The person shall receive the care, custody and treatment required for mental and physical  
 34 health and safety;

35 (b) The treating physician shall report any care, custody and treatment to the court as required  
 36 in ORS 426.075;

37 (c) All methods of treatment, including the prescription and administration of drugs, shall be the  
 38 sole responsibility of the treating physician. However, the person shall not be subject to  
 39 electroshock therapy or unduly hazardous treatment and shall receive usual and customary treat-  
 40 ment in accordance with medical standards in the community;

41 (d) The treating physician shall be notified immediately of any use of mechanical restraints on  
 42 the person. Every use of a mechanical restraint and the reasons therefor shall be made a part of the  
 43 clinical record of the person [*over the signature of the treating physician*]; and

44 (e) The treating physician shall give the person the warning under ORS 426.123 at times the  
 45 treating physician determines the person will reasonably understand the notice. This paragraph only

1 requires the notice to be given as often as the physician determines is necessary to assure that the  
2 person is given an opportunity to be aware of the notice.

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

5 **SECTION 8.** ORS 426.074 is amended to read:

6 426.074. The following is applicable to an investigation initiated by a community mental health  
7 program director[, *or a designee of the director,*] as part of commitment procedures under ORS  
8 426.070 and 426.228 to 426.235:

9 (1) If the person alleged to have a mental illness is held in custody before the hearing the in-  
10 vestigation shall be completed at least 24 hours before the hearing under ORS 426.095, otherwise the  
11 investigation shall comply with the following time schedule:

12 (a) If the person can be located, the investigator shall contact the person within three judicial  
13 days from the date the community mental health program director [*or a designee*] receives a notice  
14 under ORS 426.070 alleging that the person has a mental illness and is in need of treatment.

15 (b) Within 15 days from the date the community mental health program director [*or a designee*]  
16 receives a notice under ORS 426.070, one of the following shall occur:

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

18 (B) An application for extension shall be made to the court under paragraph (c) of this sub-  
19 section.

20 (c) The community mental health program director[, *a designee*] or the investigator may file for  
21 an extension of the time under paragraph (b) of this subsection only if one of the following occurs:

22 (A) A treatment option less restrictive than involuntary in-patient commitment is actively being  
23 pursued.

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

25 (d) A court may grant an extension under paragraph (c) of this subsection for a time and upon  
26 the terms and conditions the court considers appropriate.

27 (2) This subsection establishes a nonexclusive list of provisions applicable to the content of the  
28 investigation, as follows:

29 (a) The investigation conducted [*should, where appropriate,*] **shall** include:

30 (A) An interview or examination of the person alleged to have a mental illness in the home of  
31 the person or other place familiar to the person;

32 (B) **An interview with physicians, nurses and other medical staff providing care to the**  
33 **person during the prehearing period of treatment; and**

34 (C) **A review of the person's medical records.**

35 (b) Whether or not the person consents, the investigation should include interviews with any  
36 individuals that the investigator has probable cause to believe have pertinent information regarding  
37 the investigation. If the person objects to the contact with any individual, the objection shall be  
38 noted in the investigator's report.

39 (c) The investigator shall be allowed access to physicians, nurses or social workers and to  
40 medical records compiled during the current involuntary prehearing period of [*detention*] **treatment**  
41 to determine probable cause and to develop alternatives to commitment. If commitment is proposed  
42 because the person appears to be a person with mental illness as defined in ORS 426.005 (1)(e)(C),  
43 the investigator shall be allowed access to medical records necessary to verify the existence of cri-  
44 teria described in ORS 426.005 (1)(e)(C). The investigator shall include pertinent parts of the medical  
45 record in the investigation report. Records and communications described in this paragraph and

1 related communications are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

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

6 **SECTION 9.** ORS 426.075 is amended to read:

7 426.075. This section establishes procedures that are required to be followed before the hearing  
 8 if a court, under ORS 426.070, orders a hearing under ORS 426.095. The following apply as described:

9 (1) The court shall be fully advised of all drugs and other treatment known to have been ad-  
 10 ministered to the person alleged to have a mental illness that may substantially affect the ability  
 11 of the person to prepare for or function effectively at the hearing. The following shall advise the  
 12 court as required by this subsection:

13 (a) When not otherwise provided by paragraph (b) of this subsection, the community mental  
 14 health program director [*or designee*].

15 (b) When the person has been detained by a warrant of detention under ORS 426.070, 426.180,  
 16 426.228, 426.232 or 426.233, the treating physician.

17 (2) The court shall appoint examiners under ORS 426.110 sufficiently in advance of the hearing  
 18 so that the examiners may begin their preparation for the hearing. The records established by the  
 19 Oregon Health Authority by rule and the investigation report shall be made available to the exam-  
 20 iners at least 24 hours before the hearing in order that the examiners may review the medical re-  
 21 cord and have an opportunity to inquire of the medical personnel concerning the treatment of the  
 22 person alleged to have a mental illness during the [*detention period prior to the hearing*] **prehearing**  
 23 **period of treatment.**

24 (3) The medical record described in subsection (2) of this section shall be made available to  
 25 counsel for the person alleged to have a mental illness at least 24 hours prior to the hearing.

26 (4) When requested by a party to the action, the party's attorney shall subpoena physicians who  
 27 are or have been treating the person. Any treating physician subpoenaed under this subsection shall  
 28 be subpoenaed as an expert witness.

29 **SECTION 10.** ORS 426.090 is amended to read:

30 426.090. The judge shall issue a citation to the person alleged to have a mental illness stating  
 31 the nature of the information filed concerning the person and the specific reasons the person is be-  
 32 lieved to be a person with mental illness. The citation shall further contain a notice of the time and  
 33 place of the commitment hearing, the right to legal counsel **and to refuse counsel**, the right to  
 34 have legal counsel appointed if the person is unable to afford legal counsel, and, if requested, to  
 35 have legal counsel immediately appointed, the right to subpoena witnesses in behalf of the person  
 36 to the hearing and other information as the court may direct. The citation shall be served upon the  
 37 person by delivering a duly certified copy of the original thereof to the person in person prior to  
 38 the hearing. The person shall have an opportunity to consult with legal counsel prior to being  
 39 brought before the court.

40 **SECTION 11.** ORS 426.095 is amended to read:

41 426.095. The following is applicable to a commitment hearing held by a court under ORS 426.070:

42 (1) The hearing may be held in a hospital, the person's home or in some other place convenient  
 43 to the court and the person alleged to have a mental illness.

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

45 (a) Except as provided by paragraph (b) or (c) of this subsection, a hearing shall be held five

1 judicial days from the day a court under ORS 426.070 issues a citation provided under ORS 426.090.

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

5 (c) If requested under this paragraph, the court, for good cause, may postpone the hearing for  
 6 not more than five judicial days in order to allow preparation for the hearing. The court may make  
 7 orders for the care and custody of the person during a postponement as it deems necessary. If a  
 8 person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232, 426.233 or 426.702  
 9 and the hearing is postponed under this paragraph, the court, for good cause, may allow the person  
 10 to be detained during the postponement if the postponement is requested by the person or the legal  
 11 counsel of the person. Any of the following may request a postponement under this paragraph:

12 (A) The person alleged to have a mental illness or the person alleged to be an extremely dan-  
 13 gerous person with mental illness.

14 (B) The legal counsel or guardian of the person.

15 (C) The individual representing the state's interest.

16 (3) The person alleged to have a mental illness and the individual representing the state's in-  
 17 terest shall have the right to cross-examine all the following:

18 (a) Witnesses.

19 (b) The individual conducting the investigation.

20 (c) The examining physicians or other qualified professionals recommended by the Oregon  
 21 Health Authority who have examined the person.

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

24 (a) Medical records for the current involuntary prehearing period of [*detention*] **treatment**.

25 (b) Statements attributed by the maker of the medical records or the investigation report to  
 26 witnesses concerning their own observations in the absence of objection or if such individuals are  
 27 produced as witnesses at the hearing available for cross-examination.

28 (c) The testimony of any treating physicians, nurses or social workers for the prehearing period  
 29 of [*detention*] **treatment**. Any treating physician, nurse or social worker who is subpoenaed as a  
 30 witness for the proceeding shall testify as an expert witness under the provisions of ORS 40.410,  
 31 40.415, 40.420 and 40.425 and is subject to treatment as an expert witness in the payment of witness  
 32 fees and costs.

33 (d) The investigation report prepared under ORS 426.074. Subject to the following, the investi-  
 34 gation report shall be introduced in evidence:

35 (A) Introduction of the report under this paragraph does not require the consent of the person  
 36 alleged to have a mental illness.

37 (B) Upon objection by any party to the action, the court shall exclude any part of the investi-  
 38 gation report that may be excluded under the Oregon Evidence Code on grounds other than those  
 39 set forth in ORS 40.230, 40.235, 40.240 or 40.250.

40 (C) Neither the investigation report nor any part thereof shall be introduced into evidence under  
 41 this paragraph unless the investigator is present during the proceeding to be cross-examined or un-  
 42 less the presence of the investigator is waived by the person alleged to have a mental illness or  
 43 counsel for the person.

44 **SECTION 12.** ORS 426.100 is amended to read:

45 426.100. (1) At the time the person alleged to have a mental illness is brought before the court,

1 the court shall advise the person of the following:

- 2 (a) The reason for being brought before the court;
- 3 (b) The nature of the proceedings;
- 4 (c) The possible results of the proceedings;
- 5 (d) The right to subpoena witnesses; and
- 6 (e) The person's rights regarding representation by or appointment of counsel.

7 (2) Subsection (3) of this section establishes the rights of persons alleged to have a mental ill-  
8 ness in each of the following circumstances:

- 9 (a) When the person is held by warrant of detention issued under ORS 426.070.
- 10 (b) In commitment hearings under ORS 426.095.
- 11 (c) When the person is detained as provided under ORS 426.228, 426.232 or 426.233.
- 12 (d) In recommitment hearings under ORS 426.307.

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

15 (a) The right to obtain suitable legal counsel possessing skills and experience commensurate  
16 with the nature of the allegations and complexity of the case during the proceedings.

17 (b) If the person is determined to be financially eligible for appointed counsel at state expense,  
18 the court will appoint legal counsel to represent the person. If counsel is appointed at state expense,  
19 payment of expenses and compensation relating to legal counsel shall be made as provided under  
20 ORS 426.250.

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

24 (d) If no request for legal counsel is made, the court shall appoint suitable legal counsel unless  
25 counsel is [*expressly, knowingly and intelligently*] refused by the person.

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

29 (f) In all cases suitable legal counsel shall be present at the hearing and may be present at ex-  
30 amination and may examine all witnesses offering testimony, and otherwise represent the person.

31 (4) The responsibility for representing the state's interest in commitment proceedings, including,  
32 but not limited to, preparation of the state's case and appearances at commitment hearings is as  
33 follows:

34 (a) The Attorney General's office shall have the responsibility relating to proceedings initiated  
35 by state hospital staff that are any of the following:

- 36 (A) Recommitment proceedings under ORS 426.307; or
- 37 (B) Proceedings under ORS 426.228, 426.232 or 426.233.

38 (b) The district attorney if requested to do so by the governing body of the county.

39 (c) In lieu of the district attorney under paragraph (b) of this subsection, a counsel designated  
40 by the governing body of a county shall take the responsibility. A county governing body may des-  
41 ignate counsel to take responsibility under this paragraph either for single proceedings or for all  
42 such proceedings the county will be obligated to pay for under ORS 426.250. If a county governing  
43 body elects to proceed under this paragraph, the county governing body shall so notify the district  
44 attorney. The expenses of an attorney appointed under this paragraph shall be paid as provided  
45 under ORS 426.250.



**SECTION 13.** ORS 426.110 is amended to read:

426.110. The following requirements relating to the appointment of examiners for purposes of a hearing under ORS 426.095 or 426.701 and 426.702 apply as described:

(1) The judge shall appoint one qualified examiner. If requested, the judge shall appoint one additional qualified examiner. A request for an additional examiner under this subsection must be made in writing and must be made by the person alleged to have a mental illness or the attorney for the person.

(2) To be qualified for purposes of this section, an examiner must:

(a) Agree to be an examiner.

(b) Be one of the following:

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

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

(3) The authority or the Psychiatric Security Review Board may establish, by rule, requirements for certification as a mental health examiner for purposes of subsection (2)(b)(B) of this section.

(4) The cost of examiners under this section shall be paid as provided under ORS 426.250 **and 426.310.**

**SECTION 14.** ORS 426.120 is amended to read:

426.120. (1) Examiners appointed under ORS 426.110 shall do the following:

(a) Examine the person as to mental condition;

(b) Initiate the examination process prior to the hearing. Any failure to comply with this paragraph shall not, in itself, constitute sufficient grounds to challenge the examination conducted by an examiner;

(c) Make their separate reports in writing, under oath, to the court; and

(d) Upon completion of the hearing, file the reports with the clerk of the court.

(2) The following is a nonexclusive list of requirements relating to the content of examination reports prepared under subsection (1) of this section:

(a) If the examiners find, and show by their reports, that the person examined is a person with mental illness, the reports shall include a recommendation as to the type of treatment facility best calculated to help the person recover from mental illness.

(b) Each report shall also advise the court whether in the opinion of the examiner the person with mental illness would cooperate with and benefit from a program of voluntary treatment.

(c) Reports shall contain the information required by the Oregon Health Authority by rule. The authority shall adopt rules necessary to carry out this paragraph.

(3) The examiner shall be allowed access to physicians, nurses or social workers and to medical records compiled during the current involuntary prehearing period of *[detention]* **treatment** and the investigation report. Records and communications described in this subsection and related communications are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

**SECTION 15.** ORS 426.127 is amended to read:

426.127. The following provisions are applicable to outpatient commitment under ORS 426.130 as described:

(1) The Oregon Health Authority *[may only]* **shall** place a person in an outpatient commitment if an adequate treatment facility is available.

(2) At the time of the hearing under ORS 426.095, the community mental health program

1 director[, or a designee for the director,] for the county in which the hearing takes place shall set  
 2 the conditions for the outpatient commitment. The conditions shall include, but not be limited to, the  
 3 following:

4 (a) Provision for outpatient care.

5 (b) A designation of a facility, service or other provider to provide care or treatment.

6 (3) A copy of the conditions shall be given to all of the individuals and entities described in ORS  
 7 426.278.

8 (4) Any outpatient commitment ordered under this section is subject to the provisions under  
 9 ORS 426.275.

10 (5) The community mental health program director [or designee,] for the county where a person  
 11 is on outpatient commitment, may modify the conditions for outpatient commitment when a modifi-  
 12 cation is in the best interest of the person. The community mental health program director [or  
 13 designee] shall send notification of such changes and the reasons for the changes to all those who  
 14 received a copy of the original conditions under ORS 426.278.

15 **SECTION 16.** ORS 426.130 is amended to read:

16 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examiners, the  
 17 court shall determine whether the person has a mental illness and is in need of treatment. If, in the  
 18 opinion of the court, the person:

19 (a) Is a person with mental illness based upon clear and convincing evidence, the court:

20 (A) Shall order the release of the person and dismiss the case if:

21 (i) The person is willing and able to participate in treatment on a voluntary basis; and

22 (ii) The court finds that the person will probably do so.

23 (B) May order conditional release under this subparagraph subject to the qualifications and re-  
 24 quirements under ORS 426.125. If the court orders conditional release under this subparagraph, the  
 25 court shall establish a period of commitment for the conditional release.

26 (C) May order commitment of the person with mental illness to the Oregon Health Authority for  
 27 treatment if, in the opinion of the court, subparagraph (A) or (B) of this paragraph is not in the best  
 28 interest of the person. If the court orders commitment under this subparagraph:

29 (i) The court shall establish a period of commitment.

30 (ii) The authority [may] **shall** place the committed person in outpatient commitment under ORS  
 31 426.127 **if an adequate treatment facility is available.**

32 (D) Shall order that the person be prohibited from purchasing or possessing a firearm if, in the  
 33 opinion of the court, there is a reasonable likelihood the person would constitute a danger to self  
 34 or others or to the community at large as a result of the person's mental or psychological state as  
 35 demonstrated by past behavior or participation in incidents involving unlawful violence or threats  
 36 of unlawful violence, or by reason of a single incident of extreme, violent, unlawful conduct. When  
 37 a court makes an order under this subparagraph, the court shall cause a copy of the order to be  
 38 delivered to the sheriff of the county who will enter the information into the Law Enforcement Data  
 39 System.

40 (b) Is not a person with mental illness, the court shall release the person from custody if the  
 41 person has been detained under ORS 426.070, 426.180, 426.228, 426.232 or 426.233 and:

42 (A) Dismiss the case; or

43 (B) Order the person to participate in assisted outpatient treatment in accordance with ORS  
 44 426.133. The court may continue the proceeding for no more than seven days to allow time for the  
 45 community mental health program director to develop the person's assisted outpatient treatment

1 plan.

2 (2) A court that orders a conditional release, a commitment or assisted outpatient treatment  
 3 under this section shall establish a period of commitment or treatment for the person subject to the  
 4 order. Any period of commitment ordered for commitment or conditional release under this section  
 5 shall be for a period of time not to exceed 180 days. A period of assisted outpatient treatment shall  
 6 be for a period of time not to exceed 12 months.

7 (3) If the commitment proceeding was initiated under ORS 426.070 (1)(a) and if the notice in-  
 8 cluded a request under ORS 426.070 (2)(d)(B), the court shall notify the two persons of the court's  
 9 determination under subsection (1) of this section.

10 **SECTION 17.** ORS 426.155 is amended to read:

11 426.155. (1) The provisions of this section apply to the release of information about a person who  
 12 is held in custody either pending a commitment proceeding under ORS 426.070, [~~426.140,~~] 426.228,  
 13 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

14 (2) Notwithstanding the provisions of ORS 179.495, 179.505 or 192.502 (2) and notwithstanding  
 15 any other provision of ORS 426.005 to 426.390, a facility or nonhospital facility where a person is  
 16 held shall establish procedures for releasing information as required under subsections (3) and (4)  
 17 of this section.

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

22 (A) The person's diagnosis;

23 (B) The person's prognosis;

24 (C) The medications prescribed for the person and the side effects of medications prescribed, if  
 25 any;

26 (D) The person's progress;

27 (E) Information about any civil commitment process, including the date, time and location of the  
 28 person's commitment hearing; and

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

30 (b) If a request for information is made under this subsection and the person is unable to au-  
 31 thorize disclosure as provided in subsection (5) of this section, the requester shall be provided notice  
 32 of the presence of the person in any facility or nonhospital facility. Information shall not be provided  
 33 under this paragraph if the physician of the person determines that it would not be in the person's  
 34 best interest to provide the information or if providing the information is prohibited by federal law.

35 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to  
 36 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person's  
 37 next of kin, or any other designee of the person, of the person's admission, unless the person re-  
 38 quests that this information not be provided. The facility or nonhospital facility shall make reason-  
 39 able attempts to notify the person's next of kin, or any other designee of the person, of the person's  
 40 release, transfer, serious illness, injury or death upon request of the family member or designee,  
 41 unless the person requests that this information not be provided. The person shall be advised by the  
 42 facility or nonhospital facility that the person has the right to request that this information not be  
 43 provided.

44 (5) The person who is held in custody shall be notified by the facility or nonhospital facility that  
 45 information about the person has been requested. Except as provided in subsection (3) of this sec-

1 tion, the consent of the person who is held is required for release of information under subsections  
 2 (3) and (4) of this section. If, when initially informed of the request for information, the person is  
 3 unable to give voluntary and informed consent to authorize the release of information, notation of  
 4 the attempt shall be made in the person's treatment record and daily efforts shall be made to secure  
 5 the person's consent or refusal of authorization.

6 (6) Notwithstanding any other provision of this section, an individual eligible to receive infor-  
 7 mation under subsection (3) of this section may not receive information unless the individual first  
 8 agrees to make no further disclosure of the information. The agreement may be made orally.

9 (7) A facility or nonhospital facility that releases information under subsection (3) or (4) of this  
 10 section shall:

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

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

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

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

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

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

17 (E) Any determination made by the person's physician under subsection (3)(b) of this section  
 18 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

19 (8) A facility or nonhospital facility, including the staff of such facilities and nonhospital facili-  
 20 ties, that releases information under this section or rules adopted under ORS 426.236 may not be  
 21 held civilly or criminally liable for damages caused or alleged to be caused by the release of infor-  
 22 mation or the failure to release information as long as the release was done in good faith and in  
 23 compliance with subsections (3) and (4) of this section or rules adopted under ORS 426.236.

24 (9) The provisions of subsections (3) and (4) of this section do not limit the ability or obligation  
 25 of facilities, nonhospital facilities, physicians, mental health care providers or licensed mental health  
 26 professionals to provide information as otherwise allowed or required by law.

27 **SECTION 18.** ORS 426.170 is amended to read:

28 426.170. If any person is adjudged to *[have a]* **be a person with** mental illness and is ordered  
 29 committed to the Oregon Health Authority, a copy of the complete record in the case, certified to  
 30 by the court clerk or court administrator, shall be given to the health officer of the county, or to  
 31 the sheriff, for delivery to the director of the facility to which *[such]* **the** person is assigned. The  
 32 record shall include the name, residence, nativity, sex and age of the person and all other informa-  
 33 tion that may be required by the rules and regulations promulgated by the authority.

34 **SECTION 19.** ORS 426.223 is amended to read:

35 426.223. In retaking custody of a person with mental illness who has been committed to the  
 36 Oregon Health Authority under ORS 426.130 and who has, without lawful authority, left the custody  
 37 of the facility to which the person has been assigned under ORS 426.060, or in the case of a person  
 38 alleged to have a mental illness who is in custody under ORS 426.070, 426.095, 426.228 to 426.235  
 39 or 426.237 at a hospital or nonhospital facility and who has, without lawful authority, left the hos-  
 40 pital or nonhospital facility, the **director of the** facility *[director or designee]* has all the powers  
 41 provided by ORS 133.225 and 161.255 and may require the assistance of any peace officer or other  
 42 authorized individual.

43 **SECTION 20.** ORS 426.228 is amended to read:

44 426.228. (1) A peace officer may take into custody a person who the officer has probable cause  
 45 to believe is dangerous to self or to any other person and is in need of immediate care, custody or

1 treatment for mental illness. As directed by the community mental health program director, a peace  
2 officer **or an individual authorized under ORS 426.233 (3)** shall remove a person taken into cus-  
3 tody under this section to the nearest hospital or nonhospital facility approved by the Oregon  
4 Health Authority. The officer shall prepare a written report and deliver it to the treating physician.  
5 The report shall state:

6 (a) The reason for custody;

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

8 (c) The name of the community mental health program director and a telephone number where  
9 the director **or other community mental health program staff** may be reached at all times.

10 (2) A peace officer **or an individual authorized under ORS 426.233 (3)** shall take a person into  
11 custody when the community mental health program director, pursuant to ORS 426.233, notifies the  
12 peace officer **or authorized individual** that the director has probable cause to believe that the  
13 person is imminently dangerous to self or to any other person. As directed by the community mental  
14 health program director, the peace officer **or authorized individual** shall remove the person to a  
15 hospital or nonhospital facility approved by the authority. The community mental health program  
16 director shall prepare **and deliver** a written report [*that the peace officer shall deliver*] to the treat-  
17 ing physician. The report shall state:

18 (a) The reason for custody;

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

20 (c) The name of the community mental health program director and a telephone number where  
21 the director **or other community mental health program staff** may be reached at all times.

22 (3) If more than one hour will be required to transport the person to the hospital or nonhospital  
23 facility from the location where the person was taken into custody, the peace officer **or individual**  
24 **authorized under ORS 426.233 (3)** shall obtain, if possible, a certificate from a physician licensed  
25 by the Oregon Medical Board stating that the travel will not be detrimental to the person's physical  
26 health and that the person is dangerous to self or to any other person and is in need of immediate  
27 care or treatment for mental illness. The physician shall have personally examined the person within  
28 24 hours prior to signing the certificate.

29 (4) When a peace officer or other [*authorized*] individual **authorized under ORS 426.233 (3)**,  
30 acting under this section, delivers a person to a hospital or nonhospital facility, a physician licensed  
31 by the Oregon Medical Board shall examine the person immediately. If the physician finds the per-  
32 son to be in need of emergency care or treatment for mental illness, the physician shall proceed  
33 under ORS 426.232, otherwise the person shall not be retained in custody. If the person is to be re-  
34 leased from custody, the peace officer, **authorized individual** or [*the*] community mental health  
35 program director shall return the person to the place where the person was taken into custody un-  
36 less the person declines that service.

37 (5) A peace officer may transfer a person in custody under this section to the custody of an in-  
38 dividual authorized by the county governing body under ORS 426.233 (3). The peace officer may meet  
39 the authorized individual at any location that is in accordance with ORS 426.140 to effect the  
40 transfer. When transferring a person in custody to an authorized individual, the peace officer shall  
41 deliver the report required under subsections (1) and (2) of this section to the authorized individual.

42 (6) An individual authorized under ORS 426.233 (3) shall take a person into custody when di-  
43 rected to do so by a peace officer or by a community mental health program director under ORS  
44 426.233.

45 (7) An individual authorized under ORS 426.233 (3) shall perform the duties of the peace officer

1 or the community mental health program director required by this section and ORS 426.233 if the  
 2 peace officer or the director has not already done so.

3 (8) An individual authorized under ORS 426.233 (3) may transfer a person in custody under this  
 4 section to the custody of another individual authorized under ORS 426.233 (3) or a peace officer. The  
 5 individual transferring custody may meet another authorized individual or a peace officer at any  
 6 location that is in accordance with ORS 426.140 to effect the transfer.

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

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

14 **SECTION 21.** ORS 426.231 is amended to read:

15 426.231. (1) A physician licensed by the Oregon Medical Board may hold a person for transpor-  
 16 tation to a treatment facility for up to [12] **48** hours in a health care facility licensed under ORS  
 17 chapter 441 and approved by the Oregon Health Authority if:

18 (a) The physician believes the person is dangerous to self or to any other person and is in need  
 19 of emergency care or treatment for mental illness;

20 (b) The physician is not related to the person by blood or marriage; and

21 (c) An admitting physician at the receiving facility consents to the transporting.

22 (2) Before transporting the person, the physician shall prepare a written statement that:

23 (a) The physician has examined the person within the preceding [12] **48** hours;

24 (b) An admitting physician at the receiving facility has consented to the transporting of the  
 25 person for examination and admission if appropriate; and

26 (c) The physician believes the person is dangerous to self or to any other person and is in need  
 27 of emergency care or treatment for mental illness.

28 (3) The written statement required by subsection (2) of this section authorizes a peace officer,  
 29 an individual authorized under ORS 426.233 (3) or [the designee of] a community mental health pro-  
 30 gram director to transport a person to the treatment facility indicated on the statement.

31 **SECTION 22.** ORS 426.233 is amended to read:

32 426.233. (1)(a) A community mental health program director operating under ORS 430.610 to  
 33 430.695 [or a designee of the director, under authorization of a county governing body,] may take one  
 34 of the actions listed in paragraph (b) of this subsection when the community mental health program  
 35 director [or designee] has probable cause to believe a person:

36 (A) Is dangerous to self or to any other person and is in need of immediate care, custody or  
 37 treatment for mental illness; or

38 (B)(i) Is a person with mental illness placed on conditional release under ORS 426.125, outpatient  
 39 commitment under ORS 426.127 or trial visit under ORS 426.273; and

40 (ii) Is dangerous to self or to any other person or is unable to provide for basic personal needs  
 41 and is not receiving the care that is necessary for health and safety and is in need of immediate  
 42 care, custody or treatment for mental illness.

43 (b) The community mental health program director [or designee] under the circumstances set out  
 44 in paragraph (a) of this subsection may:

45 (A) Notify a peace officer to take the person into custody and direct the officer to remove the

1 person to a hospital or nonhospital facility approved by the Oregon Health Authority;

2 (B) Authorize involuntary admission of, or, if already admitted, cause to be involuntarily re-  
3 tained in a nonhospital facility approved by the authority, a person approved for care or treatment  
4 at a nonhospital facility by a physician under ORS 426.232;

5 (C) Notify an individual authorized under subsection (3) of this section to take the person into  
6 custody and direct the authorized individual to remove the person in custody to a hospital or non-  
7 hospital facility approved by the authority;

8 (D) Direct an individual authorized under subsection (3) of this section to transport a person in  
9 custody from a hospital or a nonhospital facility approved by the authority to another hospital or  
10 nonhospital facility approved by the authority as provided under ORS 426.235; or

11 (E) Direct an individual authorized under subsection (3) of this section to transport a person in  
12 custody from a facility approved by the authority to another facility approved by the authority as  
13 provided under ORS 426.060.

14 (2) A designee [*under subsection (1) of this section must be recommended by the community mental*  
15 *health program director,*] **of a community mental health program director must** meet the stan-  
16 dards established by rule of the authority and be approved by the county governing body before  
17 [*assuming the authority permitted*] **taking any action** under subsection (1) of this section.

18 (3) The county governing body may, upon recommendation by the community mental health  
19 program director, authorize any individual to provide custody and secure transportation services for  
20 a person in custody under ORS 426.228. In authorizing an individual under this subsection, the  
21 county governing body shall grant the individual the authority to do the following:

22 (a) Accept custody from a peace officer of a person in custody under ORS 426.228;

23 (b) Take custody of a person upon notification by the community mental health program director  
24 under the provisions of this section;

25 (c) Remove a person in custody to an approved hospital or nonhospital facility as directed by  
26 the community mental health program director;

27 (d) Transfer a person in custody to another individual authorized under this subsection or a  
28 peace officer;

29 (e) Transfer a person in custody from a hospital or nonhospital facility to another hospital fa-  
30 cility or nonhospital facility when directed to do so by the community mental health program di-  
31 rector; and

32 (f) Retain a person in custody at the approved hospital or nonhospital facility until a physician  
33 makes a determination under ORS 426.232.

34 (4) An individual authorized under subsection (3) of this section must be recommended by the  
35 community mental health program director, meet the standards established by rule of the authority  
36 and be approved by the governing body before assuming the authority granted under this section.

37 (5) The costs of transporting a person under ORS 426.060, 426.228 or 426.235 by an individual  
38 authorized under subsection (3) of this section shall be the responsibility of the county whose peace  
39 officer or community mental health program director directs the authorized individual to take cus-  
40 tody of a person and to transport the person to a facility approved by the authority, but the county  
41 shall not be responsible for costs that exceed the amount provided by the state for that transporta-  
42 tion. An individual authorized to act under subsection (3) of this section shall charge the cost of  
43 emergency medical transportation to, and collect that cost from, the person, third party payers or  
44 other legally or financially responsible individuals or entities in the same manner that costs for the  
45 transportation of other persons are charged and collected.

**SECTION 23.** ORS 426.234 is amended to read:

426.234. (1) At the time a person alleged to have a mental illness is admitted to or retained in a hospital or nonhospital facility under ORS 426.232 or 426.233, a physician, nurse or qualified mental health professional at the hospital or nonhospital facility shall:

(a) Inform the person of the person's right to representation by or appointment of counsel as described in ORS 426.100;

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

(c) Immediately examine the person;

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

(e) If the physician, nurse or qualified mental health professional reasonably suspects that the person is a foreign national, inform the person of the person's right to communicate with an official from the consulate of the person's country. A physician, nurse or qualified mental health professional is not civilly or criminally liable for failure to provide the information required by this paragraph. Failure to provide the information required by this paragraph does not in itself constitute grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

(2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the physician shall contact the community mental health program director of the county in which the person resides, if the county of residence is different from the county in which the hospital is located. The community mental health program director may request that the physician notify the circuit court in the county in which the person resides. If the community mental health program director does not make the request, the physician shall notify, immediately and in writing, the circuit court in the county in which the person is hospitalized.

(b) At the time the person is admitted to a hospital under ORS 426.232 after being brought to the hospital by a peace officer under ORS 426.228, the physician shall contact the community mental health program director of the county in which the person is hospitalized. The community mental health program director of the county in which the person is hospitalized may request that the physician notify the circuit court in the county in which the person is hospitalized. If the community mental health program director does not make the request, the physician shall notify, immediately and in writing, the circuit court in the county in which the person was taken into custody.

(c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the physician responsible for a person admitted or retained under ORS 426.232 determines that the person is not dangerous to self or to any other person and is not in need of emergency care or treatment for mental illness, the physician may release the person from the detention authorized by ORS 426.232. The physician shall immediately notify the circuit court notified under this subsection and the community mental health program director of the person's release from detention.

(3)(a) At the time the person is admitted to or retained in a nonhospital facility under ORS 426.233, the community mental health program director in the county where the person was taken into custody shall contact the community mental health program director of the county in which the person resides, if the county of residence is different from the county in which the person was taken into custody. The community mental health program director of the county in which the person resides may request that the community mental health program director of the county in which the person was taken into custody notify the circuit court in the county where the person resides. Otherwise, the community mental health program director of the county in which the person was taken into custody shall notify, immediately and in writing, the circuit court in the county in which



1 the person was taken into custody.

2 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health  
3 program director[, *after consultation with*] **and** a physician[, *determines*] **agree** that a person admitted  
4 or retained under ORS 426.233 is not dangerous to self or to any other person and is not in need  
5 of immediate care, custody or treatment for mental illness, the community mental health program  
6 director [*may*] **shall** release the person from detention. The community mental health program di-  
7 rector shall immediately notify the circuit court originally notified under paragraph (a) of this sub-  
8 section of the person's release from detention.

9 (4) When the judge of the circuit court receives notice under subsection (2) or (3) of this section,  
10 the judge immediately shall commence proceedings under ORS 426.070 to 426.130. In a county having  
11 a population of 100,000 or more, and when feasible in a county with a lesser population, the com-  
12 munity mental health program director [*or designee*] who directs the peace officer or other author-  
13 ized individual to take a person into custody under ORS 426.233 shall not also conduct the  
14 investigation as provided for under ORS 426.074. Except when a person is being held under ORS  
15 426.237 (1)(b), a person shall not be held under ORS 426.232 or 426.233 for more than five judicial  
16 days without a hearing being held under ORS 426.070 to 426.130.

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

21 **SECTION 24.** ORS 426.235 is amended to read:

22 426.235. (1) The community mental health program director may transfer a person in custody  
23 under ORS 426.232, 426.233 or 426.237 (1)(b) to a hospital or nonhospital facility approved by the  
24 Oregon Health Authority at any time during the [*period of detention*] **prehearing period of treat-**  
25 **ment.**

26 (2) A person in custody at a hospital may be transferred from the hospital only with the consent  
27 of the treating physician and when the director of a nonhospital facility approved by the authority  
28 agrees to admit the person.

29 (3) A person in custody at a nonhospital facility approved by the authority may be transferred  
30 to a hospital approved by the authority only when a physician with admitting privileges agrees to  
31 admit the person.

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

35 (5) When a person is transferred under this section, the community mental health program di-  
36 rector shall notify immediately the court notified under ORS 426.234 (2) or (3) of the fact of the  
37 transfer and of the location of the person.

38 **SECTION 25.** ORS 426.237 is amended to read:

39 426.237. (1) During a prehearing period of [*detention*] **treatment** as provided in ORS 426.070,  
40 [*426.140,*] 426.232 or 426.233, the community mental health program director shall do one of the fol-  
41 lowing:

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

45 (b) No later than three judicial days after initiation of a prehearing period of [*detention*] **treat-**

1 **ment** as provided in ORS 426.070, [426.140,] 426.232 or 426.233, certify the detained person for a  
2 14-day period of intensive treatment if:

3 (A) The community mental health program director and a psychiatrist, as defined by rule by the  
4 Oregon Health Authority, have probable cause to believe the person is a person with mental illness;

5 (B) The community mental health program director in the county where the person resides  
6 [verbally] approves the arrangements for payment for the services at the hospital or nonhospital fa-  
7 cility; and

8 (C) The community mental health program director locates a hospital or nonhospital facility  
9 that:

10 (i) Is approved by the authority and the community mental health program director in the  
11 county where the person resides; and

12 (ii) Can, in the opinion of the community mental health program director and the psychiatrist,  
13 provide intensive care or treatment for mental illness necessary and sufficient to meet the emer-  
14 gency psychiatric needs of the person.

15 (c) Recommend, in an investigation report as provided in ORS 426.074, that the circuit court  
16 hold a hearing under ORS 426.070 to 426.130 if the community mental health program director has  
17 probable cause to believe the person is a person with mental illness or that the person is in need  
18 of assisted outpatient treatment.

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

23 (A) Nonhospital facility, the community mental health program director shall make discharge  
24 plans and ensure the discharge of the person.

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

26 (b) Upon release of the person, the community mental health program director shall attempt to  
27 notify the person's next of kin if the person consents to the notification.

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

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

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

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

34 (A) A written statement under oath by the community mental health program director and the  
35 psychiatrist that they have probable cause to believe the person is a person with mental illness in  
36 need of care or treatment for mental illness;

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

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

41 (D) A notice that the person has a right to request and be provided a hearing under ORS 426.070  
42 to 426.130 at any time during the 14-day period; and

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

44 (c) Immediately upon receipt of a certificate under paragraph (a) of this subsection, the court  
45 shall notify the person's attorney or appoint an attorney for the person if the person cannot afford

1 one. Within 24 hours of the time the certificate is delivered to the court, the person's attorney shall  
2 review the certificate with the person. If the person and the person's attorney consent to the certi-  
3 fication within one judicial day of the time the certificate is delivered to the circuit court and, ex-  
4 cept as provided in subsection (4) of this section, the court shall postpone the hearing required by  
5 ORS 426.070 to 426.130 for 14 days.

6 (d) When a person is certified for treatment under subsection (1)(b) of this section and accepts  
7 the certification:

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

13 (B) Except when the person expressly refuses treatment, the treating physician shall treat the  
14 person within the scope of the treatment plan provided the person under paragraph (b) of this sub-  
15 section. The person's refusal of treatment constitutes sufficient grounds for the community mental  
16 health program director to request a hearing as provided in subsection (4)(a) of this section.

17 (C) If the person is in a hospital and the community mental health program director locates a  
18 nonhospital facility, approved by the authority, that, in the opinion of the community mental health  
19 program director and the treating physician, can provide care or treatment for mental illness nec-  
20 essary and sufficient to meet the emergency psychiatric needs of the person, the treating physician  
21 shall discharge the person from the hospital and the community mental health program director  
22 shall remove the person to the nonhospital facility for the remainder of the 14-day intensive treat-  
23 ment period. If, however, in the opinion of the treating physician, the person's condition requires the  
24 person to receive medical care or treatment, the physician shall retain the person in the hospital.

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

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

29 (ii) The physician agrees to admit the person to a hospital, approved by the authority, where the  
30 physician has admitting privileges.

31 (E) If the person is transferred as provided in subparagraph (C) or (D) of this paragraph, the  
32 community mental health program director shall notify the circuit court, in the county where the  
33 certificate was filed, of the location of the person. The person may appeal the transfer as provided  
34 by rules of the authority.

35 (e) If the person is in a hospital, the treating physician may discharge the person at any time  
36 during the 14-day period. The treating physician shall confer with the community mental health  
37 program director and the person's next of kin, if the person consents to the consultation, prior to  
38 discharging the person. Immediately upon discharge of the person, the treating physician shall no-  
39 tify the court in the county in which the certificate was filed initially.

40 (f) If the person is in a nonhospital facility, the community mental health program director may  
41 discharge the person at any time during the 14-day period. The community mental health program  
42 director shall consult with the treating physician and the person's next of kin, if the person consents  
43 to the consultation, prior to discharging the person. Immediately upon discharge of the person, the  
44 community mental health program director shall notify the court in the county in which the certif-  
45 icate was filed initially.

1 (g) The person may agree to voluntary treatment at any time during the 14-day period. When a  
 2 person agrees to voluntary treatment under this paragraph, the community mental health program  
 3 director immediately shall notify the court in the county in which the certificate was filed initially.

4 (h) A person consenting to 14 days of treatment under subsection (3)(c) of this section shall not  
 5 be held longer than 14 days from the time of consenting without a hearing as provided in ORS  
 6 426.070 to 426.130.

7 (i) When the court receives notification under paragraph (e), (f) or (g) of this subsection, the  
 8 court shall dismiss the case.

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

11 (a) The person consenting to 14 days of treatment or the community mental health program di-  
 12 rector requests a hearing. The hearing shall be held without unreasonable delay. In no case shall  
 13 the person be held in a hospital or nonhospital facility longer than five judicial days after the re-  
 14 quest for a hearing is made without a hearing being held under ORS 426.070 to 426.130.

15 (b) The community mental health program director acts under subsection (1)(c) of this section.  
 16 In no case shall the person be held longer than five judicial days without a hearing under this  
 17 subsection.

18 **SECTION 26.** ORS 426.241 is amended to read:

19 426.241. (1) The cost of emergency psychiatric care, custody and treatment related to or result-  
 20 ing from [*such*] a psychiatric condition, provided by a hospital or other facility approved by the  
 21 Oregon Health Authority and the community mental health program director of the county in which  
 22 the facility is located, except a state hospital[,]:

23 (a) For a person alleged to have a mental illness who is admitted [*or detained*] under ORS  
 24 426.070, [*426.140,*] 426.228, 426.232 or 426.233[, *or for a person with mental illness who is admitted or*  
 25 *detained under ORS 426.150, 426.223, 426.273, 426.275 or 426.292,*] **for a prehearing period of**  
 26 **treatment** shall be paid by the county of which the person is a resident from state funds provided  
 27 to the county for this purpose. The county is responsible for the cost when state funds provided to  
 28 the county are exhausted.

29 (b) **Shall be reimbursed directly by the authority, based on the most recent audited**  
 30 **Medicare cost report for Oregon hospitals, for a person with mental illness who has been**  
 31 **committed to the authority under ORS 426.130.**

32 (2) The hospital or other facility shall charge to and collect from the person, third party payers  
 33 or other legally or financially responsible individuals or entities the costs of the emergency care,  
 34 custody and treatment, as it would for any other patient, and any funds received shall be applied  
 35 as an offset to the cost of the services provided under this section.

36 [(2)] (3) If any person is admitted to [*or detained in*] a state hospital under ORS 426.070,  
 37 [*426.140,*] 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency care, custody or treatment,  
 38 the authority shall charge to and collect from the person, third party payers or other legally or fi-  
 39 nancially responsible individuals or entities the costs as it would for other patients of the state  
 40 hospitals under the provisions of ORS 179.610 to 179.770.

41 [(3)] (4) If any person is adjudged to [*have a*] **be a person with** mental illness under the pro-  
 42 visions of ORS 426.130, or determined to be an extremely dangerous person with mental illness un-  
 43 der ORS 426.701 or 426.702, and the person receives care and treatment in a state hospital, the  
 44 person, third party payers or other legally or financially responsible individuals or entities shall be  
 45 required to pay for the costs of the hospitalization at the state hospital, as provided by ORS 179.610

1 to 179.770, if financially able to do so.

2 [(4) For purposes of this section and ORS 426.310, “resident” means resident of the county in which  
3 the person maintains a current mailing address or, if the person does not maintain a current mailing  
4 address within the state, the county in which the person is found, or the county in which a court-  
5 committed person has been conditionally released.]

6 [(5)(a) The authority may deny payment for part or all of the emergency psychiatric services pro-  
7 vided by a hospital or nonhospital facility under ORS 426.232, 426.233 or 426.237 when the authority  
8 finds, upon review, that the condition of the person alleged to have a mental illness did not meet the  
9 admission criteria in ORS 426.232 (1), 426.233 (1) or 426.237 (1)(b)(A). The payer responsible under this  
10 section shall make a request for denial of payment for emergency psychiatric services provided under  
11 ORS 426.232, 426.233 or 426.237 in writing to the authority.]

12 [(b)] (5)(a) The authority may require the following to provide the authority with any informa-  
13 tion that the authority determines is necessary [to review a request for denial of payment made under  
14 this subsection or] to conduct a review of emergency psychiatric services for the purpose of planning  
15 or defining authority rules:

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

17 (B) A physician or a person providing emergency psychiatric services under ORS 426.228 to  
18 426.235 or 426.237.

19 [(c)] (b) The authority shall adopt rules necessary to carry out the purposes of this subsection.

20 (6) **As used in this section and ORS 426.310, “resident” means resident of the county in  
21 which the person maintains a current mailing address or, if the person does not maintain a  
22 current mailing address within the state, the county in which the person is found, or the  
23 county in which a court-committed person has been conditionally released.**

24 **SECTION 27.** ORS 426.273 is amended to read:

25 426.273. (1) During a period of commitment of a patient under ORS 426.130, the Oregon Health  
26 Authority may grant a trial visit to the patient for a period of time and under any conditions the  
27 authority shall establish. The authority shall only grant a trial visit under this section if the trial  
28 visit is agreed to by the community mental health program director[, or the designee of the  
29 director,] for the county in which the person would reside.

30 (2) When in the opinion of the authority, the committed person can be appropriately served by  
31 outpatient care during the period of commitment, the outpatient care may be required as a condition  
32 for trial visit for a period which, when added to the inpatient treatment period, shall not exceed the  
33 period of commitment. If outpatient care is required as a condition for a trial visit, the conditions  
34 shall include a designation of a facility, service or other provider to provide care or treatment.

35 (3) A copy of the conditions for trial visit shall be given to all of the individuals or entities listed  
36 in ORS 426.278.

37 (4) Any trial visit granted under this section is subject to the provisions [under] of ORS 426.275.

38 (5) The director of the community mental health program[, or designee,] of the county in which  
39 a person who is on trial visit lives while on trial visit may modify the conditions for continued trial  
40 visit when such modification is in the best interest of the person. The director shall send notification  
41 of such changes and the reasons for the changes to all those who received a copy of the original  
42 conditions under ORS 426.278.

43 **SECTION 28.** ORS 426.275 is amended to read:

44 426.275. The following are applicable to placements of persons with mental illness that are made  
45 as conditional release under ORS 426.125, outpatient commitments under ORS 426.127 or trial visits

1 under ORS 426.273 as described:

2 (1) If the individual responsible under this subsection determines that a person with mental ill-  
3 ness is failing to adhere to the terms and conditions of the placement, the responsible individual  
4 shall notify the court having jurisdiction that the person with mental illness is not adhering to the  
5 terms and conditions of the placement. If the placement is an outpatient commitment under ORS  
6 426.127 or a trial visit under ORS 426.273, the notifications shall include a copy of the conditions  
7 for the placement. The individual responsible for notifying the court under this subsection is as  
8 follows:

9 (a) For conditional releases under ORS 426.125, the guardian, relative or friend in whose care  
10 the person with mental illness is conditionally released.

11 (b) For outpatient commitments under ORS 426.127, the community mental health program  
12 director[, or *designee of the director*,] of the county in which the person on outpatient commitment  
13 lives.

14 (c) For trial visits under ORS 426.273, the community mental health program director[, or  
15 *designee of the director*,] of the county in which the person on trial visit is to receive outpatient  
16 treatment.

17 (2) On its own motion, the court with jurisdiction of a person with mental illness on placement  
18 may cause the person to be brought before it for a hearing to determine whether the person is or  
19 is not adhering to the terms and conditions of the placement. The person shall have the same rights  
20 with respect to notice, [*detention stay*,] hearing and counsel as for a hearing held under ORS 426.095.  
21 The court shall hold the hearing within five judicial days of the date the person with mental illness  
22 receives notice under this section. The court may allow postponement and detention **for treatment**  
23 during postponement as provided under ORS 426.095.

24 (3) Pursuant to the determination of the court upon hearing under this section, a person on  
25 placement shall either continue the placement on the same or modified conditions or shall be re-  
26 turned to the Oregon Health Authority for involuntary care and treatment on an inpatient basis  
27 subject to discharge at the end of the commitment period or as otherwise provided under this  
28 chapter.

29 (4) If the person on placement is living in a county other than the county of the court that es-  
30 tablished the current period of commitment under ORS 426.130 during which the trial visit, condi-  
31 tional release or outpatient commitment takes place, the court establishing the current period of  
32 commitment shall transfer jurisdiction to the appropriate court of the county in which the person  
33 is living while on the placement and the court receiving the transfer shall accept jurisdiction.

34 (5) The court may proceed as provided in ORS 426.307 or this section when the court:

35 (a) Receives notice under ORS 426.070 or 426.228 to 426.235; and

36 (b) Determines that the person is a person with mental illness on conditional release under ORS  
37 426.125, outpatient commitment under ORS 426.127 or trial visit under ORS 426.273.

38 **SECTION 29.** ORS 426.278 is amended to read:

39 426.278. The Oregon Health Authority shall provide to each of the following individuals or en-  
40 tities a copy of the conditions of an outpatient commitment under ORS 426.127 or a trial visit under  
41 ORS 426.273:

42 (1) The committed person;

43 (2) The community mental health program director[, or *designee of the director*,] of the county  
44 in which the committed person is to receive outpatient treatment;

45 (3) The director of [*any*] **the** facility, service **provider** or other provider designated to provide

1 care or treatment;

2 (4) The court of current commitment; and

3 (5) The appropriate court of the county in which the committed person lives during the com-  
4 mitment period if the person is living in a different county than the county of the court that made  
5 the current commitment.

6 **SECTION 30.** ORS 426.295 is amended to read:

7 426.295. (1) No person admitted to a state hospital for the treatment of mental illness shall be  
8 considered by virtue of the admission to be incompetent.

9 (2) Upon petition of a person committed to a state hospital, or the guardian, relative [*or creditor*  
10 *of the person*] or other interested person, the court of competent jurisdiction in the county in which  
11 the state hospital is located or, if the petitioner requests a hearing in the county where the com-  
12 mitment originated, then the court in such county shall hold a hearing to determine whether or not  
13 the person in the state hospital is competent. A guardian who is not the petitioner shall be notified  
14 of the hearing at least three days before the date set for hearing. After the hearing the court shall  
15 enter an order pursuant to its finding and serve a copy of the order on the petitioner and forward  
16 a copy of the order to the committing court.

17 (3) When a person committed to a state hospital has been declared incompetent pursuant to  
18 subsection (2) of this section and is discharged from the hospital, the superintendent of the hospital  
19 shall advise the court which entered the order of incompetency whether or not, in the opinion of the  
20 chief medical officer of the hospital on the basis of medical evidence, the person is competent. The  
21 superintendent shall make a reasonable effort to notify the discharged person of the advice to the  
22 court. If the court is advised that the person is competent, the court shall enter an order to that  
23 effect. If the court is advised that the person is not competent, upon petition of the person, the  
24 guardian, relative [*or creditor of the person*] or other interested person, the court shall hold a hear-  
25 ing to determine whether or not the discharged person is competent. The court shall serve a copy  
26 of any order entered pursuant to this subsection on the person and forward a copy of such order to  
27 the committing court.

28 **SECTION 31.** ORS 426.301 is amended to read:

29 426.301. (1) At the end of the 180-day period of commitment, any person whose status has not  
30 been changed to voluntary shall be released **from the facility where the person is confined** unless  
31 the Oregon Health Authority certifies to the court in the county where the [*treating*] facility is lo-  
32 cated that the person is still a person with mental illness and is in need of further treatment. The  
33 authority, pursuant to its rules, may delegate to the director of the [*treating*] facility the responsi-  
34 bility for making the certification. The director of the [*treating*] facility shall consult with the com-  
35 munity mental health program director of the county of residence prior to making the certification.  
36 If the certification is made, the person will not be released, but the director of the [*treating*] facility  
37 shall immediately issue a copy of the certification to the person and to the community mental health  
38 program director of the county of residence.

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

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

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

45 (b) That the person may consult with legal counsel and that legal counsel will be provided for

1 the person without cost if the person is unable to afford legal counsel.

2 (c) That the person may protest this further period of commitment within 14 days, and if the  
 3 person does not protest the further commitment, commitment will be continued for an indefinite  
 4 period of time up to 180 days.

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

7 (e) That the person may protest either orally or in writing by signing the form accompanying  
 8 the certification.

9 (f) That the person is entitled to have a physician or other qualified professional as recom-  
 10 mended by the authority, other than a member of the staff at the facility where the person is con-  
 11 fined, examine the person and report to the court the results of the examination.

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

14 (h) That if the person is without funds to retain legal counsel or an examining physician or  
 15 qualified professional as recommended by the authority, the court will appoint legal counsel, a  
 16 physician or other qualified professional.

17 (4) Nothing in subsection (3) of this section requires the giving of the warning under ORS  
 18 426.123.

19 (5) When serving the certification upon the person, the authority shall read and deliver the  
 20 certification to the person and ask whether the person protests a further period of commitment. The  
 21 person may protest further commitment either orally or by signing a simple protest form to be given  
 22 to the person with the certification. If the person does not protest a further period of commitment  
 23 within 14 days of service of the certification, the authority or facility shall so notify the court and  
 24 the court shall, without further hearing, order the commitment of the person for an additional in-  
 25 definite period of time up to 180 days.

26 **SECTION 32.** ORS 426.307 is amended to read:

27 426.307. If a person with mental illness requests a hearing under ORS 426.301 or if the court  
 28 proceeds under ORS 426.275 (5), the following provisions apply:

29 (1) The hearing shall be conducted as promptly as possible and at a time and place as the court  
 30 may direct.

31 (2) If the person requests a continuance in order to prepare for the hearing or to obtain legal  
 32 counsel to represent the person, the court may grant postponement and detention **for treatment**  
 33 during postponement as provided under ORS 426.095.

34 (3) The person has the right to representation by or appointment of counsel as provided under  
 35 ORS 426.100 subject to ORS 135.055, 151.216 and 151.219.

36 (4) If the person requests an examination by a physician or other qualified professional as re-  
 37 commended by the Oregon Health Authority and is without funds to retain a physician or other  
 38 qualified professional for purposes of the examination, the court shall appoint a physician or other  
 39 qualified professional, other than a member of the staff from the facility where the person is con-  
 40 fined, to examine the person at no expense to the person and to report to the court the results of  
 41 the examination.

42 (5) The provisions of ORS 40.230, 40.235, 40.240 and 40.250 do not apply to the use of medical  
 43 records from the current period of commitment or to testimony related to such records or period  
 44 of commitment in connection with hearings under this section. The court may consider as evidence  
 45 such reports and testimony.



1 (6) The court shall then conduct a hearing and after hearing the evidence and reviewing the  
 2 recommendations of the treating and examining physicians or other qualified professionals, the court  
 3 shall determine whether the person is still a person with mental illness and is in need of further  
 4 treatment. If in the opinion of the court the individual is still a person with mental illness by clear  
 5 and convincing evidence and is in need of further treatment, the court may order commitment to the  
 6 authority for an additional indefinite period of time up to 180 days.

7 (7) At the end of the 180-day period, the person shall be released unless the authority or facility  
 8 again certifies to the committing court that the person is still a person with mental illness and is  
 9 in need of further treatment, in which event the procedures set forth in ORS 426.301 to 426.307 shall  
 10 be followed.

11 **SECTION 33.** ORS 426.330 is amended to read:

12 426.330. (1) The special funds authorized for the use of the [*superintendents*] **superintendent** of  
 13 the Oregon State Hospital [*and the Blue Mountain Recovery Center*] to better enable [*them*] **the su-**  
 14 **perintendent** promptly to meet the advances and expenses necessary in the matter of transferring  
 15 patients to the state hospitals are continued in existence. The [*superintendents*] **superintendent**  
 16 shall present [*their*] **the superintendent's** claims monthly with vouchers that show the expenditures  
 17 from the special funds during the preceding month to the Oregon Health Authority for the transfer  
 18 of patients to the Oregon State Hospital [*or the Blue Mountain Recovery Center*].

19 (2) Against the funds appropriated to cover the cost of transporting patients, the State Treasurer  
 20 shall pay the claims of the [*superintendents*] **superintendent** of the Oregon State Hospital [*and the*  
 21 *Blue Mountain Recovery Center*] that have been approved by the Oregon Health Authority.

22 **SECTION 34.** ORS 426.335 is amended to read:

23 426.335. The following limitations on liability are applicable to actions and proceedings within  
 24 this chapter and ORS 430.397 to 430.401:

25 (1) The following individuals may not in any way be held criminally or civilly liable for the in-  
 26 itiation of commitment procedures under ORS 426.070, provided the individual acts in good faith, on  
 27 probable cause and without malice:

- 28 (a) The community mental health program director [*or designee of the director*].
- 29 (b) The two petitioning persons.
- 30 (c) The county health officer.
- 31 (d) Any magistrate.
- 32 (e) Any peace officer or parole and probation officer.
- 33 (f) Any physician attending the person alleged to have a mental illness.
- 34 (g) Any physician associated with the hospital or institution where the person alleged to have  
 35 a mental illness is a patient.

36 (2) The community mental health program director [*or the designee of the director*] conducting  
 37 the investigation under ORS 426.070 and 426.074 shall not be held criminally or civilly liable for  
 38 conducting the investigation, provided the investigator acts in good faith, on probable cause and  
 39 without malice.

40 (3) The individual representing the state's interest under ORS 426.100 shall not be held  
 41 criminally or civilly liable for performing responsibilities under ORS 426.100 as long as the individ-  
 42 ual acts in good faith and without malice.

43 (4) An examiner appointed under ORS 426.110 may not be held criminally or civilly liable for  
 44 actions pursuant to ORS 426.120 if the examiner acts in good faith and without malice.

45 (5) A physician, hospital or judge may not be held criminally or civilly liable for actions pursu-

1 ant to ORS 426.228, 426.231, 426.232, 426.234 or 426.235 if the physician, hospital or judge acts in  
 2 good faith, on probable cause and without malice.

3 (6) A peace officer, individual authorized under ORS 426.233 (3), community mental health di-  
 4 rector [*or designee*], hospital or other facility, physician or judge may not in any way be held  
 5 criminally or civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual or facility  
 6 acts in good faith, on probable cause and without malice.

7 (7) Any legal guardian, relative or friend of a person with mental illness who assumes respon-  
 8 sibility for the person under a conditional release under ORS 426.125 shall not be liable for any  
 9 damages that result from the misconduct of the person while on conditional release if the legal  
 10 guardian, relative or friend acts in good faith and without malice.

11 (8) The individuals designated in this subsection may not be liable for personal injuries or other  
 12 damages that result from the misconduct of a person with mental illness while the person is on  
 13 outpatient commitment under ORS 426.127 if the designated individual acts without willful and  
 14 wanton neglect of duty. This subsection is applicable to all of the following:

15 (a) The community mental health program director [*and the designee of the director*] for the  
 16 county in which the committed person resides.

17 (b) The superintendent or director of any staff of any facility where the person with mental ill-  
 18 ness receives treatment during the outpatient commitment.

19 (c) The Director of the Oregon Health Authority.

20 (d) The physician and the facility providing care or treatment to a person on outpatient com-  
 21 mitment.

22 (9) For trial visits granted under ORS 426.273 and 426.275:

23 (a) The following individuals and entities may not be liable for a person's expenses while on trial  
 24 visit:

25 (A) The physician and the facility providing care or treatment to a person on a trial visit;

26 (B) The superintendent or director of the facility providing care or treatment to a person on a  
 27 trial visit;

28 (C) The Director of the Oregon Health Authority; and

29 (D) The chief medical officer of the facility.

30 (b) The individuals designated in this paragraph may not be liable for damages that result from  
 31 the misconduct of a person with mental illness while on trial visit if the designated individual acts  
 32 without willful and wanton neglect of duty:

33 (A) The community mental health program director for the county in which the person resides;

34 (B) The superintendent, director or chief medical officer of any facility providing care or treat-  
 35 ment to a patient on a trial visit;

36 (C) The physician responsible for the patient's care or treatment during a trial visit;

37 (D) The Director of the Oregon Health Authority; or

38 (E) The employees and agents of individuals or facilities under this paragraph.

39 **SECTION 35.** ORS 426.385 is amended to read:

40 426.385. (1) Every person with mental illness committed to the Oregon Health Authority shall  
 41 have the right to:

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

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

45 (c) Wear the clothing of the person;

- 1 (d) Keep personal possessions, including toilet articles;
- 2 (e) Religious freedom;
- 3 (f) A private storage area with free access thereto;
- 4 (g) Be furnished with a reasonable supply of writing materials and stamps;
- 5 (h) A written treatment plan, kept current with the progress of the person;
- 6 (i) Be represented by counsel whenever the substantial rights of the person may be affected;
- 7 (j) Petition for a writ of habeas corpus;
- 8 (k) Not be required to perform routine labor tasks of the facility except those essential for
- 9 treatment;
- 10 (L) Be given reasonable compensation for all work performed other than personal housekeeping
- 11 duties;
- 12 (m) Daily access to fresh air and the outdoors, except that this right may be limited when it
- 13 would create significant risk of harm to the person or others;
- 14 (n) Such other rights as may be specified by rule; and
- 15 (o) Exercise all civil rights in the same manner and with the same effect as one not admitted
- 16 to the facility, including, but not limited to, the right to dispose of real property, execute instru-
- 17 ments, make purchases, enter contractual relationships, and vote, unless the person has been adju-
- 18 dicated incompetent and has not been restored to legal capacity. Disposal of personal property in
- 19 possession of the person in a state institution described in ORS 426.010 is subject to limitation for
- 20 security reasons.
- 21 (2)(a) A person must be immediately informed, orally and in writing, of any limitation:
- 22 (A) Of the right to send or receive sealed mail under subsection (1)(b) of this section;
- 23 (B) Regarding the disposal of personal property under subsection (1)(o) of this section; and
- 24 (C) Of the right to daily access to fresh air and the outdoors under subsection (1)(m) of this
- 25 section.
- 26 (b) Any limitation under this subsection and the reasons for the limitation must be stated in the
- 27 person's written treatment plan.
- 28 (c) The person has the right to challenge any limitation under this subsection pursuant to rules
- 29 adopted by the authority. The person must be informed, orally and in writing, of this right.
- 30 (3) A person with mental illness committed to the authority shall have the right to be free from
- 31 potentially unusual or hazardous treatment procedures, including *[convulsive]* **electroconvulsive**
- 32 therapy, unless the person has given express and informed consent or authorized the treatment
- 33 pursuant to ORS 127.700 to 127.737. This right may be denied to a person for good cause as defined
- 34 in administrative rule only by the director of the facility in which the person is confined, but only
- 35 after consultation with and approval of an independent examining physician. Any denial shall be
- 36 entered into the person's treatment record and shall include the reasons for the denial. A person
- 37 with mental illness may not be subjected to psychosurgery, as defined in ORS 677.190 (21)(b).
- 38 (4) Mechanical restraints shall not be applied to a person admitted to a facility unless it is de-
- 39 termined by the chief medical officer of the facility or designee to be required by the medical needs
- 40 of the person. Every use of a mechanical restraint and the reasons for using a mechanical restraint
- 41 shall be made a part of the clinical record of the person *[over the signature of the chief medical officer*
- 42 *of the facility or designee]*.
- 43 (5) Nothing in this section prevents the authority from acting to exclude contraband from its
- 44 facilities and to prevent possession or use of contraband in its facilities.
- 45 (6) As used in this section:

1 (a) "Contraband" has the meaning given that term in ORS 162.135.

2 (b) "Security reasons" means the protection of the person with mental illness from serious and  
3 immediate harm and the protection of others from threats or harassment as defined by rule of the  
4 authority.

5 **SECTION 36.** ORS 426.490 is amended to read:

6 426.490. It is declared to be the policy and intent of the Legislative Assembly that the State of  
7 Oregon shall assist in improving the quality of life of persons with [*chronic*] mental illness within  
8 this state by ensuring the availability of an appropriate range of residential opportunities and re-  
9 lated support services.

10 **SECTION 37.** ORS 430.010 is amended to read:

11 430.010. As used in this chapter:

12 (1) "Outpatient service" means:

13 (a) A program or service providing treatment by appointment and by:

14 (A) Medical or osteopathic physicians licensed by the Oregon Medical Board under ORS 677.010  
15 to 677.450;

16 (B) Psychologists licensed by the State Board of Psychologist Examiners under ORS 675.010 to  
17 675.150;

18 (C) Nurse practitioners registered by the Oregon State Board of Nursing under ORS 678.010 to  
19 678.410;

20 (D) Regulated social workers authorized to practice regulated social work by the State Board  
21 of Licensed Social Workers under ORS 675.510 to 675.600; or

22 (E) Professional counselors or marriage and family therapists licensed by the Oregon Board of  
23 Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or

24 (b) A program or service providing treatment by appointment that is licensed, approved, estab-  
25 lished, maintained, contracted with or operated by the authority under:

26 (A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

27 (B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

28 (C) ORS 430.610 to 430.880 for mental **illness** or emotional disturbances.

29 (2) "Residential facility" means a program or facility providing an organized full-day or part-day  
30 program of treatment. Such a program or facility shall be licensed, approved, established, main-  
31 tained, contracted with or operated by the authority under:

32 (a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

33 (b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

34 (c) ORS 430.610 to 430.880 for mental **illness** or emotional disturbances.

35 **SECTION 38.** ORS 430.021 is amended to read:

36 430.021. Subject to ORS 417.300 and 417.305:

37 (1) The Department of Human Services shall directly or through contracts with private entities,  
38 counties under ORS 430.620 or other public entities:

39 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for  
40 persons with developmental disabilities.

41 (b) Promote, correlate and coordinate the developmental disabilities activities of all govern-  
42 mental organizations throughout the state in which there is any direct contact with developmental  
43 disabilities programs.

44 (c) Establish, coordinate, assist and direct a community developmental disabilities program in  
45 cooperation with local government units and integrate such a program with the state developmental

1 disabilities program.

2 (d) Promote public education in this state concerning developmental disabilities and act as the  
3 liaison center for work with all interested public and private groups and agencies in the field of  
4 developmental disabilities services.

5 (2) The Oregon Health Authority shall directly or by contract with private or public entities:

6 (a) Direct, promote, correlate and coordinate all the activities, duties and direct services for  
7 persons with mental **illness** or emotional disturbances, alcoholism or drug dependence.

8 (b) Promote, correlate and coordinate the mental health activities of all governmental organ-  
9 izations throughout the state in which there is any direct contact with mental health programs.

10 (c) Establish, coordinate, assist and direct a community mental health program in cooperation  
11 with local government units and integrate such a program with the state mental health program.

12 (d) Promote public education in this state concerning mental health and act as the liaison center  
13 for work with all interested public and private groups and agencies in the field of mental health  
14 services.

15 (3) The department and the authority shall develop cooperative programs with interested private  
16 groups throughout the state to effect better community awareness and action in the fields of mental  
17 health and developmental disabilities, and encourage and assist in all necessary ways community  
18 [*general*] hospitals to establish psychiatric services.

19 (4) To the greatest extent possible, the least costly settings for treatment, outpatient services  
20 and residential facilities shall be widely available and utilized except when contraindicated because  
21 of individual health care needs. State agencies that purchase treatment for mental **illness** or emo-  
22 tional disturbances shall develop criteria consistent with this policy. In reviewing applications for  
23 certificates of need, the Director of the Oregon Health Authority shall take this policy into account.

24 (5) The department and the authority shall accept the custody of persons committed to its care  
25 by the courts of this state.

26 (6) The authority shall adopt rules to require a facility and a nonhospital facility as those terms  
27 are defined in ORS 426.005, and a provider that employs a person described in ORS 426.415, if sub-  
28 ject to authority rules regarding the use of restraint or seclusion during the course of mental health  
29 treatment of a child or adult, to report to the authority each calendar quarter the number of inci-  
30 dents involving the use of restraint or seclusion. The aggregate data shall be made available to the  
31 public.

32 **SECTION 39.** ORS 430.050 is amended to read:

33 430.050. (1) The Director of the Oregon Health Authority, with the approval of the Governor,  
34 shall appoint at least 15 but not more than 20 members of a Mental Health Advisory Board, com-  
35 posed of both lay and professionally trained individuals, qualified by training or experience to study  
36 the problems of mental health and make recommendations for the development of policies and pro-  
37 cedures with respect to the state mental health programs. The membership shall provide balanced  
38 representation of program areas and shall include persons who represent the interests of children.  
39 At least four members of the board shall be persons with disabilities who shall serve as the Disa-  
40 bility Issues Advisory Committee which is hereby established. The members of the board shall serve  
41 for terms of four years and are entitled to compensation and expenses as provided in ORS 292.495.  
42 The director may remove any member of the board for misconduct, incapacity or neglect of duty.

43 (2) The Oregon Health Authority shall adopt rules specifying the duties of the board. In addition  
44 to those duties assigned by rule, the board shall assist the authority in planning and preparation  
45 of administrative rules for the assumption of responsibility for psychiatric care in state and com-

1 munity hospitals by community mental health programs, in accordance with ORS 430.630 [(3)(e)]  
 2 **(3)(f)**.

3 (3) The board shall meet at least once each quarter.

4 (4) The director may make provision for technical and clerical assistance to the Mental Health  
 5 Advisory Board and for the expenses of such assistance.

6 (5) The Disability Issues Advisory Committee shall meet at least once annually to make recom-  
 7 mendations to the Mental Health Advisory Board.

8 (6) As used in this section, “person with a disability” means any person who:

9 (a) Has a physical or mental impairment which substantially limits one or more major life ac-  
 10 tivities;

11 (b) Has a record of such an impairment; or

12 (c) Is regarded as having such an impairment.

13 **SECTION 40.** ORS 430.197 is amended to read:

14 430.197. The Mental Health Services Fund is established in the State Treasury, separate and  
 15 distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or  
 16 received by the Oregon Health Authority, the Department of Human Services and the Department  
 17 of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously  
 18 appropriated to the Oregon Health Authority, the Department of Human Services and the Depart-  
 19 ment of Corrections for the purposes of paying the costs of:

20 (1) Services provided to a person in a state institution, as defined in ORS 179.610;

21 (2) Emergency psychiatric care, custody and treatment [*paid for by a county*] under ORS 426.241;

22 (3) Emergency care, custody or treatment provided to a person admitted to or detained in a state  
 23 [*mental*] hospital or nonhospital facility under ORS 426.070, [*426.140,*] 426.180 to 426.210, 426.228,  
 24 426.232 or 426.233; and

25 (4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to  
 26 430.880, 813.500 and 813.510.

27 **SECTION 41.** ORS 430.306 is amended to read:

28 430.306. As used in ORS 430.315, 430.335, 430.342, 430.397, 430.399, 430.402, 430.420 and 430.630,  
 29 unless the context requires otherwise:

30 (1) “Alcoholic” means any person who has lost the ability to control the use of alcoholic  
 31 beverages, or who uses alcoholic beverages to the extent that the health of the person or that of  
 32 others is substantially impaired or endangered or the social or economic function of the person is  
 33 substantially disrupted. An alcoholic may be physically dependent, a condition in which the body  
 34 requires a continuing supply of alcohol to avoid characteristic withdrawal symptoms, or  
 35 psychologically dependent, a condition characterized by an overwhelming mental desire for contin-  
 36 ued use of alcoholic beverages.

37 [(2) “Applicant” means a city, county or any combination thereof.]

38 [(3) “Authority” means the Oregon Health Authority.]

39 **(2) “Coordinated care organization” has the meaning given that term in ORS 414.025.**

40 [(4)] **(3) “Detoxification center” means a publicly or privately operated profit or nonprofit facil-**  
 41 **ity approved by the authority that provides emergency care or treatment for alcoholics or drug-**  
 42 **dependent persons.**

43 [(5)] **(4) “Director of the treatment facility” means the person in charge of treatment and reha-**  
 44 **ilitation programs at a treatment facility or the person’s designee.**

45 [(6)] **(5) “Drug-dependent person” means one who has lost the ability to control the personal use**

1 of controlled substances or other substances with abuse potential, or who uses such substances or  
2 controlled substances to the extent that the health of the person or that of others is substantially  
3 impaired or endangered or the social or economic function of the person is substantially disrupted.  
4 A drug-dependent person may be physically dependent, a condition in which the body requires a  
5 continuing supply of a drug or controlled substance to avoid characteristic withdrawal symptoms,  
6 or psychologically dependent, a condition characterized by an overwhelming mental desire for con-  
7 tinued use of a drug or controlled substance.

8 [(7)] (6) "Halfway house" means a publicly or privately operated profit or nonprofit, residential  
9 facility approved by the authority that provides rehabilitative care and treatment for alcoholics or  
10 drug-dependent persons.

11 [(8)] (7) "Local planning committee" means a local planning committee for alcohol and drug  
12 prevention and treatment services appointed or designated by the county governing body under ORS  
13 430.342.

14 [(9)] (8) "Treatment facility" includes outpatient facilities, inpatient facilities and other facilities  
15 the authority determines suitable [*and that provide services that meet minimum standards established*  
16 *under ORS 430.357*], any of which may provide diagnosis and evaluation, medical care,  
17 detoxification, social services or rehabilitation for alcoholics or drug-dependent persons and which  
18 operate in the form of a [*general*] **community** hospital, a state hospital, a foster home, a hostel, a  
19 clinic or other suitable form approved by the authority.

20 **SECTION 42.** ORS 430.610 is amended to read:

21 430.610. It is declared to be the policy and intent of the Legislative Assembly that:

22 (1) Subject to the availability of funds, services should be available to all persons with mental  
23 **illness** or emotional disturbances, developmental disabilities, alcoholism or drug dependence, and  
24 persons who are alcohol or drug abusers, regardless of age, county of residence or ability to pay;

25 (2) The Department of Human Services, the Oregon Health Authority and other state agencies  
26 shall conduct their activities in the least costly and most efficient manner so that delivery of ser-  
27 vices to persons with mental **illness** or emotional disturbances, developmental disabilities,  
28 alcoholism or drug dependence, and persons who are alcohol or drug abusers, shall be effective and  
29 coordinated;

30 (3) To the greatest extent possible, mental health and developmental disabilities services shall  
31 be delivered in the community where the person lives in order to achieve maximum coordination of  
32 services and minimum disruption in the life of the person; and

33 (4) The State of Oregon shall encourage, aid and financially assist its county governments in the  
34 establishment and development of community mental health programs or community developmental  
35 disabilities programs, including but not limited to, treatment and rehabilitation services for persons  
36 with mental **illness** or emotional disturbances, developmental disabilities, alcoholism or drug de-  
37 pendence, and persons who are alcohol or drug abusers, and prevention of these problems through  
38 county administered community mental health programs or community developmental disabilities  
39 programs.

40 **SECTION 43.** ORS 430.630 is amended to read:

41 430.630. (1) In addition to any other requirements that may be established by rule by the Oregon  
42 Health Authority, each community mental health program, subject to the availability of funds, shall  
43 provide the following basic services to persons with alcoholism or drug dependence, and persons  
44 who are alcohol or drug abusers:

45 (a) Outpatient services;

- 1 (b) Aftercare for persons released from hospitals;
- 2 (c) Training, case and program consultation and education for community agencies, related  
3 professions and the public;
- 4 (d) Guidance and assistance to other human service agencies for joint development of prevention  
5 programs and activities to reduce factors causing alcohol abuse, alcoholism, drug abuse and drug  
6 dependence; and
- 7 (e) Age-appropriate treatment options for older adults.
- 8 (2) As alternatives to state hospitalization, it is the responsibility of the community mental  
9 health program to ensure that, subject to the availability of funds, the following services for persons  
10 with alcoholism or drug dependence, and persons who are alcohol or drug abusers, are available  
11 when needed and approved by the Oregon Health Authority:
- 12 (a) Emergency services on a 24-hour basis, such as telephone consultation, crisis intervention  
13 and prehospital screening examination;
- 14 (b) Care and treatment for a portion of the day or night, which may include day treatment  
15 centers, work activity centers and after-school programs;
- 16 (c) Residential care and treatment in facilities such as halfway houses, detoxification centers  
17 and other community living facilities;
- 18 (d) Continuity of care, such as that provided by service coordinators, community case develop-  
19 ment specialists and core staff of federally assisted community mental health centers;
- 20 (e) Inpatient treatment in community hospitals; and
- 21 (f) Other alternative services to state hospitalization as defined by the Oregon Health Authority.
- 22 (3) In addition to any other requirements that may be established by rule of the Oregon Health  
23 Authority, each community mental health program[, *subject to the availability of funds,*] shall provide  
24 or ensure the provision of the following services to persons with mental **illness** or emotional dis-  
25 turbances:
- 26 (a) Screening and [*evaluation*] a **mental health assessment** to determine the client's service  
27 needs;
- 28 (b) Crisis stabilization **services, available 24 hours a day and seven days a week**, to meet the  
29 needs of persons with acute mental **illness** or emotional disturbances[, *including the costs of*];
- 30 (c) Investigations and [*prehearing detention*] **precommitment care** in community hospitals or  
31 other facilities approved by the authority for persons involved in involuntary commitment proce-  
32 dures;
- 33 [*e*] (d) Vocational and social services that are appropriate for the client's age, designed to  
34 improve the client's vocational, social, educational and recreational functioning;
- 35 [*d*] (e) Continuity of care to link the client to housing and appropriate and available health  
36 and social service needs;
- 37 [*e*] (f) Psychiatric care in [*state and*] community hospitals, subject to the provisions of sub-  
38 section (4) of this section;
- 39 [*f*] (g) Residential services;
- 40 [*g*] (h) Medication monitoring;
- 41 [*h*] (i) Individual, family and group counseling and therapy;
- 42 [*i*] (j) Public education and information;
- 43 [*j*] (k) Prevention of mental [*or*] **illness and** emotional disturbances and promotion of mental  
44 health;
- 45 [*k*] (L) Consultation with other community agencies;



1        *[(L)]* **(m)** Preventive mental health services for children and adolescents, including primary  
 2 prevention efforts, early identification and early intervention services. Preventive services should  
 3 be patterned after service models that have demonstrated effectiveness in reducing the incidence  
 4 of emotional, behavioral and cognitive disorders in children. As used in this paragraph:

5        (A) “Early identification” means detecting **mental or** emotional disturbance in its initial devel-  
 6 opmental stage;

7        (B) “Early intervention services” for children at risk of later development of **mental or** emo-  
 8 tional disturbances means programs and activities for children and their families that promote con-  
 9 ditions, opportunities and experiences that encourage and develop emotional stability,  
 10 self-sufficiency and increased personal competence; and

11        (C) “Primary prevention efforts” means efforts that prevent **mental or** emotional problems from  
 12 occurring by addressing issues early so that disturbances do not have an opportunity to develop;  
 13 and

14        *[(m)]* **(n)** Preventive mental health services for older adults, including primary prevention efforts,  
 15 early identification and early intervention services. Preventive services should be patterned after  
 16 service models that have demonstrated effectiveness in reducing the incidence of *[emotional]* **mental**  
 17 **illness** and behavioral disorders and suicide attempts in older adults. As used in this paragraph:

18        (A) “Early identification” means detecting *[emotional disturbance in its]* **mental and behavioral**  
 19 **disorders at the** initial developmental stage;

20        (B) “Early intervention services” for older adults at risk of development of *[emotional disturb-*  
 21 *ances]* **mental illness or behavioral disorders** means programs and activities for older adults and  
 22 their families that promote conditions, opportunities and experiences that encourage and maintain  
 23 emotional stability, self-sufficiency and increased personal competence and that deter suicide; and

24        (C) “Primary prevention efforts” means efforts that prevent *[emotional problems]* **mental and**  
 25 **behavioral disorders** from occurring by addressing issues early so that disturbances do not have  
 26 an opportunity to develop.

27        (4) A community mental health program **or a coordinated care organization** shall assume re-  
 28 sponsibility for **paying for** psychiatric care in *[state and]* community hospitals, as provided in sub-  
 29 section *[(3)(e)]* **(3)(f)** of this section, in the following circumstances:

30        (a) The person receiving care is a resident of the county served by the program **or the organ-**  
 31 **ization**. For purposes of this paragraph, “resident” means the resident of a county in which the  
 32 person maintains a current mailing address or, if the person does not maintain a current mailing  
 33 address within the state, the county in which the person is found, or the county in which a court-  
 34 committed person with a mental illness has been conditionally released.

35        *[(b) The person has been hospitalized involuntarily or voluntarily, pursuant to ORS 426.130 or*  
 36 *426.220, except for persons confined to the Secure Child and Adolescent Treatment Unit at Oregon*  
 37 *State Hospital, or has been hospitalized as the result of a revocation of conditional release.]*

38        *[(c) Payment is made for the first 60 consecutive days of hospitalization.]*

39        *[(d)]* **(b)** The hospital has collected all available patient payments and third-party reimburse-  
 40 ments **in accordance with ORS 426.241 (2)**.

41        *[(e)]* **(c)** *[In the case of a community hospital,]* The authority has approved the hospital for the  
 42 care of persons with mental **illness** or emotional disturbances, the community mental health pro-  
 43 gram **or coordinated care organization** has a contract with the hospital for the psychiatric care  
 44 of residents and a representative of the program **or organization** approves voluntary or involuntary  
 45 admissions to the hospital prior to admission.

1 (5) Subject to the review and approval of the Oregon Health Authority, a community mental  
2 health program **or coordinated care organization** may initiate additional services after the ser-  
3 vices defined in this section are provided.

4 (6) Each community mental health program and [*the state hospital serving the program's ge-*  
5 *ographic area*] **coordinated care organization** shall enter into a written agreement **with the**  
6 **Oregon State Hospital** concerning the policies and procedures to be followed by the program **or**  
7 **organization** and the hospital when a patient is admitted to, and discharged from, the hospital and  
8 during the period of hospitalization.

9 (7) Each community mental health program shall have a mental health advisory committee, ap-  
10 pointed by the board of county commissioners or the county court or, if two or more counties have  
11 combined to provide mental health services, the boards or courts of the participating counties or,  
12 in the case of a Native American reservation, the tribal council.

13 (8) A community mental health program may request and the authority may grant a waiver re-  
14 garding provision of one or more of the services described in subsection (3) of this section upon a  
15 showing by the county and a determination by the authority that persons with mental **illness** or  
16 emotional disturbances in that county would be better served and unnecessary institutionalization  
17 avoided.

18 (9)(a) As used in this subsection, "local mental health authority" means one of the following  
19 entities:

20 (A) The board of county commissioners of one or more counties that establishes or operates a  
21 community mental health program;

22 (B) The tribal council, in the case of a federally recognized tribe of Native Americans that elects  
23 to enter into an agreement to provide mental health services; or

24 (C) A regional local mental health authority comprising two or more boards of county commis-  
25 sioners.

26 (b) Each local mental health authority that provides mental health services shall determine the  
27 need for local mental health services and adopt a comprehensive local plan for the delivery of  
28 mental health services for children, families, adults and older adults that describes the methods by  
29 which the local mental health authority shall provide those services. The purpose of the local plan  
30 is to create a blueprint to provide mental health services that are directed by and responsive to the  
31 mental health needs of individuals in the community served by the local plan. A local mental health  
32 authority shall coordinate its local planning with the development of the community health im-  
33 provement plan under ORS 414.627 by the coordinated care organization serving the area. The  
34 Oregon Health Authority may require a local mental health authority to review and revise the local  
35 plan periodically.

36 (c) The local plan shall identify ways to:

37 (A) Coordinate and ensure accountability for all levels of care described in paragraph (e) of this  
38 subsection;

39 (B) Maximize resources for consumers and minimize administrative expenses;

40 (C) Provide supported employment and other vocational opportunities for consumers;

41 (D) Determine the most appropriate service provider among a range of qualified providers;

42 (E) Ensure that appropriate mental health referrals are made;

43 (F) Address local housing needs for persons with mental health disorders;

44 (G) [*Develop a process*] **Ensure that community mental health programs, coordinated care**  
45 **organizations and others responsible** for discharge **planning** from state and local psychiatric

1 hospitals and **for** transition planning between levels of care or components of the system of care  
 2 **use consistent processes;**

3 (H) Provide peer support services, including but not limited to drop-in centers and paid peer  
 4 support;

5 (I) Provide transportation supports; and

6 (J) Coordinate services among the criminal and juvenile justice systems, adult and juvenile  
 7 corrections systems and local mental health programs to ensure that persons with mental illness  
 8 who come into contact with the justice and corrections systems receive needed care and to ensure  
 9 continuity of services for adults and juveniles leaving the corrections system.

10 (d) When developing a local plan, a local mental health authority shall:

11 (A) Coordinate with the budgetary cycles of state and local governments that provide the local  
 12 mental health authority with funding for mental health services;

13 (B) Involve consumers, advocates, families, service providers, schools and other interested par-  
 14 ties in the planning process;

15 (C) Coordinate with the local public safety coordinating council to address the services de-  
 16 scribed in paragraph (c)(J) of this subsection;

17 (D) Conduct a population based needs assessment to determine the types of services needed lo-  
 18 cally;

19 (E) Determine the ethnic, age-specific, cultural and diversity needs of the population served by  
 20 the local plan;

21 (F) Describe the anticipated outcomes of services and the actions to be achieved in the local  
 22 plan;

23 (G) Ensure that the local plan coordinates planning, funding and services with:

24 (i) The educational needs of children, adults and older adults;

25 (ii) Providers of social supports, including but not limited to housing, employment, transportation  
 26 and education; and

27 (iii) Providers of physical health and medical services;

28 (H) Describe how funds, other than state resources, may be used to support and implement the  
 29 local plan;

30 (I) Demonstrate ways to integrate local services and administrative functions in order to support  
 31 integrated service delivery in the local plan; and

32 (J) Involve the local mental health advisory committees described in subsection (7) of this sec-  
 33 tion.

34 (e) The local plan must describe how the local mental health authority will ensure the delivery  
 35 of and be accountable for clinically appropriate services in a continuum of care based on consumer  
 36 needs. The local plan shall include, but not be limited to, services providing the following levels of  
 37 care:

38 (A) Twenty-four-hour crisis services;

39 (B) Secure and nonsecure extended psychiatric care;

40 (C) Secure and nonsecure acute psychiatric care;

41 (D) Twenty-four-hour supervised structured treatment;

42 (E) Psychiatric day treatment;

43 (F) Treatments that maximize client independence;

44 (G) Family and peer support and self-help services;

45 (H) Support services;

- 1 (I) Prevention and early intervention services;
- 2 (J) Transition assistance between levels of care;
- 3 (K) Dual diagnosis services;
- 4 (L) Access to placement in state-funded psychiatric hospital beds;
- 5 (M) Precommitment and civil commitment in accordance with ORS chapter 426; and
- 6 (N) Outreach to older adults at locations appropriate for making contact with older adults, in-
- 7 cluding senior centers, long term care facilities and personal residences.

8 (f) In developing the part of the local plan referred to in paragraph (c)(J) of this subsection, the  
 9 local mental health authority shall collaborate with the local public safety coordinating council to  
 10 address the following:

11 (A) Training for all law enforcement officers on ways to recognize and interact with persons  
 12 with mental illness, for the purpose of diverting them from the criminal and juvenile justice systems;

13 (B) Developing voluntary locked facilities for crisis treatment and follow-up as an alternative  
 14 to custodial arrests;

15 (C) Developing a plan for sharing a daily jail and juvenile detention center custody roster and  
 16 the identity of persons of concern and offering mental health services to those in custody;

17 (D) Developing a voluntary diversion program to provide an alternative for persons with mental  
 18 illness in the criminal and juvenile justice systems; and

19 (E) Developing mental health services, including housing, for persons with mental illness prior  
 20 to and upon release from custody.

21 (g) Services described in the local plan shall:

22 (A) Address the vision, values and guiding principles described in the Report to the Governor  
 23 from the Mental Health Alignment Workgroup, January 2001;

24 (B) Be provided to children, older adults and families as close to their homes as possible;

25 (C) Be culturally appropriate and competent;

26 (D) Be, for children, older adults and adults with mental health needs, from providers appropri-  
 27 ate to deliver those services;

28 (E) Be delivered in an integrated service delivery system with integrated service sites or pro-  
 29 cesses, and with the use of integrated service teams;

30 (F) Ensure consumer choice among a range of qualified providers in the community;

31 (G) Be distributed geographically;

32 (H) Involve consumers, families, clinicians, children and schools in treatment as appropriate;

33 (I) Maximize early identification and early intervention;

34 (J) Ensure appropriate transition planning between providers and service delivery systems, with  
 35 an emphasis on transition between children and adult mental health services;

36 (K) Be based on the ability of a client to pay;

37 (L) Be delivered collaboratively;

38 (M) Use age-appropriate, research-based quality indicators;

39 (N) Use best-practice innovations; and

40 (O) Be delivered using a community-based, multisystem approach.

41 (h) A local mental health authority shall submit to the Oregon Health Authority a copy of the  
 42 local plan and revisions adopted under paragraph (b) of this subsection at time intervals established  
 43 by the Oregon Health Authority.

44 **SECTION 44.** ORS 430.634 is amended to read:

45 430.634. (1) In order to improve services to persons with mental **illness** or emotional disturb-

1 ances and provide information for uniform analysis, each community mental health program shall  
 2 collect and report data and evaluate programs in accordance with methods prescribed by the Oregon  
 3 Health Authority after consultation with the program directors.

4 (2) Information collected by the authority under subsection (1) of this section shall include, but  
 5 need not be limited to:

- 6 (a) Numbers of persons served;
- 7 (b) Ages of persons served;
- 8 (c) Types of services provided; and
- 9 (d) Cost of services.

10 (3) Within the limits of available funds allocated for the administration of community mental  
 11 health programs, community mental health programs shall collect data and evaluate programs with  
 12 moneys provided by the authority. The authority shall distribute funds so that programs within the  
 13 same population grouping shall receive equal amounts of funds. The population groupings are:

- 14 (a) More than 400,000 population.
- 15 (b) Less than 400,000 but more than 100,000.
- 16 (c) Less than 100,000 but more than 50,000.
- 17 (d) Less than 50,000.

18 (4) During the first biennium that a new service is funded by the authority, two percent of the  
 19 service funds shall be set aside for use in data collection and evaluation of the service. Thereafter,  
 20 the service shall be evaluated as a part of the total community mental health program.

21 **SECTION 45.** ORS 430.640 is amended to read:

22 430.640. (1) The Oregon Health Authority, in carrying out the legislative policy declared in ORS  
 23 430.610, [*subject to the availability of funds,*] shall:

24 (a) Assist Oregon counties and groups of Oregon counties in the establishment and financing  
 25 of community mental health programs operated or contracted for by one or more counties.

26 (b) If a county declines to operate or contract for a community mental health program, contract  
 27 with another public agency or private corporation to provide the program. The county must be  
 28 provided with an opportunity to review and comment.

29 (c) In an emergency situation when no community mental health program is operating within a  
 30 county or when a county is unable to provide a service essential to public health and safety, operate  
 31 the program or service on a temporary basis.

32 (d) At the request of the tribal council of a federally recognized tribe of Native Americans,  
 33 contract with the tribal council for the establishment and operation of a community mental health  
 34 program in the same manner in which the authority contracts with a county court or board of  
 35 county commissioners.

36 (e) If a county agrees, contract with a public agency or private corporation for all services  
 37 within one or more of the following program areas:

- 38 (A) Mental **illness** or emotional disturbances.
- 39 (B) Drug abuse.
- 40 (C) Alcohol abuse and alcoholism.

41 (f) Approve or disapprove the local plan and budget information for the establishment and op-  
 42 eration of each community mental health program. Subsequent amendments to or modifications of  
 43 an approved plan or budget information involving more than 10 percent of the state funds provided  
 44 for services under ORS 430.630 may not be placed in effect without prior approval of the authority.  
 45 However, an amendment or modification affecting 10 percent or less of state funds for services under

1 ORS 430.630 within the portion of the program for persons with mental **illness** or emotional dis-  
2 turbances or within the portion for persons with alcohol or drug dependence may be made without  
3 authority approval.

4 (g) Make all necessary and proper rules to govern the establishment and operation of community  
5 mental health programs, including adopting rules defining the range and nature of the services  
6 which shall or may be provided under ORS 430.630.

7 (h) Collect data and evaluate services in the state hospitals in accordance with the same meth-  
8 ods prescribed for community mental health programs under ORS 430.634.

9 (i) Develop guidelines that include, for the development of comprehensive local plans in consul-  
10 tation with local mental health authorities:

11 (A) The use of integrated services;

12 (B) The outcomes expected from services and programs provided;

13 (C) Incentives to reduce the use of state hospitals;

14 (D) Mechanisms for local sharing of risk for state hospitalization;

15 (E) The provision of clinically appropriate levels of care based on an assessment of the mental  
16 health needs of consumers;

17 (F) The transition of consumers between levels of care; and

18 (G) The development, maintenance and continuation of older adult mental health programs with  
19 mental health professionals trained in geriatrics.

20 (j) Work with local mental health authorities to provide incentives for community-based care  
21 whenever appropriate while simultaneously ensuring adequate statewide capacity.

22 (k) Provide technical assistance and information regarding state and federal requirements to  
23 local mental health authorities throughout the local planning process required under ORS 430.630  
24 (9).

25 (L) Provide incentives for local mental health authorities to enhance or increase vocational  
26 placements for adults with mental health needs.

27 (m) Develop or adopt nationally recognized system-level performance measures, linked to the  
28 Oregon Benchmarks, for state-level monitoring and reporting of mental health services for children,  
29 adults and older adults, including but not limited to quality and appropriateness of services, out-  
30 comes from services, structure and management of local plans, prevention of mental health disorders  
31 and integration of mental health services with other needed supports.

32 (n) Develop standardized criteria for each level of care described in ORS 430.630 (9), including  
33 protocols for implementation of local plans, strength-based mental health assessment and case plan-  
34 ning.

35 (o) Develop a comprehensive long-term plan for providing appropriate and adequate mental  
36 health treatment and services to children, adults and older adults that is derived from the needs  
37 identified in local plans, is consistent with the vision, values and guiding principles in the [*Report*  
38 *to the Governor from the Mental Health Alignment Workgroup, January 2001,*] **agreement between**  
39 **the state and the United States Department of Justice regarding the department's investi-**  
40 **gation of Oregon's mental health system**, and addresses the need for and the role of state hos-  
41 pitals.

42 (p) Report biennially to the Governor and the Legislative Assembly on the progress of the local  
43 planning process and the implementation of the local plans adopted under ORS 430.630 (9)(b) and the  
44 state planning process described in paragraph (o) of this subsection, and on the performance meas-  
45 ures and performance data available under paragraph (m) of this subsection.

1 (q) On a periodic basis, not to exceed 10 years, reevaluate the methodology used to estimate  
2 prevalence and demand for mental health services using the most current nationally recognized  
3 models and data.

4 (r) Encourage the development of regional local mental health authorities comprised of two or  
5 more boards of county commissioners that establish or operate a community mental health program.

6 (2) The Oregon Health Authority may provide technical assistance and other incentives to assist  
7 in the planning, development and implementation of regional local mental health authorities when-  
8 ever the Oregon Health Authority determines that a regional approach will optimize the compre-  
9 hensive local plan described under ORS 430.630 (9).

10 (3) The enumeration of duties and functions in subsections (1) and (2) of this section shall not  
11 be deemed exclusive nor construed as a limitation on the powers and authority vested in the au-  
12 thority by other provisions of law.

13 **SECTION 46.** ORS 430.644 is amended to read:

14 430.644. [*Within the limits of available funds,*] Community mental health programs **and coordi-**  
15 **nated care organizations** shall provide those services as defined in ORS 430.630 (3)(a) to [(h)] (i)  
16 to persons in the following order of priority:

17 (1) Those persons who, in accordance with the assessment of professionals in the field of mental  
18 health, are at immediate risk of hospitalization for the treatment of mental **illness** or emotional  
19 disturbances or are in need of continuing services to avoid hospitalization or pose a hazard to the  
20 health and safety of themselves, including the potential for suicide, or others and those persons  
21 under 18 years of age who, in accordance with the assessment of professionals in the field of mental  
22 health, are at immediate risk of removal from their homes for treatment of mental or emotional  
23 disturbances or exhibit behavior indicating high risk of developing disturbances of a severe or per-  
24 sistent nature;

25 (2) Those persons who, because of the nature of their mental illness, their geographic location  
26 or their family income, are least capable of obtaining assistance from the private sector; and

27 (3) Those persons who, in accordance with the assessment of professionals in the field of mental  
28 health, are experiencing mental **illness** or emotional disturbances but will not require  
29 hospitalization in the foreseeable future.

30 **SECTION 47.** ORS 430.646 is amended to read:

31 430.646. In allocating funds for community mental health programs affecting persons with mental  
32 **illness** or emotional disturbances, the Oregon Health Authority shall observe the following priori-  
33 ties:

34 (1) To ensure the establishment and operation of community mental health programs for persons  
35 with mental **illness** or emotional disturbances in every geographic area of the state to provide some  
36 services in each category of services described in ORS 430.630 (3) unless a waiver has been granted;

37 (2) To ensure survival of services that address the needs of persons within the priority of ser-  
38 vices under ORS 430.644 and that meet authority standards;

39 (3) To develop the interest and capacity of community mental health programs to provide new  
40 or expanded services to meet the needs for services under ORS 430.644 and to promote the equal  
41 availability of such services throughout the state; and

42 (4) To encourage and assist in the development of model projects to test new services and in-  
43 novative methods of service delivery.

44 **SECTION 48.** ORS 430.695 is amended to read:

45 430.695. (1) Any program fees, third-party reimbursements, contributions or funds from any

1 source, except client resources applied toward the cost of care in group homes for persons with  
 2 developmental disabilities or mental illness and client resources and third-party payments for com-  
 3 munity psychiatric inpatient care, received by a community mental health program or a community  
 4 developmental disabilities program are not an offset to the costs of the services and may not be  
 5 applied to reduce the program's eligibility for state funds, providing the funds are expended for  
 6 mental health or developmental disabilities services approved by the Oregon Health Authority or the  
 7 Department of Human Services.

8 (2) Within the limits of available funds, the authority and the department may contract for spe-  
 9 cialized, statewide and regional services, including but not limited to group homes for persons with  
 10 developmental disabilities or mental **illness** or emotional disturbances, day and residential treatment  
 11 programs for children and adolescents with mental or emotional disturbances and community ser-  
 12 vices for clients of the Psychiatric Security Review Board or the authority under ORS 161.315 to  
 13 161.351.

14 (3) Fees and third-party reimbursements, including all amounts paid pursuant to Title XIX of the  
 15 Social Security Act by the Department of Human Services or the Oregon Health Authority, for  
 16 mental health services or developmental disabilities services and interest earned on those fees and  
 17 reimbursements shall be retained by the community mental health program or community develop-  
 18 mental disabilities program and expended for any service that meets the standards of ORS 430.630  
 19 or 430.664.

20 **SECTION 49.** ORS 430.708 is amended to read:

21 430.708. The children's mental health programs of the Oregon Health Authority shall address  
 22 preventive services under ORS 430.630 [(3)(L)] **(3)(m)**. The authority budget shall give high priority  
 23 to such services.

24 **SECTION 50.** Section 2 of this 2015 Act is amended to read:

25 **Sec. 2.** (1) The Oregon Health Authority shall adopt by rule procedures to ensure that an indi-  
 26 vidual, once determined by a court under ORS 426.130 to be a person with mental illness and in need  
 27 of treatment, is promptly placed in the least restrictive and most clinically appropriate setting. The  
 28 procedures shall ensure that an individual who is detained in a hospital during a prehearing period  
 29 of treatment under ORS 426.070, 426.228, 426.232 or 426.233 is transferred to an appropriate place-  
 30 ment no later than seven days after entry of the court order.

31 (2) [Beginning January 1, 2017,] The authority may not maintain a waiting list or similar process  
 32 that delays the placement of an individual described in this section.

33 **SECTION 51. The amendments to section 2 of this 2015 Act by section 50 of this 2015 Act**  
 34 **become operative on January 1, 2017.**

35 **SECTION 52. Section 3 of this 2015 Act is repealed on January 1, 2018.**

36 **SECTION 53. Section 4 of this 2015 Act and the amendments to ORS 426.005, 426.070,**  
 37 **426.072, 426.074, 426.075, 426.090, 426.095, 426.100, 426.110, 426.120, 426.127, 426.130, 426.155,**  
 38 **426.170, 426.223, 426.228, 426.231, 426.233, 426.234, 426.235, 426.237, 426.241, 426.273, 426.275,**  
 39 **426.278, 426.295, 426.301, 426.307, 426.330, 426.335, 426.385, 426.490, 430.010, 430.021, 430.050,**  
 40 **430.197, 430.306, 430.610, 430.630, 430.634, 430.640, 430.644, 430.646, 430.695 and 430.708 by**  
 41 **sections 5 to 49 of this 2015 Act become operative January 1, 2016.**

42 **SECTION 54. This 2015 Act being necessary for the immediate preservation of the public**  
 43 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
 44 **on its passage.**