

Senate Bill 762

Sponsored by COMMITTEE ON JUDICIARY (at the request of Workgroup to Decriminalize Mental Illness)

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**.

Extends date by which commitment hearing must be held.

Extends length of time individual admitted to facility under emergency civil commitment proceedings may be detained.

Permits individual to request hearing to determine whether there is probable cause for detention pending commitment hearing.

A BILL FOR AN ACT

1
2 Relating to civil commitments; amending ORS 426.070, 426.095, 426.100, 426.210, 426.232, 426.234 and
3 426.237.

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

5 **SECTION 1.** ORS 426.070 is amended to read:

6 426.070. (1) Any of the following may initiate commitment procedures under this section by giving
7 the notice described under subsection (2) of this section:

8 (a) Two persons;

9 (b) The local health officer; or

10 (c) Any magistrate.

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

12 (a) It must be in writing under oath;

13 (b) It must be given to the community mental health program director or a designee of the di-
14 rector in the county where the person alleged to have a mental illness resides;

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

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

19 (A) Of the issuance or nonissuance of a warrant under this section; or

20 (B) Of the court's determination under ORS 426.130 (1); and

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

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

26 (a) Immediately notify the judge of the court having jurisdiction for that county under ORS
27 426.060 of the notification described in subsections (1) and (2) of this section.

28 (b) Immediately notify the Oregon Health Authority if commitment is proposed because the
29 person appears to be a person with mental illness, as defined in ORS 426.005 (1)(f)(C). When such
30 notice is received, the authority may verify, to the extent known by the authority, whether or not

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 the person meets the criteria described in ORS 426.005 (1)(f)(C)(i) and (ii) and so inform the com-
2 munity mental health program director or designee of the director.

3 (c) Initiate an investigation under ORS 426.074 to determine whether there is probable cause to
4 believe that the person is in fact a person with mental illness.

5 (4) Upon completion, a recommendation based upon the investigation report under ORS 426.074
6 shall be promptly submitted to the court. If the community mental health program director deter-
7 mines that probable cause does not exist to believe that a person released from detention under ORS
8 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental health program director
9 may recommend assisted outpatient treatment in accordance with ORS 426.133.

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

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

18 (b)(A) If the court finds that there is probable cause to believe that failure to take the person
19 into custody pending the investigation or hearing would pose serious harm or danger to the person
20 or to others, the court may issue a warrant of detention to the community mental health program
21 director or designee or the sheriff of the county or designee directing the director, sheriff or a
22 designee to take the person alleged to have a mental illness into custody and produce the person
23 at the time and place stated in the warrant.

24 (B) At the time the person is taken into custody, the person shall be informed by the community
25 mental health program director, the sheriff or a designee of the following:

26 (i) The person's rights with regard to representation by or appointment of counsel **and the right**
27 **to request, in writing, a hearing on whether there is probable cause to detain the person,** as
28 described in ORS 426.100;

29 (ii) The warning under ORS 426.123; and

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

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

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

40 **SECTION 2.** 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 **within 15** judicial days from the day a court under ORS 426.070 issues a citation provided under
2 ORS 426.090.

3 (b) Except as provided by paragraph (c) of this subsection, if a person is detained by a warrant
4 of detention under ORS 426.070, a hearing shall be held within [*five*] **15** judicial days of the com-
5 mencement of detention.

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

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

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

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

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

20 (a) Witnesses.

21 (b) The individual conducting the investigation.

22 (c) The examining physicians or other licensed independent practitioners who have examined the
23 person.

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

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

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

30 (c) The testimony of any treating licensed independent practitioners, nurses or social workers
31 for the prehearing period of detention. Any treating licensed independent practitioner, nurse or so-
32 cial worker who is subpoenaed as a witness for the proceeding shall testify as an expert witness
33 under the provisions of ORS 40.410, 40.415, 40.420 and 40.425 and is subject to treatment as an ex-
34 pert witness in the payment of witness fees and costs.

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

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

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

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

SECTION 3. ORS 426.100 is amended to read:

426.100. (1) At the time the person alleged to have a mental illness is brought before the court, the court shall advise the person of the following:

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

(2) Subsection (3) of this section establishes the rights of persons alleged to have a mental illness in each of the following circumstances:

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

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

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

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

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

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

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

[(f)] (e) In all cases suitable legal counsel shall be present at the hearing and may be present at examination and may examine all witnesses offering testimony, and otherwise represent the person.

(4)(a) In addition to the rights described in subsection (3) of this section, a person alleged to have a mental illness who is being involuntarily detained before a hearing on the issue of commitment, pursuant to a warrant of detention issued under ORS 426.070 or as provided under ORS 426.228, 426.232 or 426.233, has the following rights:

(A) The right to obtain counsel, as provided in subsection (3)(a) of this section, or to have counsel appointed as provided in subsection (3)(b) of this section, as soon as reasonably possible.

(B) The right, no later than five days after the person is detained, to request a hearing in writing, personally or through a relative, a friend or an attorney, on the need for detention, and the hearing shall be held no later than five days after the written request. The hearing may be postponed at the request of the person.

(b) In the hearing described in paragraph (a)(B) of this subsection, the court shall take

1 testimony and examine the person. The examination may be held outside of the courtroom
 2 if the court deems it advisable.

3 (c) The court shall issue a written decision on whether there is probable cause to detain
 4 the person as a person with a mental illness who is in need of treatment. If the court finds
 5 probable cause to detain the person, the court shall order the detention of the person until
 6 the earlier of:

7 (A) The conclusion of a hearing under ORS 426.095; or

8 (B) A period not to exceed 15 days from the date the detention began, except as provided
 9 in ORS 426.095 (2)(c).

10 (d) A determination of probable cause to detain the person, under paragraph (c) of this
 11 subsection, may not be deemed to be an adjudication that the person is a person with a
 12 mental illness.

13 [(4)] (5) The responsibility for representing the state's interest in commitment proceedings, in-
 14 cluding, but not limited to, preparation of the state's case and appearances at commitment hearings
 15 is as follows:

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

18 (A) Recommitment proceedings under ORS 426.307; or

19 (B) Proceedings under ORS 426.228, 426.232 or 426.233.

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

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

28 **SECTION 4.** ORS 426.210 is amended to read:

29 426.210. An individual admitted to a hospital or nonhospital facility pursuant to the emergency
 30 **commitment** proceedings under ORS 426.180 and 426.200 may not be detained there for more than
 31 [five] 15 judicial days following admission. The court, for good cause, may allow a postponement and
 32 detention during a postponement as provided under ORS 426.095.

33 **SECTION 5.** ORS 426.232 is amended to read:

34 426.232. (1) If a licensed independent practitioner believes a person who is brought to a hospital
 35 or nonhospital facility by a peace officer under ORS 426.228 or by an individual authorized under
 36 ORS 426.233, or believes a person who is at a hospital or nonhospital facility, is dangerous to self
 37 or to any other person and is in need of emergency care or treatment for mental illness, and the
 38 licensed independent practitioner is not related to the person by blood or marriage, the licensed
 39 independent practitioner may do one of the following:

40 (a) Detain the person and cause the person to be admitted or, if the person is already admitted,
 41 cause the person to be retained in a hospital where the licensed independent practitioner has ad-
 42 mitting privileges or is on staff.

43 (b) Approve the person for emergency care or treatment at a nonhospital facility approved by
 44 the authority.

45 (2) When approving a person for emergency care or treatment at a nonhospital facility under

1 this section, the licensed independent practitioner shall notify immediately the community mental
 2 health program director in the county where the person was taken into custody and maintain the
 3 person, if the person is being held at a hospital, for as long as is feasible given the needs of the
 4 person for mental or physical health or safety. However, under no circumstances may the person
 5 be held for longer than *[five]* **15** judicial days.

6 **SECTION 6.** ORS 426.234 is amended to read:

7 426.234. (1) At the time a person alleged to have a mental illness is admitted to or retained in
 8 a hospital or nonhospital facility under ORS 426.232 or 426.233, a licensed independent practitioner,
 9 nurse or qualified mental health professional at the hospital or nonhospital facility shall:

10 (a) Inform the person of the person's right to representation by or appointment of counsel **and**
 11 **the right to request, in writing, a hearing on whether there is probable cause to retain the**
 12 **person**, as described in ORS 426.100;

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

14 (c) Immediately examine the person;

15 (d) Set forth, in writing, the condition of the person and the need for emergency care or treat-
 16 ment; and

17 (e) If the licensed independent practitioner, nurse or qualified mental health professional rea-
 18 sonably suspects that the person is a foreign national, inform the person of the person's right to
 19 communicate with an official from the consulate of the person's country. A licensed independent
 20 practitioner, nurse or qualified mental health professional is not civilly or criminally liable for fail-
 21 ure to provide the information required by this paragraph. Failure to provide the information re-
 22 quired by this paragraph does not in itself constitute grounds for the exclusion of evidence that
 23 would otherwise be admissible in a proceeding.

24 (2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the li-
 25 censed independent practitioner shall contact the community mental health program director of the
 26 county in which the person resides, if the county of residence is different from the county in which
 27 the hospital is located. The community mental health program director may request that the licensed
 28 independent practitioner notify the circuit court in the county in which the person resides. If the
 29 community mental health program director does not make the request, the licensed independent
 30 practitioner shall notify, immediately and in writing, the circuit court in the county in which the
 31 person is hospitalized.

32 (b) At the time the person is admitted to a hospital under ORS 426.232 after being brought to
 33 the hospital by a peace officer under ORS 426.228, the licensed independent practitioner shall con-
 34 tact the community mental health program director of the county in which the person is hospital-
 35 ized. The community mental health program director of the county in which the person is
 36 hospitalized may request that the licensed independent practitioner notify the circuit court in the
 37 county in which the person is hospitalized. If the community mental health program director does
 38 not make the request, the licensed independent practitioner shall notify, immediately and in writing,
 39 the circuit court in the county in which the person was taken into custody.

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

1 of the person's release from detention.

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

12 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health
13 program director, after consultation with a licensed independent practitioner, determines that a
14 person admitted or retained under ORS 426.233 is not dangerous to self or to any other person and
15 is not in need of immediate care, custody or treatment for mental illness, the community mental
16 health program director may release the person from detention. The community mental health pro-
17 gram director shall immediately notify the circuit court originally notified under paragraph (a) of
18 this subsection of the person's release from detention.

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

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

31 **SECTION 7.** ORS 426.237 is amended to read:

32 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
33 or 426.233, the community mental health program director shall do one of the following:

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

37 (b) No later than three judicial days after initiation of a prehearing period of detention as pro-
38 vided in ORS 426.070, 426.140, 426.232 or 426.233, certify the detained person for a 14-day period of
39 intensive treatment if:

40 (A) The community mental health program director and a licensed independent practitioner have
41 probable cause to believe the person is a person with mental illness;

42 (B) The community mental health program director in the county where the person resides
43 verbally approves the arrangements for payment for the services at the hospital or nonhospital fa-
44 cility; and

45 (C) The community mental health program director locates a hospital or nonhospital facility

1 that:

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

4 (ii) Can, in the opinion of the community mental health program director and the licensed in-
5 dependent practitioner, provide intensive care or treatment for mental illness necessary and suffi-
6 cient to meet the emergency psychiatric needs of the person.

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

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

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

17 (B) Hospital, the licensed independent practitioner who is treating the person shall make dis-
18 charge plans and discharge the person.

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

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

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

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

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

27 (A) A written statement under oath by the community mental health program director and the
28 licensed independent practitioner that they have probable cause to believe the person is a person
29 with mental illness in need of care or treatment for mental illness;

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

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

34 **(D) A notice of the person's right to request a hearing, in writing, on whether there is**
35 **probable cause to detain the person under ORS 426.100 (4);**

36 ~~[(D)]~~ **(E)** A notice that the person has a right to request and be provided a hearing under ORS
37 426.070 to 426.130 at any time during the 14-day period; and

38 ~~[(E)]~~ **(F)** The date and time the copy of the certificate was delivered to the person.

39 (c) Immediately upon receipt of a certificate under paragraph (a) of this subsection, the court
40 shall notify the person's attorney or appoint an attorney for the person if the person cannot afford
41 one. Within 24 hours of the time the certificate is delivered to the court, the person's attorney shall
42 review the certificate with the person. If the person and the person's attorney consent to the certi-
43 fication within one judicial day of the time the certificate is delivered to the circuit court and, ex-
44 cept as provided in subsection (4) of this section, the court shall postpone the hearing required by
45 ORS 426.070 to 426.130 for 14 days.

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

3 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the
4 prescription and administration of drugs, shall be the sole responsibility of the licensed independent
5 practitioner who is treating the person. However, the person shall not be subject to electroshock
6 therapy or unduly hazardous treatment and shall receive usual and customary treatment in accord-
7 ance with medical standards in the community.

8 (B) Except when the person expressly refuses treatment, the treating licensed independent
9 practitioner shall treat the person within the scope of the treatment plan provided the person under
10 paragraph (b) of this subsection. The person's refusal of treatment constitutes sufficient grounds for
11 the community mental health program director to request a hearing as provided in subsection (4)(a)
12 of this section.

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

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

25 (i) If, in the opinion of a licensed independent practitioner, the person's condition requires the
26 person to receive medical care or treatment in a hospital; and

27 (ii) The licensed independent practitioner agrees to admit the person to a hospital, approved by
28 the authority, where the licensed independent practitioner has admitting privileges.

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

33 (e) If the person is in a hospital, the licensed independent practitioner who is treating the person
34 may discharge the person at any time during the 14-day period. The treating licensed independent
35 practitioner shall confer with the community mental health program director and the person's next
36 of kin, if the person consents to the consultation, prior to discharging the person. Immediately upon
37 discharge of the person, the treating licensed independent practitioner shall notify the court in the
38 county in which the certificate was filed initially.

39 (f) If the person is in a nonhospital facility, the community mental health program director may
40 discharge the person at any time during the 14-day period. The community mental health program
41 director shall consult with the licensed independent practitioner who is treating the person and the
42 person's next of kin, if the person consents to the consultation, prior to discharging the person.
43 Immediately upon discharge of the person, the community mental health program director shall no-
44 tify the court in the county in which the certificate was filed initially.

45 (g) The person may agree to voluntary treatment at any time during the 14-day period. When a

1 person agrees to voluntary treatment under this paragraph, the community mental health program
2 director immediately shall notify the court in the county in which the certificate was filed initially.

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

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

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

10 (a) The person consenting to 14 days of treatment or the community mental health program di-
11 rector requests a hearing. The hearing shall be held without unreasonable delay. In no case shall
12 the person be held in a hospital or nonhospital facility longer than [*five*] **15** judicial days after the
13 request for a hearing is made without a hearing being held under ORS 426.070 to 426.130.

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

17
