

Requested by Representative MANNIX

**PROPOSED AMENDMENTS TO
HOUSE BILL 4002**

1 In line 2 of the printed bill, delete the period and insert “; creating new
2 provisions; amending ORS 426.005, 426.070, 426.074, 426.170, 426.180, 426.220,
3 426.225, 426.228, 426.231, 426.232, 426.233, 426.234, 426.237 and 426.241; and
4 declaring an emergency.”.

5 Delete lines 4 through 8 and insert:
6

7 **“CIVIL COMMITMENT OF PERSONS WITH SUBSTANCE USE DIS-
8 ORDERS**

9
10 **“SECTION 1. The Legal Services Program established under ORS
11 9.572 shall provide legal services to individuals initiating commitment
12 procedures under ORS 426.170 for family members with substance use
13 disorders as defined in ORS 426.005. Such legal services shall include,
14 but need not be limited to, the provision of general legal information
15 and legal referral services. Notwithstanding ORS 9.572, legal services
16 may be provided under this section to an individual without regard to
17 the individual’s financial resources.**

18 **“SECTION 2. (1) A person with a substance disorder may be com-
19 mitted, be admitted or receive treatment as provided in ORS 426.005
20 to 426.390 and is entitled to the rights and is subject to the procedures
21 prescribed in ORS 426.005 to 426.390 for purposes of such commitment,**

1 admission and treatment.

2 “(2) A substance use disorder is a mental disorder for purposes of
3 ORS 426.005 (1)(f) and ORS 426.133 (2) if:

4 “(a) The person with the substance use disorder has lost the ability
5 to control the person’s personal use of a controlled substance or an-
6 other substance with abuse potential; or

7 “(b) The substance use by the person with the substance use disor-
8 der is to the extent that the health of the person is substantially im-
9 paired or endangered or the social or economic functioning of the
10 person is substantially disrupted.

11 “(3) A person committed, admitted or receiving treatment pursuant
12 to subsection (1) of this section may not by reason of that fact alone
13 be considered a person with mental illness for any other purpose, in-
14 cluding ORS 426.130 (1)(a)(D).

15 “(4) In any order of commitment of a person with a substance use
16 disorder entered under the provisions of ORS 426.130, the court shall
17 specify that the person is a person with a substance use disorder.

18 “**SECTION 3.** ORS 426.005 is amended to read:

19 “426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires
20 otherwise:

21 “(a) ‘Community mental health program director’ means the director of
22 an entity that provides the services described in ORS 430.630 (3) to (5).

23 “(b) ‘Director of the facility’ means a superintendent of a state mental
24 hospital, the chief of psychiatric services in a community hospital or the
25 person in charge of treatment and rehabilitation programs at other treatment
26 facilities.

27 “(c) ‘Facility’ means a state mental hospital, community hospital, resi-
28 dential facility, detoxification center, day treatment facility or such other
29 facility as the authority determines suitable that provides diagnosis and
30 evaluation, medical care, detoxification, social services or rehabilitation to

1 persons who are in custody during a prehearing period of detention or who
2 have been committed to the Oregon Health Authority under ORS 426.130.

3 “(d) ‘Licensed independent practitioner’ means:

4 “(A) A physician, as defined in ORS 677.010;

5 “(B) A nurse practitioner licensed under ORS 678.375 and authorized to
6 write prescriptions under ORS 678.390; or

7 “(C) A naturopathic physician licensed under ORS chapter 685.

8 “(e) ‘Nonhospital facility’ means any facility, other than a hospital, that
9 is approved by the authority to provide adequate security, psychiatric, nurs-
10 ing and other services to persons under ORS 426.232 or 426.233.

11 “(f) **‘Person alleged to have a mental illness’ means an individual**
12 **alleged to be a person with mental illness.**

13 “[*f*] (g) ‘Person with mental illness’ means a person who, because of a
14 mental disorder, is one or more of the following:

15 “(A) Dangerous to self or others.

16 “(B) Unable to provide for basic personal needs that are necessary to
17 avoid serious physical harm in the near future, and is not receiving such
18 care as is necessary to avoid such harm.

19 “(C) A person:

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

21 “(ii) Who, within the previous three years, has twice been placed in a
22 hospital or approved inpatient facility by the authority or the Department
23 of Human Services under ORS 426.060;

24 “(iii) Who is exhibiting symptoms or behavior substantially similar to
25 those that preceded and led to one or more of the hospitalizations or inpa-
26 tient placements referred to in sub-subparagraph (ii) of this subparagraph;
27 and

28 “(iv) Who, unless treated, will continue, to a reasonable medical proba-
29 bility, to physically or mentally deteriorate so that the person will become
30 a person described under either subparagraph (A) or (B) of this paragraph

1 or both.

2 “[g] (h) ‘Prehearing period of detention’ means a period of time calcu-
3 lated from the initiation of custody during which a person may be detained
4 under ORS 426.228, 426.231, 426.232 or 426.233.

5 “(i) ‘Substance use disorder’ has the meaning given that term in the
6 fifth edition of the Diagnostic and Statistical Manual of Mental Dis-
7 orders published by the American Psychiatric Association.

8 “(2) Whenever a community mental health program director, director of
9 the facility, superintendent of a state hospital or administrator of a facility
10 is referred to, the reference includes any designee such person has designated
11 to act on the person’s behalf in the exercise of duties.

12 “**SECTION 4.** ORS 426.070 is amended to read:

13 “426.070. (1) Any of the following may initiate commitment procedures
14 under this section by giving the notice described under subsection (2) of this
15 section:

16 “(a) Two persons;

17 “(b) The local health officer; or

18 “(c) Any magistrate or judge of a court of a federally recognized Indian
19 tribe located in this state.

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

22 “(a) It must be in writing under oath;

23 “(b) It must be given to the community mental health program director
24 or a designee of the director in the county where the person alleged to have
25 a mental illness resides;

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

29 “(d) If the commitment proceeding is initiated by two persons under sub-
30 section (1)(a) of this section, it may include a request that the court notify

1 the two persons:

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

3 “(B) Of the court’s determination under ORS 426.130 (1); and

4 “(e) If the notice contains a request under paragraph (d) of this sub-
5 section, it must also include the addresses of the two persons making the
6 request.

7 “(3) Upon receipt of a notice under subsections (1) and (2) of this section
8 or when notified by a circuit court that the court received notice under ORS
9 426.234, the community mental health program director, or designee of the
10 director, shall:

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

14 “(b) Immediately notify the Oregon Health Authority if commitment is
15 proposed because the person appears to be a person with mental illness, as
16 defined in ORS 426.005 [(1)(f)(C)] **(1)(g)(C)**. When such notice is received, the
17 authority may verify, to the extent known by the authority, whether or not
18 the person meets the criteria described in ORS 426.005 [(1)(f)(C)(i) and (ii)]
19 **(1)(g)(C)(i) and (ii)** and so inform the community mental health program
20 director or designee of the director.

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

24 “(4) Upon completion, a recommendation based upon the investigation
25 report under ORS 426.074 shall be promptly submitted to the court. If the
26 community mental health program director determines that probable cause
27 does not exist to believe that a person released from detention under ORS
28 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental
29 health program director may recommend assisted outpatient treatment in
30 accordance with ORS 426.133.

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

2 “(a) If the court, following the investigation, concludes that there is
3 probable cause to believe that the person investigated is a person with
4 mental illness, it shall, through the issuance of a citation as provided in ORS
5 426.090, cause the person to be brought before it at a time and place as it
6 may direct, for a hearing under ORS 426.095 to determine whether the person
7 is a person with mental illness. The person shall be given the opportunity
8 to appear voluntarily at the hearing unless the person fails to appear or
9 unless the person is detained pursuant to paragraph (b) of this subsection.

10 “(b)(A) If the court finds that there is probable cause to believe that
11 failure to take the person into custody pending the investigation or hearing
12 would pose serious harm or danger to the person or to others, the court may
13 issue a warrant of detention to the community mental health program di-
14 rector or designee or the sheriff of the county or designee directing the di-
15 rector, sheriff or a designee to take the person alleged to have a mental
16 illness into custody and produce the person at the time and place stated in
17 the warrant.

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

21 “(i) The person’s rights with regard to representation by or appointment
22 of counsel as described in ORS 426.100;

23 “(ii) The warning under ORS 426.123; and

24 “(iii) The person’s right, if the community mental health program direc-
25 tor, sheriff or designee reasonably suspects that the person is a foreign na-
26 tional, to communicate with an official from the consulate of the person’s
27 country. A community mental health program director, sheriff or designee is
28 not civilly or criminally liable for failure to provide the information required
29 by this sub-subparagraph. Failure to provide the information required by this
30 sub-subparagraph does not in itself constitute grounds for the exclusion of

1 evidence that would otherwise be admissible in a proceeding.

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

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

7 **“SECTION 5.** ORS 426.074 is amended to read:

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

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

15 “(a) If the person can be located, the investigator shall contact the person
16 within three judicial days from the date the community mental health pro-
17 gram director or a designee receives a notice under ORS 426.070 alleging that
18 the person has a mental illness and is in need of treatment.

19 “(b) Within 15 days from the date the community mental health program
20 director or a designee receives a notice under ORS 426.070, one of the fol-
21 lowing shall occur:

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

23 “(B) An application for extension shall be made to the court under para-
24 graph (c) of this subsection.

25 “(c) The community mental health program director, a designee or the
26 investigator may file for an extension of the time under paragraph (b) of this
27 subsection only if one of the following occurs:

28 “(A) A treatment option less restrictive than involuntary inpatient com-
29 mitment is actively being pursued.

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

1 “(d) A court may grant an extension under paragraph (c) of this sub-
2 section for a time and upon the terms and conditions the court considers
3 appropriate.

4 “(2) This subsection establishes a nonexclusive list of provisions applica-
5 ble to the content of the investigation, as follows:

6 “(a) The investigation conducted should, where appropriate, include an
7 interview or examination of the person alleged to have a mental illness in
8 the home of the person or other place familiar to the person.

9 “(b) Whether or not the person consents, the investigation should include
10 interviews with any individuals that the investigator has probable cause to
11 believe have pertinent information regarding the investigation. If the person
12 objects to the contact with any individual, the objection shall be noted in
13 the investigator’s report.

14 “(c) The investigator shall be allowed access to licensed independent
15 practitioners, nurses or social workers and to medical records compiled dur-
16 ing the current involuntary prehearing period of detention to determine
17 probable cause and to develop alternatives to commitment. If commitment is
18 proposed because the person appears to be a person with mental illness as
19 defined in ORS 426.005 [(1)(f)(C)] **(1)(g)(C)**, the investigator shall be allowed
20 access to medical records necessary to verify the existence of criteria de-
21 scribed in ORS 426.005 [(1)(f)(C)] **(1)(g)(C)**. The investigator shall include
22 pertinent parts of the medical record in the investigation report. Records and
23 communications described in this paragraph and related communications are
24 not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

25 “(3) A copy of the investigation report shall be provided as soon as pos-
26 sible, but in no event later than 24 hours prior to the hearing, to the person
27 and to the person’s counsel. Copies shall likewise be provided to counsel
28 assisting the court, to the examiners and to the court for use in questioning
29 witnesses.

30 **“SECTION 6.** ORS 426.170 is amended to read:

1 “426.170. If any person is adjudged to [*have a*] **be a person with** mental
2 illness and is ordered committed to the Oregon Health Authority, a copy of
3 the complete record in the case, certified to by the court clerk or court ad-
4 ministrator, shall be given to the local health officer, or to the sheriff, for
5 delivery to the director of the facility to which such person is assigned. The
6 record shall include the name, residence, nativity, sex and age of the person
7 and all other information that may be required by the rules and regulations
8 promulgated by the authority.

9 **“SECTION 7.** ORS 426.180 is amended to read:

10 “426.180. (1) ORS 426.180 to 426.210 apply to the commitment of an indi-
11 vidual in Indian country if a federally recognized Indian tribe that has In-
12 dian country located within this state chooses to exercise the tribe’s
13 authority over the commitment.

14 “(2) As used in this section and ORS 426.200 and 426.210, ‘hospital’ means
15 a hospital that is licensed under ORS chapter 441, other than an institution
16 listed in ORS 426.010.

17 “(3) If the court of a tribe having jurisdiction over an individual issues
18 an order finding that the individual is dangerous to self or to any other
19 person and is in need of immediate care, custody or treatment for mental
20 illness, **including mental illness caused by a substance use disorder**, a
21 person may request that the individual be taken by a tribal police officer or
22 other peace officer to a hospital or nonhospital facility by submitting to the
23 officer a certified copy of the order and an affidavit that includes:

24 “(a) The name and address of the nearest relative or legal guardian of the
25 individual; and

26 “(b) A medical history completed by one of the following, who may not
27 be related to the individual by blood or marriage:

28 “(A) The tribe’s mental health authority, if the tribe has entered into an
29 agreement with the state pursuant to ORS 430.630 (9)(a)(B);

30 “(B) A qualified mental health professional; or

1 “(C) A licensed independent practitioner.

2 “(4) Upon receipt of the order and affidavit described in subsection (3) of
3 this section, the tribal police officer or other peace officer shall immediately
4 transport the individual to a hospital or a nonhospital facility and present
5 the individual to the hospital or nonhospital facility accompanied by the
6 court order and affidavit.

7 “(5) The director of the hospital or nonhospital facility may refuse to
8 admit the individual if a licensed independent practitioner, after reviewing
9 the documents accompanying the individual, is not satisfied that an emer-
10 gency exists or that the individual is dangerous to self or others and in need
11 of immediate care, custody or treatment for mental illness, **including men-
12 tal illness caused by a substance use disorder.**

13 “(6) If the hospital or nonhospital facility admits the individual, the di-
14 rector or a licensed independent practitioner shall notify the community
15 mental health program director for the area and the circuit court with ju-
16 risdiction in the area where the facility is located. Upon receipt of the no-
17 tice, the community mental health program director shall initiate
18 commitment proceedings in accordance with ORS 426.070.

19 “(7) If an individual is admitted to a hospital or nonhospital facility under
20 this section, any licensed independent practitioner who is treating the indi-
21 vidual shall give the individual the warning under ORS 426.123.

22 “(8) This section may be applied as provided by agreement with the gov-
23 erning body of the reservation. Payment of costs for a commitment made
24 under this section shall be as provided under ORS 426.250.

25 “(9) The director of the hospital or nonhospital facility or licensed inde-
26 pendent practitioner shall notify the appropriate tribe regarding all actions
27 taken under ORS 426.180 to 426.210 no later than 24 hours after the action
28 is taken, except for information protected from disclosure by state or federal
29 law.

30 “**SECTION 8.** ORS 426.220 is amended to read:

1 “426.220. (1) Pursuant to rules and regulations promulgated by the Oregon
2 Health Authority, the superintendent of any state hospital for the treatment
3 and care of persons with mental illness may admit and hospitalize therein
4 as a patient, any person who may have a nervous disorder or a mental
5 illness, **including a mental illness caused by a substance use disorder**,
6 and who voluntarily has made written application for such admission. No
7 person under the age of 18 years shall be admitted as a patient to any such
8 state hospital unless an application therefor in behalf of the person has been
9 executed by the parent, adult next of kin or legal guardian of the person.
10 Except when a period of longer hospitalization has been imposed as a con-
11 dition of admission, pursuant to rules and regulations of the authority, no
12 person voluntarily admitted to any state hospital shall be detained therein
13 more than 72 hours after the person, if at least 18 years of age, has given
14 notice in writing of a desire to be discharged therefrom, or, if the patient is
15 under the age of 18 years, after notice in writing has been given by the
16 parent, adult next of kin or legal guardian of the person that such parent,
17 adult next of kin or legal guardian desires that such person be discharged
18 therefrom.

19 “(2) Any person voluntarily admitted to a state hospital pursuant to this
20 section may upon application and notice to the superintendent of the hospi-
21 tal concerned, be granted a temporary leave of absence from the hospital if
22 such leave, in the opinion of the superintendent, will not interfere with the
23 successful treatment or examination of the applicant for leave.

24 “(3) Upon admission or discharge of a minor to or from a state hospital
25 the superintendent shall immediately notify the parent or guardian.

26 “**SECTION 9.** ORS 426.225 is amended to read:

27 “426.225. (1) If any person who has been committed to the Oregon Health
28 Authority under ORS 426.127 or 426.130 (1)(a)(B) or (C) requests, during this
29 period of commitment, voluntary admission to a state hospital, the super-
30 intendent shall cause the person to be examined immediately by a licensed

1 independent practitioner. If the licensed independent practitioner finds the
2 person to be in need of immediate care or treatment for mental illness, the
3 person shall be voluntarily admitted.

4 “(2) If any person who has been committed to the authority under ORS
5 426.127 or 426.130 (1)(a)(B) or (C) requests, during this period of commitment,
6 voluntary admission to a facility approved by the authority, the administra-
7 tor of the facility shall cause the person to be examined immediately by a
8 licensed independent practitioner. If the licensed independent practitioner
9 finds the person to be in need of immediate care or treatment for mental
10 illness, **including mental illness caused by a substance use disorder**, and
11 the authority grants approval, the person shall be voluntarily admitted.

12 **“SECTION 10.** ORS 426.228 is amended to read:

13 “426.228. (1) A peace officer may take into custody a person who the of-
14 ficer has probable cause to believe is dangerous to self or to any other person
15 and is in need of immediate care, custody or treatment for mental illness,
16 **including mental illness caused by a substance use disorder**. As directed
17 by the community mental health program director, a peace officer shall re-
18 move a person taken into custody under this section to the nearest hospital
19 or nonhospital facility approved by the Oregon Health Authority. The officer
20 shall prepare a written report and deliver it to the licensed independent
21 practitioner who is treating the person. The report shall state:

22 “(a) The reason for custody;

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

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

26 “(2) A peace officer shall take a person into custody when the community
27 mental health program director, pursuant to ORS 426.233, notifies the peace
28 officer that the director has probable cause to believe that the person is
29 imminently dangerous to self or to any other person. As directed by the
30 community mental health program director, the peace officer shall remove

1 the person to a hospital or nonhospital facility approved by the authority.
2 The community mental health program director shall prepare a written re-
3 port that the peace officer shall deliver to the licensed independent practi-
4 tioner who is treating the person. The report shall state:

5 “(a) The reason for custody;

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

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

9 “(3) If more than one hour will be required to transport the person to the
10 hospital or nonhospital facility from the location where the person was taken
11 into custody, the peace officer shall obtain, if possible, a certificate from a
12 licensed independent practitioner stating that the travel will not be detri-
13 mental to the person’s physical health and that the person is dangerous to
14 self or to any other person and is in need of immediate care or treatment for
15 mental illness, **including mental illness caused by a substance use dis-**
16 **order**. The licensed independent practitioner shall have personally examined
17 the person within 24 hours prior to signing the certificate.

18 “(4) When a peace officer or other authorized individual, acting under this
19 section, delivers a person to a hospital or nonhospital facility, a licensed
20 independent practitioner shall examine the person immediately. If the li-
21 censed independent practitioner finds the person to be in need of emergency
22 care or treatment for mental illness, **including mental illness caused by**
23 **a substance use disorder**, the licensed independent practitioner shall pro-
24 ceed under ORS 426.232, otherwise the person may not be retained in cus-
25 tody. If the person is to be released from custody, the peace officer or the
26 community mental health program director shall return the person to the
27 place where the person was taken into custody unless the person declines
28 that service.

29 “(5) A peace officer may transfer a person in custody under this section
30 to the custody of an individual authorized by the community mental health

1 program director under ORS 426.233 (3). The peace officer may meet the
2 authorized individual at any location that is in accordance with ORS 426.140
3 to effect the transfer. When transferring a person in custody to an authorized
4 individual, the peace officer shall deliver the report required under sub-
5 sections (1) and (2) of this section to the authorized individual.

6 “(6) An individual authorized under ORS 426.233 (3) shall take a person
7 into custody when directed to do so by a peace officer or by a community
8 mental health program director under ORS 426.233.

9 “(7) An individual authorized under ORS 426.233 (3) shall perform the
10 duties of the peace officer or the community mental health program director
11 required by this section and ORS 426.233 if the peace officer or the director
12 has not already done so.

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

18 “(9)(a) When a peace officer takes a person into custody under this sec-
19 tion, and the peace officer reasonably suspects that the person is a foreign
20 national, the peace officer shall inform the person of the person’s right to
21 communicate with an official from the consulate of the person’s country.

22 “(b) A peace officer is not civilly or criminally liable for failure to pro-
23 vide the information required by this subsection. Failure to provide the in-
24 formation required by this subsection does not in itself constitute grounds
25 for the exclusion of evidence that would otherwise be admissible in a pro-
26 ceeding.

27 **“SECTION 11.** ORS 426.231 is amended to read:

28 “426.231. (1) A licensed independent practitioner may hold a person for
29 transportation to a treatment facility for up to 12 hours in a health care
30 facility licensed under ORS chapter 441 and approved by the Oregon Health

1 Authority if:

2 “(a) The licensed independent practitioner believes the person is danger-
3 ous to self or to any other person and is in need of emergency care or
4 treatment for mental illness, **including mental illness caused by a sub-
5 stance use disorder;**

6 “(b) The licensed independent practitioner is not related to the person by
7 blood or marriage; and

8 “(c) A licensed independent practitioner with admitting privileges at the
9 receiving facility consents to the transporting.

10 “(2) Before transporting the person, the licensed independent practitioner
11 shall prepare a written statement that:

12 “(a) The licensed independent practitioner has examined the person
13 within the preceding 12 hours;

14 “(b) A licensed independent practitioner with admitting privileges at the
15 receiving facility has consented to the transporting of the person for exam-
16 ination and admission if appropriate; and

17 “(c) The licensed independent practitioner believes the person is danger-
18 ous to self or to any other person and is in need of emergency care or
19 treatment for mental illness, **including mental illness caused by a sub-
20 stance use disorder.**

21 “(3) The written statement required by subsection (2) of this section au-
22 thorizes a peace officer, an individual authorized under ORS 426.233 or the
23 designee of a community mental health program director to transport a per-
24 son to the treatment facility indicated on the statement.

25 **“SECTION 12.** ORS 426.232 is amended to read:

26 “426.232. (1) If a licensed independent practitioner believes a person who
27 is brought to a hospital or nonhospital facility by a peace officer under ORS
28 426.228 or by an individual authorized under ORS 426.233, or believes a per-
29 son who is at a hospital or nonhospital facility, is dangerous to self or to
30 any other person and is in need of emergency care or treatment for mental

1 illness, **including mental illness caused by a substance use disorder**, and
2 the licensed independent practitioner is not related to the person by blood
3 or marriage, the licensed independent practitioner may do one of the fol-
4 lowing:

5 “(a) Detain the person and cause the person to be admitted or, if the
6 person is already admitted, cause the person to be retained in a hospital
7 where the licensed independent practitioner has admitting privileges or is
8 on staff.

9 “(b) Approve the person for emergency care or treatment at a nonhospital
10 facility approved by the authority.

11 “(2) When approving a person for emergency care or treatment at a non-
12 hospital facility under this section, the licensed independent practitioner
13 shall notify immediately the community mental health program director in
14 the county where the person was taken into custody and maintain the per-
15 son, if the person is being held at a hospital, for as long as is feasible given
16 the needs of the person for mental or physical health or safety. However,
17 under no circumstances may the person be held for longer than five judicial
18 days.

19 “**SECTION 13.** ORS 426.233 is amended to read:

20 “426.233. (1)(a) A community mental health program director operating
21 under ORS 430.610 to 430.695 or a designee of the director may take one of
22 the actions listed in paragraph (b) of this subsection when the community
23 mental health program director or designee has probable cause to believe a
24 person:

25 “(A) Is dangerous to self or to any other person and is in need of imme-
26 diate care, custody or treatment for mental illness, **including mental ill-
27 ness caused by a substance use disorder**; or

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

1 “(ii) Is dangerous to self or to any other person or is unable to provide
2 for basic personal needs and is not receiving the care that is necessary for
3 health and safety and is in need of immediate care, custody or treatment for
4 mental illness, **including mental illness caused by a substance use dis-**
5 **order.**

6 “(b) The community mental health program director or designee under the
7 circumstances set out in paragraph (a) of this subsection may:

8 “(A) Notify a peace officer to take the person into custody and direct the
9 officer to remove the person to a hospital or nonhospital facility approved
10 by the Oregon Health Authority;

11 “(B) Authorize involuntary admission of, or, if already admitted, cause to
12 be involuntarily retained in a nonhospital facility approved by the authority,
13 a person approved for care or treatment at a nonhospital facility by a li-
14 censed independent practitioner under ORS 426.232;

15 “(C) Notify an individual authorized under subsection (3) of this section
16 to take the person into custody and direct the authorized individual to re-
17 move the person in custody to a hospital or nonhospital facility approved by
18 the authority;

19 “(D) Direct an individual authorized under subsection (3) of this section
20 to transport a person in custody from a hospital or a nonhospital facility
21 approved by the authority to another hospital or nonhospital facility ap-
22 proved by the authority as provided under ORS 426.235; or

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

26 “(2) A designee under subsection (1) of this section must meet the stan-
27 dards established by rule of the authority and be approved by the community
28 mental health program director before assuming the authority permitted un-
29 der subsection (1) of this section.

30 “(3) The community mental health program director may authorize any

1 individual to provide custody and secure transportation services for a person
2 in custody under ORS 426.228. In authorizing an individual under this sub-
3 section, the community mental health program director shall grant the indi-
4 vidual the authority to do the following:

5 “(a) Accept custody from a peace officer of a person in custody under ORS
6 426.228;

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

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

11 “(d) Transfer a person in custody to another individual authorized under
12 this subsection or a peace officer;

13 “(e) Transfer a person in custody from a hospital or nonhospital facility
14 to another hospital facility or nonhospital facility when directed to do so by
15 the community mental health program director; and

16 “(f) Retain a person in custody at the approved hospital or nonhospital
17 facility until a licensed independent practitioner makes a determination un-
18 der ORS 426.232.

19 “(4) An individual authorized under subsection (3) of this section must
20 meet the standards established by rule of the authority and be approved by
21 the community mental health program director before assuming the authority
22 granted under this section.

23 “(5) The costs of transporting a person under ORS 426.060, 426.228 or
24 426.235 by an individual authorized under subsection (3) of this section shall
25 be the responsibility of the community mental health program in the county
26 in which the authorized individual is directed by a peace officer or a com-
27 munity mental health program director to take custody of a person and to
28 transport the person to a facility approved by the authority, but the com-
29 munity mental health program shall not be responsible for costs that exceed
30 the amount provided by the state for that transportation. An individual au-

1 thorized to act under subsection (3) of this section shall charge the cost of
2 emergency medical transportation to, and collect that cost from, the person,
3 third party payers or other legally or financially responsible individuals or
4 entities in the same manner that costs for the transportation of other persons
5 are charged and collected.

6 **“SECTION 14.** ORS 426.234 is amended to read:

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

11 “(a) Inform the person of the person’s right to representation by or ap-
12 pointment of counsel 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
16 emergency care or treatment; and

17 “(e) If the licensed independent practitioner, nurse or qualified mental
18 health professional reasonably suspects that the person is a foreign national,
19 inform the person of the person’s right to communicate with an official from
20 the consulate of the person’s country. A licensed independent practitioner,
21 nurse or qualified mental health professional is not civilly or criminally li-
22 able for failure to provide the information required by this paragraph. Fail-
23 ure to provide the information required by this paragraph does not in itself
24 constitute grounds for the exclusion of evidence that would otherwise be
25 admissible in a proceeding.

26 “(2)(a) At the time the person is admitted to or retained in a hospital
27 under ORS 426.232, the licensed independent practitioner shall contact the
28 community mental health program director of the county in which the person
29 resides, if the county of residence is different from the county in which the
30 hospital is located. The community mental health program director may re-

1 quest that the licensed independent practitioner notify the circuit court in
2 the county in which the person resides. If the community mental health
3 program director does not make the request, the licensed independent prac-
4 titioner shall notify, immediately and in writing, the circuit court in the
5 county in which the person is hospitalized.

6 “(b) At the time the person is admitted to a hospital under ORS 426.232
7 after being brought to the hospital by a peace officer under ORS 426.228, the
8 licensed independent practitioner shall contact the community mental health
9 program director of the county in which the person is hospitalized. The
10 community mental health program director of the county in which the person
11 is hospitalized may request that the licensed independent practitioner notify
12 the circuit court in the county in which the person is hospitalized. If the
13 community mental health program director does not make the request, the
14 licensed independent practitioner shall notify, immediately and in writing,
15 the circuit court in the county in which the person was taken into custody.

16 “(c) If, at any time prior to the hearing under ORS 426.070 to 426.130, the
17 licensed independent practitioner responsible for a person admitted or re-
18 tained under ORS 426.232 determines that the person is not dangerous to self
19 or to any other person and is not in need of emergency care or treatment for
20 mental illness, **including mental illness caused by a substance use dis-**
21 **order**, the licensed independent practitioner may release the person from the
22 detention authorized by ORS 426.232. The licensed independent practitioner
23 shall immediately notify the circuit court notified under this subsection and
24 the community mental health program director of the person’s release from
25 detention.

26 “(3)(a) At the time the person is admitted to or retained in a nonhospital
27 facility under ORS 426.233, the community mental health program director
28 in the county where the person was taken into custody shall contact the
29 community mental health program director of the county in which the person
30 resides, if the county of residence is different from the county in which the

1 person was taken into custody. The community mental health program di-
2 rector of the county in which the person resides may request that the com-
3 munity mental health program director of the county in which the person
4 was taken into custody notify the circuit court in the county where the
5 person resides. Otherwise, the community mental health program director of
6 the county in which the person was taken into custody shall notify, imme-
7 diately and in writing, the circuit court in the county in which the person
8 was taken into custody.

9 “(b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a
10 community mental health program director, after consultation with a li-
11 censed independent practitioner, determines that a person admitted or re-
12 tained under ORS 426.233 is not dangerous to self or to any other person and
13 is not in need of immediate care, custody or treatment for mental illness,
14 **including mental illness caused by a substance use disorder**, the com-
15 munity mental health program director may release the person from de-
16 tention. The community mental health program director shall immediately
17 notify the circuit court originally notified under paragraph (a) of this sub-
18 section of the person’s release from detention.

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

29 “(5) When the judge of the circuit court receives notice under subsection
30 (2)(c) or (3)(b) of this section that a person has been released, and unless the

1 court receives the recommendation required by ORS 426.070 (4), the judge
2 shall dismiss the case no later than 14 days after the date the person was
3 initially detained.

4 **“SECTION 15.** ORS 426.237 is amended to read:

5 “426.237. (1) During a prehearing period of detention as provided in ORS
6 426.070, 426.140, 426.232 or 426.233, the community mental health program
7 director shall do one of the following:

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

12 “(b) No later than three judicial days after initiation of a prehearing pe-
13 riod of detention as provided in ORS 426.070, 426.140, 426.232 or 426.233,
14 certify the detained person for a 14-day period of intensive treatment if:

15 “(A) The community mental health program director and a licensed inde-
16 pendent practitioner have probable cause to believe the person is a person
17 with mental illness;

18 “(B) The community mental health program director in the county where
19 the person resides verbally approves the arrangements for payment for the
20 services at the hospital or nonhospital facility; and

21 “(C) The community mental health program director locates a hospital
22 or nonhospital facility that:

23 “(i) Is approved by the authority and the community mental health pro-
24 gram director in the county where the person resides; and

25 “(ii) Can, in the opinion of the community mental health program director
26 and the licensed independent practitioner, provide intensive care or treat-
27 ment for mental illness, **including mental illness caused by a substance**
28 **use disorder**, necessary and sufficient to meet the emergency psychiatric
29 needs of the person.

30 “(c) Recommend, in an investigation report as provided in ORS 426.074,

1 that the circuit court hold a hearing under ORS 426.070 to 426.130 if the
2 community mental health program director has probable cause to believe the
3 person is a person with mental illness or that the person is in need of as-
4 sisted outpatient treatment.

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

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

12 “(B) Hospital, the licensed independent practitioner who is treating the
13 person shall make discharge plans and discharge the person.

14 “(b) Upon release of the person, the community mental health program
15 director shall attempt to notify the person’s next of kin if the person con-
16 sents to the notification.

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

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

21 “(B) Orally inform the person of the certification and deliver a copy of
22 the certificate to the person.

23 “(b) The certificate required by paragraph (a) of this subsection shall in-
24 clude:

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

30 “(B) A treatment plan that describes, in general terms, the types of

1 treatment and medication to be provided to the person during the 14-day
2 period of intensive treatment;

3 “(C) A notice of the person’s right to an attorney and that an attorney
4 will be appointed by the court or as otherwise obtained under ORS 426.100
5 (3);

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

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

11 “(c) Immediately upon receipt of a certificate under paragraph (a) of this
12 subsection, the court shall notify the person’s attorney or appoint an attor-
13 ney for the person if the person cannot afford one. Within 24 hours of the
14 time the certificate is delivered to the court, the person’s attorney shall re-
15 view the certificate with the person. If the person and the person’s attorney
16 consent to the certification within one judicial day of the time the certificate
17 is delivered to the circuit court and, except as provided in subsection (4) of
18 this section, the court shall postpone the hearing required by ORS 426.070
19 to 426.130 for 14 days.

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

22 “(A) Except as otherwise provided in this paragraph, all methods of
23 treatment, including the prescription and administration of drugs, shall be
24 the sole responsibility of the licensed independent practitioner who is treat-
25 ing the person. However, the person shall not be subject to electroshock
26 therapy or unduly hazardous treatment and shall receive usual and custom-
27 ary treatment in accordance with medical standards in the community.

28 “(B) Except when the person expressly refuses treatment, the treating li-
29 censed independent practitioner shall treat the person within the scope of
30 the treatment plan provided the person under paragraph (b) of this sub-

1 section. The person's refusal of treatment constitutes sufficient grounds for
2 the community mental health program director to request a hearing as pro-
3 vided in subsection (4)(a) of this section.

4 “(C) If the person is in a hospital and the community mental health pro-
5 gram director locates a nonhospital facility, approved by the authority, that,
6 in the opinion of the community mental health program director and the li-
7 censed independent practitioner who is treating the person, can provide care
8 or treatment for mental illness, **including mental illness caused by a**
9 **substance use disorder**, necessary and sufficient to meet the emergency
10 psychiatric needs of the person, the treating licensed independent practi-
11 tioner shall discharge the person from the hospital and the community men-
12 tal health program director shall remove the person to the nonhospital
13 facility for the remainder of the 14-day intensive treatment period. If, how-
14 ever, in the opinion of the treating licensed independent practitioner, the
15 person's condition requires the person to receive medical care or treatment,
16 the licensed independent practitioner shall retain the person in the hospital.

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

20 “(i) If, in the opinion of a licensed independent practitioner, the person's
21 condition requires the person to receive medical care or treatment in a hos-
22 pital; and

23 “(ii) The licensed independent practitioner agrees to admit the person to
24 a hospital, approved by the authority, where the licensed independent prac-
25 titioner has admitting privileges.

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

1 “(e) If the person is in a hospital, the licensed independent practitioner
2 who is treating the person may discharge the person at any time during the
3 14-day period. The treating licensed independent practitioner shall confer
4 with the community mental health program director and the person’s next
5 of kin, if the person consents to the consultation, prior to discharging the
6 person. Immediately upon discharge of the person, the treating licensed in-
7 dependent practitioner shall notify the court in the county in which the
8 certificate was filed initially.

9 “(f) If the person is in a nonhospital facility, the community mental
10 health program director may discharge the person at any time during the
11 14-day period. The community mental health program director shall consult
12 with the licensed independent practitioner who is treating the person and the
13 person’s next of kin, if the person consents to the consultation, prior to
14 discharging the person. Immediately upon discharge of the person, the com-
15 munity mental health program director shall notify the court in the county
16 in which the certificate was filed initially.

17 “(g) The person may agree to voluntary treatment at any time during the
18 14-day period. When a person agrees to voluntary treatment under this par-
19 agraph, the community mental health program director immediately shall
20 notify the court in the county in which the certificate was filed initially.

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

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

26 “(4) The judge of the circuit court shall immediately commence pro-
27 ceedings under ORS 426.070 to 426.130 when:

28 “(a) The person consenting to 14 days of treatment or the community
29 mental health program director requests a hearing. The hearing shall be held
30 without unreasonable delay. In no case shall the person be held in a hospital

1 or nonhospital facility longer than five judicial days after the request for a
2 hearing is made without a hearing being held under ORS 426.070 to 426.130.

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

6 **“SECTION 16.** ORS 426.241 is amended to read:

7 “426.241. (1) The cost of emergency psychiatric care, custody and treat-
8 ment related to or resulting from such psychiatric condition, provided by a
9 hospital or other facility approved by the Oregon Health Authority and the
10 community mental health program director of the county in which the fa-
11 cility is located, except a state hospital, for a person alleged to have a
12 mental illness who is admitted or detained under ORS 426.070, 426.140,
13 426.228, 426.232 or 426.233, or for a person with mental illness who is admit-
14 ted or detained under ORS 426.150, 426.223, 426.273, 426.275 or 426.292, shall
15 be paid by the community mental health program in the county of which the
16 person is a resident from state funds provided to the community mental
17 health program for this purpose. The community mental health program is
18 responsible for the cost when state funds provided to the community mental
19 health program are exhausted. The hospital or other facility shall charge to
20 and collect from the person, third party payers or other legally or financially
21 responsible individuals or entities the costs of the emergency care, custody
22 and treatment, as it would for any other patient, and any funds received
23 shall be applied as an offset to the cost of the services provided under this
24 section.

25 “(2) If any person is admitted to or detained in a state hospital under ORS
26 426.070, 426.140, 426.180 to 426.210, 426.228, 426.232 or 426.233 for emergency
27 care, custody or treatment, the authority shall charge to and collect from the
28 person, third party payers or other legally or financially responsible indi-
29 viduals or entities the costs as it would for other patients of the state hos-
30 pitals under the provisions of ORS 179.610 to 179.770.

1 “(3) If any person is adjudged to [*have a*] **be a person with** mental illness
2 under the provisions of ORS 426.130, or determined to be an extremely dan-
3 gerous person with mental illness under ORS 426.701 or 426.702, and the
4 person receives care and treatment in a state hospital, the person, third
5 party payers or other legally or financially responsible individuals or entities
6 shall be required to pay for the costs of the hospitalization at the state
7 hospital, as provided by ORS 179.610 to 179.770, if financially able to do so.

8 “(4) For purposes of this section and ORS 426.310, ‘resident’ means resi-
9 dent of the county in which the person maintains a current mailing address
10 or, if the person does not maintain a current mailing address within the
11 state, the county in which the person is found, or the county in which a
12 court-committed person has been conditionally released.

13 “(5)(a) The authority may deny payment for part or all of the emergency
14 psychiatric services provided by a hospital or nonhospital facility under ORS
15 426.232, 426.233 or 426.237 when the authority finds, upon review, that the
16 condition of the person alleged to have a mental illness did not meet the
17 admission criteria in ORS 426.232 (1), 426.233 (1) or 426.237 (1)(b)(A). The
18 payer responsible under this section shall make a request for denial of pay-
19 ment for emergency psychiatric services provided under ORS 426.232, 426.233
20 or 426.237 in writing to the authority.

21 “(b) The authority may require the following to provide the authority
22 with any information that the authority determines is necessary to review
23 a request for denial of payment made under this subsection or to conduct a
24 review of emergency psychiatric services for the purpose of planning or de-
25 fining authority rules:

26 “(A) A hospital or nonhospital facility approved under ORS 426.228 to
27 426.235 or 426.237.

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

30 “(c) The authority shall adopt rules necessary to carry out the purposes

1 of this subsection.

2

3

“APPLICABILITY

4

5 **“SECTION 17. Section 2 of this 2024 Act and the amendments to**
6 **ORS 426.005, 426.070, 426.074, 426.170, 426.180, 426.220, 426.225, 426.228,**
7 **426.231, 426.232, 426.233, 426.234, 426.237 and 426.241 by sections 3 to 16**
8 **of this 2024 Act apply to individuals subject to civil commitment pro-**
9 **ceedings initiated on or after the effective date of this 2024 Act and to**
10 **individuals who are taken into custody by a treatment facility or law**
11 **enforcement on or after the effective date of this 2024 Act.**

12

13

“CAPTIONS

14

15 **“SECTION 18. The unit captions used in this 2024 Act are provided**
16 **only for the convenience of the reader and do not become part of the**
17 **statutory law of this state or express any legislative intent in the**
18 **enactment of this 2024 Act.**

19

20

“EMERGENCY CLAUSE

21

22 **“SECTION 19. This 2024 Act being necessary for the immediate**
23 **preservation of the public peace, health and safety, an emergency is**
24 **declared to exist, and this 2024 Act takes effect on its passage.”.**

25