

House Bill 3249

Sponsored by Representative WILSON

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**.

Authorizes court to initiate civil commitment proceedings if person is unable or refuses to comply with order of assisted outpatient treatment. Authorizes civil commitment of person who fails to comply with order of assisted outpatient treatment and meets other specified criteria indicating that person is at imminent risk of endangering self or others.

A BILL FOR AN ACT

1
2 Relating to mental health treatment; creating new provisions; and amending ORS 426.005, 426.070,
3 426.072, 426.074, 426.075, 426.095, 426.100, 426.130, 426.155, 426.234, 426.235, 426.237, 426.241,
4 426.335, 426.370 and 430.197.

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

6 **SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 426.005 to**
7 **426.390.**

8 **SECTION 2. (1) A court having jurisdiction over a person who is subject to an order to**
9 **participate in assisted outpatient treatment that finds that the person is unable or refuses**
10 **to comply with the order, on its own motion, may initiate commitment proceedings under**
11 **ORS 426.095 and order the person to be placed in a hospital or nonhospital facility for eval-**
12 **uation and treatment.**

13 **(2) When a person is placed in a hospital or nonhospital facility under this section, a**
14 **community mental health program director or a designee of the director shall immediately**
15 **commence an investigation in accordance with ORS 426.074.**

16 **SECTION 3. ORS 426.005 is amended to read:**

17 426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires otherwise:

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

20 (b) "Director of the facility" means a superintendent of a state mental hospital, the chief of
21 psychiatric services in a community hospital or the person in charge of treatment and rehabilitation
22 programs at other treatment facilities.

23 (c) "Facility" means a state mental hospital, community hospital, residential facility,
24 detoxification center, day treatment facility or such other facility as the **Oregon Health** Authority
25 determines suitable that provides diagnosis and evaluation, medical care, detoxification, social ser-
26 vices or rehabilitation to persons committed to the [*Oregon Health*] authority under ORS 426.130.

27 (d) "Nonhospital facility" means any facility, other than a hospital, that is approved by the au-
28 thority to provide adequate security, psychiatric, nursing and other services to persons under ORS
29 426.232 or 426.233 **or section 2 of this 2015 Act.**

30 (e) "Person with mental illness" means a person who, because of a mental disorder, is one or

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 more of the following:

2 (A) Dangerous to self or others.

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

5 (C) A person[:]

6 [(i)] with a chronic mental illness, as defined in ORS 426.495[:];

7 [(ii)] (i) Who, within the previous three years, has twice been placed in a hospital or approved
8 inpatient facility by the authority or the Department of Human Services under ORS 426.060;

9 [(iii)] (ii) Who is exhibiting symptoms or behavior substantially similar to those that preceded
10 and led to one or more of the hospitalizations or inpatient placements referred to in sub-
11 subparagraph [(ii)] (i) of this subparagraph; and

12 [(iv)] (iii) Who, unless treated, will continue, to a reasonable medical probability, to physically
13 or mentally deteriorate so that the person will become a person described under [either] subpara-
14 graph (A) or (B) of this paragraph or both.

15 (D) **A person who is subject to an order requiring the person to participate in assisted
16 outpatient treatment in accordance with ORS 426.133 and who:**

17 (i) **Has failed to comply with the terms and conditions of the order;**

18 (ii) **Is currently exhibiting symptoms or behaviors substantially similar to the symptoms
19 or behaviors that led to the order requiring the person to participate in assisted outpatient
20 treatment; and**

21 (iii) **Unless treated, will continue, to a reasonable medical probability, to physically or
22 mentally deteriorate in the near future so that the person will become a person described in
23 subparagraph (A) or (B) of this paragraph or both.**

24 (f) "Prehearing period of detention" means a period of time calculated from the initiation of
25 custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233 **or
26 section 2 of this 2015 Act.**

27 (2) Whenever a community mental health program director, director of the facility, superinten-
28 dent of a state hospital or administrator of a facility is referred to, the reference includes [*any*
29 *designee such person has*] **a person** designated to act on the [*person's*] **director's, superintendent's**
30 **or administrator's** behalf in the exercise of duties.

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

32 426.070. (1) Any of the following may initiate commitment procedures under this section by giv-
33 ing the notice described under subsection (2) of this section:

34 (a) Two persons;

35 (b) The county health officer; or

36 (c) Any magistrate.

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

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

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

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

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

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

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

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

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

7 (a) Immediately notify the judge of the court having jurisdiction for that county under ORS
8 426.060 of the notification described in subsections (1) and (2) of this section.

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

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

16 (4) Upon completion, a recommendation based upon the investigation report under ORS 426.074
17 shall be promptly submitted to the court. If the community mental health program director deter-
18 mines that probable cause does not exist to believe that a person released from detention under ORS
19 426.234 (2)(c) or (3)(b) is a person with mental illness, the community mental health program director
20 may recommend assisted outpatient treatment in accordance with ORS 426.133.

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

22 (a) If the court, following the investigation, concludes that there is probable cause to believe
23 that the person investigated is a person with mental illness, [*it*] **the court** shall, through the issu-
24 ance of a citation as provided in ORS 426.090, cause the person to be brought before it at a time
25 and place as it may direct, for a hearing under ORS 426.095 to determine whether the person is a
26 person with mental illness. The person shall be given the opportunity to appear voluntarily at the
27 hearing unless the person fails to appear or unless the person is detained pursuant to paragraph (b)
28 of this subsection.

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

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

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

39 (ii) The warning under ORS 426.123; and

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

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

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

5 **SECTION 5.** ORS 426.072 is amended to read:

6 426.072. (1) A hospital or nonhospital facility and a treating physician must comply with the
 7 following when a person alleged to have a mental illness is placed in custody at the hospital or
 8 nonhospital facility:

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

10 (b) By a peace officer under ORS 426.228 or other individual authorized under ORS 426.233;
 11 [or]

12 (c) By a physician under ORS 426.232[.]; or

13 **(d) By a court under section 2 of this 2015 Act.**

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

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

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

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

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

27 (e) The treating physician shall give the person the warning under ORS 426.123 at times the
 28 treating physician determines the person will reasonably understand the notice. This paragraph
 29 [only] requires the notice to be given **only** as often as the physician determines is necessary to
 30 [assure] **ensure** that the person is given an opportunity to be aware of the notice.

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

33 **SECTION 6.** ORS 426.074 is amended to read:

34 426.074. The following is applicable to an investigation initiated by a community mental health
 35 program director, or a designee of the director, as part of commitment procedures under ORS
 36 426.070 and 426.228 to 426.235:

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

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

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

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

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

3 (c) The community mental health program director[, a] **or the director's** designee, or the in-
 4 vestigator, may file for an extension of the time under paragraph (b) of this subsection only [if]
 5 **when** one of the following occurs:

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

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

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

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

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

16 (b) Whether or not the person consents, the investigation **conducted** should include interviews
 17 with any individuals [that] **who**, the investigator has probable cause to believe, have pertinent in-
 18 formation regarding the investigation. If the person objects to the contact with any individual, the
 19 objection shall be noted in the investigator's report.

20 (c) The investigator shall be allowed access to physicians, nurses or social workers and to
 21 medical records compiled during the current involuntary prehearing period of detention to determine
 22 probable cause and to develop alternatives to commitment. If commitment is proposed because the
 23 person appears to be a person with mental illness as defined in ORS 426.005 (1)(e)(C) **or (D)**, the
 24 investigator shall be allowed access to medical records necessary to verify the existence of criteria
 25 described in ORS 426.005 (1)(e)(C) **or (D)**. The investigator shall include pertinent parts of the
 26 medical record in the investigation report. Records and communications described in this paragraph
 27 and related communications are not privileged under ORS 40.230, 40.235, 40.240 or 40.250.

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

32 **SECTION 7.** ORS 426.075 is amended to read:

33 426.075. This section establishes procedures that are required to be followed before the hearing
 34 if a court, under ORS 426.070 **or section 2 of this 2015 Act**, orders a hearing under ORS 426.095.
 35 The following apply as described:

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

40 (a) When not otherwise provided by paragraph (b) of this subsection, the community mental
 41 health program director or designee.

42 (b) When the person has been detained by a warrant of detention under ORS 426.070, 426.180,
 43 426.228, 426.232 or 426.233, the treating physician.

44 (2) The court shall appoint examiners under ORS 426.110 sufficiently in advance of the hearing
 45 so that the examiners may begin their preparation for the hearing. The records established by the

1 Oregon Health Authority by rule and the investigation report shall be made available to the exam-
 2 iners at least 24 hours before the hearing in order that the examiners may review the medical re-
 3 cord and have an opportunity to inquire of the medical personnel concerning the treatment of the
 4 person alleged to have a mental illness during the detention period prior to the hearing.

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

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

10 **SECTION 8.** ORS 426.095 is amended to read:

11 426.095. The following is applicable to a commitment hearing held by a court under ORS 426.070
 12 **or section 2 of this 2015 Act:**

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

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

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

18 (b) Except as provided by paragraph (c) of this subsection, if a person is detained by a warrant
 19 of detention under ORS 426.070 **or an order under section 2 of this 2015 Act**, a hearing shall be
 20 held within five judicial days of the commencement of detention.

21 (c) If requested under this paragraph, the court, for good cause, may postpone the hearing for
 22 not more than five judicial days in order to allow preparation for the hearing. The court may make
 23 orders for the care and custody of the person during a postponement as *[it]* **the court** deems nec-
 24 essary. If a person is detained before a hearing under ORS 426.070, 426.180, 426.228, 426.232, 426.233
 25 or 426.702 **or section 2 of this 2015 Act** and the hearing is postponed under this paragraph, the
 26 court, for good cause, may allow the person to be detained during the postponement if the
 27 postponement is requested by the person or the legal counsel of the person. Any of the following
 28 may request a postponement under this paragraph:

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

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

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

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

35 (a) Witnesses.

36 (b) The individual conducting the investigation.

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

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

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

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

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

1 of detention. Any treating physician, nurse or social worker who is subpoenaed as a witness for the
 2 proceeding shall testify as an expert witness under the provisions of ORS 40.410, 40.415, 40.420 and
 3 40.425 and is subject to treatment as an expert witness in the payment of witness fees and costs.

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

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

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

11 (C) *[Neither]* The investigation report *[nor]* **or** any part *[thereof shall]* **of the report may not**
 12 be introduced into evidence under this paragraph unless the investigator is present during the pro-
 13 ceeding to be cross-examined or unless the presence of the investigator is waived by the person al-
 14 leged to have a mental illness or counsel for the person.

15 **SECTION 9.** ORS 426.100 is amended to read:

16 426.100. (1) At the time the person alleged to have a mental illness is brought before the court,
 17 the court shall advise the person of the following:

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

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

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

28 **2 of this 2015 Act.**

- 29 (d) In recommitment hearings under ORS 426.307.

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

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

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

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

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

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

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

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

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

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

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

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

18 **SECTION 10.** ORS 426.130 is amended to read:

19 426.130. (1) After hearing all of the evidence, and reviewing the findings of the examiners, the
 20 court shall determine whether the person has a mental illness and is in need of treatment. If, in the
 21 opinion of the court, the person:

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

- 23 (A) Shall order the release of the person and dismiss the case if:
- 24 (i) The person is willing and able to participate in treatment on a voluntary basis; and
- 25 (ii) The court finds that the person will probably do so.

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

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

- 32 (i) The court shall establish a period of commitment.
- 33 (ii) The authority may place the committed person in outpatient commitment under ORS 426.127.

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

42 (b) Is not a person with mental illness, [*the court shall release the person from custody if*] **and**
 43 the person has been detained under ORS 426.070, 426.180, 426.228, 426.232 or 426.233, **the court**
 44 **shall release the person from custody** and:

- 45 (A) Dismiss the case; or

1 (B) Order the person to participate in assisted outpatient treatment in accordance with ORS
 2 426.133. The court may continue the proceeding for no more than seven days to allow time for the
 3 community mental health program director to develop the person’s assisted outpatient treatment
 4 plan.

5 (c) **Is not a person with mental illness and the person has been detained under section 2**
 6 **of this 2015 Act, shall release the person from the hospital or nonhospital facility and:**

7 (A) **Dismiss the case; or**

8 (B) **Order up to 12 additional months of assisted outpatient treatment.**

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

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

17 **SECTION 11.** ORS 426.155 is amended to read:

18 426.155. (1) The provisions of this section apply to the release of information about a person who
 19 is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
 20 426.232, 426.233 or 426.237 (1)(b) **or section 2 of this 2015 Act** or while committed or recommitted
 21 under ORS 426.005 to 426.390.

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

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

30 (A) The person’s diagnosis;

31 (B) The person’s prognosis;

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

34 (D) The person’s progress;

35 (E) Information about any civil commitment process, including the date, time and location of the
 36 person’s commitment hearing; and

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

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

43 (4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to
 44 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person’s
 45 next of kin, or any other designee of the person, of the person’s admission, unless the person re-

1 quests that this information not be provided. The facility or nonhospital facility shall make reason-
 2 able attempts to notify the person’s next of kin, or any other designee of the person, of the person’s
 3 release, transfer, serious illness, injury or death upon request of the family member or designee,
 4 unless the person requests that this information not be provided. The person shall be advised by the
 5 facility or nonhospital facility that the person has the right to request that this information not be
 6 provided.

7 (5) The person who is held in custody shall be notified by the facility or nonhospital facility that
 8 information about the person has been requested. Except as provided in subsection (3) of this sec-
 9 tion, the consent of the person who is held is required for release of information under subsections
 10 (3) and (4) of this section. If, when initially informed of the request for information, the person is
 11 unable to give voluntary and informed consent to authorize the release of information, notation of
 12 the attempt shall be made in the person’s treatment record and daily efforts shall be made to secure
 13 the person’s consent or refusal of authorization.

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

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

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

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

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

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

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

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

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

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

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

35 **SECTION 12.** ORS 426.234 is amended to read:

36 426.234. (1) At the time a person alleged to have a mental illness is admitted to or retained in
 37 a hospital or nonhospital facility under ORS 426.232 or 426.233 **or section 2 of this 2015 Act**, a
 38 physician, nurse or qualified mental health professional at the hospital or nonhospital facility shall:

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

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

42 (c) Immediately examine the person;

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

45 (e) If the physician, nurse or qualified mental health professional reasonably suspects that the

1 person is a foreign national, inform the person of the person's right to communicate with an official
2 from the consulate of the person's country. A physician, nurse or qualified mental health profes-
3 sional is not civilly or criminally liable for failure to provide the information required by this par-
4 agraph. Failure to provide the information required by this paragraph does not in itself constitute
5 grounds for the exclusion of evidence that would otherwise be admissible in a proceeding.

6 (2)(a) At the time the person is admitted to or retained in a hospital under ORS 426.232, the
7 physician shall contact the community mental health program director of the county in which the
8 person resides, if the county of residence is different from the county in which the hospital is lo-
9 cated. The community mental health program director may request that the physician notify the
10 circuit court in the county in which the person resides. If the community mental health program
11 director does not make the request, the physician shall notify, immediately and in writing, the cir-
12 cuit court in the county in which the person is hospitalized.

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

20 (c) *[If]* **A person shall be released from detention**, at any time prior to the hearing under ORS
21 426.070 to 426.130, **if** the physician responsible for a person admitted or retained:

22 (A) Under ORS 426.232 determines that the person is not dangerous to self or to any other
23 person and is not in need of emergency care or treatment for mental illness, *the physician may re-*
24 *lease the person from the detention authorized by ORS 426.232*; **or**

25 (B) **Under section 2 of this 2015 Act determines that the person does not meet the cri-**
26 **teria in ORS 426.005 (1)(e)(D).**

27 (d) **If a person is released under paragraph (c) of this subsection**, the physician shall im-
28 mediately notify the circuit court notified under this subsection and the community mental health
29 program director of the person's release from detention.

30 (3)(a) At the time the person is admitted to or retained in a nonhospital facility under ORS
31 426.233, the community mental health program director in the county where the person was taken
32 into custody shall contact the community mental health program director of the county in which the
33 person resides, if the county of residence is different from the county in which the person was taken
34 into custody. The community mental health program director of the county in which the person re-
35 sides may request that the community mental health program director of the county in which the
36 person was taken into custody notify the circuit court in the county where the person resides.
37 Otherwise, the community mental health program director of the county in which the person was
38 taken into custody shall notify, immediately and in writing, the circuit court in the county in which
39 the person was taken into custody.

40 (b) If, at any time prior to the hearing under ORS 426.070 to 426.130, a community mental health
41 program director, after consultation with a physician, determines that a person admitted or retained
42 under ORS 426.233 is not dangerous to self or to any other person and is not in need of immediate
43 care, custody or treatment for mental illness, the community mental health program director may
44 release the person from detention. The community mental health program director shall immediately
45 notify the circuit court originally notified under paragraph (a) of this subsection of the person's re-

1 lease from detention.

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

10 (5) When the judge of the circuit court receives notice under subsection (2)[(c)] (d) or (3)(b) of
11 this section that a person has been released, and unless the court receives the recommendation re-
12 quired by ORS 426.070 (4), the judge shall dismiss the case no later than 14 days after the date the
13 person was initially detained.

14 **SECTION 13.** ORS 426.235 is amended to read:

15 426.235. (1) The community mental health program director may transfer a person in custody
16 under ORS 426.232, 426.233 or 426.237 (1)(b) **or section 2 of this 2015 Act** to a hospital or nonhos-
17 pital facility approved by the Oregon Health Authority at any time during the period of detention.

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

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

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

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

30 **SECTION 14.** ORS 426.237 is amended to read:

31 426.237. (1) During a prehearing period of detention as provided in ORS 426.070, 426.140, 426.232
32 or 426.233 **or section 2 of this 2015 Act**, the community mental health program director shall do
33 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 **or section 2 of this 2015 Act**, certify the detained
39 person for a 14-day period of intensive treatment if:

40 (A) The community mental health program director and a psychiatrist, as defined by rule by the
41 Oregon Health Authority, have 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 psychiatrist,
5 provide intensive care or treatment for mental illness necessary and sufficient to meet the emer-
6 gency 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 treating physician shall make discharge plans and discharge the person.

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) Except as otherwise provided in this paragraph, all methods of treatment, including the

1 prescription and administration of drugs, shall be the sole responsibility of the treating physician.
2 However, the person shall not be subject to electroshock therapy or unduly hazardous treatment and
3 shall receive usual and customary treatment in accordance with medical standards in the commu-
4 nity.

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

9 (C) If the person is in a hospital and the community mental health program director locates a
10 nonhospital facility, approved by the authority, that, in the opinion of the community mental health
11 program director and the treating physician, can provide care or treatment for mental illness nec-
12 cessary and sufficient to meet the emergency psychiatric needs of the person, the treating physician
13 shall discharge the person from the hospital and the community mental health program director
14 shall remove the person to the nonhospital facility for the remainder of the 14-day intensive treat-
15 ment period. If, however, in the opinion of the treating physician, the person's condition requires the
16 person to receive medical care or treatment, the physician shall retain the person in the hospital.

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

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

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

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

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

32 (f) If the person is in a nonhospital facility, the community mental health program director may
33 discharge the person at any time during the 14-day period. The community mental health program
34 director shall consult with the treating physician and the person's next of kin, if the person consents
35 to the consultation, prior to discharging the person. Immediately upon discharge of the person, the
36 community mental health program director shall notify the court in the county in which the certifi-
37 cate was filed initially.

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

41 (h) A person consenting to 14 days of treatment under subsection (3)(c) of this section shall not
42 be held longer than 14 days from the time of consenting without a hearing as provided in ORS
43 426.070 to 426.130.

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

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

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

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

10 **SECTION 15.** ORS 426.241 is amended to read:

11 426.241. (1) The cost of emergency psychiatric care, custody and treatment related to or result-
12 ing from such psychiatric condition, provided by a hospital or other facility approved by the Oregon
13 Health Authority and the community mental health program director of the county in which the
14 facility is located, except a state hospital, for a person alleged to have a mental illness who is ad-
15 mitted or detained under ORS 426.070, 426.140, 426.228, 426.232 or 426.233 **or section 2 of this 2015**
16 **Act**, or for a person with mental illness who is admitted or detained under ORS 426.150, 426.223,
17 426.273, 426.275 or 426.292, shall be paid by the county of which the person is a resident from state
18 funds provided to the county for this purpose. The county is responsible for the cost when state
19 funds provided to the county are exhausted. The hospital or other facility shall charge to and collect
20 from the person, third party payers or other legally or financially responsible individuals or entities
21 the costs of the emergency care, custody and treatment, as it would for any other patient, and any
22 funds received shall be applied as an offset to the cost of the services provided under this section.

23 (2) If any person is admitted to or detained in a state hospital under ORS 426.070, 426.140,
24 426.180 to 426.210, 426.228, 426.232 or 426.233 **or section 2 of this 2015 Act** for emergency care,
25 custody or treatment, the authority shall charge to and collect from the person, third party payers
26 or other legally or financially responsible individuals or entities the costs as it would for other pa-
27 tients of the state hospitals under the provisions of ORS 179.610 to 179.770.

28 (3) If any person is adjudged to have a mental illness under the provisions of ORS 426.130, or
29 determined to be an extremely dangerous person with mental illness under ORS 426.701 or 426.702,
30 and the person receives care and treatment in a state hospital, the person, third party payers or
31 other legally or financially responsible individuals or entities shall be required to pay for the costs
32 of the hospitalization at the state hospital, as provided by ORS 179.610 to 179.770, if financially able
33 to do so.

34 (4) For purposes of this section and ORS 426.310, "resident" means resident of the county in
35 which the person maintains a current mailing address or, if the person does not maintain a current
36 mailing address within the state, the county in which the person is found, or the county in which
37 a court-committed person has been conditionally released.

38 (5)(a) The authority may deny payment for part or all of the emergency psychiatric services
39 provided by a hospital or nonhospital facility under ORS 426.232, 426.233 or 426.237 **or section 2**
40 **of this 2015 Act** when the authority finds, upon review, that the condition of the person alleged to
41 have a mental illness did not meet the admission criteria in ORS 426.232 (1), 426.233 (1), [or] 426.237
42 (1)(b)(A) **or 426.005 (1)(e)(D)**. The payer responsible under this section shall make a request for den-
43 ial of payment for emergency psychiatric services provided under ORS 426.232, 426.233 or 426.237
44 **or section 2 of this 2015 Act** in writing to the authority.

45 (b) The authority may require the following to provide the authority with any information that

1 the authority determines is necessary to review a request for denial of payment made under this
 2 subsection or to conduct a review of emergency psychiatric services for the purpose of planning or
 3 defining authority rules:

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

5 (B) A physician or a person providing emergency psychiatric services under ORS 426.228 to
 6 426.235 or 426.237.

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

8 **SECTION 16.** ORS 426.335 is amended to read:

9 426.335. The following limitations on liability are applicable to actions and proceedings within
 10 this chapter and ORS 430.397 to 430.401:

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

14 (a) The community mental health program director or designee of the director.

15 (b) The two petitioning persons.

16 (c) The county health officer.

17 (d) Any magistrate.

18 (e) Any peace officer or parole and probation officer.

19 (f) Any physician attending the person alleged to have a mental illness.

20 (g) Any physician associated with the hospital or institution where the person alleged to have
 21 a mental illness is a patient.

22 (2) The community mental health program director or the designee of the director conducting
 23 the investigation under ORS 426.070 and 426.074 shall not be held criminally or civilly liable for
 24 conducting the investigation, provided the investigator acts in good faith, on probable cause and
 25 without malice.

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

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

31 (5) A physician, hospital or judge may not be held criminally or civilly liable for actions pursu-
 32 ant to ORS 426.228, 426.231, 426.232, 426.234 or 426.235 **or section 2 of this 2015 Act** if the physi-
 33 cian, hospital or judge acts in good faith, on probable cause and without malice.

34 (6) A peace officer, individual authorized under ORS 426.233, community mental health director
 35 or designee, hospital or other facility, physician or judge may not in any way be held criminally or
 36 civilly liable for actions pursuant to ORS 426.228 to 426.235 if the individual or facility acts in good
 37 faith, on probable cause and without malice.

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

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

1 (a) The community mental health program director and the designee of the director for the
2 county in which the committed person resides.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 **SECTION 17.** ORS 426.370 is amended to read:

26 426.370. A community mental health program director or designee may withhold information
27 obtained during an investigation under ORS 426.070, **426.074**, 426.228, 426.232, 426.233 or 426.234 **or**
28 **section 2 of this 2015 Act** if the community mental health program director determines:

29 (1) That information was not included in its investigation report or otherwise used in a material
30 way to support a determination by the community mental health program director that there was
31 probable cause to believe a person was a person with mental illness; and

32 (2) Release of the information would constitute a clear and immediate danger to any person.

33 **SECTION 18.** ORS 430.197 is amended to read:

34 430.197. The Mental Health Services Fund is established in the State Treasury, separate and
35 distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or
36 received by the Oregon Health Authority, the Department of Human Services and the Department
37 of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously
38 appropriated to the Oregon Health Authority, the Department of Human Services and the Depart-
39 ment of Corrections for the purposes of paying the costs of:

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

41 (2) Emergency psychiatric care, custody and treatment paid for by a county under ORS 426.241;

42 (3) Emergency care, custody or treatment provided to a person admitted to or detained in a
43 **hospital**, state [*mental*] hospital or nonhospital facility under ORS 426.070, 426.140, 426.180 to
44 426.210, 426.228, 426.232 or 426.233 **or section 2 of this 2015 Act**; and

45 (4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to

1 430.880, 813.500 and 813.510.

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