

## SENATE AMENDMENTS TO SENATE BILL 465

By COMMITTEE ON HUMAN SERVICES AND EARLY CHILDHOOD

April 28

- 1 On page 1 of the printed bill, line 3, delete “426.255.”
- 2 Delete lines 6 through 31.
- 3 On page 2, delete lines 1 through 11 and insert:
- 4 “**SECTION 1.** ORS 426.133 is amended to read:
- 5 “426.133. (1) As used in ORS 426.005 to 426.390, ‘assisted outpatient treatment’ may not be con-
- 6 strued to be a commitment under ORS 426.130 and does not include taking a person into custody
- 7 or the forced medication of a person.
- 8 “(2) A court may issue an order requiring a person to participate in assisted outpatient treat-
- 9 ment if the court finds that the person:
- 10 “(a)(A) Is 18 years of age or older;
- 11 “(B) Has a mental disorder;
- 12 “(C) Will not obtain treatment in the community voluntarily; and
- 13 “(D) Is unable to make an informed decision to seek or to comply with voluntary treatment; and
- 14 “(b) As a result of being a person described in paragraph (a) of this subsection:
- 15 “(A) Is incapable of surviving safely in the community without treatment; and
- 16 “(B) Requires treatment to prevent a deterioration in the person’s condition that will predictably
- 17 result in the person becoming a person with mental illness.
- 18 “(3) In determining whether to issue the order under subsection (2) of this section, the court
- 19 shall consider, but is not limited to considering, the following factors:
- 20 “(a) The person’s ability to access finances in order to get food or medicine.
- 21 “(b) The person’s ability to obtain treatment for the person’s medical condition.
- 22 “(c) The person’s ability to access necessary resources in the community without assistance.
- 23 “(d) The degree to which there are risks to the person’s safety.
- 24 “(e) The likelihood that the person will decompensate without immediate care or treatment.
- 25 “(f) The person’s previous attempts to inflict physical injury on self or others.
- 26 “(g) The person’s history of mental health treatment in the community.
- 27 “(h) The person’s patterns of decompensation in the past.
- 28 “(i) The person’s risk of being victimized or harmed by others.
- 29 “(j) The person’s access to the means to inflict harm on self or others.
- 30 “(4) The community mental health program director may recommend to the court a treatment
- 31 plan for a person participating in assisted outpatient treatment. The court may adopt the plan as
- 32 recommended or with modifications.
- 33 “(5) The court retains jurisdiction over the person until the earlier of the end of the period of
- 34 the assisted outpatient treatment established under ORS 426.130 (2) or until the court finds that the
- 35 person no longer meets the criteria in subsection (2) of this section.

1 “(6) This section does not:  
2 “(a) Prevent a court from appointing a guardian ad litem to act for the person; or  
3 “(b) Require a [county] **community mental health program** to provide treatment or services  
4 to, or supervision of, the person:  
5 “(A) If the county lacks sufficient funds for such purposes; **or**  
6 “(B) **In the case of a county that has declined to operate or contract for a community**  
7 **mental health program, if the public agency or private corporation that contracts with the**  
8 **Oregon Health Authority to provide the program, as described in ORS 430.640, lacks suffi-**  
9 **cient funds for such purposes.”.**  
10 On page 3, delete lines 25 through 45.  
11 On page 4, delete lines 1 through 43 and insert:  
12 “**SECTION 3.** ORS 426.233 is amended to read:  
13 “426.233. (1)(a) A community mental health program director operating under ORS 430.610 to  
14 430.695 or a designee of the director[, *under authorization of a county governing body,*] may take one  
15 of the actions listed in paragraph (b) of this subsection when the community mental health program  
16 director or designee has probable cause to believe a person:  
17 “(A) Is dangerous to self or to any other person and is in need of immediate care, custody or  
18 treatment for mental illness; or  
19 “(B)(i) Is a person with mental illness placed on conditional release under ORS 426.125, outpa-  
20 tient commitment under ORS 426.127 or trial visit under ORS 426.273; and  
21 “(ii) Is dangerous to self or to any other person or is unable to provide for basic personal needs  
22 and is not receiving the care that is necessary for health and safety and is in need of immediate  
23 care, custody or treatment for mental illness.  
24 “(b) The community mental health program director or designee under the circumstances set out  
25 in paragraph (a) of this subsection may:  
26 “(A) Notify a peace officer to take the person into custody and direct the officer to remove the  
27 person to a hospital or nonhospital facility approved by the Oregon Health Authority;  
28 “(B) Authorize involuntary admission of, or, if already admitted, cause to be involuntarily re-  
29 tained in a nonhospital facility approved by the authority, a person approved for care or treatment  
30 at a nonhospital facility by a physician under ORS 426.232;  
31 “(C) Notify an individual authorized under subsection (3) of this section to take the person into  
32 custody and direct the authorized individual to remove the person in custody to a hospital or non-  
33 hospital facility approved by the authority;  
34 “(D) Direct an individual authorized under subsection (3) of this section to transport a person  
35 in custody from a hospital or a nonhospital facility approved by the authority to another hospital  
36 or nonhospital facility approved by the authority as provided under ORS 426.235; or  
37 “(E) Direct an individual authorized under subsection (3) of this section to transport a person  
38 in custody from a facility approved by the authority to another facility approved by the authority  
39 as provided under ORS 426.060.  
40 “(2) A designee under subsection (1) of this section must [*be recommended by the community*  
41 *mental health program director,*] meet the standards established by rule of the authority and be ap-  
42 proved by the [*county governing body*] **community mental health program director** before as-  
43 suming the authority permitted under subsection (1) of this section.  
44 “(3) The [*county governing body may, upon recommendation by the*] community mental health  
45 program director[,] **may** authorize any individual to provide custody and secure transportation ser-

1 vices for a person in custody under ORS 426.228. In authorizing an individual under this subsection,  
2 the *[county governing body]* **community mental health program director** shall grant the individual  
3 the authority to do the following:

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

5 “(b) Take custody of a person upon notification by the community mental health program di-  
6 rector under the provisions of this section;

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

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

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

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

16 “(4) An individual authorized under subsection (3) of this section must *[be recommended by the*  
17 *community mental health program director,]* meet the standards established by rule of the authority  
18 and be approved by the *[governing body]* **community mental health program director** before as-  
19 suming the authority granted under this section.

20 “(5) The costs of transporting a person under ORS 426.060, 426.228 or 426.235 by an individual  
21 authorized under subsection (3) of this section shall be the responsibility of the *[county whose peace*  
22 *officer or community mental health program director directs the authorized individual]* **community**  
23 **mental health program in the county in which the authorized individual is directed by a**  
24 **peace officer or a community mental health program director** to take custody of a person and  
25 to transport the person to a facility approved by the authority, but the *[county]* **community mental**  
26 **health program** shall not be responsible for costs that exceed the amount provided by the state for  
27 that transportation. An individual authorized to act under subsection (3) of this section shall charge  
28 the cost of emergency medical transportation to, and collect that cost from, the person, third party  
29 payers or other legally or financially responsible individuals or entities in the same manner that  
30 costs for the transportation of other persons are charged and collected.”.

31 On page 5, line 8, after “is” insert “not”.

32 On page 6, delete lines 34 through 38.

33 In line 39, delete “7” and insert “6”.

34 On page 7, delete lines 6 through 39 and insert:

35 “**SECTION 7.** ORS 426.310 is amended to read:

36 “426.310. (1) If a person with mental illness is a resident of some other county in this state, the  
37 county making the commitment shall be reimbursed by the county of which the person is a resident.  
38 All reasonable and actual expenses incurred and paid by the county by reason of the care, custody,  
39 treatment, investigation, examination and commitment hearing shall, upon presentation of a copy  
40 of the order of the judge making the examination and commitment, together with a properly itemized  
41 and certified claim covering the expense, be promptly paid to the county by the county of which the  
42 person was a resident. The expenses reimbursed under this subsection shall include any expenses  
43 incurred to pay for representation of the state’s interest under ORS 426.100 and 426.250.

44 “(2) If a person alleged to have a mental illness is a resident of some other county in this state,  
45 a county attempting a commitment shall be reimbursed by the county of which the person is a res-

1 ident, as defined in ORS 426.241, for all actual, reasonable expenses incurred and paid by the county  
2 attempting commitment by reason of the care, custody, treatment, investigation, examination and  
3 commitment hearing. The expenses reimbursed under this subsection shall include any expenses in-  
4 curred to pay for representation of the state's interest under ORS 426.100 and 426.250.

5 **“(3) In the case of a county that declines to operate or contract for a community mental**  
6 **health program, the public agency or private corporation that contracts with the Oregon**  
7 **Health Authority to provide the program, as described in ORS 430.640, is responsible for re-**  
8 **imbursing a county for the costs incurred by the county in the care, custody, treatment,**  
9 **investigation and examination of the person.**

10 **“SECTION 8.** ORS 430.197 is amended to read:

11 “430.197. The Mental Health Services Fund is established in the State Treasury, separate and  
12 distinct from the General Fund. The Mental Health Services Fund comprises moneys collected or  
13 received by the Oregon Health Authority, the Department of Human Services and the Department  
14 of Corrections under ORS 179.640, 426.241 and 430.165. The moneys in the fund are continuously  
15 appropriated to the Oregon Health Authority, the Department of Human Services and the Depart-  
16 ment of Corrections for the purposes of paying the costs of:

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

18 “(2) Emergency psychiatric care, custody and treatment paid [*for by a county*] under ORS  
19 426.241;

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

23 “(4) Programs operating under ORS 430.265, 430.306 to 430.375, 430.405, 430.415, 430.850 to  
24 430.880, 813.500 and 813.510.”.

25 In line 40, delete “10” and insert “9” and delete “426.255.”.

26 In line 41, delete “9” and insert “8”.

27 In line 43, delete “11” and insert “10”.

28

\_\_\_\_\_