

**HB 2594**

**Relating to commitment of persons with mental illness**

---

House Bill 2594 allows courts the option of ordering assisted outpatient treatment. The bill allows a community mental health program director to recommend that a person alleged to have mental illness subject to a civil commitment proceeding be placed in assisted outpatient treatment (AOT). The bill specifies that assisted outpatient treatment does not include taking the person into custody or forced medication. The treatment is intended for adults diagnosed with a serious mental illness who are unlikely to live safely in the community without supervision and treatment, and who also are unlikely to voluntarily participate in treatment, but require treatment to prevent deterioration in their condition. The court retains jurisdiction over such persons until either the end of the period of assisted outpatient treatment or until the court finds that the person no longer meets the criteria for participation in assisted outpatient treatment.

The Oregon Judicial Department anticipates that circuit courts will conduct hearings to determine whether to order a person to participate in assisted outpatient treatment. This will increase judge and staff workloads. The Department also estimates an increase in case management by the courts. The Subcommittee appropriated \$100,000 General Fund for the expenses associated with the bill.

Your Public Safety Subcommittee recommends HB 2594 be amended and reported out “do pass” as amended.

**77<sup>th</sup> OREGON LEGISLATIVE ASSEMBLY – 2013 Session  
BUDGET REPORT AND MEASURE SUMMARY**

**JOINT COMMITTEE ON WAYS AND MEANS**

**MEASURE: HB 2594-B**

**Carrier – House: Rep. Barker**

**Carrier – Senate: Sen. Winters**

---

**Action:** Do Pass the A-Engrossed Measure as Amended and be Printed B-Engrossed

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** Kay Erickson, Department of Administrative Services

**Reviewed By:** Kim To, Legislative Fiscal Office

**Meeting Date:** July 2, 2013

---

Agency

Oregon Judicial Department

Biennium

2013-15

**Budget Summary\***

	2011-13 Legislatively Approved Budget <sup>(1)</sup>	2013-15 Current Service Level	2013-15 Committee Recommendation	Committee Change from 2011-13 Leg. Approved	
				\$ Change	% Change
General Fund	\$ 0	\$ 0	\$ 100,000	\$ 100,000	100.0%
Total	\$ 0	\$ 0	\$ 100,000	\$ 100,000	100.0%

**Position Summary**

Authorized Positions	0	0	0	0
Full-time Equivalent (FTE) positions	0.00	0.00	0.00	0.00

<sup>(1)</sup> Includes adjustments through December 2012

\* Excludes Capital Construction expenditures

**Summary of Revenue Changes**

The Public Safety Subcommittee established a new 2013-15 biennium General Fund appropriation to support the provisions of this bill.

**Summary of Public Safety Subcommittee Action**

House Bill 2594 allows courts the option of ordering assisted outpatient treatment. It allows a community mental health program director to recommend that a person alleged to have mental illness subject to a civil commitment proceeding be placed in assisted outpatient treatment (AOT). AOT is intended for adults diagnosed with a serious mental illness who are unlikely to live safely in the community without supervision and treatment, and who also are unlikely to voluntarily participate in treatment, but require treatment to prevent deterioration in their condition. The court retains jurisdiction over such persons until either the end of the period of assisted outpatient treatment or until the court finds that the person no longer meets the criteria for participation in assisted outpatient treatment.

The Oregon Judicial Department anticipates that circuit courts will conduct hearings to determine whether to order a person to participate in assisted outpatient treatment. This will increase judge and staff workloads. The Department also estimates an increase in case management by the courts. The Subcommittee appropriated \$100,000 General Fund for the expenses associated with the bill.

**DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION**

**HB 2594-B**

**Oregon Judicial Department  
Kay Erickson - 503-378-4588**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE	
			LIMITED	NONLIMITED	LIMITED	NONLIMITED				
2011-13 Legislatively Approved Budget at Dec 2012 *	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0	0.00	
2013-15 ORBITS printed Current Service Level (CSL)*	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	0	0.00	
<u>SUBCOMMITTEE ADJUSTMENTS (from CSL)</u>										
<b>SCR 100: Trial Courts</b>										
Personal Services	\$ 100,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	100,000	0	0.00
<b>TOTAL ADJUSTMENTS</b>	<b>\$ 100,000</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>100,000</b>	<b>0</b>	<b>0.00</b>
<b>SUBCOMMITTEE RECOMMENDATION *</b>	<b>\$ 100,000</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>100,000</b>	<b>0</b>	<b>0.00</b>
% Change from 2011-13 Leg Approved Budget	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%		
% Change from 2013-15 Current Service Level	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%		

\*Excludes Capital Construction Expenditures

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2594  
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

- 1 On page 1 of the printed A-engrossed bill, line 2, delete “and”.
- 2 Delete lines 3 through 9 and insert “426.070, 426.130 and 426.237; and ap-  
3 propriating money.”.
- 4 Delete lines 11 through 25.
- 5 On page 2, delete lines 1 through 41.
- 6 In line 42, delete “1a” and insert “1” and delete “1b” and insert “2”.
- 7 In line 44, delete “1b” and insert “2”.
- 8 On page 3, line 27, delete “shall” and insert “may”.
- 9 Delete lines 33 and 34 and insert:  
10 “(6) This section does not:  
11 “(a) Prevent a court from appointing a guardian ad litem to act for the  
12 person; or  
13 “(b) Require a county to provide treatment or services to, or supervision  
14 of, the person if the county lacks sufficient funds for such purposes.”.
- 15 In line 35, delete “1c” and insert “3”.
- 16 On page 4, line 26, delete “1b” and insert “2”.
- 17 On page 5, line 15, delete “1d” and insert “4”.
- 18 On page 6, line 2, delete “1b” and insert “2”.
- 19 In line 13, delete “1e” and insert “5”.
- 20 On page 8, delete lines 39 through 45 and delete pages 9 through 72 and  
21 insert:

1       **“SECTION 6. If Senate Bill 426 becomes law, section 4 of this 2013**  
2 **Act (amending ORS 426.130) is repealed and ORS 426.130, as amended**  
3 **by section 30, chapter \_\_\_, Oregon Laws 2013 (Enrolled Senate Bill 426),**  
4 **is amended to read:**

5       “426.130. (1) After hearing all of the evidence, and reviewing the findings  
6 of the examiners, the court shall determine whether the person has a mental  
7 illness and is in need of treatment. If, in the opinion of the court, the person:

8       “[(a) *Does not have a mental illness, the person shall be discharged forth-*  
9 *with.*]

10       “[(b)] (a) Is a person with mental illness based upon clear and convincing  
11 evidence, the court:

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

13       “(i) The person is willing and able to participate in treatment on a vol-  
14 untary basis; and

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

16       “(B) May order conditional release under this subparagraph subject to the  
17 qualifications and requirements under ORS 426.125. If the court orders  
18 conditional release under this subparagraph, the court shall establish a pe-  
19 riod of commitment for the conditional release.

20       “(C) May order commitment of the person with mental illness to the  
21 Oregon Health Authority for treatment if, in the opinion of the court, sub-  
22 paragraph (A) or (B) of this paragraph is not in the best interest of the  
23 person. If the court orders commitment under this subparagraph:

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

25       “(ii) The authority may place the committed person in outpatient com-  
26 mitment under ORS 426.127.

27       “(D) Shall order that the person be prohibited from purchasing or pos-  
28 sessing a firearm if, in the opinion of the court, there is a reasonable like-  
29 lihood the person would constitute a danger to self or others or to the  
30 community at large as a result of the person’s mental or psychological state

1 as demonstrated by past behavior or participation in incidents involving  
2 unlawful violence or threats of unlawful violence, or by reason of a single  
3 incident of extreme, violent, unlawful conduct. When a court makes an order  
4 under this subparagraph, the court shall cause a copy of the order to be de-  
5 livered to the sheriff of the county who will enter the information into the  
6 Law Enforcement Data System.

7 **“(b) Is not a person with mental illness, the court shall release the**  
8 **person from custody if the person has been detained under ORS**  
9 **426.070, 426.180, 426.228, 426.232 or 426.233 and:**

10 **“(A) Dismiss the case; or**

11 **“(B) Order the person to participate in assisted outpatient treat-**  
12 **ment in accordance with section 2 of this 2013 Act. The court may**  
13 **continue the proceeding for no more than seven days to allow time for**  
14 **the community mental health program director to develop the person’s**  
15 **assisted outpatient treatment plan.**

16 **“(2) A court that orders a conditional release, [or] a commitment or as-**  
17 **sisted outpatient treatment under this section shall establish a period of**  
18 **commitment or treatment for the person subject to the order. Any period**  
19 **of commitment ordered for commitment or conditional release under this**  
20 **section shall be for a period of time not to exceed 180 days. A period of**  
21 **assisted outpatient treatment shall be for a period of time not to ex-**  
22 **ceed 12 months.**

23 **“(3) If the commitment proceeding was initiated under 426.070 (1)(a) and**  
24 **if the notice included a request under ORS 426.070 (2)(d)(B), the court shall**  
25 **notify the two persons of the court’s determination under subsection (1) of**  
26 **this section.**

27 **“SECTION 7. In addition to and not in lieu of any other appropri-**  
28 **ation, there is appropriated to the Judicial Department for the**  
29 **biennium beginning July 1, 2013, out of the General Fund, the amount**  
30 **of \$100,000, which may be expended for carrying out the department’s**

1 **duties under this 2013 Act.”.**

2 \_\_\_\_\_