

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

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Versions are Considered Official***

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Measure Description:

Modifies standard for court commitment of person with mental illness.

Government Unit(s) Affected:

Oregon Health Authority (OHA), Department of Justice (DOJ), Oregon Judicial Department (OJD), Public Defense Services Commission (PDSC), county health programs

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

<REVISED to reflect the January 1, 2014 effective date in the Oregon Health Authority estimates>

House Bill 2594 A-Engrossed modifies statutes relating to civil commitment proceedings instituted against person alleged to have mental illness to allow courts the option of ordering assisted outpatient treatment (AOT). The bill stipulates that assisted outpatient treatment does not include taking the person into custody or forced medication. 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 requires treatment to prevent deterioration in the person's condition. A period of assisted outpatient treatment shall not exceed 12 months. The court retains jurisdiction over the person until either the end of the period of the assisted outpatient treatment or until the court finds that the person no longer meets the criteria for participation in assisted outpatient treatment. The provisions of this bill apply to determinations or adjudications of whether a person is a person with mental illness that are made on or after January 1, 2014.

Oregon Health Authority (OHA)

The fiscal impact of this bill on the Oregon Health Authority is dependent on the number of individuals ordered by the courts to receive assisted outpatient treatment, and the type and level of treatment services required by these individuals. Assuming that assisted outpatient treatment would include some combination of one or all four of the following services: (1) Assertive Community Treatment programs, (2) Monitoring and Supervision / Case Management, (3) Rental Assistance, and (4) Acute Care; and assuming that passage of this bill would result in roughly 142 individuals ordered by the courts to receive assisted outpatient treatment annually, the Oregon Health Authority calculates that the fiscal impact of this bill would be roughly \$4,740,168 General Fund for the 2013-15 biennium, and \$6,471,909 General Fund for the 2015-17 biennium in Special Payments to county health programs which would be responsible for delivering the assisted outpatient treatment required by the bill. OHA reports that a portion of the Assertive Community Treatment services may be eligible for federal reimbursement through the Oregon Health Plan, but at this time, OHA cannot predict this amount.

In addition to the cost for treatment, the Department of Justice estimates OHA could incur an estimated \$100,200 General Fund for the 18 months of the 2013-15 biennium, and \$133,600 for the 2015-17 biennium, in attorney general fees to cover legal interpretations and implementation issues, as well as for assistance in civil commitment cases, contested case hearings, and cases on appeal.

Department of Justice (DOJ)

The fiscal impact to the Department of Justice is indeterminate depending on the number of civil commitment hearings initiated by the Oregon State Hospital and the Oregon Department of Correction. DOJ reports that currently about six to seven attorneys handle, on a rotating basis, six to ten civil commitment hearings per month. If passage of this bill result in a 50% increase in these hearings, the Civil Enforcement Division would need an additional 0.25 FTE Attorney and 0.50 FTE Legal Secretary to assist state agencies, district attorneys, and offices of county counsel in handling this increase in civil commitment hearings. DOJ estimates the Personal Services, and related Services and Supplies cost to be \$108,215 Other Funds, and 0.56 FTEs for the 18 months of the 2013-15 biennium; and \$135,462 Other Funds, and 0.75 FTEs for the 2015-17 biennium. This cost would be covered by attorney general fees paid by the Oregon Health Authority.

Oregon Judicial Department (OJD)

The Oregon Judicial Department estimates the fiscal impact of this bill to be roughly between \$47,288 and \$90,976 General Fund per biennium. OJD reports that in 2011, under current law, there were 8,871 civil commitment cases filed in the circuit courts. The estimated cost range assumes a 1% to 2% increase in civil commitment cases filed in circuit courts, and additionally, that 1% to 2% of civil commitment cases would result in a hearing on whether to order a person to assisted outpatient treatment.

Not included in the rough estimate above is the potential cost of case management for the courts. The measure allows courts to retain jurisdiction over the person until the end of the period for assisted outpatient treatment or until the court finds that the person no longer meets the criteria for assisted outpatient treatment, whichever is earlier. At this time, OJD cannot predict how each court will choose to oversee and manage these cases, and therefore the extent to which this would affect judge and court staff.

Public Defense Services Commission (PDSC)

The Public Defense Services Commission reports that the average cost of representation in civil commitment proceedings is \$350. Based on the Oregon Judicial Department assumption that passage of this bill could result in approximately 89 and 177 additional hearings each year, and assuming that the individual would be eligible in all cases, the Public Defense Services Commission estimates the fiscal impact of this bill on PDSC to be roughly between \$62,300 to \$123,900 General Fund per biennium.