



Legislative Fiscal Office
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Bill Title: Relating to behavioral health.

Government Unit(s) Affected: Employment Department, Office of the Governor, Commission on Indian Services, District Attorneys, Judicial Department, Public Defense Commission, Psychiatric Security Review Board, Oregon Health Authority, Department of Justice, Land Use Board of Appeals, Department of Corrections, Counties, Task Force/Committee/Workgroup, Confederated Tribes of Grand Ronde, Confederated Tribes of Siletz, Confederated Tribes of Warm Springs, Burns Paiute Tribe, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, Confederated Tribes of Umatilla Indian Reservation, Coquille Indian Tribe, Cow Creek Band of Umpqua Indians, Klamath Tribes

Summary of Fiscal Impact

Costs related to the measure are indeterminate at this time - see explanatory analysis.

Measure Description

The measure modifies the circumstances when an individual with a mental illness may be detained and committed to the Oregon Health Authority (OHA) for involuntary treatment. The measure modifies the definition of “person with mental illness” to an individual who has a mental illness and is in need of treatment and also creates definitions for “physical harm” and “serious physical harm.”

Additionally, the measure provides that a court, upon hearing the evidence as outlined by the measure, must make a determination by clear and convincing evidence that the individual has a mental illness and is in need of treatment. OHA must be notified immediately if commitment of an individual is proposed due to the individual appearing to need treatment because of a chronic mental disorder.

The measure also allows a community mental health director, under specified circumstances, to offer diversion from commitment to an individual deemed to have a mental illness at any time prior to the conclusion of a civil commitment hearing. The measure specifies the requirements of a diversion treatment plan and the responsibilities of the community mental health director. The measure modifies the form for a “declaration for mental health treatment” and changes the admission to, and retention in, a health care facility from up to 17 days to a “given period” and defines “health care facility” and “capacity evaluator.”

In addition, the measure modifies the exclusions of what is a “qualifying mental disorder” to include persons who intentionally engage in conduct that took a substantial step towards causing a result of or engaging in the creation of an actual and extreme risk of grave or potentially lethal physical injury to another person. In determining if a court must commit a respondent as an extremely dangerous person with a mental illness, the measure adds “or attempted to” to the qualifying behaviors. Furthermore, the measure outlines the circumstances and timeframes a defendant may be committed to the custody of a state mental hospital if a court deems the defendant lacks fitness to proceed in the court hearing. The measure also establishes new procedures for discharging a person from commitment and having them participate in community restoration.

The Oregon Judicial Department (OJD) is directed to study tribal and state interactions relating to the involuntary hospitalization and mental or behavioral health treatment of tribal members in state civil or criminal justice systems. OHA is required to assist the Department in collecting the data and OJD must submit a report of their findings to the interim committees of the Legislative Assembly related to judiciary and behavioral health by December 15, 2025.

Lastly, the measure establishes the Task Force on the Intersection of Tribal and State Forensic Behavioral Health. The task force consists of 17 members, as specified by the measure, and OJD is required to provide staff support to the task force. The task force is required to first meet by February 1, 2026.

Fiscal Analysis

The fiscal impact is indeterminate and dependent on the number of individuals who may now become subject to civil commitment.

Oregon Health Authority

The fiscal impact to OHA is indeterminate and dependent on the number of individuals who are detained and committed to the Department. According to data from OHA, the current 2025-27 forecast regarding non-Oregon State Hospital (OSH) civil commitments, which are classified as mandated caseloads, is approximately 742 cases. Based on this data, OHA anticipates mandated caseloads increasing by 5% (or 37 cases) with less than 1% being committed to OSH. Mandated caseload costs are estimated to be \$8,156 per person, per month, for a total of \$5.4 million General Fund in the 2025-27 biennium and \$7.2 million General Fund in the 2027-29 biennium. However, it's noted that while OHA anticipates mandated caseloads increasing by 5%, the mandated case load could increase as much as 25%, or 186 cases. If cases were to increase to the full 25%, this would require an additional \$27.3 million General Fund in the 2025-27 biennium and \$36.4 million General Fund in the 2027-29 biennium.

Oregon Judicial Department

The fiscal impact to OJD is indeterminate and dependent on the number of case filings and commitment hearings. According to OJD, there were 732 pre-disposition civil commitment hearings and 218 post-disposition civil commitment hearings annually in 2024. Pre-disposition hearings typically require two hours of combined judge and staff time while post-disposition hearings require one hour of combined judge and staff time. The potential increase of filings and hearings at this time is indeterminate, but will be monitored by OJD to capture the actual number of civil commitment case filings and hearings.

There are also indeterminate impacts on the measure's change of time limits regarding defendants who lack fitness to proceed to OSH for restorative services. The measure establishes time limits regarding commitments to OSH in a similar manner to a current Federal remedial order, referred to as the Mosman Order, that implements maximum time requirements for inpatient restoration services from OSH and for OSH to admit individuals within seven days of a court order. The order is in effect until OSH has timely admitted patients for at least three consecutive months or until the date of which the court renews the order. As long as the Mosman Order remain in effect, OJD would not have an additional impact, however, if the order is lifted and the expanded timelines of the measure go into effect then OJD will monitor the impacts at that time.

Additionally, OJD is required to provide staff support to the newly established task force and anticipates doing so within their current service level resources.

Public Defense Commission

The fiscal impact to the Public Defense Commission (PDC) is estimated to be \$1.1 million General Fund in the 2025-27 biennium and \$2.2 million General Fund in the 2027-29 biennium, however, exact costs are indeterminate and dependent on the number of individuals who qualify for public defense services and have

civil commitment cases. PDC provides counsel for indigent defendants through a combination of contract, hourly, and state-employed attorneys. According to data provided by PDC, there were 7,553 civil commitment cases filed in the 2024 fiscal year and of those 3,218 were appointed counsel. PDC anticipates that approximately half of the cases where counsel was not appointed could now qualify for appointed counsel. This could add an additional 2,168 additional civil commitment cases per year. Contracted attorneys are based on the Maximum Attorney Caseload (MAC) which is the maximum caseload an attorney can take based on 300 weighted misdemeanors, which equates to 230 civil commitment cases per one MAC. The potential number of filings at this time is indeterminate, however, PDC anticipates an initial increase of 25% of filings in the 2025-27 biennium and the full 50% estimated increase of civil commitment filings in the 2027-29 biennium. The gradual increase of filings would require an additional 2.35 MAC in the 2025-27 biennium and 4.7 MAC in the 2027-29 biennium, which is an estimated cost of \$1.1 million General Fund in the 2025-27 biennium and \$2.2 million General Fund in the 2027-29 biennium. The actual number of cases, however, will be factored into future Department of Administrative Services - Office of Economic Analysis (DAS OEA) public defense forecasts.

Psychiatric Security Review Board

The fiscal impact to the Psychiatric Security Review Board (PSRB) is estimated to be minimal. PSRB anticipates utilizing their current resources to handle the additional hearings that may come from the measure. However, should the workload increase, PSRB anticipates the need for an additional Paralegal position (1.00 FTE) to assist with managing the program. Currently, PSRB oversees adult guilty except for insanity (GEI), juvenile responsible except for insanity (REI), and extremely dangerous persons with mental illness (EDPMI) civil commitment programs. According to data provided by the Board, the EDPMI civil commitment population has increased from 12 in 2017 to 45 in 2024 with 6 hearings in 2017 and 34 in 2024. If this population were to continue to expand at this rate then PSRB anticipates the need of additional resources to cover the increasing workload.

Counties

Under the measure, counties anticipate an increase in caseloads beyond the current growth rate for aid and assist community restoration services. Currently, counties act as the local mental health authority and operate civil commitment programs that are responsible for community restoration services for individuals who are under a court order for treatment through their community mental health programs. Under the measure, eligibility criteria for civil commitment are expanded and allows for the extension of diversion to 28 days. According to an actuarial cost study by OHA for 2024, there is an estimated \$14.8 million biennial funding gap for mandated aid and assist restoration and civil commitment services. \$10 million of this funding is being addressed in HB 5025 (2025) with a remaining gap of \$4.8 million for civil commitment services. Counties continue to operate under this gap and there are currently additional indeterminate costs to counties dependent on the number of individuals who are now subject to services under this measure.

Other entities

There is a minimal fiscal impact for the Department of Justice, District Attorneys, Office of the Governor, Oregon Employment Department, and Oregon's Nine Federally Recognized Tribes.

There is no fiscal impact to the Department of Corrections or Land Use Board of Appeals.

Relevant Dates

The measure declares an emergency and takes effect on passage.

Several provisions of the measure are operative January 1, 2026.

Provisions relating to the task force are repealed January 2, 2027 and the provisions relating to restoration time limits are repealed on January 1, 2028.